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(Original Signature of Member)

108TH CONGRESS  
2D SESSION

# H. R. \_\_\_\_\_

To amend the Trade Act of 1974 to extend the trade adjustment assistance program to the service sector, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of Washington (for himself, Mr. HOLDEN, Mr. INSLEE, Mr. RANGEL, Mr. LEVIN, Mr. MATSUI, Mr. STARK, Mr. CARDIN, Mr. McDERMOTT, Mr. McNULTY, Mr. BECERRA, Mrs. JONES of Ohio, Mr. SPRATT, Mr. GEORGE MILLER of California, Mr. DICKS, Mr. BAIRD, Mr. LARSEN of Washington, and Ms. SLAUGHTER) introduced the following bill; which was referred to the Committee on

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# A BILL

To amend the Trade Act of 1974 to extend the trade adjustment assistance program to the service sector, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*



1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Trade Adjustment As-  
3 sistance Equity For Service Workers Act of 2004”.

4 **SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE**  
5 **TO SERVICES SECTOR.**

6 (a) **ADJUSTMENT ASSISTANCE FOR WORKERS.**—Sec-  
7 tion 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C.  
8 2271(a)(1)(A)) is amended by striking “firm)” and insert-  
9 ing “firm, and workers in a service sector firm or subdivi-  
10 sion of a service sector firm or public agency)”.

11 (b) **GROUP ELIGIBILITY REQUIREMENTS.**—Section  
12 222 of the Trade Act of 1974 (19 U.S.C. 2272) is  
13 amended—

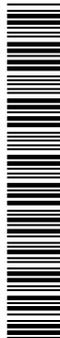
14 (1) in subsection (a)—

15 (A) in the matter preceding paragraph (1),  
16 by striking “agricultural firm)” and inserting  
17 “agricultural firm, and workers in a service sec-  
18 tor firm or subdivision of a service sector firm  
19 or public agency”);

20 (B) in paragraph (1), by inserting “or  
21 public agency” after “of the firm”; and

22 (C) in paragraph (2)—

23 (i) in subparagraph (A)(ii), by strik-  
24 ing “like or directly competitive with arti-  
25 cles produced” and inserting “or services



1           like or directly competitive with articles  
2           produced or services provided”;

3                   (ii) by striking subparagraph (B) and  
4           inserting the following:

5           “(B)(i) there has been a shift, by such  
6           workers’ firm, subdivision, or public agency to  
7           a foreign country, of production of articles, or  
8           in provision of services, like or directly competi-  
9           tive with articles which are produced, or serv-  
10          ices which are provided, by such firm, subdivi-  
11          sion, or public agency; or

12                   “(ii) such workers’ firm, subdivision, or  
13          public agency has obtained or is likely to obtain  
14          services described in clause (i) from a foreign  
15          country.”;

16          (2) in subsection (b)—

17                   (A) in the matter preceding paragraph (1),  
18          by striking “agricultural firm)” and inserting  
19          “agricultural firm, and workers in a service sec-  
20          tor firm or subdivision of a service sector firm  
21          or public agency)”;

22                   (B) in paragraph (2), by inserting “or  
23          service” after “related to the article”; and

24                   (C) in paragraph (3)(A), by inserting “or  
25          services” after “component parts”;



1 (3) in subsection (c)—

2 (A) in paragraph (3)—

3 (i) by inserting “or services” after  
4 “value-added production processes”;

5 (ii) by striking “or finishing” and in-  
6 serting “, finishing, or testing”;

7 (iii) by inserting “or services” after  
8 “for articles”;

9 (iv) by inserting “(or subdivision)”  
10 after “such other firm”; and

11 (v) by striking “, if the certification”  
12 and all that follows through “Mexico”; and

13 (B) in paragraph (4)—

14 (i) by striking “for articles” and in-  
15 serting “, or services, for articles or serv-  
16 ices”; and

17 (ii) by inserting “(or subdivision)”  
18 after “such other firm”; and

19 (4) by adding at the end the following new sub-  
20 section:

21 “(d) BASIS FOR SECRETARY’S DETERMINATIONS.—

22 “(1) INCREASED IMPORTS.—For purposes of  
23 subsection (a)(2)(A)(ii), the Secretary may deter-  
24 mine that increased imports of like or directly com-  
25 petitive articles or services exist if the workers’ firm



1 or subdivision, or customers of the workers' firm or  
2 subdivision accounting for not less than 20 percent  
3 of the sales of the workers' firm or subdivision, cer-  
4 tify to the Secretary that they are obtaining such ar-  
5 ticles or services from a foreign country.

6 “(2) OBTAINING SERVICES ABROAD.—For pur-  
7 poses of subsection (a)(2)(B)(ii), the Secretary may  
8 determine that the workers' firm, subdivision, or  
9 public agency has obtained or is likely to obtain like  
10 or directly competitive services from a foreign coun-  
11 try based on a certification thereof from the work-  
12 ers' firm, subdivision, or public agency.

13 “(3) AUTHORITY OF THE SECRETARY.—The  
14 Secretary may obtain the certifications under para-  
15 graphs (1) and (2) through questionnaires or such  
16 other manner as the Secretary determines is appro-  
17 priate.”.

18 (c) TRAINING.—Section 236(a)(2)(A) of the Trade  
19 Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by  
20 striking “\$220,000,000” and inserting “\$440,000,000”.

21 (d) DEFINITIONS.—Section 247 of the Trade Act of  
22 1974 (19 U.S.C. 2319) is amended—

23 (1) in paragraph (1)—

24 (A) by inserting “or public agency” after  
25 “of a firm”; and



1 (B) by inserting “or public agency” after  
2 “or subdivision”;

3 (2) in paragraph (2)(B), by inserting “or public  
4 agency” after “the firm”;

5 (3) by redesignating paragraphs (8) through  
6 (17) as paragraphs (9) through (18), respectively;

7 (4) by inserting after paragraph (6) the fol-  
8 lowing:

9 “(7) The term ‘public agency’ means a depart-  
10 ment or agency of a State or local government or of  
11 the Federal Government.

12 “(8) The term ‘service sector firm’ means an  
13 entity engaged in the business of providing serv-  
14 ices.”.

15 (e) TECHNICAL AMENDMENT.—Section 245(a) of the  
16 Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by  
17 striking “, other than subchapter D”.

18 **SEC. 3. TRAINING.**

19 (a) BASIS FOR WAIVER.—Section 231(c)(1) of the  
20 Trade Act of 1974 (19 U.S.C. 2291(c)(1)) is amended by  
21 adding at the end the following:

22 “(G) ADVANCED DEGREE OR CERTIFI-  
23 CATION.—The worker possesses a postgraduate  
24 degree from an institution of higher education  
25 (as defined in section 101(a) of the Higher



1 Education Act of 1965) or equivalent foreign  
2 institution), or has received an equivalent post-  
3 graduate certification in a specialized field, and  
4 there is a reasonable expectation of employment  
5 at equivalent wages in the foreseeable future.”.

6 (b) TRAINING PROGRAMS.—Section 236(a)(5) of the  
7 Trade Act of 1974 (19 U.S.C. 2296(a)(5)) is amended—

8 (1) by striking “and” at the end of subpara-  
9 graph (E)(ii);

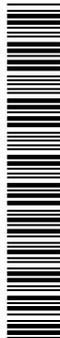
10 (2) by striking the period at the end of sub-  
11 paragraph (F) and inserting “, and”; and

12 (3) by adding at the end the following:

13 “(G) continuation of enrollment at an institu-  
14 tion of higher education (as defined in section  
15 101(a) of the Higher Education Act of 1965) for the  
16 purpose of obtaining a degree, for a period of no  
17 longer than 104 weeks, if prior to total or partial  
18 separation from adversely affected employment, the  
19 worker was enrolled in such program, and there is  
20 a reasonable expectation of employment at equiva-  
21 lent wages upon completion of the program.”.

22 **SEC. 4. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND**  
23 **INDUSTRIES.**

24 (a) FIRMS.—



1           (1) ASSISTANCE.—Section 251 of the Trade  
2 Act of 1974 (19 U.S.C. 2341) is amended—

3           (A) in subsection (a), by inserting “or  
4 service sector firm” after “(including any agri-  
5 cultural firm”;

6           (B) in subsection (c)(1)—

7           (i) in the matter preceding subpara-  
8 graph (A), by inserting “or service sector  
9 firm” after “any agricultural firm”;

10           (ii) in subparagraph (B)(ii), by insert-  
11 ing “or service” after “of an article”; and

12           (iii) in subparagraph (C), by striking  
13 “articles like or directly competitive with  
14 articles which are produced” and inserting  
15 “articles or services like or directly com-  
16 petitive with articles or services which are  
17 produced or provided”; and

18           (C) by adding at the end the following:

19           “(e) BASIS FOR SECRETARY DETERMINATION.—

20           “(1) INCREASED IMPORTS.—For purposes of  
21 subsection (c)(1)(C), the Secretary may determine  
22 that increases of imports of like or directly competi-  
23 tive articles or services exist if customers accounting  
24 for not less than 20 percent of the sales of the work-  
25 ers’ firm certify to the Secretary that they are ob-



1       taining such articles or services from a foreign coun-  
2       try.

3               “(2) AUTHORITY OF THE SECRETARY.—The  
4       Secretary may obtain the certifications under para-  
5       graph (1) through questionnaires or such other man-  
6       ner as the Secretary determines is appropriate. The  
7       subpoena power described in section 249 shall be ex-  
8       tended to the Secretary for purposes of carrying out  
9       this subsection.”.

10              (2) AUTHORIZATION OF APPROPRIATIONS.—  
11       Section 256(b) of the Trade Act of 1974 (19 U.S.C.  
12       2346(b)) is amended—

13              (A) by striking “\$16,000,000” and insert-  
14       ing “\$32,000,000”; and

15              (B) by adding at the end the following: “If  
16       the amount appropriated pursuant to this sub-  
17       section in any fiscal year is less than the  
18       amount authorized to be appropriated by this  
19       subsection, the Secretary shall consult with the  
20       Committee on Ways and Means and the Com-  
21       mittee on Appropriations of the House of Rep-  
22       resentatives, the Committee on Finance and the  
23       Committee on Appropriations of the Senate,  
24       and any other committee of appropriate juris-



1           diction in Congress on allocating the amount so  
2           appropriated.” .

3           (3) DEFINITION.—Section 261 of the Trade  
4           Act of 1974 (19 U.S.C. 2351) is amended—

5                   (A) by striking “For purposes of” and in-  
6                   serting “(a) FIRM.—For purposes of”; and

7                   (B) by adding at the end the following:

8           “(b) SERVICE SECTOR FIRM.—For purposes of this  
9           chapter, the term ‘service sector firm’ means a firm en-  
10          gaged in the business of providing services. ”.

11          (b) INDUSTRIES.—Section 265(a) of the Trade Act  
12          of 1974 (19 U.S.C. 2355(a)) is amended by inserting “or  
13          service” after “new product”.

14          (c) CLERICAL AMENDMENT.—(1) Section 249 of the  
15          Trade Act of 1974 (19 U.S.C. 2321) is amended—

16                   (A) by amending the section heading to read as  
17                   follows:

18           **“SEC. 249. SUBPOENA AUTHORITY.”**; and

19                   (B) by striking “subpena” each place it appears  
20                   and inserting “subpoena”.

21          (2) The item relating to section 249 in the table of  
22          contents of the Trade Act of 1974 is amended to read  
23          as follows:

          “249. Subpoena authority.”.



1 **SEC. 5. MONITORING AND REPORTING.**

2 Section 282 of the Trade Act of 1974 (19 U.S.C.  
3 2393) is amended—

4 (1) in this first sentence—

5 (A) by striking “The Secretary” and in-  
6 serting “(a) MONITORING PROGRAMS.—The  
7 Secretary”;

8 (B) by inserting “and services” after “im-  
9 ports of articles”;

10 (C) by inserting “and domestic provision of  
11 services” after “domestic production”;

12 (D) by inserting “or providing services”  
13 after “producing articles”; and

14 (E) by inserting “, or provision of serv-  
15 ices,” after “changes in production”; and

16 (2) by adding at the end the following:

17 “(b) COLLECTION OF DATA AND REPORTS.—

18 “(1) SECRETARY OF LABOR.—(A) Not later  
19 than 3 months after the date of the enactment of  
20 the Trade Adjustment Assistance Equity Service  
21 Workers Act of 2004, the Secretary of Labor shall  
22 implement a system to collect data on all adversely  
23 affected workers who receive adjustment assistance  
24 under this chapter, including the number of workers  
25 by State, industry, the cause of dislocation of each  
26 worker, the adjustment assistance received by each



1 worker, and outcomes relating to employment, reten-  
2 tion, and earnings.

3 “(B) Not later than 16 months after such date  
4 of enactment, the Secretary of Labor shall report to  
5 the Committee on Ways and Means of the House of  
6 Representatives, the Committee on Finance of the  
7 Senate, and any other committee of appropriate ju-  
8 risdiction, on whether changes to eligibility require-  
9 ments, benefits, or training funding should be made  
10 based on the data collected under subparagraph (A).

11 “(2) SECRETARY OF COMMERCE.—Not later  
12 than 6 months after such date of enactment, the  
13 Secretary of Commerce shall, in consultation with  
14 the Secretary of Labor, conduct a study and report  
15 to the Congress on ways to improve the timeliness  
16 and coverage of data on trade in services, including  
17 methods to identify increased imports due to the re-  
18 location of United States firms to foreign countries,  
19 and increased imports due to United States firms  
20 obtaining services from firms in foreign countries.”.

21 **SEC. 6. MODIFICATIONS RELATING TO CREDIT FOR**  
22 **HEALTH INSURANCE COSTS OF CERTAIN TAA**  
23 **AND PBGC PENSION RECIPIENTS.**

24 (a) PRESUMPTIVE STATUS AS A TAA RECIPIENT.—



1           (1) IN GENERAL.—Subsection (c) of section 35  
2 of the Internal Revenue Code of 1986 is amended by  
3 adding at the end the following new paragraph:

4           “(5) PRESUMPTIVE STATUS AS A TAA RECIPI-  
5 ENT.—

6           “(A) IN GENERAL.—The term ‘eligible in-  
7 dividual’ shall include any individual who is cov-  
8 ered by a petition filed with the Secretary of  
9 Labor under section 221 of the Trade Act of  
10 1974. This paragraph shall apply to any indi-  
11 vidual only with respect to months which—

12                   “(i) end after the date that such peti-  
13 tion is so filed, and

14                   “(ii) begin before the Secretary of  
15 Labor makes a final determination with re-  
16 spect to such petition.

17           “(B) EXCEPTION.—If the Secretary, after  
18 consultation with the Secretary of Labor, deter-  
19 mines that, at the time of the filing of such pe-  
20 tition, there was not reasonable cause to believe  
21 that the petition would result in a certification  
22 by the Secretary of Labor, with respect to indi-  
23 viduals covered by such petition—

24                   “(i) subparagraph (A) shall not apply  
25 to such individuals, and



1           “(ii) in the case of any such individual  
2           on whose behalf a payment is made under  
3           section 7527 with respect to a month de-  
4           scribed in paragraph (1), the tax imposed  
5           under this subtitle for the taxable year of  
6           such individual which includes the date of  
7           such determination shall be increased by  
8           the amount of such payments. ”.

9           (2) CONFORMING AMENDMENT.—Paragraph (1)  
10          of section 7527(d) of such Code is amended by strik-  
11          ing “or an eligible alternative TAA recipient (as de-  
12          fined in section 35(c)(3))” and inserting “, an eligi-  
13          ble alternative TAA recipient (as defined in section  
14          35(c)(3)), or an individual who is an eligible indi-  
15          vidual by reason of section 35(c)(5)”.

16          (b) 100 PERCENT CREDIT FOR FIRST MONTH OF  
17          HEALTH INSURANCE COSTS.—Subsection (a) of section  
18          35 of such Code is amended by inserting “(100 percent  
19          in the case of the taxpayer’s first eligible coverage  
20          month)” after “65 percent”.

21          (c) ADDITIONAL REQUIREMENTS FOR INDIVIDUAL  
22          HEALTH INSURANCE COSTS.—

23                 (1) IN GENERAL.—Subparagraph (A) of section  
24                 35(e)(2) of such Code is amended by striking “sub-  
25                 paragraphs (B) through (H) of paragraph (1)” and



1 inserting “paragraph (1) (other than subparagraphs  
2 (A) and (I) thereof”).

3 (2) RATING SYSTEM REQUIREMENT.—Subpara-  
4 graph (J) of section 35(e)(1) of such Code is amend-  
5 ed by adding at the end the following: “Such term  
6 does not include any insurance unless the premiums  
7 for such insurance are restricted based on a commu-  
8 nity rating system or rate-band system.”.

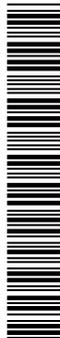
9 (d) PERIOD OF CREDITABLE COVERAGE MEASURED  
10 FROM DATE OF SEPARATION FROM EMPLOYMENT.—

11 (1) IN GENERAL.—Clause (i) of section  
12 35(e)(2)(B) of such Code is amended by striking  
13 “the date on which the individual seeks to enroll in  
14 the coverage described in subparagraphs (B)  
15 through (H) of paragraph (1)” and inserting “the  
16 end of the 30-day period described in paragraph  
17 (1)(J)”.

18 (2) SPECIAL RULE FOR ELIGIBLE PBGC PEN-  
19 SION RECIPIENTS.—

20 (A) IN GENERAL.—Subsection (e) of sec-  
21 tion 35 of such Code is amended by adding at  
22 the end the following new paragraph:

23 “(4) SPECIAL RULE FOR ELIGIBLE PBGC PEN-  
24 SION RECIPIENTS.—In the case of an eligible PBGC  
25 pension recipient (and any qualifying family member



1 of such recipient), the term ‘qualified health insur-  
2 ance’ shall not include any coverage described in  
3 paragraph (1) (other than subparagraphs (A) and  
4 (I) thereof) unless such recipient enrolls in such cov-  
5 erage during the 90-day period beginning on the  
6 later of—

7 “(A) the last day of the first month with  
8 respect to which such recipient becomes an eli-  
9 gible PBGC pension recipient, or

10 “(B) the date of the enactment of the  
11 Trade Adjustment Assistance Equity for Serv-  
12 ice Workers Act of 2004.”.

13 (B) OUTREACH.—The Secretary of the  
14 Treasury shall carry out a program to notify in-  
15 dividuals prior to their becoming eligible PBGC  
16 pension recipients (as defined in section 35 of  
17 the Internal Revenue Code of 1986) of the re-  
18 quirement of subsection (e)(4) of such section.

19 (e) CONTINUED QUALIFICATION OF FAMILY MEM-  
20 BERS AFTER ELIGIBLE INDIVIDUAL BECOMES MEDICARE  
21 ELIGIBLE.—Subsection (g) of section 35 is amended by  
22 redesignating paragraph (9) as paragraph (10) and insert-  
23 ing after paragraph (8) the following new paragraph:

24 “(9) CONTINUED QUALIFICATION OF FAMILY  
25 MEMBERS AFTER ELIGIBLE INDIVIDUAL BECOMES



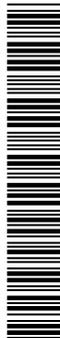
1       MEDICARE ELIGIBLE.—In the case of a month which  
2       would be an eligible coverage month with respect to  
3       an eligible individual but for subsection (f)(2)(A),  
4       such month shall be treated as an eligible coverage  
5       month with respect to any qualifying family member  
6       of such eligible individual (but not with respect to  
7       such eligible individual).”.

8       (f) OFFERING OF FEDERAL FALLBACK COVERAGE IN  
9       STATES NOT OFFERING STATE QUALIFIED HEALTH IN-  
10      SURANCE.—

11           (1) PROVISION OF FALLBACK COVERAGE.—

12                   (A) IN GENERAL.—The Director of the Of-  
13                   fice of Personnel Management jointly with the  
14                   Secretary of the Treasury shall establish a pro-  
15                   gram under which individuals described in sub-  
16                   paragraph (B) are offered enrollment under  
17                   health benefit plans that are made available  
18                   under FEHBP.

19                   (B) INDIVIDUALS DESCRIBED.—For pur-  
20                   poses of subparagraph (A), individuals de-  
21                   scribed in this subparagraph are eligible indi-  
22                   viduals (as defined in subsection (c)(1) of sec-  
23                   tion 35 of the Internal Revenue Code of 1986)  
24                   who reside in a State in which any qualified  
25                   health insurance described in subparagraphs



1 (B) through (I) of subsection (e)(1) of such sec-  
2 tion is not offered.

3 (2) TERMS AND CONDITIONS.—The terms and  
4 conditions of health benefits plans under paragraph  
5 (1) shall be the same as the terms and coverage of-  
6 fered under FEHBP, except that the premium  
7 charged for such health benefit plans offered under  
8 such paragraph shall be equal to the full premium  
9 (including both employer and beneficiary share)  
10 charged for such coverage for full-time employees  
11 under FEHBP.

12 (3) STUDY.—The Director of the Office of Per-  
13 sonnel Management jointly with the Secretary of the  
14 Treasury shall conduct a study of the impact of the  
15 offering of health benefit plans under this subsection  
16 on the terms and conditions, including premiums,  
17 for health benefit plans offered under FEHBP and  
18 shall submit to Congress, not later than 2 years  
19 after the date of the enactment of this Act, a report  
20 on such study. Such report may contain such rec-  
21 ommendations regarding the establishment of sepa-  
22 rate risk pools for individuals covered under  
23 FEHBP and eligible individuals covered this sub-  
24 section as may be appropriate to protect the inter-  
25 ests of individuals covered under FEHBP.



1           (4) FEHBP DEFINED.—For purposes of this  
2           subsection, the term “FEHBP” means the Federal  
3           Employees Health Benefits Program offered under  
4           chapter 89 of title 5, United States Code.

5           (5) CONFORMING AMENDMENT.—Paragraph (1)  
6           of section 35(e) of the Internal Revenue Code of  
7           1986 is amended by adding at the end the following:

8                   “(K) Coverage under a health benefits plan  
9                   offered under section 6(e) of the Trade Adjust-  
10                  ment Assistance Equity for Service Workers  
11                  Act of 2004. ”.

12          (g) REPORT TO CONGRESS.—Not later than 18  
13          months after the date of the enactment of this Act, the  
14          Secretary of the Treasury shall transmit to the Congress  
15          a report which includes the recommendations of the Sec-  
16          retary regarding increasing the number eligible individuals  
17          who are covered by qualified health insurance, including  
18          increasing such number by increasing the credit subsidy  
19          under section 35 of the Internal Revenue Code of 1986  
20          to make the premiums for such insurance more affordable.  
21          Terms used in this subsection which are defined in such  
22          section shall have the meaning given such terms by such  
23          section.

24          (h) EFFECTIVE DATE.—The amendments made by  
25          this section shall apply to months beginning after the date



1 of the enactment of this Act in taxable years ending after  
2 such date.

