



Motion to Concur with the Senate Amendment to H.R. 1314—Trade Act of 2015 (Rep. Meehan, R-PA)

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FLOOR SCHEDULE: SCHEDULED FOR CONSIDERATION ON JUNE 12, 2015 SUBJECT TO A [RULE](#).

PLEASE NOTE: H.R. 1314—THE ENSURING TAX EXEMPT ORGANIZATIONS THE RIGHT TO APPEAL ACT—BECAME THE VEHICLE IN THE SENATE FOR TRADE PROMOTION AUTHORITY (TPA) AND TRADE ADJUSTMENT ASSISTANCE (TAA). THE RULES COMMITTEE HAS DIVIDED H.R. 1314 INTO THREE SEPARATE QUESTIONS ON TPA, TAA, AND ALTERNATIVE OFFSET FOR TAA. BECAUSE THE HOUSE ACTED ON THE OFFSET PORTION THROUGH H.R. 1259, THE TRADE PREFERENCES EXTENSION ACT, THE HOUSE WILL ONLY NEED TO VOTE ON TPA AND TAA. IN ADDITION, THE HOUSE WILL ALSO CONSIDER A CUSTOMS MEASURE—THE TRADE FACILITATION AND TRADE ENFORCEMENT ACT (H.R. 664).

TOPLINE SUMMARY: The Senate amendment to [H.R. 1314](#) would authorize trade promotion authority (TPA), granting the administration the authority to negotiate trade agreements subject to a number of requirements and objectives. The Senate amendment would also extend Trade Adjustment Assistance (TAA), a trade compensation program with the intended goal to mitigate the effects of free trade by providing additional unemployment benefits and training assistance to workers who lose their jobs as a result of foreign competition.

CONSERVATIVE CONCERNS: Some conservatives have expressed concern that TPA would increase executive power and cede legislative authority as any trade agreement negotiated under fast-track procedures would not be amendable.

In addition, some conservatives have expressed reservations regarding the exclusion of enforceable currency manipulation provisions in TPA. Other conservatives argue that including currency manipulation provisions in TPA itself could endanger the overall TPP negotiations. However currency manipulation provisions were included in the [House Amendment](#) to the Senate Amendment to H.R. 644 Trade Facilitation and Trade Enforcement Act of 2015.

COST: The Congressional Budget Office (CBO) and the Joint Committee on Taxation [estimate](#) that the Senate amendment to H.R. 1314 would reduce the deficit by \$88 million over the 2015 through 2025 period. CBO and JCT estimate that the bill would reduce mandatory spending by \$174 million and revenues by \$84 million over the same period.

Some conservatives have also expressed concern regarding Trade Adjustment Assistance (TAA). The RSC has previously expressed concerns over TAA during the last free trade agreement rounds in 2011 ([RSC's Legislative Bulletin for the 2011 TAA](#)). A [Heritage Foundation](#) report notes that TAA includes many duplicative functions already provided the Department of Labor's Dislocated Workers Program. Several additional concerns exist including that by only assisting workers who claim job losses due to trade, the program provides an incentive to

exaggerate the negative job impact of trade, and that many TAA programs are not effective in improving employment conditions for TAA recipients. According to the [Government Accountability Office](#) (GAO), more than 107,000 participants received benefits and services as established by the 2009 TAA, but little is yet known about their employment outcomes.

Balanced against these concerns, some conservatives believe that the potential benefits from free trade agreements negotiated under fast track procedures will outweigh the costs. TPP, for example, could potentially serve as an [economic counter-balance](#) to China and its [Asian Infrastructure Investment Bank](#) (AIIB) by including 12 TPP participating nations in the Pacific region in a free trade framework. TPA could provide the U.S. with a stronger hand in negotiating with the 11 other participating TPP nations and could potentially knock down several major trade barriers facing U.S. industries, thus strengthening American exports. According to the [Peter G. Peterson Institute](#), TPP “could yield annual global income gains of \$295 billion (including \$78 billion for the United States) and offers a pathway to free trade in the Asia-Pacific with potential gains of \$1.9 trillion.”

- **Expand the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No, this legislation would establish parameters for the executive branch in negotiating trade deals under fast-track authority.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS: The Senate amendment to H.R. 1314 would establish overall trade negotiating objectives for the United States when negotiating free trade agreements with foreign nations, including:

- obtain more open, equitable, and reciprocal market access;
- obtain the reduction or elimination of barriers and distortions that are directly related to trade and investment and that decrease market opportunities for United States exports or otherwise distort United States trade;
- further strengthen the system of international trade and investment disciplines and procedures, including dispute settlement;
- foster economic growth, raise living standards, enhance the competitiveness of the United States, promote full employment in the United States, and enhance the global economy;
- ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world’s resources;
- promote respect for worker rights and the rights of children consistent with core labor standards of the [International Labour Organization](#) (ILO) and an understanding of the relationship between trade and worker rights;
- seek provisions in trade agreements under which parties to those agreements ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade;
- ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, and expanded export market opportunities, and provide for the reduction or elimination of trade and investment barriers that disproportionately impact small businesses;
- promote universal ratification and full compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor;
- ensure that trade agreements reflect and facilitate the increasingly interrelated, multi-sectoral nature of trade and investment activity;
- recognize the growing significance of the Internet as a trading platform in international commerce;
- take into account other legitimate United States domestic objectives, including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto; and to

- take into account conditions relating to religious freedom of any party to negotiations for a trade agreement with the United States.

OBJECTIVES:

Trade in Goods: The trade promotion authorization would set principal negotiating objectives of the United States regarding trade in goods:

- to expand competitive market opportunities for exports of goods from the United States and to obtain fairer and more open conditions of trade, including through the utilization of global value chains, by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and
- to obtain reciprocal tariff and nontariff barrier elimination agreements, including with respect to those tariff categories covered in the [Uruguay Round Agreements Act](#) (19 U.S.C. 3521(b)).

Trade in Services: The bill would set the principal negotiating objective of the United States regarding trade in services as to expand competitive market opportunities for United States services and to obtain fairer and more open conditions of trade, including through utilization of global value chains, by reducing or eliminating barriers to international trade in services.

Trade in Agriculture: The bill would set the principal negotiating objective of the United States with respect to agriculture as to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value added commodities by securing more open and equitable market access through robust rules on [sanitary and phytosanitary measures](#), while recognizing that countries may put in place measures to protect human, animal, or plant life or health in a manner consistent with their international obligations.

Foreign Investment: The bill would clarify that the principal negotiating objectives of the United States regarding foreign investment are to reduce or eliminate artificial or trade distorting barriers to foreign investment, while ensuring that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States, and to secure for investors important rights comparable to those that would be available under United States legal principles and practice.

Intellectual Property: The bill would state that the principal negotiating objectives of the United States regarding trade-related intellectual property are: (1) to further promote adequate and effective protection of intellectual property rights, including through ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights of the [Uruguay Round Agreements Act](#) (19 U.S.C. 3511(d)(15)); and ensuring that the provisions of any trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law; (2) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection; and (3) to respect the Declaration on the [TRIPS Agreement and Public Health](#), adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001, and to ensure that trade agreements foster innovation and promote access to medicines.

Digital Trade in Goods and Services and Cross-Border Data Flow: The bill would state that the principal negotiating objectives of the United States with respect to digital trade in goods and services, as well as cross-border data flows, are: (1) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization and bilateral and regional trade agreements apply to digital trade in goods and services and to cross-border data flows; (2) to ensure that electronically delivered goods and services receive no

less favorable treatment under trade rules and commitments than like products delivered in physical form; and the classification of such goods and services ensures the most liberal trade treatment possible; (3) to ensure that governments refrain from implementing trade-related measures that impede digital trade in goods and services, restrict cross-border data flows, or require local storage or processing of data; (4) to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and (5) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

Regulatory Practices: The bill would state that the principal negotiating objectives of the United States regarding the use of government regulation or other practices to reduce market access for United States goods, services, and investments are:

- to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;
- to require that proposed regulations be based on sound science, cost benefit analysis, risk assessment, or other objective evidence;
- to establish consultative mechanisms and seek other commitments, as appropriate, to improve regulatory practices and promote increased regulatory coherence;
- to seek greater openness, transparency, and convergence of standards development processes, and enhance cooperation on standards issues globally;
- to promote regulatory compatibility through harmonization, equivalence, or mutual recognition of different regulations and standards and to encourage the use of international and interoperable standards, as appropriate;
- to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products; and
- to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are nondiscriminatory, and provide full market access for United States products; and to ensure that foreign governments demonstrate that the collection of undisclosed proprietary information is limited to that necessary to satisfy a legitimate and justifiable regulatory interest; and protect such information against disclosure, except in exceptional circumstances to protect the public, or where such information is effectively protected against unfair competition.

State-Owned and State-Controlled Enterprises: The bill would state that the principal negotiating objective of the United States regarding competition by state-owned and state-controlled enterprises is to seek commitments that: (1) eliminate or prevent trade distortions and unfair competition favoring state-owned and state-controlled enterprises to the extent of their engagement in commercial activity, and (2) ensure that such engagement is based solely on commercial considerations, in particular through disciplines that eliminate or prevent discrimination and market-distorting subsidies and that promote transparency.

Localization Barriers to Trade: The bill would state that the principal negotiating objective of the United States with respect to localization barriers is to eliminate and prevent measures that require United States producers and service providers to locate facilities, intellectual property, or other assets in a country as a market access or investment condition, including indigenous innovation measures.

Labor and the Environment: The bill would clarify that the principal negotiating objectives with respect to labor and the environment are to ensure that a party to a trade agreement with the United States adopts and maintains measures implementing internationally recognized core labor standards and its obligations under common multilateral environmental agreements; does not waive or derogate from its statutes or regulations implementing internationally recognized core labor standards, nor from its environmental laws in a manner that weakens or reduces the protections afforded in those laws and in a manner affecting trade or investment between the United States and that party. Other principal negotiating objectives include: (1) recognizing that with respect to the environment, parties retain the right to exercise prosecutorial discretion and to make

decisions regarding the allocation of enforcement resources with respect to other environmental laws determined to have higher priorities; recognizing with respect to labor, distribution of enforcement resources are not a reason for not complying with a party's labor obligations; (2) strengthening the capacity of U.S. trading partners to promote respect for core labor standards and protect the environment through the promotion of sustainable development; (3) reducing or eliminating government practices or policies that unduly threaten sustainable development; (4) seeking improved market access for U.S. environmental technologies, goods, and services; (5) ensuring that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against U.S. exports or serve as disguised barriers to trade; ensuring that enforceable labor and environmental obligations are subject to the same dispute settlement and remedies as other enforceable obligations; and (6) ensuring that a trade agreement is not construed to empower a party's authorities to undertake labor or environmental law enforcement activities in the territory of the United States.

Currency: The legislation would state that the principal negotiating objective regarding currency practices is that parties to a trade agreement with the United States avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other parties to the agreement, such as through cooperative mechanisms, enforceable rules, reporting, monitoring, transparency, or other means.

Foreign Currency Manipulation: The bill additionally would state that the principal negotiating objective of the United States with respect to unfair currency practices is to seek to establish accountability through enforceable rules, transparency, reporting, monitoring, cooperative mechanisms, or other means to address exchange rate manipulation involving protracted large scale intervention in one direction in the exchange markets and a persistently undervalued foreign exchange rate to gain an unfair competitive advantage in trade over other parties to a trade agreement, consistent with existing obligations of the United States as a member of the International Monetary Fund and the World Trade Organization. This provision was not included in the House Ways and Means Version of TPA ([H.R. 1890](#)).

World Trade Organization (WTO) and Multilateral Trade Agreements: The bill would set out the principal negotiating objectives regarding the World Trade Organization, are to achieve full implementation and extend the coverage of WTO multilateral and plurilateral agreements, including expansion and enhancement of the [Information Technology Agreement, the Government Procurement Agreement](#), and other WTO plurilateral agreements; to expand competitive market opportunities for U.S. exports and to obtain fairer and more open conditions of trade, including through utilization of global value chains through new agreements, including an agreement on trade facilitation; to ensure that regional trade agreements comply with WTO disciplines; to enhance WTO Members' compliance through active participation in the bodies of the WTO; and to encourage greater cooperation between the WTO and other international organizations.

Trade Institution Transparency: The section would require that the principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency in the World Trade Organization, entities established under bilateral and regional trade agreements, and other international trade fora through seeking timely public access to information regarding trade issues and the activities of such institutions, openness by ensuring public access to appropriate meetings, proceedings, and submissions, including with regard to trade and investment dispute settlement, and public access to all notifications and supporting documentation submitted by WTO members.

Anti-Corruption: This section would require that the principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are: (1) to obtain high standards and effective domestic enforcement mechanisms applicable to persons from all countries participating in the applicable trade agreement that prohibit such attempts to influence acts, decisions, or

omissions of foreign governments or officials or to secure any such improper advantage; (2) to ensure that such standards level the playing field for United States persons in international trade and investment; (3) and to seek commitments to work jointly to encourage and support anti-corruption and anti-bribery initiatives in international trade for a.

Dispute Settlement and Enforcement: This section would require that the principal negotiating objectives with respect to dispute settlement include seeking provisions that provide for resolution of disputes in an effective, transparent, and equitable manner, with the goal of increasing compliance with agreements: (1) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments; (2) to seek adherence by panels convened under the Dispute Settlement Understanding and by the Appellate Body; to seek provisions encouraging the early identification and settlement of disputes through consultation; (3) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement; (4) to seek provisions to impose a penalty upon a party to a dispute under the agreement that encourages compliance with the obligations of the agreement; and (5) to seek provisions that treat United States principal negotiating objectives equally with respect to the ability to resort to dispute settlement under the applicable agreement.

Trade Remedy Laws: The bill would require that the principal negotiating objectives with respect to trade remedies are: to preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market access barriers.

Border Taxes: The section would require that the principal negotiating objective of the United States regarding border taxes is to obtain a revision of the rules of the World Trade Organization with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.

Textile Negotiations: The section would require that the principal negotiating objectives of the United States with respect to trade in textiles and apparel articles are to obtain competitive opportunities for United States exports of textiles and apparel in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in textiles and apparel.

Commercial Partnerships: This section would require that with respect to an agreement that is proposed to be entered into with the Transatlantic Trade and Investment Partnership countries the principal negotiating objectives of the United States regarding commercial partnerships are the following: (1) to discourage actions by potential trading partners that directly or indirectly prejudice or otherwise discourage commercial activity solely between the United States and Israel; (2) to discourage politically motivated actions to boycott, divest from, or sanction Israel and to seek the elimination of politically motivated nontariff barriers on Israeli goods, services, or other commerce imposed on the State of Israel; and (3) to seek the elimination of state-sponsored unsanctioned foreign boycotts against Israel or compliance with the Arab League Boycott of Israel by prospective trading partners. This provision was not included in the House Ways and Means Version of TPA ([H.R. 1890](#)).

Good Governance, Transparency, the Effective Operation of Legal Regimes, and the Rule of Law of Trading Partners: This section would require that the principal negotiating objectives of the United States with respect

to ensuring implementation of trade commitments and obligations by strengthening good governance, transparency, the effective operation of legal regimes and the rule of law of trading partners of the United States is through capacity building and other appropriate means, which are important parts of the broader effort to create more open democratic societies and to promote respect for internationally recognized human rights.

Capacity Building and Other Priorities: This section would require that other priorities, including provisions to strengthen the capacity of U.S. trading partners to carry out obligations under trade agreements; to provide technical assistance if needed; to establish consultative mechanisms to develop and implement standards for the protection of the environment and human health based on sound science; to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under [Article XX of General Agreement on Tariffs and Trade \(GATT\) 1994](#).

TRADE PROMOTION AUTHORITY

Section 103 would provide trade agreements authority for agreements regarding tariff barriers, and permits the president subject to Congressional notification requirements and certain limitations, to enter into trade agreements with foreign countries to modify duties or other import restrictions that unduly burden U.S. trade before July 1, 2018 (or July 1, 2021 if trade authorities procedures are extended), and to proclaim changes to duties the president determines to be required or appropriate to carry out any such trade agreement. Substantial modifications or additions to the trade agreement are not eligible for approval after 2018 or 2021. Proclamation authority would not apply to an agreement that reduces any rate of duty that is more than 5 percent at the date of enactment of the Act by more than 50 percent, reduces the rate of duty on import sensitive agricultural products to a rate of duty below that applicable under the [Uruguay Round Agreements](#) or a successor agreement, or increases any rate of duty above the rate that applied at the date of the bill's enactment.

Section 103 would also authorize the president to engage in trade negotiations, subject to Congressional consultations requirements, to address tariff and non-tariff barriers. An agreement may be entered into under the bill only if it makes progress in meeting the negotiating objectives and the president satisfies the conditions set forth in sections 4 and 5. The provision would only apply to agreements entered into before July 1, 2018 (or before July 1, 2021, if Congress extends the trade agreements authority). After those dates, substantial modifications or additions to the trade agreement would not be eligible for approval. The provision also provides that a bill implementing a trade agreement entered into qualifies for the trade authority procedure set out in [section 151 of the Trade Act of 1974](#) if the bill consists of a provision approving the trade agreement and only such provisions as are strictly necessary or appropriate to implement the trade agreement.

The section would also establish the process for the extension of trade authority procedures by the president, if requested, and for the consideration of a disapproval resolution by Congress to disallow such extension. The [Advisory Committee for Trade Policy and Negotiations](#) established under section 135 of the Trade Act of 1974 and the International Trade Commission are also directed to submit reports on the extension request to Congress.

Section 103 would also direct the president to pursue negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and to expand existing sectoral agreements, when doing so is feasible and timely and would benefit the United States. It also directs the president in so doing to take into account all Congressional negotiating objectives.

CONGRESSIONAL OVERSIGHT, CONSULTATIONS, AND ACCESS TO INFORMATION

Section 104 would provide detailed requirements for the administration's consultations with Congress. The section requires the United States Trade Representative (USTR) to: meet upon request with any Member of Congress; provide access to pertinent documents, including classified materials; engage in close and timely consultation with the Senate Finance Committee and the House Ways and Means Committee; to engage in close and timely consultation with the House and Senate Advisory Groups on Negotiations and with all committees of the House and the Senate with jurisdiction over laws that could be affected by a trade agreement; and engage in close and timely consultations with the House and Senate Committees on Agriculture concerning negotiations and agreements relating to agricultural trade.

The section further mandates that, prior to exchanging notes providing entry into force of a trade agreement, USTR must keep Congress apprised of measures a trading partner has taken to comply with provisions that will take effect on the date the agreement enters into force, and also requires USTR, in consultation with the Chairs and Ranking Members of the Senate Finance Committee and the House Ways and Means Committee, to develop within 120 days of enactment written guidelines on enhanced coordination with Congress. The guidelines are to ensure timely briefings with any Member of Congress and the sharing of information, including documents and classified information, with Members of Congress, and their staff with proper security clearances as appropriate, as well as cleared Committee staff as appropriate in light of Committee responsibilities. The guidelines are to be disseminated to all departments and agencies with jurisdiction over laws that could be affected by the trade negotiations.

Section 104 would provide procedures for designating individual Members as Congressional Advisers on Trade Policy and Negotiations and for consultations with those Members. Any Member of Congress may be designated as such a Congressional Adviser. In the course of trade negotiations, USTR must consult closely and on a timely basis with these congressional advisers. The advisers must be accredited by USTR as official advisers to trade delegations. The section would establish the House and Senate Advisory Groups on Negotiations, and sets forth membership requirements for each, including designation of the Chair and Ranking Member of any Committee that would have jurisdiction over provisions of law affected by a trade agreement. The section also outlines requirements for USTR to consult with and seek advice from the Advisory Groups and provides mechanisms for coordination with Members of Congress not on the Advisory Groups.

Advisory Group Members must be accredited by USTR as official advisers to trade delegations. USTR, together with the Chairs and Ranking Members of the Senate Finance Committee and the House Ways and Means Committee, must develop written guidelines for the closest practicable coordination with the Advisory Groups, including detailed briefings on a fixed timetable. After a trade agreement is concluded, the bill would require ongoing consultation regarding compliance with the agreement. Section 104 would also establish procedures for consultations with the public. USTR, together with the Chairs and Ranking Members of the Senate Finance Committee and the House Ways and Means Committee, is required to develop written guidelines for public access to information regarding trade negotiations in order to facilitate transparency, encourage public participation, and promote collaboration in the negotiation process, including through rapid disclosure of information in forms that the public can readily find and use and through frequent opportunities for public input through the Federal Register. The guidelines are required to be disseminated to all relevant departments and agencies with jurisdiction over laws that could be affected by the trade negotiations.

The section would also address consultations with the Trade Advisory Committees created by the Trade Act of 1974. USTR, together with the Chairs and Ranking Members of the Senate Finance Committee and the House Ways and Means Committee, are required to develop written guidelines to enhance coordination with the Advisory Committees in order to provide timely briefings and opportunities for input on matters regarding sectors and functional areas the Committees represent. The subsection requires that the guidelines also set out procedures for the sharing of detailed and timely information and documents, including classified materials, to each member of an Advisory Committee and designee with proper security clearances, as appropriate. The

guidelines are to be disseminated to all relevant departments and agencies with jurisdiction over laws that could be affected by the trade negotiations.

The bill would establish a Chief Transparency Officer at USTR, responsible for consulting with Congress on transparency policy, coordinating transparency in trade negotiations, engaging and assisting the public, and advising the USTR on transparency policy.

NOTICE, CONSULTATIONS, AND REPORTS

Section 105 would specify the notice, consultations, and reports that Congress must receive before the president initiates trade negotiations. The section would provide that prior to entering into trade negotiations, the president must provide Congress 90 days' written notice and consult with the Senate Finance Committee, the House Ways and Means Committee, other appropriate Committees of the House and Senate, and the House and Senate Advisory Groups on Negotiations. The president must publish and regularly update on the USTR website, a detailed and comprehensive summary of the objectives for the trade negotiations, as well as publish a description of how the trade agreement would further those objectives and benefit the United States.

Section 105 would also pertain to negotiations that concern agriculture, and states that the president must conduct an assessment of all relevant tariffs and consult with the Agriculture Committees of the House and Senate. Additional consultations and reporting requirements apply with respect to import sensitive products, fish or shellfish trade, and textiles and apparel. The section would require the president, in determining whether to enter into negotiations with a particular country, to take into account the extent to which that country has implemented its trade and investment commitments to the United States.

The provision would also require the president, before entering into any trade agreement, to consult with the Senate Finance Committee, the House Ways and Means Committee, other relevant congressional committees, and the House and Senate Advisory Groups on Negotiations. The consultations serve to address the nature of the agreement, the extent to which it meets the objectives of the bill, and the implementation of the agreement. At least 180 days before entering into a trade agreement, the president is also required to report on the effect of the agreement on U.S. trade remedy laws. The section further describes the procedures by which the House or Senate may consider a resolution finding that proposed changes to trade remedy laws are inconsistent with the negotiating objectives concerning trade remedies. This section also requires submission of Advisory Committee reports within 30 days of the president's notification to Congress of his intention to enter into a trade agreement.

The section would require that the president, within 90 days before entering into an agreement, provide the International Trade Commission (ITC) with details of the agreement and that, not later than 105 days after the president enters into the agreement, the ITC submit a report to the president and Congress assessing the likely impact of the agreement on the U.S. economy. The report would be made public.

Section 105 specifies that at the time the president submits to Congress the final text of an agreement, the president would be required to submit to the Senate Finance Committee and the House Ways and Means Committee: a report on an environmental review of the agreement conducted by the president, including an assessment of the operation of consultative mechanisms aimed at capacity building; a report regarding the impact of the trade agreement on U.S. employment; and a meaningful labor rights report with respect to the countries included in the agreement, along with a description of any provisions that would require changes to U.S. labor law and practice. These reports would be required to be made public.

The section would further specify that at the time the president submits to Congress the final text of an agreement, the president shall also submit an implementation and enforcement plan that assesses border personnel requirements, agency staffing requirements, customs infrastructure requirements, and the impact of

the agreement on state and local governments. This assessment shall be made public. The president's next budget submission must include a request for the resources necessary to support the plan.

The section would also require the submission of additional reports concerning: the effectiveness of penalties and remedies applied by the United States to enforce its rights under a trade agreement; the economic impact of all trade agreements enacted under trade authorities procedures since 1984, and to update that report within five years; and enforcement actions taken pursuant to a trade agreement. These reports would be made public. This section also requires USTR to consult with the Senate Finance Committee and the House Ways and Means Committee after acceptance of a petition for review or taking an enforcement action in regard to an obligation under a trade agreement.

Section 105 additionally sets forth that any Member of the House or Senate may submit his or her views on any matter relevant to a proposed trade agreement to the Senate Finance Committee or the House Ways and Means Committee, and the relevant Committee is to receive those views for consideration.

IMPLEMENTATION OF TRADE AGREEMENTS

Section 106 would require that at least 90 days before entering into a trade agreement, the president must notify Congress of the president's intent to enter into that agreement and publish a notice in the Federal Register. At least 60 days before entering into the agreement, the president must publish the text of the agreement on the USTR website. Within 60 days after entering into the agreement, the president must submit a description of changes to existing laws that would be required by the agreement. At least 30 days before formally submitting the trade agreement to Congress, the president is required to provide to Congress a copy of the final legal text of the agreement and a draft statement of administrative action proposed to implement the agreement. On a day on which both Houses of Congress are in session, the president must submit the final text of the agreement, a draft implementing bill, a statement of administrative action, and certain supporting information.

The required supporting information consists of an explanation of how the bill and statement of administrative action will change or affect existing law, a statement asserting that the agreement makes progress in achieving the objectives of this Act and setting forth the reasons it does so, whether and how the agreement changes provisions of an agreement previously negotiated, how the agreement serves the interests of U.S. commerce, and how the implementing bill meets the requirements set out in the objectives section of the bill. The supporting information would be made public. The section would require that implementing bills include a provision on reciprocal benefits to ensure that foreign countries not party to the agreement do not receive benefits under the agreement unless they are subject to the agreement's obligations, by providing that the benefits and obligations of the agreement apply only to the parties, if such application is consistent with the agreement. It further provides that any agreement with a foreign government that is not disclosed before the introduction of an implementing bill shall not be considered part of the agreement and will have no force in U.S. law or in any dispute settlement body.

The section would set forth the processes and procedures for disapproval of the use of trade authority procedures if the president has failed or refused to notify or consult in accordance with the requirements of the bill; and contains the procedural disapproval resolution process by which both chambers of Congress, acting jointly, may withdraw trade authority procedures on an expedited basis. The section also sets forth the consultation and compliance resolution processes by which each chamber of Congress may unilaterally withdraw trade authorities procedures for that chamber.

Section 106 would state that the president has failed or refused to notify or consult if: the agreement fails to make progress in achieving the purposes, policies, priorities, and objectives of this Act; the president failed to consult in accordance with sections 4, 5, or 6; the president has not met with the House and Senate Advisory

Groups on Negotiations; or the consultation and transparency guidelines required by section 4 have not been developed. In addition, the subsection provides that trade authorities procedures shall not apply to any implementing bill for an agreement negotiated under the auspices of the WTO if the president has not issued a report setting forth a strategy to address Congressional concerns regarding WTO dispute settlement panels and the Appellate Body by December 15, 2015. The section also reaffirms that Congressional procedures under the bill are established as an exercise of the rulemaking power of the House of Representatives and the Senate and recognizes the constitutional right of either House to change the rules at any time, in the same manner, and to the same extent as any other rule of that House. The section also states that the trade authorities procedures would not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into with a country to which the minimum standards for the elimination of trafficking are applicable and the government of which does not fully comply with such standards and is not making significant efforts to bring the country into compliance.

TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN

Section 107 concerns the applicability of trade authorities procedures to implementing bills for certain trade negotiations commenced prior to the bill's enactment, including negotiations under the auspices of the WTO, the Trans-Pacific Partnership, trade negotiations with the European Union, negotiations with respect to trade in services, and negotiations with respect to environmental goods. The section also sets forth special notification and consultation procedures with respect to the negotiations identified in the bill, and allows an exception only to the initial 90-day notification prior to initiation of negotiations (subject to presidential notification to Congress), provided those specific procedures are followed.

SOVEREIGNTY

Section 108 would stipulate that the application of any provision of a trade agreement entered into that is inconsistent with U.S. law shall have no effect; that no provision of a trade agreement entered into would prevent the United States from amending or modifying its laws; and that reports issued by dispute settlement panels convened under trade agreements entered into would have no binding effect under U.S. law on the government of the United States, or the law or government of any state or locality of the United States.

INTERESTS OF SMALL BUSINESS

This section expresses the sense of Congress that USTR should facilitate participation by small businesses in the trade negotiation process; that the functions of the USTR official relating to small business should be reflected in the title of that official; and that Assistant USTR for Small Business, Market Access, and Industrial Competitiveness shall be responsible for ensuring that the interests of small businesses are considered in all trade negotiations.

Trade Adjustment Assistance Reauthorization Act of 2015

Title II of the bill would reauthorize Trade Adjustment Assistance (TAA) providing federal assistance to workers, firms, and farmers adversely affected by foreign trade. The bill would reauthorize TAA programs through June 30, 2021. The TAA language contains in the bill contains similar language to [S. 1268](#), the Senate introduced TAA bill. The Senate report (S. Rept. 114-44) accompanying S. 1268 can be found [here](#).

TAA for Workers would provide federal assistance to workers who have been separated from their jobs because of increased imports or because their jobs moved to a foreign country. TAA for Workers is supported by mandatory appropriations. The appropriation level is impacted by statutory caps and expected program use. Depending on actual program use, outlays may vary substantially from appropriation levels. In fiscal year 2015,

total funding for all Department of Labor-administered components of the program was \$710.6 million.

TAA for Firms currently provides technical assistance to help trade-impacted firms make strategic adjustments that may allow them to remain competitive in a global economy. The technical assistance is provided through 11 regional Trade Adjustment Assistance Centers (TAACs), which operate under cooperative agreements with EDA. Funding for TAAF in fiscal year 2015 was \$13 million. According to the House Ways and Means Committee, the TAA for Firms program remains at \$16 million per year, less than the \$50 million per year under the [Trade and Globalization Adjustment Assistance Act \(TGAAA\) of 2009](#).

TAA for Farmers is administered by the Department of Agriculture (USDA) and is authorized to provide technical support and cash benefits to producers of agricultural commodities and fishermen who are adversely affected by increased imports. TAA for Farmers last received funding in the first quarter of fiscal year 2011.

Section 202 repeals the sunset provision—section 233 of the [Trade Adjustment Assistance Extension Act of 2011](#) (Public Law 112–40; 125 Stat. 416) —and reinstates prior law as of December 31, 2013 as the date of enactment. Repealing this provision allows for Section 233 to snap-back to benefit and service levels as amended in the TAA of 2011.

Section 203 would modify the authorization termination date for TAA for Workers, TAA for Firms, TAA for Farmers, and the Reemployment TAA programs from December 31, 2013 to June 30, 2021. The authorization for TAA lapsed on December 31, 2013. The section would also cap the total annual funding for training, employment and case management services, job search allowances, and relocation allowances at \$450 million for fiscal years 2015 through 2021. The section would extend the termination date for the Reemployment Trade Adjustment Assistance (RTAA) from December 31, 2013 to June 30, 2021, and would amend the [Trade Act of 1974](#) to modify the authorization of appropriations for TAA for Workers through June 30, 2021, and for TAA for Firms and Farmers, respectively, through fiscal year 2021. According to the Senate committee report, the training cap of \$450 million is an increase compared to the \$220 million cap in 2002; however, the cap is a decrease compared to 2009 (over \$600 million) and 2011 (\$575 million).

Section 204 would require cooperating states and the Secretary of Labor to prepare performance reports on an annual basis, which must be available in an easily understandable format through electronic means, and requires the Department of Labor to make available certain performance data. The bill includes a new definition for a recognized postsecondary credential, which includes industry-recognized certificates/certification, a certificate of completion of an apprenticeship, a license recognized by a state or federal government, or an association or baccalaureate degree, which also aligns with similar provisions in the [Workforce Innovation and Opportunity Act](#) (WIOA).

Section 205 establishes the applicable provisions of TAA for Workers who file petitions on or after January 1, 2014 and prior to the bill's enactment. Such gap-period workers who were denied benefits would be reconsidered for and, if qualified, would receive benefits and services. Pending applicants that fall within this gap-period would also be considered. The section also narrows the eligibility window for certified workers to 90 days after the date of the bill's enactment. In addition, this section provides similar eligibility determination and reconsideration rules for firms under the TAA for Firms program.

Section 206 creates a sunset provision requiring the TAA program to revert to the January 1, 2014 parameters after June 30, 2021. This section also reverts the TAA for Workers, Alternative Trade Adjustment Assistance (ATAA), TAA for Firms, and TAA for Farmers programs back to the level in effect January 1, 2014 as of July 1, 2021. While beneficiaries certified for benefits prior to July 1, 2021 would continue to receive benefits to the extent funds are available and the recipient would be eligible to receive benefits. The authorization for TAA for Workers, ATAA, TAA for Firms, and TAA for Farmers would terminate on June 30, 2022.

Section 207 would amend the definition of eligible coverage month for Health Coverage Tax Credit (HCTC) purposes to include months beginning before January 1, 2020, if the requirements for an eligible coverage month are otherwise met. The HCTC is an advanceable, refundable tax credit, providing for 72.5 percent of the individual's premiums for qualified health insurance of the individual and qualifying family members. The provision would eliminate the 30-day requirement as a requirement for individual health insurance to be qualified health insurance for purposes of the HCTC, but the provision would add a requirement that the individual health insurance not be purchased through an American Health Benefit Exchange, pursuant to the Affordable Care Act. The provision would otherwise extend pre-2014 law for qualified health insurance with regard to the Health Coverage Tax Credit, including the rules for State-based coverage, and the treatment of COBRA continuation coverage and coverage under certain Voluntary Employees' Beneficiary Associations as qualified health insurance.

According to the Ways and Means committee, the HCTC would be modified to prohibit individuals from claiming the HCTC and certain other premium subsidies for the same coverage period, and to prevent the use of the HCTC to purchase insurance through an Affordable Care Act Exchange.

Section 208 would permit merchandise processing fees to be collected during the period beginning July 29, 2025, and ending September 30, 2025. For merchandise imported from July 15, 2025, through September 30, 2025, the bill would raise the merchandise processing fee from 0.21 percent to 0.3464 percent of the value of the goods.

Section 209 would provide that taxpayers who elect to exclude from gross income for a taxable year any amount of foreign earned income or foreign housing costs may not claim the refundable portion of the child tax credit for the taxable year.

Section 210 would shift payments of corporate estimated taxes between fiscal years 2020 and 2021. For corporations with at least \$1 billion in assets, the bill would increase the portion of corporate estimated payments due from July through September in 2020.

Section 211 would allow freestanding dialysis facilities to treat beneficiaries with acute kidney injury (AKI), and would be paid at the rate for freestanding facilities. Under current Medicare law, freestanding dialysis facilities (including facilities owned by a hospital) may treat patients with end-stage renal disease, but not people with acute kidney injury. Those free-standing facilities are paid an average of about \$240 per dialysis treatment. Medicare beneficiaries with AKI may receive dialysis services from hospital outpatient departments (which are distinct from hospital-owned dialysis facilities). Those facilities are paid according to the hospital-outpatient prospective payment and the cost is about \$600 per dialysis treatment.

Section 212 would modify sequestration of Medicare spending for the second half of fiscal year 2024 (October 2024 through March 2025) by changing the sequester from 0.0 percent to 0.25 percent. According to the Ways and Means Committee [overview](#), **this provision that modifies the sequester on Medicare mandatory spending has been eliminated in the House amendment to the Trade Preferences Extension Act of 2015.** Other provisions of the House amendment offset the cost of eliminating the Medicare sequester to ensure the bill does not increase the deficit or violate the House's cut-as-you-go rule.

The TAA for Community Colleges program (created in the 2009 legislation and funded through the 2010 health care reconciliation at \$500M per year) is not authorized. A House Ways and Means Committee overview on the 2015 TAA can be found [here](#).

TPA Background: TPA gives the president the authority to negotiate international free trade agreements that Congress can approve or disapprove, but withholds Congress' ability to amend or filibuster, thus fast tracking the agreement. Since the authority was first enacted in 1975, it has become an essential tool for the president

to negotiate and implement free trade agreements. The current TPA proposal would allow the fast tracking of two potential future free trade agreements, the [Trans Pacific Partnership](#) (TPP), and the [Transatlantic Trade and Investment Partnership](#) (T-TIP). TPA itself, if enacted would expire in July 1, 2018, with the possibility of being extended to July 1, 2021 if requested by the president and if no extension disapproval resolution is passed by Congress.

TAA Background: According to the [House report](#) (114-108) accompanying H.R. 1892, TAA was first created by the Trade Expansion Act of 1962 (P.L. 87–794) and has been reauthorized several times in subsequent years, including through the Trade Act of 1974 (P.L. 93–618), the Trade Act of 2002 (P.L. 107–210), the Trade and Globalization Adjustment Assistance Act of 2009, and the Act to extend the Generalized System of Preferences, and for other purposes (including Title II, the Trade Adjustment Assistance Extension Act of 2011) (P.L. 112–40) (2011 TAA).

Congressional resources: A Congressional Research Service (CRS) report on Trade Promotion Authority and Congress’s role in trade policy can be found [here](#) and CRS Frequently Asked Questions report [here](#). A Ways and Means description of the new provisions included in the TPA legislation can be found [here](#), as well as an [overview](#), [summary](#), and [section-by-section](#) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015. A Frequently Asked Questions document from the committee can be found [here](#) as well as issue fact sheets [here](#).

Think tank reports: A CATO report on the Constitutionality of TPA can be found [here](#). According to the CATO report, “every U.S. president since 1974 (when TPA was born as “Fast Track Negotiating Authority”) has been granted this authority by Congress to negotiate agreements to expand trade with other nations.” CATO scholar Scott Lincicome’s fact sheet on TPA in the Federalist can be found [here](#). American Enterprise Institute pieces on the benefits of TPA can be found [here](#) and on the currency manipulation and trade debate [here](#). A Heritage Foundation article on concerns over currency manipulation issues regarding TPA can be found [here](#). A Council on Foreign Relations report on the geopolitical considerations of TPA and the TPP agreement can be found [here](#).

Op-eds and articles: An op-ed from Chairman Paul Ryan (R-WI) and Senator Ted Cruz (R-TX) on TPA from the Wall Street Journal can be found [here](#). A Forbes article and a Washington Post editorial dismissing currency manipulation concerns can be found [here](#) and [here](#) respectively. An op-ed in National Review Online from Chairman Jeb Hensarling (R-TX) on the conservative case for TPA can be found [here](#). Other op-eds from former Secretary of State Condoleezza Rice and columnist Charles Krauthammer in the Washington Post can be found [here](#) and [here](#). An op-ed from RSC Chairman Bill Flores (R-TX) and Rep. Kevin Brady (R-TX) on trade promotion authority can be found [here](#).

OUTSIDE GROUPS IN SUPPORT:

- [U.S. Chamber of Commerce](#)
- [Business Roundtable](#)
- [National Association of Manufacturers](#)
- [National Taxpayers Union \(key voting\)](#)
- [Competitive Enterprise Institute](#)
- [Citizens against Government Waste](#)
- [R Street \(expresses some concern over copyright issues\)](#)
- [Taxpayers Protection Alliance](#)
- [Americans for Tax Reform](#)
- [The American Conservative Union](#)
- [Frontiers of Freedom](#)

- [Rio Grande Foundation](#)
- [Institute for Policy Innovation](#)
- [Institute for Liberty](#)
- [Crossroads GPS](#)
- [Conservative Reform Network](#)
- [60 Plus Association](#)
- [American Action Network](#)

OUTSIDE GROUPS IN OPPOSITION:

- [Eagle Forum](#)
- [NumbersUSA](#)
- [Center for Security Policy](#)
- [End Global Governance](#)
- [Coalition for a Prosperous America](#)
- [American Automotive Policy Council](#) has expressed concern over [currency manipulation measures](#).
- [Heritage Action](#)

OUTSIDE GROUPS IN SUPPORT OF TPA BUT OPPOSED TO TAA

- [Club for Growth](#)

COMMITTEE ACTION: The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA-2015; H.R. 1890/S. 995) was introduced on April 16, 2015. The legislation was reported by the Senate Finance Committee on April 22, 2015, and by the House Ways and Means Committee on April 23, 2015. TPA was incorporated into H.R. 1314 as a substitute amendment and was passed by the Senate on May 22, 2015 by a vote of [62-37](#).

ADMINISTRATION POSITION: The statement of administration policy can be found [here](#).

CONSTITUTIONAL AUTHORITY: Congress has the power to enact this legislation pursuant to the following: Clauses 1 and 18 of Section 8 of Article I of the United States Constitution.

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

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