

108TH CONGRESS  
2D SESSION

# S. 2531

To assist displaced American workers during a jobless recovery, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

JUNE 16, 2004

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To assist displaced American workers during a jobless recovery, 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 “Keeping American  
5 Jobs at Home Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Senate finds the following:

8 (1) The unusually prolonged period in which  
9 there has been negative job growth has caused an  
10 unprecedented number of people to refrain from ac-

1 tively looking for work and, therefore, to be excluded  
2 from the unemployment measurement, effectively  
3 creating a “missing” labor force. If the unemploy-  
4 ment rate in February 2004 took into account this  
5 missing labor force, the unemployment rate would  
6 have been 7.4 percent or 1.8 percent greater than  
7 the official rate of 5.6 percent.

8 (2) Newly released unemployment figures show  
9 that the trend toward growing long-term unemploy-  
10 ment continued last year, the second year after the  
11 recession ended.

12 (3) An analysis of long-term unemployment  
13 from 2000 to 2003 shows that the number of people  
14 without work for 6 months or more has risen at the  
15 extraordinarily high rate of 198.2 percent over this  
16 period, from just over 649,000 in 2000 to nearly  
17 2,000,000 in 2003.

18 (4) According to the Bureau of Labor Statis-  
19 tics, in 2003, 22.1 percent of all unemployed work-  
20 ers had been out of work for more than 6 months,  
21 an increase from 18.3 percent in 2002. This propor-  
22 tion is higher than at comparable points in the re-  
23 covery periods of the 4 most recent recessions, and  
24 is the highest rate since 1983.

1           (5) In 2005, 588,000 American jobs are pro-  
2           jected to be moved overseas. In 2010, that number  
3           is expected to grow to 1,600,000 and by 2015,  
4           3,300,000 American jobs will be moved overseas.

5           (6) In February 2004, the Chairman of the  
6           Council of Economic Advisors, called offshoring  
7           “just a new way of doing international trade. More  
8           things are tradable than were tradable in the past,  
9           and that’s a good thing. When a good or service is  
10          produced at lower cost in another country, it makes  
11          sense to import it rather than to produce it domesti-  
12          cally.”.

13          (7) Immediate action is necessary to encourage  
14          United States companies to keep American jobs at  
15          home, to assist displaced American workers in find-  
16          ing new, family wage jobs, and to assure that the  
17          current American workforce has the skills to com-  
18          pete and win in the global economy.

19          (b) PURPOSE.—The purpose of this Act is to assist  
20          displaced American workers during a jobless recovery by—

21                (1) ensuring displaced workers in the software,  
22                information technology, and services sectors have ac-  
23                cess to the same trade adjustment assistance and  
24                health care tax credits as displaced manufacturing  
25                workers;

1           (2) providing wage insurance for qualifying dis-  
 2           placed workers upon reemployment (to make up part  
 3           of the difference between a new, lower salary and a  
 4           previous, higher salary); and

5           (3) providing a legal safe harbor for United  
 6           States businesses that choose to keep American jobs  
 7           at home.

8           **TITLE I—ASSISTANCE FOR DIS-**  
 9           **PLACED AMERICAN WORKERS**

10          **SEC. 101. ELIMINATION OF TAX SUBSIDIES FOR**  
 11   **OUTSOURCING OF AMERICAN JOBS.**

12          (a) IN GENERAL.—Part IX of subchapter B of chap-  
 13          ter 1 of the Internal Revenue Code of 1986 (relating to  
 14          items not deductible) is amended by adding at the end  
 15          the following new section:

16          **“SEC. 280I. ELIMINATION OF TAX SUBSIDIES FOR**  
 17   **OUTSOURCING OF AMERICAN JOBS.**

18          “(a) IN GENERAL.—No deduction or credit shall be  
 19          allowed under this chapter with respect to any applicable  
 20          outsourcing item.

21          “(b) APPLICABLE OUTSOURCING ITEM.—For pur-  
 22          poses of this section—

23                   “(1) IN GENERAL.—The term ‘applicable  
 24                   outsourcing item’ means any item of expense (in-  
 25                   cluding any allowance for depreciation or amortiza-

1       tion) or loss arising in connection with 1 or more  
2       transactions which—

3               “(A) transfer the production of goods (or  
4               the performance of services) from within the  
5               United States to outside the United States, and

6               “(B) result in the replacement of workers  
7               who reside in the United States with other  
8               workers who reside outside of the United  
9               States.

10              “(2) CERTAIN ITEMS INCLUDED.—The term  
11              ‘applicable outsourcing item’ shall include with re-  
12              spect to any transaction described in paragraph  
13              (1)—

14               “(A) any amount paid or incurred in train-  
15               ing the replacement workers described in para-  
16               graph (1)(B),

17               “(B) any amount paid or incurred in  
18               transporting tangible property outside the  
19               United States in connection with the transfer  
20               described in paragraph (1)(A),

21               “(C) any expense or loss incurred in con-  
22               nection with the sale, abandonment, or other  
23               disposition of any property or facility located  
24               within the United States and used in the pro-

1           duction of goods (or the performance of serv-  
2           ices) before such transfer,

3           “(D) expenses paid or incurred for travel  
4           in connection with the planning and carrying  
5           out of any such transaction,

6           “(E) any general or administrative ex-  
7           penses properly allocable to any such trans-  
8           action,

9           “(F) any amount paid or incurred in con-  
10          nection with any such transaction for the acqui-  
11          sition of any property or facility located outside  
12          the United States, and

13          “(G) any other item specified by the Sec-  
14          retary.

15          “(3) CERTAIN ITEMS NOT INCLUDED.—The  
16          term ‘applicable outsourcing item’ shall not include  
17          any expenses directly allocable to the sale of goods  
18          and services without the United States.

19          “(c) REGULATIONS.—The Secretary shall prescribe  
20          such regulations as are necessary or appropriate to carry  
21          out the provisions of this section. The Secretary shall pre-  
22          scribe initial regulations not later than 180 days after the  
23          date of enactment of this section.”.

24          (b) CONFORMING AMENDMENT.—The table of sec-  
25          tions for part IX of subchapter B of chapter 1 of the In-

1 ternal Revenue Code of 1986 is amended by adding at the  
 2 end the following new item:

“Sec. 280I. Elimination of tax subsidies for outsourcing of American jobs.”.

3 (c) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to transactions occurring on or  
 5 after the date of enactment of this Act.

6 **SEC. 102. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE**  
 7 **TO SERVICES SECTOR.**

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

13 (b) GROUP ELIGIBILITY REQUIREMENTS.—Section  
 14 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amend-  
 15 ed—

16 (1) in subsection (a)—

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 (1), by inserting “or  
 23 public agency” after “of the firm”; and

24 (C) in paragraph (2)—

1 (i) in subparagraph (A)(ii), by strik-  
2 ing “like or directly competitive with arti-  
3 cles produced” and inserting “or services  
4 like or directly competitive with articles  
5 produced or services provided”; and

6 (ii) by striking subparagraph (B) and  
7 inserting the following:

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

15 “(ii) such workers’ firm, subdivision, or  
16 public agency has obtained or is likely to obtain  
17 such services from a foreign country.”;

18 (2) in subsection (b)—

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

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

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

3 (3) in subsection (c)—

4 (A) in paragraph (3)—

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

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

9 (iii) by inserting “or services” after  
10 “for articles”; and

11 (iv) by inserting “(or subdivision)”  
12 after “such other firm”; and

13 (B) in paragraph (4)—

14 (i) by striking “for articles” and in-  
15 serting “, or services, used in the produc-  
16 tion of articles or in the provision of serv-  
17 ices”; and

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

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

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

23 “(1) INCREASED IMPORTS.—For purposes of  
24 subsection (a)(2)(A)(ii), the Secretary may deter-  
25 mine that increased imports of like or directly com-

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

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

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

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

22      (d) DEFINITIONS.—Section 247 of the Trade Act of  
23      1974 (19 U.S.C. 2319) is amended—

24              (1) in paragraph (1)—

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

3 (B) by inserting “or public agency” after  
4 “or subdivision”;

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

7 (3) by redesignating paragraphs (8) through  
8 (17) as paragraphs (9) through (18), respectively;  
9 and

10 (4) by inserting after paragraph (6) the fol-  
11 lowing:

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

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

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

21 **SEC. 103. WAGE INSURANCE FOR QUALIFYING DISPLACED**  
22 **WORKERS UPON REEMPLOYMENT.**

23 (a) IN GENERAL.—Section 246 of the Trade Act of  
24 1974 (19 U.S.C. 2318) is amended to read as follows:

1 **“SEC. 246. WAGE INSURANCE FOR DISPLACED WORKERS.**

2 “(a) IN GENERAL.—

3 “(1) ESTABLISHMENT.—The Secretary shall es-  
4 tablish a wage insurance program for displaced  
5 workers that provides the benefits described in para-  
6 graph (2).

7 “(2) BENEFITS.

8 “(A) PAYMENTS.—A State shall use the  
9 funds provided to the State under section 241  
10 to pay, for a period not to exceed 2 years, to  
11 a worker described in paragraph (3)(B), 50 per-  
12 cent of the difference between—

13 “(i) the wages received by the worker  
14 from reemployment; and

15 “(ii) the wages received by the worker  
16 at the time of separation.

17 “(B) HEALTH INSURANCE.—A worker de-  
18 scribed in paragraph (3)(B) participating in the  
19 program established under paragraph (1) is eli-  
20 gible to receive, for a period not to exceed 2  
21 years, a credit for health insurance costs under  
22 section 35 of the Internal Revenue Code of  
23 1986, as added by section 201 of the Trade Act  
24 of 2002.

25 “(3) ELIGIBILITY.—

26 “(A) FIRM ELIGIBILITY.—

1           “(i) IN GENERAL.—The Secretary  
2 shall provide the opportunity for a group  
3 of workers on whose behalf a petition is  
4 filed under section 221 to request that the  
5 group of workers be certified for the wage  
6 insurance program under this section at  
7 the time the petition is filed.

8           “(ii) CRITERIA.—In determining  
9 whether to certify a group of workers as el-  
10 ible for the wage insurance program, the  
11 Secretary shall consider the following cri-  
12 teria:

13                   “(I) Whether the workers in the  
14 workers’ firm possess skills that are  
15 not easily transferable.

16                   “(II) The competitive conditions  
17 within the workers’ industry.

18           “(iii) DEADLINE.—The Secretary  
19 shall determine whether the workers in the  
20 group are eligible for the wage insurance  
21 program by the date specified in section  
22 223(a).

23           “(B) INDIVIDUAL ELIGIBILITY.—A worker  
24 in the group that the Secretary has certified as  
25 eligible for the wage insurance program may

1 elect to receive benefits under the wage insur-  
2 ance program if the worker—

3 “(i) is covered by a certification under  
4 subchapter A of this chapter;

5 “(ii) obtains reemployment not more  
6 than 26 weeks after the date of separation  
7 from the adversely affected employment;  
8 and

9 “(iii) earns not more than \$50,000 a  
10 year in wages from reemployment;

11 “(iv) is employed on a full-time basis  
12 as defined by State law in the State in  
13 which the worker is employed; and

14 “(v) does not return to the employ-  
15 ment from which the worker was sepa-  
16 rated.

17 “(4) TOTAL AMOUNT OF PAYMENTS.—The pay-  
18 ments described in paragraph (2)(A) made to a  
19 worker may not exceed \$10,000 per worker during  
20 the 2-year eligibility period.

21 “(5) LIMITATION ON OTHER BENEFITS.—Ex-  
22 cept as provided in section 238(a)(2)(B), if a worker  
23 is receiving payments pursuant to the program es-  
24 tablished under paragraph (1), the worker shall not

1 be eligible to receive any other benefits under this  
2 title.

3 “(b) TERMINATION.—

4 “(1) IN GENERAL.—Except as provided in para-  
5 graph (2), no payments may be made by a State  
6 under the program established under subsection  
7 (a)(1) after the date that is 5 years after the date  
8 on which such program is implemented by the State.

9 “(2) EXCEPTION.—Notwithstanding paragraph  
10 (1), a worker receiving payments under the program  
11 established under subsection (a)(1) on the termi-  
12 nation date described in paragraph (1) shall con-  
13 tinue to receive such payments provided that the  
14 worker meets the criteria described in subsection  
15 (a)(3)(B).”.

16 (b) CONFORMING AMENDMENT.—The table of con-  
17 tents for title II of the Trade Act of 1974 is amended  
18 by striking the item relating to section 246 and inserting  
19 the following:

“Sec. 246. Wage insurance for displaced workers.”.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to workers certified as eligible for  
22 adjustment assistance under chapter 2 of title II of the  
23 Trade Act of 1974 on or after the date of enactment of  
24 this Act.

1 **SEC. 104. BUSINESS JUDGMENT DEFENSE FOR NON-**  
2 **OUTSOURCING.**

3 Notwithstanding any other provision of law, a deter-  
4 mination by the officers or directors of a corporation that  
5 it is in the best interest of the corporation to keep jobs  
6 within the United States and to not locate the domicile  
7 of the corporation outside of the United States, or move  
8 or carry out production or other business activities of the  
9 corporation or any portion thereof, outside of the United  
10 States, shall be considered in any action brought against  
11 the corporation based on such determination by the court  
12 of competent jurisdiction to be a matter of business judg-  
13 ment, and such officers or directors may not be found to  
14 have violated their fiduciary duty to the corporation in any  
15 such action, based on that determination.

16 **TITLE II—IMPROVEMENT OF**  
17 **CREDIT FOR HEALTH INSUR-**  
18 **ANCE COSTS OF ELIGIBLE IN-**  
19 **DIVIDUALS**

20 **SEC. 201. EXPEDITED REFUND OF CREDIT FOR PRORATED**  
21 **FIRST MONTHLY PREMIUM AND SUBSE-**  
22 **QUENT MONTHLY PREMIUMS PAID PRIOR TO**  
23 **CERTIFICATION OF ELIGIBILITY FOR THE**  
24 **CREDIT.**

25 Section 7527 of the Internal Revenue Code of 1986  
26 (relating to advance payment of credit for health insur-

1 ance costs of eligible individuals) is amended by adding  
 2 at the end the following:

3       “(e) EXPEDITED PAYMENT OF PREMIUMS PAID  
 4 PRIOR TO ISSUANCE OF CERTIFICATE.—The program es-  
 5 tablished under subsection (a) shall provide for payment  
 6 to a certified individual of an amount equal to the percent-  
 7 age specified in section 35(a) of the premiums paid by  
 8 such individual for coverage of the taxpayer and qualifying  
 9 family members under qualified health insurance for eligi-  
 10 ble coverage months (as defined in section 35(b)) occur-  
 11 ring prior to the issuance of a qualified health insurance  
 12 costs credit eligibility certificate upon receipt by the Sec-  
 13 retary of evidence of such payment by the certified indi-  
 14 vidual.”.

15 **SEC. 202. TAA PRE-CERTIFICATION PERIOD RULE FOR PUR-**  
 16 **POSES OF DETERMINING WHETHER THERE IS**  
 17 **A 63-DAY LAPSE IN CREDITABLE COVERAGE.**

18       (a) ERISA AMENDMENT.—Section 701(c)(2) of the  
 19 Employee Retirement Income Security Act of 1974 (29  
 20 U.S.C. 1181(c)(2)) is amended by adding at the end the  
 21 following:

22                       “(C) TAA-ELIGIBLE INDIVIDUALS.—

23                               “(i) TAA PRE-CERTIFICATION PERIOD  
 24                               RULE.—In the case of a TAA-eligible indi-  
 25                               vidual, the period beginning on the date

1 the individual has a TAA-related loss of  
2 coverage and ending on the date the indi-  
3 vidual is certified by the Secretary (or by  
4 any person or entity designated by the Sec-  
5 retary) as being eligible for a qualified  
6 health insurance costs credit eligibility cer-  
7 tificate for purposes of section 7527 of the  
8 Internal Revenue Code of 1986 shall not  
9 be taken into account in determining the  
10 continuous period under subparagraph (A).

11 “(ii) DEFINITIONS.—The terms ‘TAA-  
12 eligible individual’, and ‘TAA-related loss  
13 of coverage’ have the meanings given such  
14 terms in section 605(b)(4)(C).”.

15 (b) PHSA AMENDMENT.—Section 2701(c)(2) of the  
16 Public Health Service Act (42 U.S.C. 300gg(c)(2)) is  
17 amended by adding at the end the following:

18 “(C) TAA-ELIGIBLE INDIVIDUALS.—

19 “(i) TAA PRE-CERTIFICATION PERIOD  
20 RULE.—In the case of a TAA-eligible indi-  
21 vidual, the period beginning on the date  
22 the individual has a TAA-related loss of  
23 coverage and ending on the date the indi-  
24 vidual is certified by the Secretary (or by  
25 any person or entity designated by the Sec-

1           retary) as being eligible for a qualified  
2           health insurance costs credit eligibility cer-  
3           tificate for purposes of section 7527 of the  
4           Internal Revenue Code of 1986 shall not  
5           be taken into account in determining the  
6           continuous period under subparagraph (A).

7           “(ii) DEFINITIONS.—The terms ‘TAA-  
8           eligible individual’, and ‘TAA-related loss  
9           of coverage’ have the meanings given such  
10          terms in section 2205(b)(4)(C).”.

11          (c) IRC AMENDMENT.—Section 9801(c)(2) of the In-  
12       ternal Revenue Code of 1986 (relating to not counting pe-  
13       riods before significant breaks in creditable coverage) is  
14       amended by adding at the end the following:

15               “(D) TAA-ELIGIBLE INDIVIDUALS.—

16                       “(i) TAA PRE-CERTIFICATION PERIOD  
17                       RULE.—In the case of a TAA-eligible indi-  
18                       vidual, the period beginning on the date  
19                       the individual has a TAA-related loss of  
20                       coverage and ending on the date the indi-  
21                       vidual is certified by the Secretary of  
22                       Labor (or by any person or entity des-  
23                       ignated by the Secretary of Labor) as  
24                       being eligible for a qualified health insur-  
25                       ance costs credit eligibility certificate for

1 purposes of section 7527 shall not be taken  
 2 into account in determining the continuous  
 3 period under subparagraph (A).

4 “(ii) DEFINITIONS.—The terms ‘TAA-  
 5 eligible individual’, and ‘TAA-related loss  
 6 of coverage’ have the meanings given such  
 7 terms in section 4980B(f)(5)(C)(iv).”.

8 **SEC. 203. CLARIFICATION OF ELIGIBILITY OF SPOUSE OF**  
 9 **CERTAIN INDIVIDUALS ENTITLED TO MEDI-**  
 10 **CARE.**

11 (a) IN GENERAL.—Subsection (b) of section 35 of the  
 12 Internal Revenue Code of 1986 (defining eligible coverage  
 13 month) is amended by adding at the end the following:

14 “(3) SPECIAL RULE FOR SPOUSE OF INDI-  
 15 VIDUAL ENTITLED TO MEDICARE.—Any month  
 16 which would be an eligible coverage month with re-  
 17 spect to a taxpayer (determined without regard to  
 18 subsection (f)(2)(A)) shall be an eligible coverage  
 19 month for any spouse of such taxpayer.”.

20 (b) CONFORMING AMENDMENT.—Section  
 21 173(f)(5)(A)(i) of the Workforce Investment Act of 1998  
 22 (29 U.S.C. 2918(f)(5)(A)(i)) is amended by inserting “(in-  
 23 cluding with respect to any month for which the eligible  
 24 individual would have been treated as such but for the ap-  
 25 plication of paragraph (7)(B)(i))” before the comma.

1 **SEC. 204. IMPROVEMENT OF THE AFFORDABILITY OF THE**  
 2 **CREDIT.**

3 (a) IN GENERAL.—Section 35(a) of the Internal Rev-  
 4 enue Code of 1986 (relating to credit for health insurance  
 5 costs of eligible individuals) is amended by striking “65”  
 6 and inserting “75”.

7 (b) CONFORMING AMENDMENT.—Section 7527(b) of  
 8 such Code (relating to advance payment of credit for  
 9 health insurance costs of eligible individuals) is amended  
 10 by striking “65” and inserting “75”.

11 (c) EFFECTIVE DATE.—The amendments made by  
 12 this section apply to taxable years beginning after Decem-  
 13 ber 31, 2004.

14 **SEC. 205. EXTENSION OF NATIONAL EMERGENCY GRANTS**  
 15 **TO FACILITATE ESTABLISHMENT OF GROUP**  
 16 **COVERAGE OPTION AND TO PROVIDE IN-**  
 17 **TERIM HEALTH COVERAGE FOR ELIGIBLE IN-**  
 18 **DIVIDUALS IN ORDER TO QUALIFY FOR**  
 19 **GUARANTEED ISSUE AND OTHER CONSUMER**  
 20 **PROTECTIONS; CLARIFICATION OF REQUIRE-**  
 21 **MENT FOR GROUP COVERAGE OPTION.**

22 (a) IN GENERAL.—Section 173(f) of the Workforce  
 23 Investment Act of 1998 (29 U.S.C. 2918(f)) is amended—

24 (1) by striking paragraph (1) and inserting the  
 25 following:

26 “(1) USE OF FUNDS.—

1           “(A) HEALTH INSURANCE COVERAGE FOR  
2           ELIGIBLE INDIVIDUALS IN ORDER TO OBTAIN  
3           QUALIFIED HEALTH INSURANCE THAT HAS  
4           GUARANTEED ISSUE AND OTHER CONSUMER  
5           PROTECTIONS.—Funds made available to a  
6           State or entity under paragraph (4)(A) of sub-  
7           section (a) shall be used to provide an eligible  
8           individual described in paragraph (4)(C) and  
9           such individual’s qualifying family members  
10          with health insurance coverage for the 3-month  
11          period that immediately precedes the first eligi-  
12          ble coverage month (as defined in section 35(b)  
13          of the Internal Revenue Code of 1986) in which  
14          such eligible individual and such individual’s  
15          qualifying family members are covered by quali-  
16          fied health insurance that meets the require-  
17          ments described in clauses (i) through (iv) of  
18          section 35(e)(2)(A) of the Internal Revenue  
19          Code of 1986 (or such longer minimum period  
20          as is necessary in order for such eligible indi-  
21          vidual and such individual’s qualifying family  
22          members to be covered by qualified health in-  
23          surance that meets such requirements).

24          “(B) ADDITIONAL USES.—Funds made  
25          available to a State or entity under paragraph

1 (4)(A) of subsection (a) may be used by the  
2 State or entity for the following:

3 “(i) HEALTH INSURANCE COV-  
4 ERAGE.—To assist an eligible individual  
5 and such individual’s qualifying family  
6 members in enrolling in health insurance  
7 coverage and qualified health insurance.

8 “(ii) ADMINISTRATIVE EXPENSES AND  
9 START-UP EXPENSES TO ESTABLISH  
10 GROUP COVERAGE OPTIONS FOR QUALI-  
11 FIED HEALTH INSURANCE.—To pay the  
12 administrative expenses related to the en-  
13 rollment of eligible individuals and such in-  
14 dividuals’ qualifying family members in  
15 health insurance coverage and qualified  
16 health insurance, including—

17 “(I) eligibility verification activi-  
18 ties;

19 “(II) the notification of eligible  
20 individuals of available health insur-  
21 ance and qualified health insurance  
22 options;

23 “(III) processing qualified health  
24 insurance costs credit eligibility cer-  
25 tificates provided for under section

1 7527 of the Internal Revenue Code of  
2 1986;

3 “(IV) providing assistance to eli-  
4 gible individuals in enrolling in health  
5 insurance coverage and qualified  
6 health insurance;

7 “(V) the development or installa-  
8 tion of necessary data management  
9 systems; and

10 “(VI) any other expenses deter-  
11 mined appropriate by the Secretary,  
12 including start-up costs and on going  
13 administrative expenses, in order for  
14 the State to treat at least 1 of the op-  
15 tions described in subparagraphs (B)  
16 through (H) of subsection (e)(1) of  
17 section 35 of the Internal Revenue  
18 Code of 1986 as qualified health in-  
19 surance under that section.

20 “(iii) OUTREACH.—To pay for out-  
21 reach to eligible individuals to inform such  
22 individuals of available health insurance  
23 and qualified health insurance options, in-  
24 cluding outreach consisting of notice to eli-  
25 gible individuals of such options made

1 available after the date of enactment of  
2 this clause.”; and

3 (2) by striking paragraph (2) and inserting the  
4 following:

5 “(2) QUALIFIED HEALTH INSURANCE.—For  
6 purposes of this subsection and subsection (g), the  
7 term ‘qualified health insurance’ has the meaning  
8 given that term in section 35(e) of the Internal Rev-  
9 enue Code of 1986.”.

10 (b) FUNDING.—Section 174(c)(1) of the Workforce  
11 Investment Act of 1998 (29 U.S.C. 2919(c)(1)) is amend-  
12 ed—

13 (1) in the paragraph heading, by striking “AU-  
14 THORIZATION AND APPROPRIATION FOR FISCAL  
15 YEAR 2002” and inserting “APPROPRIATIONS”; and

16 (2) by striking subparagraph (A) and inserting  
17 the following:

18 “(A) to carry out subsection (a)(4)(A) of  
19 section 173—

20 “(i) \$10,000,000 for fiscal year 2002;

21 and

22 “(ii) \$300,000,000 for the period of  
23 fiscal years 2004 through 2006; and”.

24 (c) REPORT REGARDING FAILURE TO COMPLY WITH  
25 REQUIREMENTS FOR EXPEDITED APPROVAL PROCE-

1 DURES.—Section 173(f) of the Workforce Investment Act  
2 of 1998 (29 U.S.C. 2918(f)) is amended by adding at the  
3 end the following:

4           “(8) REPORT FOR FAILURE TO COMPLY WITH  
5           REQUIREMENTS FOR EXPEDITED APPROVAL PROCE-  
6           DURES.—If the Secretary fails to make the notifica-  
7           tion required under clause (i) of paragraph (3)(A)  
8           within the 15-day period required under that clause,  
9           or fails to provide the technical assistance required  
10          under clause (ii) of such paragraph within a timely  
11          manner so that a State or entity may submit an ap-  
12          proved application within 2 months of the date on  
13          which the State or entity’s previous application was  
14          disapproved, the Secretary shall submit a report to  
15          Congress explaining such failure.”.

16          (d) CLARIFICATION OF REQUIREMENT TO ESTAB-  
17          LISH GROUP COVERAGE OPTION.—Subsection (g) of sec-  
18          tion 35 of the Internal Revenue Code of 1986 (relating  
19          to special rules) is amended—

20                 (1) by redesignating paragraph (9) as para-  
21                 graph (11); and

22                 (2) by inserting after paragraph (8) the fol-  
23                 lowing:

24                 “(9) REQUIREMENT TO ESTABLISH GROUP COV-  
25                 ERAGE OPTION.—With respect to a State, no credit

1 shall be allowed under this section to an individual  
 2 who resides in that State on or after the date that  
 3 is 2 years after the date of the enactment of this  
 4 paragraph unless, not later than such date, the  
 5 State has elected to have at least 1 of the options  
 6 described in subparagraphs (B) through (H) of sub-  
 7 section (e)(1) treated as qualified health insurance  
 8 under this section.

9 “(10) GROUP HEALTH PLAN.—For purposes of  
 10 this section, the term ‘group health plan’ has the  
 11 meaning given that term in section 5000(b)(1).”.

12 (e) TECHNICAL AMENDMENT.—Effective as if in-  
 13 cluded in the enactment of the Trade Act of 2002 (Public  
 14 Law 107–210; 116 Stat. 933), subsection (f) of section  
 15 203 of that Act is repealed.

16 **SEC. 206. ALIGNMENT OF COBRA COVERAGE WITH TAA PE-**  
 17 **RIOD FOR TAA-ELIGIBLE INDIVIDUALS.**

18 (a) ERISA.—Section 605(b) of the Employee Retire-  
 19 ment Income Security Act of 1974 (29 U.S.C. 1165(b))  
 20 is amended—

21 (1) in the subsection heading, by inserting  
 22 “AND COVERAGE” after “ELECTION”; and

23 (2) in paragraph (2)—

24 (A) in the paragraph heading, by inserting  
 25 “AND PERIOD” after “COMMENCEMENT”;

1 (B) by striking “and shall” and inserting  
2 “, shall”; and

3 (C) by inserting “, and in no event shall  
4 the maximum period required under section  
5 602(2)(A) be less than the period during which  
6 the individual is a TAA-eligible individual” be-  
7 fore the period at the end.

8 (b) INTERNAL REVENUE CODE OF 1986.—Section  
9 4980B(f)(5)(C) of the Internal Revenue Code of 1986 is  
10 amended—

11 (1) in the subparagraph heading, by inserting  
12 “AND COVERAGE” after “ELECTION”; and

13 (2) in clause (ii)—

14 (A) in the clause heading, by inserting  
15 “AND PERIOD” after “COMMENCEMENT”;

16 (B) by striking “and shall” and inserting  
17 “, shall”; and

18 (C) by inserting “, and in no event shall  
19 the maximum period required under paragraph  
20 (2)(B)(i) be less than the period during which  
21 the individual is a TAA-eligible individual” be-  
22 fore the period at the end.

23 (c) PUBLIC HEALTH SERVICE ACT.—Section  
24 2205(b) of the Public Health Service Act (42 U.S.C.  
25 300bb–5(b)) is amended—

1           (1) in the subsection heading, by inserting  
2           “AND COVERAGE” after “ELECTION”; and

3           (2) in paragraph (2)—

4                 (A) in the paragraph heading, by inserting  
5                 “AND PERIOD” after “COMMENCEMENT”;

6                 (B) by striking “and shall” and inserting  
7                 “, shall”; and

8                 (C) by inserting “, and in no event shall  
9                 the maximum period required under section  
10                2202(2)(A) be less than the period during  
11                which the individual is a TAA-eligible indi-  
12                vidual” before the period at the end.

○