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Grassley, Others File Dissenting Views on Trade Adjustment Bill

WASHINGTON – Sen. Chuck Grassley, ranking member of the Committee on Finance, and other Republican members late today filed the following report with the Committee.

**TRADE ADJUSTMENT ASSISTANCE FOR WORKERS, FARMERS, FISHERMAN,
COMMUNITIES AND FIRMS ACT OF 2001**

**DISSENTING VIEWS OF SENATORS GRASSLEY, HATCH, MURKOWSKI, LOTT,
NICKLES, THOMPSON, KYL AND THOMAS**

We reluctantly oppose S. 1209 in its current form. Our opposition is based upon substantive concerns with the bill and procedural irregularities which occurred during consideration of the bill before the Senate Finance Committee.

This is highly regrettable. Trade Adjustment Assistance has long enjoyed strong bipartisan support in the Finance Committee. Unfortunately, this bill is a notable departure from our history of bipartisanship in this area. We hope that the bill will be improved as it proceeds through the legislative process.

Substantive Concerns

There are significant substantive concerns with the Majority report and the bill. First, we disagree with the premise in the Majority report that globalization has resulted in downward wage pressure in the United States. In fact, a short report by the non-partisan Congressional Research Service recently concluded that "there is likely little causality running from a rising level of trade to poor domestic wage performance. Slow average wage growth is fully and credibly linked to poor productivity growth. A small share of rising wage inequality can be linked to trade, but the great bulk of this trend is probably more soundly rooted in a rising relative demand for skill, growing out of a changed pattern of technological change." Craig K. Elwell, Is Globalization the Force Behind Poor U.S. Wage Performance?: An Analysis, Congressional Research Service Short Report for Congress, Updated January 12, 2001.

Second, we believe that international trade has proven to be a positive force in our economy. One in ten Americans work at jobs that depend on the export of goods and services. Exports drive more than one-fourth of our economic growth. International trade enhances the quality of life for the vast

majority of Americans. Conversely, restrictions on imports are like taxes. They raise the cost of everyday products like food, clothing, and electronic goods. Because of past trade agreements such as the North American Free Trade Agreement and the Uruguay Round, the typical American family of four realizes benefits of roughly \$1,300 to \$2,000 annually. We want to ensure that the American people continue to reap these benefits. That is why we strongly support renewing Trade Promotion Authority for the President at the earliest possible time.

However, we understand that growth from trade creates change in an economy, and change results in the dislocation of some workers. We concur that the U.S. government can play a productive role in ensuring that workers who are displaced receive the training they need to re-enter the workforce as quickly as possible. That is why we support Trade Adjustment Assistance. Still, there are some significant problems with S. 1209 as currently written which need to be addressed. A summary of our concerns follows.

Secondary Workers

The current bill covers secondary workers in supplier or downstream firms that provide goods and services to a firm certified as eligible for Trade Adjustment Assistance. We are concerned with this provision for a number of reasons. First, it is not clear that there is a need to expand Trade Adjustment Assistance to secondary workers. Most secondary workers are already covered under the Workforce Investment Act. Second, we are concerned that including secondary workers in upstream and downstream industries with no limitations will make the program too costly and very difficult to administer. For example, the current bill requires the Department of Labor to certify whether primary and secondary workers are eligible for Trade Adjustment Assistance within 40 days, as opposed to 60 days under current law. Thus, the current bill not only reduces the time available for certifying primary workers, but it also vastly expands the pool of workers to be certified within that time frame. It is not at all clear that the Department of Labor can effectively administer these provisions without a substantial increase in its budget.

We would urge our Democratic colleagues to carefully consider limitations upon who can qualify as a secondary worker for purposes of Trade Adjustment Assistance benefits. We would also suggest that there may be a need to differentiate between primary and secondary workers for purposes of petition review.

Consolidation of Eligibility Requirements

The current bill consolidates the eligibility requirements of the current Trade Adjustment Assistance program and NAFTA Trade Adjustment Assistance but drops the current law requirement that a firm also experience a decrease in sales or production to be eligible for Trade Adjustment Assistance.

Dropping the requirement that a firm also experience a decrease in sales or production could result in certification of workers whose firm is thriving but laying off workers due to technological change or other reasons. Furthermore, eliminating the link between job loss and decrease in sales or production will make it more difficult to demonstrate that the workers are dislocated due to imports.

Training Requirement Waivers

S. 1209 changes current law to create 11 conditions under which training requirements may be waived. While we support reducing the number of conditions under which waivers can be granted, there is concern that some of the categories of waivers in the bill are overly broad and difficult to

define.

Supportive Services

The current bill grants states the authority to apply for and receive National Emergency Grant funding to cover the costs of supportive services, including transportation, childcare, and dependent care. We believe it is inefficient and impractical to use National Emergency Grants to provide supportive services in this context. Instead of requiring a separate application process with a separate funding source we believe it would be more efficient to have dislocated workers dually enrolled in the Workforce Investment Act dislocated worker program. This would give workers access to the full array of Workforce Investment Act transition services at no additional cost.

Performance Evaluation and Unfunded Mandates

We strongly support establishing a system to evaluate the performance of the Trade Adjustment Assistance program. However, we believe that the performance criteria in S. 1209 emphasizes process over results and includes subjective measures of performance which are difficult to define and evaluate. We are also concerned that the performance evaluation requirements in the current bill could create an unfunded mandate on states by requiring a tremendous increase in data infrastructure at the state level. We believe that requiring states to design and implement a new wage insurance program without providing additional resources for them to do so is also an unfunded mandate.

Health Insurance Coverage Options for Individuals Eligible for Trade Adjustment Assistance

We believe the health insurance mechanisms in S. 1209 that require the creation of new federal entitlement programs and the expansion of others, are inappropriate. Trade Adjustment Assistance has never provided health insurance assistance, temporary or otherwise, to eligible workers, and we cannot support doing so now.

S. 1209's health insurance coverage options are permanent. The bill's subsidy program forces those eligible for COBRA coverage to keep it, even though those policies are inflexible and typically more expensive than others in the market. According to one recent study, families pay about \$7,200 for COBRA coverage each year. See Commonwealth Fund, [How the Slowing U.S. Economy Threatens Employer-Based Health Insurance](#), November 2001. According to the non-partisan Congressional Research Service, the cost of an average policy in the individual market is about \$2,400 per year. We believe creating a new federal entitlement program that subsidizes only the marketplace's most expensive, least efficient insurance product is unacceptable.

For those workers not eligible for COBRA (and only 57 percent of non-elderly workers were potentially eligible for COBRA in 1999 according to a recent report, see Urban Institute, [Could Subsidizing COBRA Health Insurance Coverage Help Most Low-Income Unemployed?](#), October 2001), the bill gives states the right to open up their Medicaid programs to cover these workers. Medicaid programs are already under severe financial pressure, and we believe states are not likely to take on the additional costs. Further, since each state legislature would have to act to amend its state Medicaid plan, delays would be substantial, and would leave workers with gaps in their coverage. We believe expanding this already unstable entitlement program for eligible workers is also not acceptable.

We believe it would be a serious mistake to set a new standard for providing health insurance coverage under Trade Adjustment Assistance. We especially oppose any approach that gives workers

and their families a single "take it or leave it" option of purchasing COBRA or enrolling in Medicaid when more affordable policies exist.

Trade Adjustment Assistance for Communities

The current bill authorizes a new program to be administered by the Department of Commerce which would provide assistance to trade-affected communities. This is achieved by creating a new Office of Community Trade Adjustment within the Economic Development Administration. We believe that creating such an office duplicates EDA's long-standing Office of Economic Adjustment Assistance and is therefore unnecessary and inefficient.

Harmonization of the NAFTA Trade Adjustment Assistance program and the Trade Adjustment Assistance program is a goal which we support. We also support enhancing and improving the current program. However, as outlined above, the proposal which passed the Committee takes the process in the wrong direction and is too costly. The Congressional Budget Office estimated that S. 1209 would result in total direct spending of \$12.4 billion over the 2002-2011 period, an increase of \$8.6 billion more than the existing program over that same time period.

We remain open to working with our Democratic colleagues to improve the current bill in the hopes that we can develop a bipartisan product which will not only be more effective and efficient, but which we can all support.

Procedural Irregularities

We are also concerned about a number of procedural irregularities which occurred during consideration of the bill. Due to time constraints, there were several amendments pending during consideration of the bill which were neither open to debate or were Senators allowed to request a roll call vote. We believe that it is important for all Senators to have an opportunity to be heard and for every Senator to have an opportunity to request a roll call vote on their amendment. We hope to preserve these rights during consideration of future legislation in the Finance Committee.

In addition, it is not at all clear that consideration of the bill was concluded within the time frame allotted to the Committee. We understand that the 2-hour rule was invoked during consideration of this bill. The 2-hour rule, if specifically invoked by a member, stipulates that no committee can meet for longer than two hours once the Senate is in session. While there were attempts to complete Committee consideration of the bill within two hours, there is some question as to whether these attempts were successful.

ADDITIONAL VIEWS OF SENATOR GRASSLEY

Customs User Fees

I am pleased that the Chairman included my amendment expressing the Sense of the Senate that Customs User Fees should be used only for Customs purposes. However, the underlying bill disregards the amendment as I understand that the Chairman intends to re-authorize the collection of Customs User Fees to pay for the expanded Trade Adjustment Assistance program which is clearly not for Customs purposes. I am concerned about this approach for a number of reasons. First, this is a continuation of a trend we have seen this year. Customs User Fees have already been used as an offset for an unrelated program, S. 1052, the "Bipartisan Patients Protection Act."

Second, I have substantive concerns with this approach. When Congress first authorized customs fees the avowed purpose was to underwrite the costs of Customs commercial operations. I believe that if fees are to be extended they should be re-authorized for Customs purposes. And I am not alone in this view. The National Association of Foreign Trade Zones writes:

"[We] recently learned that the Trade Adjustment Assistance Bill...includes language that would provide for extension of the Merchandise Processing Fee to offset the cost of the TAA program. As you are aware, the fee was originally established by Congress to offset the cost of the commercial operations of the U.S. Customs Service. The [National Association of Foreign Trade Zones] is strongly opposed to any extension or re-authorization of the [Merchandise Process Fee] that would divert the funds from their congressionally intended purpose."

And the National Association of Foreign Trade Zones is not alone. The National Customs Brokers & Forwarders Association of America writes:

"[We are] aware of pending legislation due for consideration regarding Trade Adjustment Assistance. While [we] support TAA, we cannot support the use of user fees to 'pay for' this program. Merchandise processing fees need to be directed to the agency for which they were collected—the U.S. Customs Service."

I am afraid that many Senators are under the mistaken impression that extending these fees is simply keeping a convenient money stream flowing. That is not so.

The Customs User Fee structure includes what those fees are spent on. By extending fees for additional years, Congress is also extending those spending priorities for those years. If we keep extending the fees as a way to pay for unrelated activities, we extend the whole way the fee money is spent which by law is on commercial activities.

In fact, the Customs Service stated in a memorandum I received on June 20, 2001, that using Customs User Fees as an offset could harm its ability to offset Customs activities. The Customs Service is currently reviewing ways to restructure Customs User Fees which are set to expire in 2003. If we extend the fees in this bill, and that extension becomes law, we may never have an opportunity to effectively restructure these fees. I believe we should give the Customs Service the opportunity to review these fees, and not preempt their efforts by extending the fees before the review is complete.

Customs Reauthorization

I am pleased that S. 1209 includes Senator Kyl's amendment re-authorizing appropriations for the U.S. Customs Service and for the Office of the United States Trade Representative. The Kyl amendment is exactly like H.R. 3129, the Customs Border Security Act of 2001, except that two sections of that bill on Customs pay reform and immunity are not included.

The amendment authorizes the U.S. Customs Service, International Trade Commission, and Office of the U.S. Trade Representative. It includes numerous provisions and funding authorizations to fight terrorism and illegal drug trafficking. The Administration has also requested that Customs be able to search outgoing mail since U.S. mail is sometimes used to transmit laundered money out of the country. The amendment allows Customs, when appropriate, to search outbound mail to help stop terrorism and illegal drug trafficking. The amendment addresses privacy issues – no letter may be read by Customs officers unless a valid warrant is obtained. The amendment will get new, better

equipment and increased personnel to Customs for its air and sea interdiction programs (\$360 million total over two years), and for its U.S.-Mexico border operations (\$90 million).

The amendment includes a provision to require advanced electronic manifesting on passengers and cargo, so that the Customs Service will have important information in advance on passengers and cargo.

The amendment will also authorize funding to reestablish the New York Customs offices destroyed on September 11.

The amendment authorizes funding for Customs' new automation system, the Automated Commercial Environment. In 1998, Customs processed 19.7 million commercial entries. This volume is expected to double by 2005. The current automation system is on the brink of continual brownouts and possible shut downs. If this happens, it will cost American taxpayers millions of dollars.

I am pleased that the Chairman recognizes the critical importance of authorizing appropriations for the Customs Service. Including Customs authorization in this bill will help us track down terrorists, fight illegal drug trafficking, and strengthen our economy by facilitating cross-border trade.

Health Insurance Coverage Options for Individuals Eligible for Trade Adjustment Assistance

While I support a limited program to provide temporary health insurance assistance to individuals eligible for Trade Adjustment Assistance, I believe the mechanisms in S. 1209, which require the creation of new federal entitlement programs and the expansion of others, are inappropriate. I believe that any federal relief provisions in this area should be targeted, time-limited and should provide maximum flexibility for workers. More specifically, I believe it is important to ensure that those eligible for temporary health insurance assistance under S. 1209 have the option of using that assistance to purchase health insurance products in the individual market that best suits their needs.