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Trade Adjustment Assistance for Workers: Legislation in the 107th Congress

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Summary

Trade Adjustment Assistance (TAA) for workers offers extended unemployment benefits and job training to workers left jobless when imported goods have contributed importantly to their job loss. A similar program was begun with the adoption of the North American Free Trade Agreement (NAFTA). This Transitional Adjustment Assistance Program (NAFTA-TAAP) not only aids trade-affected workers but also helps those who lose jobs because their firms have relocated production to Canada or Mexico. The authorizations for both programs expired on January 10, 2002, but the programs continue to operate normally with the \$416 million appropriated for FY2002. The House approved a reauthorization through FY2003 when it passed H.R. 3008 on December 6, 2001. The Senate included authorization of a reformed and consolidated TAA through FY2007 in its version of H.R. 3009 that passed on May 23, 2002. Most of the bill's TAA language was based on S. 1209 as reported by the Senate Finance Committee on February 4, 2002. The House passed a rule (H.Res. 450) on June 26, 2002 that had the effect of amending the Senate amendment to H.R. 3009 and requesting a conference with the Senate on the bill. The Administration's FY2003 budget request includes total funding of \$462 million for TAA and NAFTA-TAAP. This report will be updated as legislative action occurs.

Background

The TAA program was established by the Trade Expansion Act of 1962 (P.L. 87-794) to provide cash assistance to workers harmed directly by federal trade policies. Because of difficulties in proving that specific job dislocations were caused by trade initiatives, little use was made of the program until its overhaul by the Trade Act of 1974 (P.L. 93-618).

The 1974 Act required that workers show that import competition had "contributed importantly" to their job loss in order to receive weekly cash assistance, thereby easing the earlier eligibility rules. The program grew substantially following this legislation, with spending on TAA reaching \$1.6 billion in the program's peak year of FY1980.

Two acts during the 1980s served to reduce TAA's cost and focus more resources on job retraining. Under the Omnibus Budget Reconciliation Act (OBRA) of 1981 (P.L. 97-35), TAA benefit amounts were restricted to the level of unemployment compensation (UC) weekly benefits paid in each state, and training received greater emphasis. Weekly TAA benefits, termed "trade readjustment allowances" (TRAs), previously had supplemented UC up to 75% of a claimant's former wage and replaced 65% of wages after UC ran out. The 1981 law set TRAs equal to the benefit amount the claimant had received from the state UC program and made them payable only after the regular UC benefit had terminated. The second of these acts, the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418), made job training a specific requirement for program eligibility unless waived by the Secretary of Labor for one of several reasons set forth in regulations.

Congress acted in the Omnibus Budget Reconciliation Act (OBRA) of 1993 (P.L. 103-66) to extend TAA through September 30, 1998. The only substantive change in law was to lower the ceiling on annual appropriations for TAA training from \$80 million to \$70 million. A new TAA component was added that same year by the North American Free Trade Agreement (NAFTA) Implementation Act (P.L. 103-182) to assist workers dislocated by NAFTA. This new component is called the NAFTA transitional adjustment assistance program, or NAFTA-TAAP. The law entitles workers who lose their jobs because of NAFTA, including those whose employers shift production to Canada or Mexico, to the same income support as is available under the regular TAA program. Waivers of job training are not allowed under NAFTA-TAAP, but workers eligible for both TAA and NAFTA-TAAP can choose between them.

The TAA and NAFTA-TAAP programs establish individual entitlements to federal benefits. That is, they create a legal obligation on the part of the U.S. government to make funds available in the amounts necessary to pay cash benefits and purchase job training services for all individuals who meet the eligibility criteria established in law. Although considered to be entitlements, TAA and NAFTA-TAAP do not have dedicated tax revenue that can be held in reserve to fund them. As with many other entitlements, these programs obtain their funds through annual appropriations. While the law establishes annual ceilings on authorized appropriations for training, individuals may also be eligible for training under other programs such as the Workforce Investment Act of 1998 (WIA).

The most recent law (P.L. 106-113) reauthorizing the programs for more than a year extended the authorizations for TAA and NAFTA-TAAP through FY2001. Eight continuing resolutions kept the programs authorized through January 10, 2002. There is ample precedent for enactment of appropriations in the absence of a spending authorization, and the programs are currently operating normally with \$416 million appropriated for FY2002.

Current Proposals

During the 107th Congress, legislation has been introduced to reauthorize TAA and NAFTA-TAAP. H.R. 85 would extend the programs through FY2006 and extend the period for filing a petition for worker assistance from 1 year to 2 years. The House passed H.R. 3008, reauthorizing the programs through FY2003 with an added 26 weeks of benefits and a further 26 weeks for those in need of remedial education, on December 6,

2001. The Senate included authorization of a reformed and consolidated TAA through FY2007 in its version of H.R. 3009 that passed on May 23, 2002. The House passed a rule (H.Res. 450) on June 26, 2002 that had the effect of amending the Senate amendment to H.R. 3009 and requesting a conference with the Senate on the bill. The TAA provisions of this amendment are summarized at the end of this report. Other bills affecting these programs have also been introduced in the 107th Congress for the purpose of reforming and/or expanding the program.

Reform and Consolidation. Previous efforts to consolidate the job training programs sponsored by the federal government resulted in the passage of WIA. WIA did not make any changes to TAA or NAFTA-TAAP, but it does require coordination among the various federal job training programs. The most comprehensive reform proposal introduced in the 107th Congress is S. 1209, along with its companion bills (H.R. 3359 and H.R. 3670), which would replace TAA for workers and NAFTA-TAAP with a new Adjustment Assistance for Workers program. While retaining much of the structure of TAA and NAFTA-TAAP, the new Adjustment Assistance for Workers would expand on those programs in significant ways. S. 1209 was reported favorably with an amendment in the nature of a substitute on February 4, 2002. Most of the bill's language was included in S.Amdt. 3401 to the Andean Trade Preference Act (H.R. 3009) proposed by Senator Baucus and Senator Grassley on May 10 as a substitute amendment with some compromises discussed below. After some further modifications, the amendment and H.R. 3009 were passed by the Senate on May 23, 2002. The House-passed amendment to H.R. 3009 proposes less sweeping changes to the two current programs

Eligibility Expansion. Several bills have been introduced in the 107th Congress that extend benefits under the adjustment assistance program to workers who are not currently eligible. Once again, S. 1209, H.R. 3359, H.R. 3670, and the Senate-passed version of H.R. 3009 include the most comprehensive of these proposals. They would extend eligibility by reason of production shifts to *any country* rather than just Canada or Mexico as under the present NAFTA-TAAP. Workers in secondary industries and certain groups that are generally ineligible now would be included. The Senate-passed version of H.R. 3009 excludes truckers and some secondary workers that were included in the earlier bills as part of the compromise reached in offering S.Amdt. 3401. The House-passed amendment to H.R. 3009 includes a more specific definition of suppliers whose workers would be eligible for assistance. S. 1100 would also provide TAA for farmers¹. H.R. 457 would amend the Trade Act of 1974 to establish a transitional adjustment assistance program for workers adversely affected as a result of the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the People's Republic of China. H.R. 837 and S. 422 would provide that, for purposes of making determinations for certain trade remedies and TAA benefits, imported semi-finished steel slabs and taconite pellets produced in the United States would be considered to be articles like or directly competitive with each other. S. 2088 would provide that any worker in an industry would be presumed eligible for TAA benefits for a 4-year period after the International Trade Commission determines that an article is being imported into the U.S. in such quantities as to harm the domestic industry

¹ For a further discussion of this proposal, see CRS Report RS21182, *Trade Adjustment Assistance for Farmers*.

producing a similar article. H.R. 4550 would clarify the eligibility for benefits of adversely affected workers who are engaged in self-employment assistance activities.

Benefit Expansion. In addition to the TRAs and training, TAA can also provide allowances of up to \$800 for job search assistance and/or relocation to a new job site. S. 1209, H.R. 3359, and H.R. 3670 would raise these allowance maximums to \$1,200 for job search assistance and \$1,500 for relocation, while the Senate-passed version of H.R. 3009 would set the maximum amount at \$1,250 each. These bills would also make available another 26 weeks of cash benefits beyond the TRAs now available. On May 15, the Senate passed S.Amdt. 3417 to S.Amdt. 3401 adding 26 more weeks of benefits for those who need remedial education. The bills would establish a ceiling of \$300 million on annual training funds as opposed to the present combined ceiling of \$110 million. The House amendment to H.R. 3009 would provide both increases in the number of weeks of benefits, but it would only increase the ceiling for TAA training to \$110 million while leaving the NAFTA-TAAP ceiling at \$30 million. H.R. 3359 would follow S. 1209 as originally introduced in providing a refundable credit against the individual income tax equal to 50% of the health insurance premiums that eligible unemployed workers must pay if they want their employer-sponsored health coverage continued during periods of unemployment. S. 1209 as reported and H.R. 3670 would provide a new subsidy that would pay 75% of health insurance premiums for eligible workers, and states would be given the option to provide the unsubsidized portion under Medicaid and to provide temporary Medicaid coverage for certain uninsured individuals. S.Amdt. 3386 would have changed the 75% subsidy to a 73% refundable tax credit payable in advance and would also have made it available to retired steel workers. The Senate-passed version of H.R. 3009 would lower the tax credit to 70% and does not include this benefit for retired steel workers. The House-passed amendment to H.R. 3009 would provide a means-tested 60% refundable tax credit and would extend this benefit to retired steel workers and any other retirees who are receiving their retirement benefits from the Pension Benefit Guaranty Corporation. Only the Senate-passed version of H.R. 3009 retains the wage insurance provision although another compromise would have it terminate 2 years after it is implemented in a state. S.Amdt. 3427 that would have removed the wage insurance provision was tabled by a vote of 58-38 on May 16, 2002. S. 1209, H.R. 3670, and H.R. 3009 also call upon the Small Business Administration to establish a displaced worker self-employment training pilot program. H.R. 2613 would also increase by 26 weeks the maximum number of weeks of benefits for workers in need of remedial education, and H.R. 2810 would provide this increase for all workers eligible for NAFTA-TAAP while doubling the annual amount authorized for training to \$60 million. H.R. 2810 would further provide an additional 78 weeks of benefits under NAFTA-TAAP for workers with limited English proficiency or otherwise in need of remedial education, and it would also remove the prohibition of waivers from training. H.R. 3768 would give both employer and employee a credit for social security taxes paid for the first year of employment in a job the worker obtains after completing TAA training. H.R. 3982 would apply half of the tariffs imposed on imported steel products to help replace the health insurance lost by those who are eligible for TAA.

Funding. President Bush proposed in his FY2003 budget to extend the TAA and NAFTA-TAAP programs, and the budget request includes total funding of \$462 million for TAA and NAFTA-TAAP, which represents an increase of \$46 million over FY2002 funding levels of \$416 million. The breakdown would be \$297 million for TAA benefits and \$94.5 million for training with \$33 million and \$37 million for NAFTA-TAAP.

Adjustment Assistance for Workers As Passed in the Senate (H.R. 3009)

- Workers could become eligible either because imported goods contributed importantly to their unemployment or because of shifts in production to *any country* outside the United States. Currently, a shift in production does not serve to qualify jobless workers under TAA; production shifts can qualify workers under NAFTA-TAAP, but only if the destination country is Canada or Mexico.
- Workers in secondary industries (those that supply industries directly affected by trade or plant relocation) would be covered, but more restrictive definitions of downstream producer and supplier reduce the number of workers covered compared to earlier versions. Currently, only directly affected industries are covered by TAA.
- Certain groups generally ineligible under current law — family farmers, ranchers, independent fishermen, taconite workers — are specifically mentioned as groups that could qualify under the new program. The President or the Senate Finance Committee or the House Ways and Means Committee would be able to petition the Secretary of Labor to start the certification process with respect to a particular industry.
- A petition for eligibility from a group of workers would be considered simultaneously by the Governor of the state and the U.S. Secretary of Labor. This approach should speed up the current process used by NAFTA-TAAP, in which the two officials consider petitions serially rather than simultaneously. The Secretary would have 40 days in which to act. If a group is eligible, additional workers not covered by the original petition but who lost their jobs for related reasons could be covered if their job separations occurred no more than 1 year before the date of petition.
- The new program would offer an additional 26 weeks of cash benefits beyond what is now available plus another 26 weeks for those who need remedial education. Thus, a maximum of 130 weeks of benefits would be available (26 weeks from UC, 104 weeks from the new Adjustment Assistance for Workers program).
- The current programs can provide allowances of up to \$800 per claimant to individuals who (a) must search for jobs outside their local area of residence, and/or (b) must relocate to begin new employment. The amendment would raise these allowance maximums to \$1,250.
- Factors that would permit the Secretary to waive otherwise required training are spelled out in the bill's language. Thus, the new program would operate more like TAA than NAFTA-TAAP in this regard.
- The ceiling on annual training funds would be raised to \$300 million. The combined ceiling for the two current programs is \$110 million. It should be noted that these ceilings have not restricted the Department of Labor from using available funds from other appropriation accounts when the demand for TAA training has exceeded a statutory ceiling.
- A new wage insurance feature would be added, which would make up a portion of the wage difference between the wage on a new job and the old one for up to 2 years to facilitate speedier transitions into new

occupations or industries. Eligibility would be limited to those over age 50 whose prior incomes were less than \$50,000 yearly, who work at least 30 hours a week, and who found new jobs within 26 weeks after job separation. Total payments could not exceed \$10,000 over 2 years. Supportive services would be available under WIA. Wage insurance would not be available to workers who received TRAs.

- A new refundable tax credit for 70% of health insurance premiums for eligible workers would be added, and states would be given grants and several options to provide health insurance through COBRA continuation coverage, high-risk pools, their state employees plan, or by other means.

Summary of Changes to TAA for Workers As Passed by the House in Its Amendment to H.R. 3009

- Would reauthorize the TAA and NAFTA-TAAP programs through FY2004.
- Would expand coverage to some secondary workers by covering certain industries.
- Would call for expedited review of petitions for certification by Secretary of Labor within 40 days.
- Would offer an additional 26 weeks of cash benefits for those in training plus another 26 weeks for those who need remedial education.
- Factors that would permit the Secretary to waive otherwise required training in the TAA program are spelled out.
- The ceiling on annual training funds for the TAA program would be raised from \$80 million to \$110 million. The ceiling on training for the NAFTA-TAAP where there is not available a waiver from training would remain at \$30 million.
- A new tax credit for 60% of health insurance premiums would be added for eligible TAA and NAFTA-TAAP recipients as well as for eligible Pension Benefit Guaranty Corporation beneficiaries.