

108TH CONGRESS  
2D SESSION

# H. R. 5030

To amend the Trade Act of 1974 to provide trade adjustment assistance to the services sector and for communities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2004

Mr. MICHAUD introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Trade Act of 1974 to provide trade adjustment assistance to the services sector and for communities, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Invest in American  
5 Workers Act of 2004”.

6 **SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE**  
7 **TO SERVICES SECTOR.**

8 (a) **ADJUSTMENT ASSISTANCE FOR WORKERS.**—

1           (1) ELIGIBILITY.—Section 221(a)(1)(A) of the  
2 Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is  
3 amended by striking “firm)” and inserting “firm,  
4 and workers in a service sector firm or subdivision  
5 of a service sector firm”.

6           (2) GROUP ELIGIBILITY REQUIREMENTS.—Sec-  
7 tion 222 of the Trade Act of 1974 (19 U.S.C. 2272)  
8 is amended—

9           (A) in subsection (a)—

10           (i) in the matter preceding paragraph  
11 (1), by striking “agricultural firm)” and  
12 inserting “agricultural firm, and workers  
13 in a service sector firm or subdivision of a  
14 service sector firm”);

15           (ii) in paragraph (2)—

16           (I) in subparagraph (A)(ii), by  
17 striking “like or directly competitive  
18 with articles produced” and inserting  
19 “or services like or directly competi-  
20 tive with articles produced or services  
21 provided”; and

22           (II) by inserting after subpara-  
23 graph (B) the following:

24           “(C)(i) there has been a shift, by such  
25 workers’ firm or subdivision to a foreign coun-

1 try, in provision of services like or directly com-  
 2 petitive with services which are provided by  
 3 such firm or subdivision; or

4 “(ii) such workers’ firm or subdivision has  
 5 obtained or is likely to obtain services described  
 6 in clause (i) from a foreign country”;

7 (B) in subsection (b), in the matter pre-  
 8 ceeding paragraph (1), by striking “agricultural  
 9 firm)” and inserting “agricultural firm, and  
 10 workers in a service sector firm or subdivision  
 11 of a service sector firm)”;

12 (C) in subsection (c)(3)—

13 (i) by inserting “(or subdivision)”  
 14 after “such other firm”; and

15 (ii) by striking “, if the certification”  
 16 and all that follows through “Mexico”.

17 (3) DEFINITIONS.—Section 247 of the Trade  
 18 Act of 1974 (19 U.S.C. 2319) is amended by insert-  
 19 ing after paragraph (6) the following:

20 “(7) The term ‘service sector firm’ means an  
 21 entity engaged in the business of providing informa-  
 22 tion technology or other high technology services.”.

23 (b) TRADE ADJUSTMENT ASSISTANCE FOR FIRMS  
 24 AND INDUSTRIES.—

25 (1) FIRMS.—

1 (A) ASSISTANCE.—Section 251 of the  
2 Trade Act of 1974 (19 U.S.C. 2341) is amend-  
3 ed—

4 (i) in subsection (a), by inserting “or  
5 service sector firm” after “(including any  
6 agricultural firm”); and

7 (ii) in subsection (c)(1)—

8 (I) in the matter preceding sub-  
9 paragraph (A), by inserting “or serv-  
10 ice sector firm” after “any agricul-  
11 tural firm”;

12 (II) in subparagraph (B)(ii), by  
13 inserting “or service” after “of an ar-  
14 ticle”;

15 (III) in subparagraph (C), by  
16 striking “articles like or directly com-  
17 petitive with articles which are pro-  
18 duced” and inserting “articles or serv-  
19 ices like or directly competitive with  
20 articles or services which are produced  
21 or provided”.

22 (B) DEFINITION.—Section 261 of the  
23 Trade Act of 1974 (19 U.S.C. 2351) is amend-  
24 ed—

1 (i) by striking “For purposes of” and  
2 inserting “(a) FIRM.—For purposes of”;  
3 and

4 (ii) by adding at the end the fol-  
5 lowing:

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

9 (2) INDUSTRIES.—Section 265(a) of the Trade  
10 Act of 1974 (19 U.S.C. 2355(a)) is amended by in-  
11 serting “or service” after “new product”.

12 **SEC. 3. TRADE ADJUSTMENT ASSISTANCE FOR COMMU-**  
13 **NITIES.**

14 (a) IN GENERAL.—Chapter 4 of title II of the Trade  
15 Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read  
16 as follows:

17 **“CHAPTER 4—TRADE ADJUSTMENT**  
18 **ASSISTANCE FOR COMMUNITIES**

19 **“SEC. 271. DEFINITIONS.**

20 “In this chapter:

21 “(1) AFFECTED DOMESTIC PRODUCER.—The  
22 term ‘affected domestic producer’ means any manu-  
23 facturer, producer, farmer, rancher, fisherman or  
24 worker representative (including associations of such  
25 persons) that was affected by a finding under the

1 Antidumping Act of 1921, or by an antidumping or  
2 countervailing duty order issued under title VII of  
3 the Tariff Act of 1930.

4 “(2) AGRICULTURAL COMMODITY PRODUCER.—  
5 The term ‘agricultural commodity producer’ has the  
6 same meaning as the term ‘person’ as prescribed by  
7 regulations promulgated under section 1001(5) of  
8 the Food Security Act of 1985 (7 U.S.C. 1308(5)).

9 “(3) COMMUNITY.—The term ‘community’  
10 means a city, county, or other political subdivision of  
11 a State or a consortium of political subdivisions of  
12 a State that the Secretary certifies as being nega-  
13 tively impacted by trade.

14 “(4) COMMUNITY NEGATIVELY IMPACTED BY  
15 TRADE.—A community negatively impacted by trade  
16 means a community with respect to which a deter-  
17 mination has been made under section 273.

18 “(5) ELIGIBLE COMMUNITY.—The term ‘eligible  
19 community’ means a community certified under sec-  
20 tion 273 for assistance under this chapter.

21 “(6) FISHERMAN.—

22 “(A) IN GENERAL.—The term ‘fisherman’  
23 means any person who—

24 “(i) is engaged in commercial fishing;

25 or

1 “(ii) is a United States fish processor.

2 “(B) COMMERCIAL FISHING, FISH, FISH-  
3 ERY, FISHING, FISHING VESSEL, PERSON, AND  
4 UNITED STATES FISH PROCESSOR.—The terms  
5 ‘commercial fishing’, ‘fish’, ‘fishery’, ‘fishing’,  
6 ‘fishing vessel’, ‘person’, and ‘United States fish  
7 processor’ have the same meanings as such  
8 terms have in the Magnuson-Stevens Fishery  
9 Conservation and Management Act (16 U.S.C.  
10 1802).

11 “(7) JOB LOSS.—The term ‘job loss’ means the  
12 total or partial separation of an individual, as those  
13 terms are defined in section 247.

14 “(8) SECRETARY.—The term ‘Secretary’ means  
15 the Secretary of Commerce.

16 **“SEC. 272. COMMUNITY TRADE ADJUSTMENT ASSISTANCE**  
17 **PROGRAM.**

18 “(a) ESTABLISHMENT.—Within 6 months after the  
19 date of enactment of the Invest in American Workers Act  
20 of 2004, the Secretary shall establish a Trade Adjustment  
21 Assistance for Communities Program at the Department  
22 of Commerce.

23 “(b) PERSONNEL.—The Secretary shall designate  
24 such staff as may be necessary to carry out the respon-  
25 sibilities described in this chapter.

1       “(c) COORDINATION OF FEDERAL RESPONSE.—The  
2 Secretary shall—

3               “(1) provide leadership, support, and coordina-  
4 tion for a comprehensive management program to  
5 address economic dislocation in eligible communities;

6               “(2) coordinate the Federal response to an eli-  
7 gible community—

8                       “(A) by identifying all Federal, State, and  
9 local resources that are available to assist the  
10 eligible community in recovering from economic  
11 distress;

12                      “(B) by ensuring that all Federal agencies  
13 offering assistance to an eligible community do  
14 so in a targeted, integrated manner that en-  
15 sures that an eligible community has access to  
16 all available Federal assistance;

17                      “(C) by assuring timely consultation and  
18 cooperation between Federal, State, and re-  
19 gional officials concerning economic adjustment  
20 for an eligible community; and

21                      “(D) by identifying and strengthening ex-  
22 isting agency mechanisms designed to assist eli-  
23 gible communities in their efforts to achieve  
24 economic adjustment and workforce reemploy-  
25 ment;

1           “(3) provide comprehensive technical assistance  
2           to any eligible community in the efforts of that com-  
3           munity to—

4                   “(A) identify serious economic problems in  
5                   the community that are the result of negative  
6                   impacts from trade;

7                   “(B) integrate the major groups and orga-  
8                   nizations significantly affected by the economic  
9                   adjustment;

10                   “(C) access Federal, State, and local re-  
11                   sources designed to assist in economic develop-  
12                   ment and trade adjustment assistance;

13                   “(D) diversify and strengthen the commu-  
14                   nity economy; and

15                   “(E) develop a community-based strategic  
16                   plan to address economic development and  
17                   workforce dislocation, including unemployment  
18                   among agricultural commodity producers, and  
19                   fishermen;

20                   “(4) establish specific criteria for submission  
21                   and evaluation of a strategic plan submitted under  
22                   section 274(d);

23                   “(5) establish specific criteria for submitting  
24                   and evaluating applications for grants under section  
25                   275;

1           “(6) administer the grant programs established  
2           under sections 274 and 275; and

3           “(7) establish an interagency Trade Adjustment  
4           Assistance for Communities Working Group, con-  
5           sisting of the representatives of any Federal depart-  
6           ment or agency with responsibility for economic ad-  
7           justment assistance, including the Department of  
8           Agriculture, the Department of Education, the De-  
9           partment of Labor, the Department of Housing and  
10          Urban Development, the Department of Health and  
11          Human Services, the Small Business Administra-  
12          tion, the Department of the Treasury, the Depart-  
13          ment of Commerce, and any other Federal, State, or  
14          regional department or agency the Secretary deter-  
15          mines necessary or appropriate.

16 **“SEC. 273. CERTIFICATION AND NOTIFICATION.**

17          “(a) CERTIFICATION.—Not later than 45 days after  
18          an event described in subsection (c)(1), the Secretary of  
19          Commerce shall determine if a community described in  
20          subsection (b)(1) is negatively impacted by trade, and if  
21          a positive determination is made, shall certify the commu-  
22          nity for assistance under this chapter.

23          “(b) DETERMINATION THAT COMMUNITY IS ELIGI-  
24          BLE.—

1           “(1) COMMUNITY DESCRIBED.—A community  
2 described in this paragraph means a community  
3 with respect to which on or after October 1, 2004—

4           “(A) the Secretary of Labor certifies a  
5 group of workers (or their authorized represent-  
6 ative) in the community as eligible for assist-  
7 ance pursuant to section 223;

8           “(B) the Secretary of Commerce certifies a  
9 firm located in the community as eligible for  
10 adjustment assistance under section 251;

11           “(C) the Secretary of Agriculture certifies  
12 a group of agricultural commodity producers  
13 (or their authorized representative) in the com-  
14 munity as eligible for adjustment assistance  
15 under section 293;

16           “(D) an affected domestic producer is lo-  
17 cated in the community; or

18           “(E) the Secretary determines that a sig-  
19 nificant number of fishermen in the community  
20 is negatively impacted by trade.

21           “(2) NEGATIVELY IMPACTED BY TRADE.—The  
22 Secretary shall determine that a community is nega-  
23 tively impacted by trade, after taking into consider-  
24 ation—

1           “(A) the number of jobs affected compared  
2 to the size of workforce in the community;

3           “(B) the severity of the rates of unemploy-  
4 ment in the community and the duration of the  
5 unemployment in the community;

6           “(C) the income levels and the extent of  
7 underemployment in the community;

8           “(D) the outmigration of population from  
9 the community and the extent to which the out-  
10 migration is causing economic injury in the  
11 community; and

12           “(E) the unique problems and needs of the  
13 community.

14       “(c) DEFINITION AND SPECIAL RULES.—

15           “(1) EVENT DESCRIBED.—An event described  
16 in this paragraph means one of the following:

17           “(A) A notification described in paragraph  
18 (2).

19           “(B) A certification of a firm under section  
20 251.

21           “(C) A finding under the Antidumping Act  
22 of 1921, or an antidumping or countervailing  
23 duty order issued under title VII of the Tariff  
24 Act of 1930.

1           “(D) A determination by the Secretary  
2           that a significant number of fishermen in a  
3           community have been negatively impacted by  
4           trade.

5           “(2) NOTIFICATION.—The Secretary of Labor,  
6           immediately upon making a determination that a  
7           group of workers is eligible for trade adjustment as-  
8           sistance under section 223, (or the Secretary of Ag-  
9           riculture, immediately upon making a determination  
10          that a group of agricultural commodity producers is  
11          eligible for adjustment assistance under section 293,  
12          as the case may be) shall notify the Secretary of  
13          Commerce of the determination.

14          “(3) LOOK BACK.—In any case in which an  
15          event described in paragraph (1) occurred on or  
16          after January 1, 1998, and before the effective date  
17          of this chapter, the Secretary shall, not later than  
18          45 days after such effective date, determine whether  
19          the community is negatively impacted by trade, and  
20          if a positive determination is made, shall certify the  
21          community for assistance under this chapter.

22          “(d) NOTIFICATION TO ELIGIBLE COMMUNITIES.—  
23          Immediately upon certification by the Secretary of Com-  
24          merce that a community is eligible for assistance under  
25          subsection (b), the Secretary shall notify the community—

1 “(1) of the determination under subsection (b);

2 “(2) of the provisions of this chapter;

3 “(3) how to access the clearinghouse established  
4 by the Department of Commerce regarding available  
5 economic assistance;

6 “(4) how to obtain technical assistance provided  
7 under section 272(c)(3); and

8 “(5) how to obtain grants, tax credits, low in-  
9 come loans, and other appropriate economic assist-  
10 ance.

11 **“SEC. 274. STRATEGIC PLANS.**

12 “(a) IN GENERAL.—An eligible community may de-  
13 velop a strategic plan for community economic adjustment  
14 and diversification.

15 “(b) REQUIREMENTS FOR STRATEGIC PLAN.—A  
16 strategic plan shall contain, at a minimum, the following:

17 “(1) A description and justification of the ca-  
18 pacity for economic adjustment, including the meth-  
19 od of financing to be used.

20 “(2) A description of the commitment of the  
21 community to the strategic plan over the long term  
22 and the participation and input of groups affected  
23 by economic dislocation.

24 “(3) A description of the projects to be under-  
25 taken by the eligible community.

1           “(4) A description of how the plan and the  
2 projects to be undertaken by the eligible community  
3 will lead to job creation and job retention in the  
4 community.

5           “(5) A description of how the plan will achieve  
6 economic adjustment and diversification.

7           “(6) A description of how the plan and the  
8 projects will contribute to establishing or maintain-  
9 ing a level of public services necessary to attract and  
10 retain economic investment.

11           “(7) A description and justification for the cost  
12 and timing of proposed basic and advanced infra-  
13 structure improvements in the eligible community.

14           “(8) A description of how the plan will address  
15 the occupational and workforce conditions in the eli-  
16 gible community.

17           “(9) A description of the educational programs  
18 available for workforce training and future employ-  
19 ment needs.

20           “(10) A description of how the plan will adapt  
21 to changing markets and business cycles.

22           “(11) A description and justification for the  
23 cost and timing of the total funds required by the  
24 community for economic assistance.

1           “(12) A graduation strategy through which the  
2           eligible community demonstrates that the community  
3           will terminate the need for Federal assistance.

4           “(c) GRANTS TO DEVELOP STRATEGIC PLANS.—The  
5           Secretary, upon receipt of an application from an eligible  
6           community, may award a grant to that community to be  
7           used to develop the strategic plan.

8           “(d) SUBMISSION OF PLAN.—A strategic plan devel-  
9           oped under subsection (a) shall be submitted to the Sec-  
10          retary for evaluation and approval.

11          **“SEC. 275. GRANTS FOR ECONOMIC DEVELOPMENT.**

12          “(a) IN GENERAL.—The Secretary, upon approval of  
13          a strategic plan from an eligible community, may award  
14          a grant to that community to carry out any project or  
15          program that is certified by the Secretary to be included  
16          in the strategic plan approved under section 274(d), or  
17          consistent with that plan.

18          “(b) ADDITIONAL GRANTS.—

19                  “(1) IN GENERAL.—Subject to paragraph (2),  
20                  in order to assist eligible communities to obtain  
21                  funds under Federal grant programs, other than the  
22                  grants provided for in section 274(c) or subsection  
23                  (a), the Secretary may, on the application of an eli-  
24                  gible community, make a supplemental grant to the  
25                  community if—

1           “(A) the purpose of the grant program  
2           from which the grant is made is to provide  
3           technical or other assistance for planning, con-  
4           structing, or equipping public works facilities or  
5           to provide assistance for public service projects;  
6           and

7           “(B) the grant is 1 for which the commu-  
8           nity is eligible except for the community’s in-  
9           ability to meet the non-Federal share require-  
10          ments of the grant program.

11          “(2) USE AS NON-FEDERAL SHARE.—A supple-  
12          mental grant made under this subsection may be  
13          used to provide the non-Federal share of a project,  
14          unless the total Federal contribution to the project  
15          for which the grant is being made exceeds 80 per-  
16          cent and that excess is not permitted by law.

17          “(c) RURAL COMMUNITY PREFERENCE.—The Sec-  
18          retary shall develop guidelines to ensure that rural com-  
19          munities receive preference in the allocation of resources.

20          **“SEC. 276. GENERAL PROVISIONS.**

21          “(a) REGULATIONS.—The Secretary shall prescribe  
22          such regulations as are necessary to carry out the provi-  
23          sions of this chapter. Before implementing any regulation  
24          or guideline proposed by the Secretary with respect to this  
25          chapter, the Secretary shall submit the regulation or

1 guideline to the Committee on Finance of the Senate and  
2 the Committee on Ways and Means of the House of Rep-  
3 resentatives for approval.

4 “(b) SUPPLEMENT NOT SUPPLANT.—Funds appro-  
5 priated under this chapter shall be used to supplement and  
6 not supplant other Federal, State, and local public funds  
7 expended to provide economic development assistance for  
8 communities.

9 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated to the Secretary  
11 \$350,000,000 for each of fiscal years 2005 through 2008,  
12 to carry out this chapter. Amounts appropriated pursuant  
13 to this subsection shall remain available until expended.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) TERMINATION.—Section 285(b) of the  
16 Trade Act of 1974 (19 U.S.C. 2271 note) is amend-  
17 ed by adding at the end the following new para-  
18 graph:

19 “(3) ASSISTANCE FOR COMMUNITIES.—Tech-  
20 nical assistance and other payments may not be pro-  
21 vided under chapter 4 after September 30, 2008.”.

22 (2) TABLE OF CONTENTS.—The table of con-  
23 tents for title II of the Trade Act of 1974 is amend-  
24 ed by striking the items relating to chapter 4 of title

1       II and inserting after the items relating to chapter  
2       3 the following new items:

“CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

- “271. Definitions.  
“272. Community Trade Adjustment Assistance Program.  
“273. Certification and notification.  
“274. Strategic plans.  
“275. Grants for economic development.  
“276. General provisions.”.

3           (3) JUDICIAL REVIEW.—Section 284(a) of the  
4       Trade Act of 1974 (19 U.S.C. 2395(a)) is amended  
5       by striking “section 271” and inserting “section  
6       273”.

7       (c) EFFECTIVE DATE.—The provisions of this section  
8       shall take effect on October 1, 2004.

9       **SEC. 4. WAIVER OF DELIMITING PERIOD FOR EDU-**  
10           **CATIONAL ASSISTANCE UNDER THE MONT-**  
11           **GOMERY GI BILL FOR VETERANS WHO FILE**  
12           **CLAIMS FOR UNEMPLOYMENT COMPENSA-**  
13           **TION.**

14       Section 3031 of title 38, United States Code, is  
15       amended—

16           (1) by redesignating subsection (h) as sub-  
17       section (i);

18           (2) by striking “(b) through (g)” in the matter  
19       preceding paragraph (1) of subsection (a) and in-  
20       serting “(b) through (h)”;

1           (3) by inserting after subsection (g) the fol-  
2           lowing new subsection (h):

3           “(h)(1) In the case of a qualified individual (de-  
4           scribed in paragraph (2)), the 10-year period described in  
5           subsection (a) for the use of entitlement under this chap-  
6           ter shall not apply.

7           “(2) A qualified individual referred to in paragraph  
8           (1) is an individual—

9                 “(A) with respect to whom, the 10-year period  
10           described in subsection (a) has expired;

11                “(B) who, on the last day of such 10-year pe-  
12           riod, had remaining entitlement to educational as-  
13           sistance under this chapter; and

14                “(C) who demonstrates to the Secretary that  
15           the individual has filed a claim for benefits under a  
16           State unemployment compensation law on or after  
17           the date of the enactment of this subsection.

18           “(3) A qualified individual may only use entitlement  
19           to educational assistance for programs of education pur-  
20           sued on or after the date the individual files an application  
21           referred to in paragraph (2)(C).”.

1 **SEC. 5. INCREASE IN CREDIT AMOUNT OF HEALTH INSUR-**  
2 **ANCE COSTS OF ELIGIBLE INDIVIDUALS.**

3 (a) IN GENERAL.—Section 35(a) of the Internal Rev-  
4 enue Code of 1986 is amended by striking “65 percent”  
5 and inserting “100 percent”.

6 (b) CONFORMING AMENDMENT.—Section 7527(b) of  
7 such Code is amended by striking “65 percent of”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to payments after December 31,  
10 2003.

11 **SEC. 6. UNLIMITED PENALTY-FREE DISTRIBUTIONS FROM**  
12 **QUALIFIED RETIREMENT PLANS TO INDIVID-**  
13 **UALS AFTER SEPARATION FROM EMPLOY-**  
14 **MENT.**

15 (a) UNLIMITED PENALTY-FREE DISTRIBUTIONS TO  
16 UNEMPLOYED INDIVIDUALS.—Clause (i) of section  
17 72(t)(2)(D) of the Internal Revenue Code of 1986 is  
18 amended to read as follows:

19 “(i) IN GENERAL.—Distributions from  
20 a qualified retirement plan to an individual  
21 after separation from employment—

22 “(I) if the individual has received  
23 unemployment compensation for 12  
24 consecutive weeks under any Federal  
25 or State unemployment compensation  
26 law by reason of such separation, and

1                   “(II) if such distributions are  
2                   made during any taxable year during  
3                   which such unemployment compensa-  
4                   tion is paid or the succeeding taxable  
5                   year.”.

6           (b) CONFORMING AMENDMENT.—The heading for  
7 subparagraph (D) of section 72(t)(2) of such Code is  
8 amended in the heading by striking “FOR HEALTH INSUR-  
9 ANCE PREMIUMS”.

10          (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to distributions after December 31,  
12 2003.

○