

Attachment B is an unofficial version of Chapter 2 and sections of Chapter 5 of Title II of The Trade Act of 1974, Public Law 93-618, as amended. This document was prepared by the U.S. Department of Labor to include amendments to the Trade Act made by the Trade and Globalization Adjustment Assistance Act of 2009 (Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009, Public Law 111-5).

THE TRADE ACT OF 1974

Public Law 93-618, as amended by Public Law 96-417, Public Law 97-35, Public Law 98-120, Public Law 98-369, Public Law 99-107, Public Law 99-I 55, Public Law 99-181, Public Law 99-189, Public Law 99-272, Public Law 100-418. Public Law 100-647, Public Law 101- 382, Public Law 102-318, Public Law 103-66, and Public Law 103-182, Public Law 105-220, Public Law 105-277, Public Law 106-36, Public Law 106-113, Public Law 107-210, Public Law 108-249, and Public Law 111-5.

CHAPTER 2 – TRADE ASSISTANCE FOR WORKERS **Subchapter A – Petitions and Determinations**

SEC. 221. PETITIONS. [19 U.S.C. § 2271]

(a) Filing of petitions; assistance; publication of notice

(1) A petition for certification of eligibility to apply for adjustment assistance for a group of workers under this chapter may be filed simultaneously with the Secretary of Labor and with the Governor of the State in which such workers' firm (as defined in section 247) is located by any of the following:

(A) The group of workers.

(B) The certified or recognized union or other duly authorized representative of such workers.

(C) Employers of such workers, one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. § 2801)), including State employment security agencies, or the State dislocated worker unit established under title I of such Act, on behalf of such workers.

(2) Upon receipt of a petition filed under paragraph (1), the Governor shall

(A) ensure that rapid response activities and appropriate core and intensive services (as described in section 134 of the Workforce Investment Act of 1998 (29 U.S.C. § 2864)) authorized under other Federal laws are made available to the workers covered by the petition to the extent authorized under such laws; and

(B) assist the Secretary in the review of the petition by verifying such information and providing such other assistance as the Secretary may request.

(3) Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register and on the website of the Department of Labor that the Secretary has received the petition and initiated an investigation.

(b) Hearing

If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) of this section a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

SEC. 222. GROUP ELIGIBILITY REQUIREMENTS. [19 U.S.C. § 2272]

(a) In general

A group of workers shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that--

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated; and

(2)(A)(i) the sales or production, or both, of such firm have decreased absolutely;

(ii)(I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(II) imports of articles like or directly competitive with articles--

(aa) into which one or more component parts produced by such firm are directly incorporated, or

(bb) which are produced directly using services supplied by such firm,

have increased; or

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased; and

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

(B)(i)(I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; or

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm; and

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

(b) Adversely affected workers in public agencies

A group of workers in a public agency shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that--

(1) a significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services described in paragraph (2) contributed

importantly to such workers' separation or threat of separation.

(c) Adversely affected secondary workers

A group of workers shall be certified by the Secretary as eligible to apply for trade adjustment assistance benefits under this chapter pursuant to a petition filed under section 221 if the Secretary determines that--

(1) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under subsection (a) of this section, and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection (d) (3) and (4) of this section); and

(3) either--

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

(d) Definitions

For purposes of this section--

(1) The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

(2)(A) Any firm that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

(B) Any firm that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.

(3) Downstream producer

(A) In general

The term “downstream producer” means a firm that performs additional, value-added production processes or services directly for another firm for articles or services with respect to which a group of workers in such other firm has been certified under subsection (a).

(B) Value-added production processes or services

For purposes of subparagraph (A), value-added production processes or services include final assembly, finishing, testing, packaging, or maintenance or transportation services.

(4) Supplier

The term “supplier” means a firm that produces and supplies directly to another firm component parts for articles, or services, used in the production of articles or in the supply of services, as the case may be, that were the basis for a certification of eligibility under subsection (a) of this section of a group of workers employed by such other firm.

(5) Reference to firm

For purposes of subsection (a), the term “firm” does not include a public agency.

(e) Basis for Secretary’s determinations

(1) In general

The Secretary shall, in determining whether to certify a group of workers under section 223, obtain from the workers’ firm, or a customer of the workers’ firm, information the Secretary determines to be necessary to make the certification, through questionnaires and in such other manner as the Secretary determines appropriate.

(2) Additional information

The Secretary may seek additional information to determine whether to certify a group of workers under subsection (a), (b), or (c)--

(A) By contacting

- (i) officials or employees of the workers' firm;
- (ii) officials of customers of the workers' firm;
- (iii) officials of certified or recognized unions or other duly authorized representatives of the group of workers; or
- (iv) one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. § 2801)); or

(B) by using other available sources of information.

(3) Verification of information

(A) Certification

The Secretary shall require a firm or customer to certify--

- (i) all information obtained under paragraph (1) from the firm or customer (as the case may be) through questionnaires; and
- (ii) all other information obtained under paragraph (1) from the firm or customer (as the case may be) on which the Secretary relies in making a determination under section 223, unless the Secretary has a reasonable basis for determining that such information is accurate and complete without being certified.

(B) Use of subpoenas

The Secretary shall require the workers' firm or a customer of the workers' firm to provide information requested by the Secretary under paragraph (1) by subpoena pursuant to section 249 if the firm or customer (as the case may be) fails to provide the information within 20 days after the date of the Secretary's request, unless the firm or customer (as the case may be) demonstrates to the satisfaction of the Secretary that the firm or customer (as the case may be) will provide the information within a reasonable period of time.

(C) Protection of confidential information

The Secretary may not release information obtained under paragraph (1) that

the Secretary considers to be confidential business information unless the firm or customer (as the case may be) submitting the confidential business information had notice, at the time of submission, that the information would be released by the Secretary, or the firm or customer (as the case may be) subsequently consents to the release of the information. Nothing in this subparagraph shall be construed to prohibit the Secretary from providing such confidential business information to a court in camera or to another party under a protective order issued by a court.

(f) Firms identified by the International Trade Commission

Notwithstanding any other provision of this chapter, a group of workers covered by a petition filed under section 221 shall be certified under subsection (a) as eligible to apply for adjustment assistance under this chapter if--

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in--

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1) of the Tarriff Act of 1930 (19 U.S.C. §§ 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the one-year period beginning on the date on which--

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the Federal Register under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the Federal Register; and

(3) the workers have become totally or partially separated from the workers' firm within--

(A) the one-year period described in paragraph (2); or

(B) notwithstanding section 223(b), the one-year period preceding the one-year period described in paragraph (2).

SEC. 223. DETERMINATIONS BY SECRETARY OF LABOR. [19 U.S.C. § 2273]

(a) Certification of eligibility

As soon as possible after the date on which a petition is filed under section 221, but in any event not later than 40 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 222 and shall issue a certification of eligibility to apply for assistance under this subchapter covering workers in any group which meets such requirements. Each certification shall specify the date on which the total or partial separation began or threatened to begin.

(b) Workers covered by certification

A certification under this section shall not apply to any worker whose last total or partial separation from the firm before the worker's application under section 231 occurred more than one year before the date of the petition on which such certification was granted.

(c) Publication of determination in Federal Register

Upon reaching a determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register and on the website of the Department of Labor, together with the Secretary's reasons for making such determination.

(d) Termination of certification

Whenever the Secretary determines, with respect to any certification of eligibility of the workers of a firm, that total or partial separations from such firm are no longer attributable to the conditions specified in section 222, the Secretary shall terminate such certification and promptly have notice of such termination published in the Federal Register and on the website of the Department of Labor, together with the Secretary's reasons for making such determination. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the Secretary.

(e) Standards for investigations and determinations

(1) In general

The Secretary shall establish standards, including data requirements, for investigations of petitions filed under section 221 and criteria for making determinations under subsection (a).

(2) Consultations

Not less than 90 days before issuing a final rule with respect to the standards required under paragraph (1), the Secretary shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to such rule.

SEC. 224. STUDY AND NOTIFICATIONS REGARDING CERTAIN AFFIRMATIVE DETERMINATIONS; INDUSTRY NOTIFICATION OF ASSISTANCE. [19 U.S.C. § 2274]

(a) Subject matter of study

Study of domestic industry--Whenever the International Trade Commission (hereafter referred to in this chapter as the "Commission") begins an investigation under section 202 with respect to an industry, the Commission shall immediately notify the Secretary of such investigation, and the Secretary shall immediately begin a study of--

(1) the number of workers in the domestic industry producing the like or directly competitive article who have been or are likely to be certified as eligible for adjustment assistance, and

(2) the extent to which the adjustment of such workers to the import competition may be facilitated through the use of existing programs.

(b) Report; publication

Report by the Secretary--The report of the Secretary of the study under subsection (a) of this section shall be made to the President not later than 15 days after the day on which the Commission makes its report under section 202(f). Upon making his report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register and on the website of the Department of Labor.

(c) Notifications following affirmative global safeguard determinations

Upon making an affirmative determination under section 202(b), the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce and, in the case of a determination with respect to an agricultural commodity, the Secretary of Agriculture, of the determination.

(d) Notifications following affirmative bilateral or plurilateral safeguard determinations

(1) Notifications of determinations of market disruption

Upon making an affirmative determination under section 221(b)(1), the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce and, in the case of a determination with respect to an agricultural commodity, the Secretary of Agriculture, of the determination.

(2) Notifications regarding trade agreement safeguards

Upon making an affirmative determination in a proceeding initiated under an applicable safeguard provision (other than a provision described in paragraph (3)) that is enacted to implement a trade agreement to which the United States is a party, the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce and, in the case of a determination with respect to an agricultural commodity, the Secretary of Agriculture, of the determination.

(3) Notifications regarding textile and apparel safeguards

Upon making an affirmative determination in a proceeding initiated under any safeguard provision relating to textile and apparel articles that is enacted to implement a trade agreement to which the United States is a party, the President shall promptly notify the Secretary of Labor and the Secretary of Commerce of the determination.

(e) Notifications following certain affirmative determinations under subtitle IV of chapter 4 of this title

Upon making an affirmative determination under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. §§ 1671d(b)(1)(A) and 1673d(b)(1)(A)), the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce and, in the case of a determination with respect to an agricultural commodity, the Secretary of Agriculture, of the determination.

(f) Industry notification of assistance

Upon receiving a notification of a determination under subsection (c), (d), or (e) with respect to a domestic industry--

(1) the Secretary of Labor shall--

(A) notify the representatives of the domestic industry affected by the determination, firms publicly identified by name during the course of the proceeding relating to the determination, and any certified or recognized union or, to the extent practicable, other duly authorized representative of workers employed by such representatives of the domestic industry, of--

(i) the allowances, training, employment services, and other benefits available under this chapter;

(ii) the manner in which to file a petition and apply for such benefits; and

(iii) the availability of assistance in filing such petitions;

(B) notify the Governor of each State in which one or more firms in the industry described in subparagraph (A) are located of the Commission's determination and the identity of the firms; and

(C) upon request, provide any assistance that is necessary to file a petition under section 221;

(2) the Secretary of Commerce shall--

(A) notify the representatives of the domestic industry affected by the determination and any firms publicly identified by name during the course of the proceeding relating to the determination of--

(i) the benefits available under chapter 3 of this subchapter;

(ii) the manner in which to file a petition and apply for such benefits; and

(iii) the availability of assistance in filing such petitions; and

(B) upon request, provide any assistance that is necessary to file a petition under section 251; and

(3) in the case of an affirmative determination based upon imports of an agricultural commodity, the Secretary of Agriculture shall--

(A) notify representatives of the domestic industry affected by the determination and any agricultural commodity producers publicly identified by name during the course of the proceeding relating to the determination of

--

(i) the benefits available under chapter 6 of this subchapter;

(ii) the manner in which to file a petition and apply for such benefits; and

(iii) the availability of assistance in filing such petitions; and

(B) upon request, provide any assistance that is necessary to file a petition under section 292.

(g) Representatives of the domestic industry

For purposes of subsection (f), the term "representatives of the domestic industry" means the persons that petitioned for relief in connection with--

(1) a proceeding under section 202 or 241 of this Act;

(2) a proceeding under section 702(b) or 732(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b) and 1673d(b)); or

(3) any safeguard investigation described in subsection (d)(2) or (d)(3).

SEC. 225. BENEFIT INFORMATION TO WORKERS. [19 U.S.C. § 2275]

(a) The Secretary shall provide full information to workers about the benefit allowances, training, and other employment services available under this chapter and about the petition and application procedures, and the appropriate filing dates, for such allowances, training and services. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 239(a) and shall periodically review such compliance. The Secretary shall inform the State Board for Vocational Education or equivalent agency and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under section 223 and of projections, if available, of the needs for training under section 236 as a result of such

certification.

(b)(1) The Secretary shall provide written notice through the mail of the benefits available under this chapter to each worker whom the Secretary has reason to believe is covered by a certification made under this subchapter--

(A) at the time such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification, or

(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.

(2) The Secretary shall publish notice of the benefits available under this chapter to workers covered by each certification made under this subchapter in newspapers of general circulation in the areas in which such workers reside.

(c) Upon issuing a certification under section 223, the Secretary shall notify the Secretary of Commerce of the identity of each firm covered by the certification.

Subchapter B – Program Benefits
PART I – TRADE ADJUSTMENT ALLOWANCES

SEC. 231. Qualifying requirements for workers. [19 U.S.C. § 2291]

(a) Trade readjustment allowance conditions

Payment of a trade readjustment allowance shall be made to an adversely affected worker covered by a certification under subchapter A of this chapter who files an application for such allowance for any week of unemployment which begins on or after the date of such certification, if the following conditions are met:

(1) Such worker's total or partial separation before the worker's application under this part occurred--

(A) on or after the date, as specified in the certification under which the worker is covered, on which total or partial separation began or threatened to begin in the adversely affected employment,

(B) before the expiration of the 2-year period beginning on the date on which the determination under section 223 was made, and

(C) before the termination date (if any) determined pursuant to section

223(d).

(2) Such worker had, in the 52-week period ending with the week in which such total or partial separation occurred, at least 26 weeks of employment at wages of \$30 or more a week in adversely affected employment with a single firm, or, if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary. For the purposes of this paragraph, any week in which such worker--

(A) is on employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training,

(B) does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States,

(C) had his employment interrupted in order to serve as a full-time representative of a labor organization in such firm, or

(D) is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided such active duty is "Federal service" as defined in section 8521(a)(1) of Title 5, United States Code

shall be treated as a week of employment at wages of \$30 or more, but not more than 7 weeks, in case of weeks described in subparagraph (A) or (C), or both (and not more than 26 weeks, in the case of weeks described in subparagraph (B) or (D)), may be treated as weeks of employment under this sentence.

(3) Such worker--

(A) was entitled to (or would be entitled to if the worker applied therefor) unemployment insurance for a week within the benefit period (i) in which such total or partial separation took place, or (ii) which began (or would have begun) by reason of the filing of a claim for unemployment insurance by such worker after such total or partial separation;

(B) has exhausted all rights to any unemployment insurance, except additional compensation that is funded by a State and is not reimbursed from any Federal funds, to which the worker was entitled (or would be entitled if the worker applied therefor); and

(C) does not have an unexpired waiting period applicable to the worker for

any such unemployment insurance.

(4) Such worker, with respect to such week of unemployment, would not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a) (3) of such Act.

(5) Such worker--

(A)(i) is enrolled in a training program approved by the Secretary under section 236(a), and

(ii) the enrollment required under clause (i) occurs no later than the latest of--

(I) in the case of a worker whose most recent total separation from adversely affected employment that meets the requirements of paragraphs (1) and (2) occurs after the date on which the Secretary issues a certification covering the worker, the last day of the 26th week after such total separation,

(II) in the case of a worker whose most recent total separation from adversely affected employment that meets the requirements of paragraphs (1) and (2) occurs before the date on which the Secretary issues a certification covering the worker, the last day of the 26th week after the date of such certification,

(III) 45 days after the date specified in subclause (I) or (II), as the case may be, if the Secretary determines there are extenuating circumstances that justify an extension in the enrollment period,

(IV) in the case of a worker who fails to enroll by the date required by subclause (I), (II), or (III), as the case may be, due to the failure to provide the worker with timely information regarding the date specified in such subclause, the last day of a period determined by the Secretary, or

(V) the last day of a period determined by the Secretary to be approved for enrollment after the termination of a waiver issued pursuant to subsection (c) of this section,

(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 236(a), or

(C) has received a written statement under subsection (c)(1) of this section after the date described in subparagraph (B).

(b) Withholding of trade readjustment allowance pending beginning or resumption of participation in training program; period of applicability

If--

(1) the Secretary determines that--

(A) the adversely affected worker--

(i) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5) of this section, or

(ii) has ceased to participate in such training program before completing such training program, and

(B) there is no justifiable cause for such failure or cessation, or

(2) the certification made with respect to such worker under subsection (c)(1) of this section is revoked under subsection (c)(2) of this section,

no trade readjustment allowance may be paid to the adversely affected worker under this chapter for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved under section 236(a).

(c) Waivers of training requirements

(1) Issuance of waivers

The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (a)(5)(A) of this section if the Secretary determines that it is not feasible or appropriate for the worker, because of 1 or more of the following reasons:

(A) Recall

The worker has been notified that the worker will be recalled by the firm from which the separation occurred.

(B) Marketable skills

(i) In general

The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. § 503(j)), carried out in accordance with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

(ii) Marketable skills defined

For purposes of clause (i), the term “marketable skills” may include the possession of a postgraduate degree from an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. § 1002)) or an equivalent institution, or the possession of an equivalent postgraduate certification in a specialized field.

(C) Retirement

The worker is within 2 years of meeting all requirements for entitlement to either--

(i) old-age insurance benefits under title II of the Social Security Act (42 U.S.C. §§ 401 et seq.) (except for application therefor); or

(ii) a private pension sponsored by an employer or labor organization.

(D) Health

The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

(E) Enrollment unavailable

The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

(F) Training not available

Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area career and technical education schools, as defined in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. § 2302), and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

(2) Duration of waivers

(A) In general

Except as provided in paragraph (3)(B), a waiver issued under paragraph (1) shall be effective for not more than 6 months after the date on which the waiver is issued, unless the Secretary determines otherwise.

(B) Revocation

The Secretary shall revoke a waiver issued under paragraph (1) if the Secretary determines that the basis of a waiver is no longer applicable to the worker and shall notify the worker in writing of the revocation.

(3) Agreements under section 2311 of this title

(A) Issuance by cooperating States

An agreement under section 239 shall authorize a cooperating State to issue waivers as described in paragraph (1).

(B) Review of waivers

An agreement under section 239 shall require a cooperating State to review each waiver issued by the State under subparagraph (A), (B), (D), (E), or (F) of paragraph (1)--

(i) 3 months after the date on which the State issues the waiver; and

(ii) on a monthly basis thereafter.

(C) Submission of statements

An agreement under section 239 shall include a requirement that the

cooperating State submit to the Secretary the written statements provided under paragraph (1) and a statement of the reasons for the waiver.

SEC. 232. WEEKLY AMOUNTS. [19 U.S.C. § 2292]

(a) Formula

Subject to subsections (b), (c), and (d) of this section, the trade readjustment allowance payable to an adversely affected worker for a week of unemployment shall be an amount equal to the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 231(a)(3)(B)) reduced (but not below zero) by--

(1) any training allowance deductible under subsection (c) of this section; and

(2) income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law, except that in the case of an adversely affected worker who is participating in training under this chapter, such income shall not include earnings from work for such week that are equal to or less than the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 231(a)(3)(B)).

(b) Adversely affected workers who are undergoing training

Any adversely affected worker who is entitled to trade readjustment allowances and who is undergoing training approved by the Secretary shall receive for each week in which he is undergoing any such training, a trade readjustment allowance in an amount (computed for such week) equal to the amount computed under subsection (a) of this section or (if greater) the amount of any weekly allowance for such training to which he would be entitled under any other Federal law for the training of workers, if he applied for such allowance. Such trade readjustment allowance shall be paid in lieu of any training allowance to which the worker would be entitled under such other Federal law.

(c) Deduction from total number of weeks of allowance entitlement

If a training allowance under any Federal law other than this chapter is paid to an adversely affected worker for any week of unemployment with respect to

which he would be entitled (determined without regard to any disqualification under section 223(b)) to a trade readjustment allowance if he applied for such allowance, each such week shall be deducted from the total number of weeks of trade readjustment allowance otherwise payable to him under section 233(a) when he applies for a trade readjustment allowance and is determined to be entitled to such allowance. If such training allowance paid to such worker for any week of unemployment is less than the amount of the trade readjustment allowance to which he would be entitled if he applied for such allowance, he shall receive, when he applies for a trade readjustment allowance and is determined to be entitled to such allowance, a trade readjustment allowance for such week equal to such difference.

(d) Election of trade readjustment allowance or unemployment insurance

Notwithstanding section 231(a)(3)(B), an adversely affected worker may elect to receive a trade readjustment allowance instead of unemployment insurance during any week with respect to which the worker--

(1) is entitled to receive unemployment insurance as a result of the establishment by the worker of a new benefit year under State law, based in whole or in part upon part-time or short-term employment in which the worker engaged after the worker's most recent total separation from adversely affected employment; and

(2) is otherwise entitled to a trade readjustment allowance.

SEC. 233. LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES. [19 U.S.C. § 2293]

(a) Maximum allowance; deduction for unemployment insurance; additional payments for approved training periods

(1) The maximum amount of trade readjustment allowances payable with respect to the period covered by any certification to an adversely affected worker shall be the amount which is the product of 52 multiplied by the trade readjustment allowance payable to the worker for a week of total unemployment (as determined under section 232(a)), but such product shall be reduced by the total sum of the unemployment insurance to which the worker was entitled (or would have been entitled if he had applied therefor) in the worker's first benefit period described in section 231(a)(3)(A).

(2) A trade readjustment allowance under paragraph (1) shall not be paid for any week occurring after the close of the 104-week period (or, in the case of an

adversely affected worker who requires a program of prerequisite education or remedial education (as described in section 236(a)(5)(D)) in order to complete training approved for the worker under section 236, the 130-week period) that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment--

(A) within the period which is described in section 231(a)(1), and

(B) with respect to which the worker meets the requirements of section 231(a)(2).

(3) Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete a training program approved for the worker under section 236, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 78 additional weeks in the 91-week period that--

(A) follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter; or

(B) begins with the first week of such training, if such training begins after the last week described in subparagraph (A).

Payments for such additional weeks may be made only for weeks in such 91-week period during which the individual is participating in such training.

(b) Adjustments of amounts payable

Amounts payable to an adversely affected worker under this chapter shall be subject to such adjustment on a week-to-week basis as may be required by section 232(b).

(c) Special adjustments for benefit years ending with extended benefit periods

Notwithstanding any other provision of this chapter or other Federal law, if the benefit year of a worker ends within an extended benefit period, the number of weeks of extended benefits that such worker would, but for this subsection, be entitled to in that extended benefit period shall be reduced (but not below zero) by the number of weeks for which the worker was entitled, during such benefit year, to trade readjustment allowances under this chapter. For purposes of this paragraph, the terms "benefit year" and "extended benefit period" shall have the same respective meanings given to them in the Federal-State Extended

Unemployment Compensation Act of 1970.

(d) Week during which worker received on-the-job training

No trade readjustment allowance shall be paid to a worker under this chapter for any week during which the worker is receiving on-the-job training.

(e) Workers treated as participating in training

For purposes of this chapter, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 30 days if--

(1) the worker was participating in a training program approved under section 236(a) before the beginning of such break in training, and

(2) the break is provided under such training program.

(f) Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 which includes a program of prerequisite education or remedial education (as described in section 236(a)(5)(D)), and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter.

(g) Special rule for calculating separation

Notwithstanding any other provision of this chapter, any period during which a judicial or administrative appeal is pending with respect to the denial by the Secretary of a petition under section 223 shall not be counted for purposes of calculating the period of separation under subsection (a)(2).

(h) Special rule for justifiable cause

If the Secretary determines that there is justifiable cause, the Secretary may extend the period during which trade readjustment allowances are payable to an adversely affected worker under paragraphs (2) and (3) of subsection (a) (but not the maximum amounts of such allowances that are payable under this section).

(i) Special rule with respect to military service

(1) In general

Notwithstanding any other provision of this chapter, the Secretary may waive any requirement of this chapter that the Secretary determines is necessary to ensure that an adversely affected worker who is a member of a reserve component of the Armed Forces and serves a period of duty described in paragraph (2) is eligible to receive a trade readjustment allowance, training, and other benefits under this chapter in the same manner and to the same extent as if the worker had not served the period of duty.

(2) Period of duty described

An adversely affected worker serves a period of duty described in this paragraph if, before completing training under section 236, the worker--

(A) serves on active duty for a period of more than 30 days under a call or order to active duty of more than 30 days; or

(B) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performs full-time National Guard duty under section 502(f) of Title 32, United States Code, for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

SEC. 234. APPLICATION OF STATE LAWS. [19 U.S.C. § 2294]

(a) In general

Except where inconsistent with the provisions of this chapter and subject to such regulations as the Secretary may prescribe, the availability and disqualification provisions of the State law--

(1) under which an adversely affected worker is entitled to unemployment insurance (whether or not he has filed a claim for such insurance), or

(2) if he is not so entitled to unemployment insurance, of the State in which he was totally or partially separated,

shall apply to any such worker who files a claim for trade readjustment allowances. The State law so determined with respect to a separation of a worker shall remain applicable, for purposes of the preceding sentence, with respect to such separation until such worker becomes entitled to unemployment insurance

under another State law (whether or not he has filed a claim for such insurance).

(b) Special rule with respect to State laws and regulations on good cause for waiver of time limits or late filing of claims

Any law, regulation, policy, or practice of a cooperating State that allows for a waiver for good cause of any time limitation relating to the administration of the State unemployment insurance law shall, in the administration of the program under this chapter by the State, apply to any time limitation with respect to an application for a trade readjustment allowance or enrollment in training under this chapter.

PART II – TRAINING, OTHER EMPLOYMENT SERVICES, AND ALLOWANCES

SEC. 235. EMPLOYMENT AND CASE MANAGEMENT SERVICES. [19 U.S.C. § 2295]

The Secretary shall make available, directly or through agreements with States under section 239, to adversely affected workers and adversely affected incumbent workers covered by a certification under subchapter A of this chapter the following employment and case management services:

- (1) Comprehensive and specialized assessment of skill levels and service needs, including through--
 - (A) diagnostic testing and use of other assessment tools; and
 - (B) in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.
- (2) Development of an individual employment plan to identify employment goals and objectives, and appropriate training to achieve those goals and objectives.
- (3) Information on training available in local and regional areas, information on individual counseling to determine which training is suitable training, and information on how to apply for such training.
- (4) Information on how to apply for financial aid, including referring workers to educational opportunity centers described in section 402F of the Higher Education Act of 1965 (20 U.S.C. § 1070a-16), where applicable, and notifying workers that the workers may request financial aid administrators at

institutions of higher education (as defined in section 102 of such Act (20 U.S.C. § 1002)) to use the administrators' discretion under section 479A of such Act (20 U.S.C. § 1087tt) to use current year income data, rather than preceding year income data, for determining the amount of need of the workers for Federal financial assistance under title IV of such Act (20 U.S.C. §§ 1070 et seq.).

(5) Short-term prevocational services, including development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for employment or training.

(6) Individual career counseling, including job search and placement counseling, during the period in which the individual is receiving a trade adjustment allowance or training under this chapter, and after receiving such training for purposes of job placement.

(7) Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including--

(A) job vacancy listings in such labor market areas;

(B) information on jobs skills necessary to obtain jobs identified in job vacancy listings described in subparagraph (A);

(C) information relating to local occupations that are in demand and earnings potential of such occupations; and

(D) skills requirements for local occupations described in subparagraph (C).

(8) Information relating to the availability of supportive services, including services relating to child care, transportation, dependent care, housing assistance, and need-related payments that are necessary to enable an individual to participate in training.

SEC. 235A. FUNDING FOR ADMINISTRATIVE EXPENSES AND EMPLOYMENT AND CASE MANAGEMENT SERVICES. [19 U.S.C. § 2295a]

(a) Funding for administrative expenses and employment and case management services

(1) In general

In addition to any funds made available to a State to carry out section 236 for a fiscal year, the State shall receive for the fiscal year a payment in an amount that is equal to 15 percent of the amount of such funds.

(2) Use of funds

A State that receives a payment under paragraph (1) shall--

(A) use not more than $\frac{2}{3}$ of such payment for the administration of the trade adjustment assistance for workers program under this chapter, including for--

(i) processing waivers of training requirements under section 231;

(ii) collecting, validating, and reporting data required under this chapter; and

(iii) providing reemployment trade adjustment assistance under section 246; and

(B) use not less than $\frac{1}{3}$ of such payment for employment and case management services under section 235.

(b) Additional funding for employment and case management services

(1) In general

In addition to any funds made available to a State to carry out section 236 and the payment under subsection (a)(1) for a fiscal year, the Secretary shall provide to the State for the fiscal year a payment in the amount of \$350,000.

(2) Use of funds

A State that receives a payment under paragraph (1) shall use such payment for the purpose of providing employment and case management services under section 235.

(3) Voluntary return of funds

A State that receives a payment under paragraph (1) may decline or otherwise return such payment to the Secretary.

SEC. 236. TRAINING. [19 U.S.C. § 2296]

(a) Approval of training; limitation on expenditures; reasonable expectation of employment; payment of costs; approved training programs; nonduplication of payments from other sources; disapproval of certain programs; exhaustion of unemployment benefits; promulgation of regulations

(1) If the Secretary determines, with respect to an adversely affected worker or an adversely affected incumbent worker, that--

(A) there is no suitable employment (which may include technical and professional employment) available for an adversely affected worker,

(B) the worker would benefit from appropriate training,

(C) there is a reasonable expectation of employment following completion of such training,

(D) training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (which may include area career and technical education schools, as defined in section 195(2) of the Vocational Education Act of 1963, and employers),

(E) the worker is qualified to undertake and complete such training, and

(F) such training is suitable for the worker and available at a reasonable cost,

the Secretary shall approve such training for the worker. Upon such approval, the worker shall be entitled to have payment of the costs of such training (subject to the limitations imposed by this section) paid on the worker's behalf by the Secretary directly or through a voucher system.

(2)(A) The total amount of payments that may be made under paragraph (1) shall not exceed

(i) for each of the fiscal years 2009 and 2010, \$575,000,000; and

(ii) for the period beginning October 1, 2010, and ending December 31, 2010, \$143,750,000.

(B)(i) The Secretary shall, as soon as practicable after the beginning of each fiscal year, make an initial distribution of the funds made available to carry out this section, in accordance with the requirements of subparagraph (C).

(ii) The Secretary shall ensure that not less than 90 percent of the funds made available to carry out this section for a fiscal year are distributed to the States by not later than July 15 of that fiscal year.

(C)(i) In making the initial distribution of funds pursuant to subparagraph (B)(i) for a fiscal year, the Secretary shall hold in reserve 35 percent of the funds made available to carry out this section for that fiscal year for additional distributions during the remainder of the fiscal year.

(ii) Subject to clause (iii), in determining how to apportion the initial distribution of funds pursuant to subparagraph (B)(i) in a fiscal year, the Secretary shall take into account, with respect to each State—

(I) the trend in the number of workers covered by certifications of eligibility under this chapter during the most recent 4 consecutive calendar quarters for which data are available;

(II) the trend in the number of workers participating in training under this section during the most recent 4 consecutive calendar quarters for which data are available;

(III) the number of workers estimated to be participating in training under this section during the fiscal year;

(IV) the amount of funding estimated to be necessary to provide training approved under this section to such workers during the fiscal year; and

(V) such other factors as the Secretary considers appropriate relating to the provision of training under this section.

(iii) In no case may the amount of the initial distribution to a State pursuant to subparagraph (B)(i) in a fiscal year be less than 25 percent of the initial distribution to the State in the preceding fiscal year.

(D) The Secretary shall establish procedures for the distribution of the funds that remain available for the fiscal year after the initial distribution required under subparagraph (B)(i). Such procedures may include the distribution of funds pursuant to requests submitted by States in need of such funds.

(E) If, during a fiscal year, the Secretary estimates that the amount of funds necessary to pay the costs of training approved under this section will exceed the dollar amount limitation specified in subparagraph (A), the Secretary shall decide how the amount of funds made available to carry out this section that

have not been distributed at the time of the estimate will be apportioned among the States for the remainder of the fiscal year.

(3) For purposes of applying paragraph (1)(C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under paragraph (1).

(4)(A) If the costs of training an adversely affected worker or an adversely affected incumbent worker are paid by the Secretary under paragraph (1), no other payment for such costs may be made under any other provision of Federal law.

(B) No payment may be made under paragraph (1) of the costs of training an adversely affected worker or an adversely affected incumbent worker if such costs--

(i) have already been paid under any other provision of Federal law, or

(ii) are reimbursable under any other provision of Federal law and a portion of such costs have already been paid under such other provision of Federal law.

(C) The provisions of this paragraph shall not apply to, or take into account, any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker or an adversely affected incumbent worker, even if such use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker or an adversely affected incumbent worker.

(5) Except as provided in paragraph (10), the training programs that may be approved under paragraph (1) include, but are not limited to--

(A) employer-based training, including--

(i) on-the-job training,

(ii) customized training, and

(iii) apprenticeship programs registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. §§ 50 et seq.),

(B) any training program provided by a State pursuant to title I of the Workforce Investment Act of 1998 [29 U.S.C. §§ 2801 et seq.],

(C) any training program approved by a private industry council established under section 102 of such Act,

(D) any program of remedial education,

(E) any program of prerequisite education or coursework required to enroll in training that may be approved under this section,

(F) any training program (other than a training program described in paragraph (7)) for which all, or any portion, of the costs of training the worker are paid--

(i) under any Federal or State program other than this chapter, or

(ii) from any source other than this section,

(G) any other training program approved by the Secretary, and

(H) any training program or coursework at an accredited institution of higher education (described in section 102 of the Higher Education Act of 1965 (20 U.S.C. § 1002)), including a training program or coursework for the purpose of-

-

(i) obtaining a degree or certification; or

(ii) completing a degree or certification that the worker had previously begun at an accredited institution of higher education.

The Secretary may not limit approval of a training program under paragraph (1) to a program provided pursuant to title I of the Workforce Investment Act of 1998 (29 U.S.C. §§ 2801 et seq.).

(6)(A) The Secretary is not required under paragraph (1) to pay the costs of any training approved under paragraph (1) to the extent that such costs are paid--

(i) under any Federal or State program other than this chapter, or

(ii) from any source other than this section.

(B) Before approving any training to which subparagraph (A) may apply, the

Secretary may require that the adversely affected worker or adversely affected incumbent worker enter into an agreement with the Secretary under which the Secretary will not be required to pay under this section the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in clause (i) or (ii) of subparagraph (A).

(7) The Secretary shall not approve a training program if--

(A) all or a portion of the costs of such training program are paid under any nongovernmental plan or program,

(B) the adversely affected worker or adversely affected incumbent worker has a right to obtain training or funds for training under such plan or program, and

(C) such plan or program requires the worker to reimburse the plan or program from funds provided under this part, or from wages paid under such training program, for any portion of the costs of such training program paid under the plan or program.

(8) The Secretary may approve training for any adversely affected worker who is a member of a group certified under subchapter A of this chapter at any time after the date on which the group is certified under subchapter A of this chapter, without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

(9)(A) Subject to subparagraph (B), the Secretary shall prescribe regulations which set forth the criteria under each of the subparagraphs of paragraph (1) that will be used as the basis for making determinations under paragraph (1).

(B)(i) In determining under paragraph (1)(E) whether a worker is qualified to undertake and complete training, the Secretary may approve training for a period longer than the worker's period of eligibility for trade readjustment allowances under part I of this subchapter if the worker demonstrates a financial ability to complete the training after the expiration of the worker's period of eligibility for such trade readjustment allowances.

(ii) In determining the reasonable cost of training under paragraph (1) (F) with respect to a worker, the Secretary may consider whether other public or private funds are reasonably available to the worker, except that the Secretary may not require a worker to obtain such funds as a condition of approval of training under paragraph (1).

(10) In the case of an adversely affected incumbent worker, the Secretary may not

approve

(A) on-the-job training under paragraph (5)(A)(i); or

(B) customized training under paragraph (5)(A)(ii), unless such training is for a position other than the worker's adversely affected employment.

(11) If the Secretary determines that an adversely affected incumbent worker for whom the Secretary approved training under this section is no longer threatened with a total or partial separation, the Secretary shall terminate the approval of such training.

(b) Supplemental assistance

The Secretary may, where appropriate, authorize supplemental assistance necessary to defray reasonable transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a worker's regular place of residence. The Secretary may not authorize--

(1) payments for subsistence that exceed whichever is the lesser of (A) the actual per diem expenses for subsistence, or (B) payments at 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations, or

(2) payments for travel expenses exceeding the prevailing mileage rate authorized under the Federal travel regulations.

(c) On-the-job training requirements

(1) In general

The Secretary may approve on-the-job training for any adversely affected worker if--

(A) the worker meets the requirements for training to be approved under subsection (a)(1);

(B) the Secretary determines that on-the-job training--

(i) can reasonably be expected to lead to suitable employment with the employer offering the on-the-job training;

(ii) is compatible with the skills of the worker;

(iii) includes a curriculum through which the worker will gain the knowledge or skills to become proficient in the job for which the worker is being trained; and

(iv) can be measured by benchmarks that indicate that the worker is gaining such knowledge or skills; and

(C) the State determines that the on-the-job training program meets the requirements of clauses (iii) and (iv) of subparagraph (B).

(2) Monthly payments

The Secretary shall pay the costs of on-the-job training approved under paragraph (1) in monthly installments.

(3) Contracts for on-the-job training

(A) In general

The Secretary shall ensure, in entering into a contract with an employer to provide on-the-job training to a worker under this subsection, that the skill requirements of the job for which the worker is being trained, the academic and occupational skill level of the worker, and the work experience of the worker are taken into consideration.

(B) Term of contract

Training under any such contract shall be limited to the period of time required for the worker receiving on-the-job training to become proficient in the job for which the worker is being trained, but may not exceed 104 weeks in any case.

(4) Exclusion of certain employers

The Secretary shall not enter into a contract for on-the-job training with an employer that exhibits a pattern of failing to provide workers receiving on-the-job training from the employer with--

(A) continued, long-term employment as regular employees; and

(B) wages, benefits, and working conditions that are equivalent to the wages,

benefits, and working conditions provided to regular employees who have worked a similar period of time and are doing the same type of work as workers receiving on-the-job training from the employer.

(5) Labor standards

The Secretary may pay the costs of on-the-job training, notwithstanding any other provision of this section, only if--

(A) no currently employed worker is displaced by such adversely affected worker (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits),

(B) such training does not impair existing contracts for services or collective bargaining agreements,

(C) in the case of training which would be inconsistent with the terms of a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained,

(D) no other individual is on layoff from the same, or any substantially equivalent, job for which such adversely affected worker is being trained,

(E) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring such adversely affected worker,

(F) the job for which such adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals,

(G) such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 222,

(H) the employer is provided reimbursement of not more than 50 percent of the wage rate of the participant, for the cost of providing the training and additional supervision related to the training,

(I) the employer has not received payment under subsection (a)(1) of this section with respect to any other on-the-job training provided by such employer which failed to meet the requirements of subparagraphs (A), (B), (C), (D), (E), and (F), and

(J) the employer has not taken, at any time, any action which violated the terms of any certification described in subparagraph (H) made by such employer with respect to any other on-the-job training provided by such employer for which the Secretary has made a payment under subsection (a)(1) of this section.

(d) Eligibility

An adversely affected worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter--

(1) because the worker--

(A) is enrolled in training approved under subsection (a);

(B) left work--

(i) that was not suitable employment in order to enroll in such training; or

(ii) that the worker engaged in on a temporary basis during a break in such training or a delay in the commencement of such training; or

(C) left on-the-job training not later than 30 days after commencing such training because the training did not meet the requirements of subsection (c)(1)(B); or

(2) because of the application to any such week in training of the provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.

(e) "Suitable employment" defined

For purposes of this section the term "suitable employment" means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

(f) "Customized training" defined

For purposes of this section, the term "customized training" means training that is--

(1) designed to meet the special requirements of an employer or group of employers;

(2) conducted with a commitment by the employer or group of employers to employ an individual upon successful completion of the training; and

(3) for which the employer pays for a significant portion (but in no case less than 50 percent) of the cost of such training, as determined by the Secretary.

(g) Regulations with respect to apportionment of training funds to States

(1) In general

Not later than 1 year after February 17, 2009, the Secretary shall issue such regulations as may be necessary to carry out the provisions of subsection (a)(2).

(2) Consultations

The Secretary shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not less than 90 days before issuing any regulation pursuant to paragraph (1).

(h) Part-time training

(1) In general

The Secretary may approve full-time or part-time training for a worker under subsection (a).

(2) Limitation

Notwithstanding paragraph (1), a worker participating in part-time training approved under subsection (a) may not receive a trade readjustment allowance under section 231.

SEC. 237. JOB SEARCH ALLOWANCES. [19 U.S.C. § 2297]

(a) Job search allowance authorized

(1) In general

An adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application with the Secretary for

payment of a job search allowance.

(2) Approval of applications

The Secretary may grant an allowance pursuant to an application filed under paragraph (1) when all of the following apply:

(A) Assist adversely affected worker

The allowance is paid to assist an adversely affected worker who has been totally separated in securing a job within the United States.

(B) Local employment not available

The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

(C) Application

The worker has filed an application for the allowance with the Secretary before--

(i) the later of--

(I) the 365th day after the date of the certification under which the worker is certified as eligible; or

(II) the 365th day after the date of the worker's last total separation; or

(ii) the date that is the 182d day after the date on which the worker concluded training.

(b) Amount of allowance

(1) In general

An allowance granted under subsection (a) of this section shall provide reimbursement to the worker of all necessary job search expenses as prescribed by the Secretary in regulations.

(2) Maximum allowance

Reimbursement under this subsection may not exceed \$1,500 for any worker.

(3) Allowance for subsistence and transportation

Reimbursement under this subsection may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 236(b) (1) and (2) of this title.

(c) Exception

Notwithstanding subsection (b) of this section, the Secretary shall reimburse any adversely affected worker for necessary expenses incurred by the worker in participating in a job search program approved by the Secretary.

SEC. 238. RELOCATION ALLOWANCES [19 U.S.C. § 2298]

(a) Relocation allowance authorized

(1) In general

Any adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application for a relocation allowance with the Secretary, and the Secretary may grant the relocation allowance, subject to the terms and conditions of this section.

(2) Conditions for granting allowance

A relocation allowance may be granted if all of the following terms and conditions are met:

(A) Assist an adversely affected worker

The relocation allowance will assist an adversely affected worker in relocating within the United States.

(B) Local employment not available

The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

(C) Total separation

The worker is totally separated from employment at the time relocation commences.

(D) Suitable employment obtained

The worker--

(i) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or

(ii) has obtained a bona fide offer of such employment.

(E) Application

The worker filed an application with the Secretary before--

(i) the later of--

(I) the 425th day after the date of the certification under subchapter A of this chapter; or

(II) the 425th day after the date of the worker's last total separation; or

(ii) the date that is the 182d day after the date on which the worker concluded training.

(b) Amount of allowance

The relocation allowance granted to a worker under subsection (a) of this section includes--

(1) all reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 236(b) (1) and (2) of this title specified in regulations prescribed by the Secretary) incurred in transporting the worker, the worker's family, and household effects; and

(2) a lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of \$1,500.

(c) Limitations

A relocation allowance may not be granted to a worker unless--

(1) the relocation occurs within 182 days after the filing of the application for relocation assistance; or

(2) the relocation occurs within 182 days after the conclusion of training, if the worker entered a training program approved by the Secretary under section 236(b) (1) and (2).

Subchapter C – General Provisions

SEC. 239. AGREEMENTS WITH STATES. [19 U.S.C. § 2311].

(a) Authority of Secretary to enter into agreements

The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency (referred to in this subchapter as “cooperating States” and “cooperating States agencies” respectively). Under such an agreement, the cooperating State agency (1) as agent of the United States, shall receive applications for, and shall provide, payments on the basis provided in this chapter, (2) in accordance with subsection (f), shall make available to adversely affected workers and adversely affected incumbent workers covered by a certification under subchapter A of this chapter the employment and case management services described in section 235, (3) shall make any certifications required under section 231(c)(2), and (4) shall otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this chapter.

(b) Amendment, suspension, and termination of agreements

Each agreement under this subchapter shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

(c) Form and manner of data

Each agreement under this subchapter shall--

(1) provide the Secretary with the authority to collect any data the Secretary determines necessary to meet the requirements of this chapter; and

(2) specify the form and manner in which any such data requested by the Secretary shall be reported.

(d) Unemployment insurance

Each agreement under this subchapter shall provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to payments under this chapter.

(e) Review

A determination by a cooperating State agency with respect to entitlement to program benefits under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable State law and only in that manner and to that extent.

(f) Coordination of benefits and assistance

Any agreement entered into under this section shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under sections 235 and 236 and under title I of the Workforce Investment Act of 1998 [29 U.S.C. §§ 2801 et seq.] upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this chapter.

(g) Advising and interviewing adversely affected workers

Each cooperating State agency shall, in carrying out subsection (a)(2) of this section--

(1) advise each worker who applies for unemployment insurance of the benefits under this chapter and the procedures and deadlines for applying for such benefits,

(2) facilitate the early filing of petitions under section 221 for any workers that the agency considers are likely to be eligible for benefits under this chapter,

(3) advise each adversely affected worker to apply for training under section 236(a) before, or at the same time, the worker applies for trade readjustment allowances under part I of subchapter B,

(4) perform outreach to, intake of, and orientation for adversely affected workers and adversely affected incumbent workers covered by a certification under subchapter A of this chapter with respect to assistance and benefits available under this chapter, and

(5) make employment and case management services described in section 235 available to adversely affected workers and adversely affected incumbent workers covered by a certification under subchapter A of this chapter and, if funds provided to carry out this chapter are insufficient to make such services available, make arrangements to make such services available through other Federal programs.

(h) Submission of information for coordination of workforce investment activities

In order to promote the coordination of workforce investment activities in each State with activities carried out under this chapter, any agreement entered into under this section shall provide that the State shall submit to the Secretary, in such form as the Secretary may require, the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. § 2822(b)) and a description of the State's rapid response activities under section 221(a)(2)(A).

(i) Control measures

(1) In general

The Secretary shall require each cooperating State and cooperating State agency to implement effective control measures and to effectively oversee the operation and administration of the trade adjustment assistance program under this chapter, including by means of monitoring the operation of control measures to improve the accuracy and timeliness of the data being collected and reported.

(2) Definition

For purposes of paragraph (1), the term "control measures" means measures that--

(A) are internal to a system used by a State to collect data; and

(B) are designed to ensure the accuracy and verifiability of such data.

(j) Data reporting

(1) In general

Any agreement entered into under this section shall require the cooperating

State or cooperating State agency to report to the Secretary on a quarterly basis comprehensive performance accountability data, to consist of--

- (A) the core indicators of performance described in paragraph (2)(A);
- (B) the additional indicators of performance described in paragraph (2)(B), if any; and
- (C) a description of efforts made to improve outcomes for workers under the trade adjustment assistance program.

(2) Core indicators described

(A) In general

The core indicators of performance described in this paragraph are--

- (i) the percentage of workers receiving benefits under this chapter who are employed during the second calendar quarter following the calendar quarter in which the workers cease receiving such benefits;
- (ii) the percentage of such workers who are employed in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits; and
- (iii) the earnings of such workers in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits.

(B) Additional indicators

The Secretary and a cooperating State or cooperating State agency may agree upon additional indicators of performance for the trade adjustment assistance program under this chapter, as appropriate.

(3) Standards with respect to reliability of data

In preparing the quarterly report required by paragraph (1), each cooperating State or cooperating State agency shall establish procedures that are consistent with guidelines to be issued by the Secretary to ensure that the data reported are valid and reliable.

(k) Verification of eligibility for program benefits

(1) In general

An agreement under this subchapter shall provide that the State shall periodically redetermine that a worker receiving benefits under this subchapter who is not a citizen or national of the United States remains in a satisfactory immigration status. Once satisfactory immigration status has been initially verified through the immigration status verification system described in section 1137(d) of the Social Security Act (42 U.S.C. § 1320b-7(d)) for purposes of establishing a worker's eligibility for unemployment compensation, the State shall reverify the worker's immigration status if the documentation provided during initial verification will expire during the period in which that worker is potentially eligible to receive benefits under this subchapter. The State shall conduct such redetermination in a timely manner, utilizing the immigration status verification system described in section 1137(d) of the Social Security Act (42 U.S.C. § 1320b-7(d)).

(2) Procedures

The Secretary shall establish procedures to ensure the uniform application by the States of the requirements of this subsection.

SEC. 240. ADMINISTRATION ABSENT STATE AGREEMENT. [19 U.S.C. § 2312]

(a) Promulgation of regulations; fair hearing

In any State where there is no agreement in force between a State or its agency under section 239, the Secretary shall arrange under regulations prescribed by him for performance of all necessary functions under subchapter B of this chapter, including provision for a fair hearing for any worker whose application for payments is denied.

(b) Review of final determination

A final determination under subsection (a) of this section with respect to entitlement to program benefits under subchapter B of this chapter is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act (42 U.S.C. 405(g)).

SEC. 241. PAYMENTS TO STATES. [19 U.S.C. § 2313]

(a) Certification to Secretary of the Treasury for payment to cooperating States

The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each cooperating State the sums necessary to enable such State as agent of the United States to make payments provided for by this chapter.

(b) Utilization or return of money

All money paid a State under this section shall be used solely for the purposes for which it is paid; and money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this subchapter, to the Secretary of the Treasury.

(c) Surety bonds

Any agreement under this subchapter may require any officer or employee of the State certifying payments or disbursing funds under the agreement or otherwise participating in the performance of the agreement, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this chapter.

SEC. 242. LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS. [19 U.S.C. § 2314]

(a) Certifying officer

No person designated by the Secretary, or designated pursuant to an agreement under this subchapter, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this chapter.

(b) Disbursing officer

No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this chapter if it was based upon a voucher signed by a certifying officer designated as provided in subsection (a) of this section.

SEC. 243. FRAUD AND RECOVERY OF OVERPAYMENTS. [19 U.S.C. § 2315]

(a) Repayment; deductions

(1) If a cooperating State agency, the Secretary, or a court of competent

jurisdiction determines that any person has received any payment under this chapter to which the person was not entitled, including a payment referred to in subsection (b) of this section, such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be, except that the State agency or the Secretary shall waive such repayment if such agency or the Secretary determines that--

(A) the payment was made without fault on the chapter of such individual, and

(B) requiring such repayment would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income and resources reasonably available to the individual (or household) and other ordinary living expenses of the individual (or household).

(2) Unless an overpayment is otherwise recovered, or waived under paragraph (1), the State agency or the Secretary shall recover the overpayment by deductions from any sums payable to such person under this chapter, under any Federal unemployment compensation law administered by the State agency or the Secretary, or under any other Federal law administered by the State agency or the Secretary which provides for the payment of assistance or an allowance with respect to unemployment, and, notwithstanding any other provision of State law or Federal law to the contrary, the Secretary may require the State agency to recover any overpayment under this chapter by deduction from any unemployment insurance payable to such person under the State law, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable.

(b) False representation or nondisclosure of material fact

If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that an individual--

(1) knowingly has made, or caused another to make, a false statement or representation of a material fact, or

(2) knowingly has failed, or caused another to fail, to disclose a material fact,

and as a result of such false statement or representation, or of such nondisclosure, such individual has received any payment under this chapter to which the individual was not entitled, such individual shall, in addition to any other penalty provided by law, be ineligible for any further payments under this chapter.

(c) Notice of determination; fair hearing; finality

Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a) (1) of this section by the State agency or the Secretary, as the case may be, has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the individual concerned, and the determination has become final.

(d) Recovered amount returned to Treasury

Any amount recovered under this section shall be returned to the Treasury of the United States.

SEC. 244. PENALTIES. [19 U.S.C. § 2316]

Any person who--

(1) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for that person or for any other person any payment authorized to be furnished under this chapter or pursuant to an agreement under section 239, or

(2) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, when providing information to the Secretary during an investigation of a petition under section 221, shall be imprisoned for not more than one year, or fined under Title 18, or both.

SEC. 245. AUTHORIZATION OF APPROPRIATIONS. [19 U.S.C. § 2317]

(a) In general

There are authorized to be appropriated to the Department of Labor, for the period beginning October 1, 2001, and ending December 31, 2010, such sums as may be necessary to carry out the purposes of this chapter.

(b) Period of expenditure

Funds obligated for any fiscal year to carry out activities under sections 235 through 238 may be expended by each State receiving such funds during that fiscal year and the succeeding two fiscal years.

SEC. 246. REEMPLOYMENT TRADE ADJUSTMENT ASSISTANCE PROGRAM. [19 U.S.C. § 2318]

(a) In general

(1) Establishment

The Secretary shall establish a reemployment trade adjustment assistance program for older workers that provides the benefits described in paragraph (2).

(2) Benefits

(A) Payments

A State shall use the funds provided to the State under section 241 to pay, for the eligibility period under subparagraph (A) or (B) of paragraph (4) (as the case may be), to a worker described in paragraph (3)(B), 50 percent of the difference between--

(i) the wages received by the worker at the time of separation; and

(ii) the wages received by the worker from reemployment.

(B) Health insurance

A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive, for the eligibility period under subparagraph (A) or (B) of paragraph (4) (as the case may be), a credit for health insurance costs under section 35 of The Internal Revenue Code of 1986.

(C) Training and other services

A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive training approved under section 236 and employment and case management services under section 235.

(3) Eligibility

(A) In general

A group of workers certified under subchapter A of this chapter as eligible for adjustment assistance under subchapter A of this chapter is eligible for benefits described in paragraph (2) under the program established under paragraph (1).

(B) Individual eligibility

A worker in a group of workers described in subparagraph (A) may elect to receive benefits described in paragraph (2) under the program established under paragraph (1) if the worker--

(i) is at least 50 years of age;

(ii) earns not more than \$55,000 each year in wages from reemployment;

(iii)(I) is employed on a full-time basis as defined by the law of the State in which the worker is employed and is not enrolled in a training program approved under section 236; or

(II) is employed at least 20 hours per week and is enrolled in a training program approved under section 236; and

(iv) is not employed at the firm from which the worker was separated.

(4) Eligibility period for payments

(A) Worker who has not received trade readjustment allowance

In the case of a worker described in paragraph (3)(B) who has not received a trade readjustment allowance under part I of subchapter B of this chapter pursuant to the certification described in paragraph (3)(A), the worker may receive benefits described in paragraph (2) for a period not to exceed 2 years beginning on the earlier of--

(i) the date on which the worker exhausts all rights to unemployment insurance based on the separation of the worker from the adversely affected employment that is the basis of the certification; or

(ii) the date on which the worker obtains reemployment described in paragraph (3)(B).

(B) Worker who has received trade readjustment allowance

In the case of a worker described in paragraph (3)(B) who has received a trade readjustment allowance under part I of subchapter B of this chapter pursuant to the certification described in paragraph (3)(A), the worker may receive benefits described in paragraph (2) for a period of 104 weeks beginning on the date on which the worker obtains reemployment described in paragraph (3)(B), reduced by the total number of weeks for which the worker received such trade readjustment allowance.

(5) Total amount of payments

(A) In general

The payments described in paragraph (2)(A) made to a worker may not exceed--

(i) \$12,000 per worker during the eligibility period under paragraph (4)(A);
or

(ii) the amount described in subparagraph (B) per worker during the eligibility period under paragraph (4)(B).

(B) Amount described

The amount described in this subparagraph is the amount equal to the product of--

(i) \$12,000, and

(ii) the ratio of--

(I) the total number of weeks in the eligibility period under paragraph (4)(B) with respect to the worker, to

(II) 104 weeks.

(6) Calculation of amount of payments for certain workers

(A) In general

In the case of a worker described in paragraph (3)(B)(iii)(II), paragraph (2)(A) shall be applied by substituting the percentage described in subparagraph (B) for "50 percent".

(B) Percentage described

The percentage described in this subparagraph is the percentage--

(i) equal to $1/2$ of the ratio of--

(I) the number of weekly hours of employment of the worker referred to in paragraph (3)(B)(iii)(II), to

(II) the number of weekly hours of employment of the worker at the time of separation, but

(ii) in no case more than 50 percent.

(7) Limitation on other benefits

A worker described in paragraph (3)(B) may not receive a trade readjustment allowance under part I of subchapter B of this chapter pursuant to the certification described in paragraph (3)(A) during any week for which the worker receives a payment described in paragraph (2)(A).

(b) Termination

(1) In general

Except as provided in paragraph (2), no payments may be made by a State under the program established under subsection (a)(1) of this section after December 31, 2010.

(2) Exception

Notwithstanding paragraph (1), a worker receiving payments under the program established under subsection (a)(1) of this section on the termination date described in paragraph (1) shall continue to receive such payments if the worker meets the criteria described in subsection (a)(3) of this section.

SEC. 247. DEFINITIONS. [19 U.S.C. § 2319]

For purposes of this chapter--

(1) The term "adversely affected employment" means employment in a firm, if workers of such firm are eligible to apply for adjustment assistance under this

chapter.

(2) The term “adversely affected worker” means an individual who, because of lack of work in adversely affected employment, has been totally or partially separated from such employment.

(3) Subject to section 222(d)(5), the term “firm” means--

(A) a firm, including an agricultural firm, service sector firm, or public agency; or

(B) an appropriate subdivision thereof.

(4) The term “average weekly wage” means one-thirteenth of the total wages paid to an individual in the high quarter. For purposes of this computation, the high quarter shall be that quarter in which the individual’s total wages were highest among the first 4 of the last 5 completed calendar quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

(5) The term “average weekly hours” means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (4).

(6) The term “partial separation” means, with respect to an individual who has not been totally separated, that he has had--

(A) his hours of work reduced to 80 percent or less of his average weekly hours in adversely affected employment, and

(B) his wages reduced to 80 percent or less of his average weekly wage in such adversely affected employment.

(7) The term “public agency” means a department or agency of a State or local government or of the Federal Government, or a subdivision thereof.

(8) The term “State” includes the District of Columbia and the Commonwealth of Puerto Rico; and the term “United States” when used in the geographical sense includes such Commonwealth.

(9) The term “State agency” means the agency of the State which administers the State law.

(10) The term “State law” means the unemployment insurance law of the State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

(11) The term “total separation” means the layoff or severance of an individual from employment with a firm in which adversely affected employment exists.

(12) The term “unemployment insurance” means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of Title 5 and the Railroad Unemployment Insurance Act [45 U.S.C. §§ 351 et seq.]. The terms “regular compensation”, “additional compensation”, and “extended compensation” have the same respective meanings that are given them in section 205(2), (3), and (4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. § 3304 note).

(13) The term “week” means a week as defined in the applicable State law.

(14) The term “week of unemployment” means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law.

(15) The term “benefit period” means, with respect to an individual--

(A) the benefit year and any ensuing period, as determined under applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation, or

(B) the equivalent to such a benefit year or ensuing period provided for under the applicable Federal unemployment insurance law.

(16) The term “on-the-job training” means training provided by an employer to an individual who is employed by the employer.

(17)(A) The term “job search program” means a job search workshop or job finding club.

(B) The term “job search workshop” means a short (1 to 3 days) seminar designed to provide participants with knowledge that will enable the

participants to find jobs. Subjects are not limited to, but should include, labor market information, resume writing, interviewing techniques, and techniques for finding job openings.

(C) The term “job finding club” means a job search workshop which includes a period (1 to 2 weeks) of structured, supervised activity in which participants attempt to obtain jobs.

(18) The term “service sector firm” means a firm engaged in the business of supplying services.

(19) The term “adversely affected incumbent worker” means a worker who--

(A) is a member of a group of workers who have been certified as eligible to apply for adjustment assistance under subchapter A of this chapter;

(B) has not been totally or partially separated from adversely affected employment; and

(C) the Secretary determines, on an individual basis, is threatened with total or partial separation.

SEC. 248. REGULATIONS. [19 U.S.C. § 2320]

(a) In general

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this chapter.

(b) Consultations

Not later than 90 days before issuing a regulation under subsection (a), the Secretary shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the regulation.

SEC. 249. SUBPOENA POWER. [19 U.S.C. § 2321]

(a) Subpoena by Secretary

The Secretary may require by subpoena the attendance of witnesses and the production of evidence necessary for the Secretary to make a determination under the provisions of this chapter.

(b) Court order

If a person refuses to obey a subpoena issued under subsection (a) of this section, a United States district court within the jurisdiction of which the relevant proceeding under this chapter is conducted may, upon petition by the Secretary, issue an order requiring compliance with such subpoena.

SEC. 249A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE. [19 U.S.C. § 2322]

(a) Establishment

There is established in the Department of Labor an office to be known as the Office of Trade Adjustment Assistance (in this section referred to as the "Office").

(b) Head of Office

The head of the Office shall be an administrator, who shall report directly to the Deputy Assistant Secretary for Employment and Training.

(c) Principal functions

The principal functions of the administrator of the Office shall be--

- (1) to oversee and implement the administration of trade adjustment assistance program under this chapter; and
- (2) to carry out functions delegated to the Secretary of Labor under this chapter, including--
 - (A) making determinations under section 223;
 - (B) providing information under section 225 about trade adjustment assistance to workers and assisting such workers to prepare petitions or applications for program benefits;
 - (C) providing assistance to employers of groups of workers that have filed petitions under section 221 in submitting information required by the Secretary relating to the petitions;
 - (D) ensuring workers covered by a certification of eligibility under subchapter A of this chapter receive the employment and case management

services described in section 235;

(E) ensuring that States fully comply with agreements entered into under section 239;

(F) advocating for workers applying for benefits available under this chapter;

(G) establishing and overseeing a hotline that workers, employers, and other entities may call to obtain information regarding eligibility criteria, procedural requirements, and benefits available under this chapter; and

(H) carrying out such other duties with respect to this chapter as the Secretary specifies for purposes of this section.

(d) Administration

(1) Designation

The administrator shall designate an employee of the Department of Labor with appropriate experience and expertise to carry out the duties described in paragraph (2).

(2) Duties

The employee designated under paragraph (1) shall--

(A) receive complaints and requests for assistance related to the trade adjustment assistance program under this chapter;

(B) resolve such complaints and requests for assistance, in coordination with other employees of the Office;

(C) compile basic information concerning such complaints and requests for assistance; and

(D) carry out such other duties with respect to this chapter as the Secretary specifies for purposes of this section.

**SEC. 249B. COLLECTION AND PUBLICATION OF DATA AND REPORTS;
INFORMATION TO WORKERS. [19 U.S.C. § 2323]**

(a) In general

Not later than 180 days after February 17, 2009, the Secretary shall implement a system to collect and report the data described in subsection (b), as well as any other information that the Secretary considers appropriate to effectively carry out this chapter.

(b) Data to be included

The system required under subsection (a) shall include collection of and reporting on the following data for each fiscal year:

(1) Data on petitions filed, certified, and denied

(A) The number of petitions filed, certified, and denied under this chapter.

(B) The number of workers covered by petitions filed, certified, and denied.

(C) The number of petitions, classified by

(i) the basis for certification, including increased imports, shifts in production, and other bases of eligibility; and

(ii) congressional district of the United States.

(D) The average time for processing such petitions.

(2) Data on benefits received

(A) The number of workers receiving benefits under this chapter.

(B) The number of workers receiving each type of benefit, including training, trade readjustment allowances, employment and case management services, and relocation and job search allowances, and, to the extent feasible, credits for health insurance costs under section 35 of the Internal Revenue Code of 1986.

(C) The average time during which such workers receive each such type of benefit.

(3) Data on training

(A) The number of workers enrolled in training approved under section 236, classified by major types of training, including classroom training, training through distance learning, on-the-job training, and customized training.

(B) The number of workers enrolled in full-time training and part-time training.

(C) The average duration of training.

(D) The number of training waivers granted under section 231(c), classified by type of waiver.

(E) The number of workers who complete training and the duration of such training.

(F) The number of workers who do not complete training.

(4) Data on outcomes

(A) A summary of the quarterly reports required under section 239(j).

(B) The sectors in which workers are employed after receiving benefits under this chapter.

(5) Data on rapid response activities

Whether rapid response activities were provided with respect to each petition filed under section 221.

(c) Classification of data

To the extent possible, in collecting and reporting the data described in subsection (b), the Secretary shall classify the data by industry, State, and national totals.

(d) Report

Not later than December 15 of each year, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes--

(1) a summary of the information collected under this section for the preceding fiscal year;

(2) information on the distribution of funds to each State pursuant to section 236(a)(2); and

(3) any recommendations of the Secretary with respect to changes in eligibility requirements, benefits, or training funding under this chapter based on the data collected under this section.

(e) Availability of data

(1) In general

The Secretary shall make available to the public, by publishing on the website of the Department of Labor and by other means, as appropriate--

(A) the report required under subsection (d);

(B) the data collected under this section, in a searchable format; and

(C) a list of cooperating States and cooperating State agencies that failed to submit the data required by this section to the Secretary in a timely manner.

(2) Updates

The Secretary shall update the data under paragraph (1) on a quarterly basis.

Chapter 5 – Miscellaneous Provisions

SEC. 282. TRADE MONITORING AND DATA COLLECTION. [19 U.S.C. § 2393]

(a) Monitoring programs

The Secretary of Commerce and the Secretary of Labor shall establish and maintain a program to monitor imports of articles and services into the United States which will reflect changes in the volume of such imports, the relation of such imports to changes in domestic production and domestic supply of services, changes in employment within domestic industries producing articles or supplying services like or directly competitive with such imports, and the extent to which such changes in production, or supply of services, and employment are concentrated in specific geographic regions of the United States. A summary of the information gathered under this section shall be published regularly and provided to the Adjustment Assistance Coordinating Committee, the International Trade Commission, and to the Congress.

(b) Collection of data and reports on service sector

(1) Secretary of Labor

Not later than 90 days after February 17, 2009, the Secretary of Labor shall implement a system to collect data on adversely affected workers employed in the service sector that includes the number of workers by State and industry, and by the cause of the dislocation of each worker, as identified in the certification.

(2) Secretary of Commerce

Not later than 1 year after February 17, 2009, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms acquiring services from firms in foreign countries.

SEC. 284. JUDICIAL REVIEW. [19 U.S.C. § 2395]

(a) Petition for review; time and place of filing

A worker, group of workers, certified or recognized union, or authorized representative of such worker or group aggrieved by a final determination of the Secretary of Labor under section 223 of this title, a firm or its representative or authorized representative of a community aggrieved by a final determination of the Secretary of Commerce under section 251 of this title, an agricultural commodity producer (as defined in section 291(2) of this title) aggrieved by a determination of the Secretary of Agriculture under section 293 or 296 of this title, or a community or authorized representative of a community aggrieved by a final determination of the Secretary of Commerce under section 271 of this title may, within sixty days after notice of such determination, commence a civil action in the United States Court of International Trade for review of such determination. The clerk of such court shall send a copy of the summons and the complaint in such action to the Secretary of Labor, the Secretary of Commerce, or the Secretary of Agriculture, as the case may be. Upon receiving a copy of such summons and complaint, such Secretary shall promptly certify and file in such court the record on which he based such determination.

(b) Findings of fact by Secretary; conclusiveness; new or modified findings

The findings of fact by the Secretary of Labor, the Secretary of Commerce, or the Secretary of Agriculture, as the case may be, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to such Secretary to take further evidence, and such Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Determination; review by Supreme Court

The Court of International Trade shall have jurisdiction to affirm the action of the Secretary of Labor, the Secretary of Commerce, or the Secretary of Agriculture, as the case may be, or to set such action aside, in whole or in part. The judgment of the Court of International Trade shall be subject to review by the United States Court of Appeals for the Federal Circuit as prescribed by the rules of such court. The judgment of the Court of Appeals for the Federal Circuit shall be subject to review by the Supreme Court of the United States upon certiorari as provided in section 1256 of Title 28.

SEC. 288. SENSE OF CONGRESS. [19 U.S.C. § 2397a]

It is the sense of Congress that the Secretaries of Labor, Commerce, and Agriculture should apply the provisions of chapter 2 of this title (relating to adjustment assistance for workers), chapter 3 of this title (relating to adjustment assistance for firms), chapter 4 of this title (relating to adjustment assistance for communities), and chapter 6 of this title (relating to adjustment assistance for farmers), respectively, with the utmost regard for the interests of workers, firms, communities, and farmers petitioning for benefits under such chapters of this title.