

CRS Report for Congress

Trade Adjustment Assistance (TAA) for Workers: Current Issues and Legislation

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Summary

Trade Adjustment Assistance consists of several programs: Trade Adjustment Assistance for Workers (TAA), Alternative Trade Adjustment Assistance (ATAA), Trade Adjustment Assistance for Firms, Trade Adjustment Assistance for Farmers, and a Health Coverage Tax Credit (HCTC). This report addresses the TAA and ATAA programs, as well as the HCTC. TAA and ATAA provide income support and other assistance to qualifying workers who lose their jobs directly due to increased imports or shifts in production out of the United States. The HCTC provides a refundable tax credit to offset 65% of the health insurance premiums of TAA- and ATAA-eligible workers.

The Trade Adjustment Assistance programs were set to expire on September 30, 2007. P.L. 110-89 extended the programs through December 31, 2007. H.R. 4341, which would further extend the programs through March 31, 2008, was passed by the House on December 11, 2007. As of February 20, 2008, the Senate has not acted on the measure. However, P.L. 110-161, signed by President George W. Bush on December 26, 2007, fully funds TAA and ATAA through September 30, 2008. The Department of Labor has indicated that this is sufficient to continue the programs through the end of the fiscal year, including issuing new certifications of eligible workers.

This report provides background on TAA and ATAA, summarizes key issues related to reauthorization, and briefly describes bills in the 110th Congress that affect the TAA and ATAA programs. These bills are H.R. 3920, H.R. 2764, H.R. 4341, H.R. 3375, H.R. 3943, H.R. 3801, H.R. 910, S. 1848, S. 122, H.R. 1729, S. 1652, S. 1739, H.R. 3589, and H.R. 3843. This report will be updated as legislative activity warrants.

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Trade Adjustment Assistance for Workers: Current Issues and Legislation

Background on Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA)

Trade Adjustment Assistance for Workers (TAA) provides extended income support as well as training, job search, and relocation benefits to qualifying workers who become unemployed for trade-related reasons. To be eligible for TAA, workers must have become unemployed for one of three reasons: (1) their jobs moved to a country with which the United States has a free trade agreement or to certain other countries; (2) their job losses can be attributed to increased imports that contributed importantly to an actual decline in sales or production; or (3) their job losses resulted from the loss of business with a primary firm because of a trade-related reason. TAA-eligible workers who are age 50 or older may be able to opt for Alternative Trade Adjustment Assistance (ATAA), which provides a wage supplement in lieu of TAA benefits.¹ In addition, workers can claim a refundable Health Coverage Tax Credit (HCTC). The HCTC was established to help both TAA- and ATAA-eligible workers pay for health insurance.² These programs are administered by the Employment and Training Administration (ETA) in the Department of Labor (DOL).³

TAA provides two primary benefits: Trade Readjustment Allowances (TRA) and training, job search, and relocation benefits. TRA provides up to 130 weeks of income support equal to workers' weekly unemployment benefits for TAA-eligible workers who are participating in approved training programs. TRA is a mandatory spending program funded out of general revenues. Because TRA benefits are provided to all individuals who meet the eligibility requirements, under current financing provisions, no workers would lose TRA income support benefits because

¹ For further information on the TAA for Workers program, see CRS Report RS22718, *Trade Adjustment Assistance for Workers (TAA) and Alternative Trade Adjustment Assistance for Older Workers (ATAA)*, by John J. Topoleski.

² For further information on the HCTC, see CRS Report RL32620, *Health Coverage Tax Credit Authorized by the Trade Act of 2002*, by Bernadette Fernandez.

³ Other adjustment assistance is available under the TAA for Firms and the TAA for Farmers programs, which are administered by the Department of Commerce and the Department of Agriculture, respectively. For further information on the TAA for Firms program, see CRS Report RS20210, *Trade Adjustment Assistance for Firms: Economic, Program, and Policy Issues*, by J. F. Hornbeck.

of increases in the number of TAA-eligible workers. Increases in TRA expenditures would be paid for — like all mandatory funding in the absence of surplus revenues — through some combination of borrowing, increased revenues, or spending cuts.

TAA training assists adversely affected workers who lack marketable skills to return to suitable full-time employment. Allowable types of training include classroom training, on-the-job training, customized training designed to meet the needs of a specific employer or group of employers, and basic or remedial education. In addition, workers are eligible for reimbursement of 90% of their reasonable and necessary job search and relocation expenses (up to a maximum of \$1,250 for each expense category). In contrast to TRA, the training, job search, and relocation assistance package of benefits is a capped entitlement. The Trade Act of 2002 limits training expenditures to \$220 million per fiscal year. In FY2007, \$6.6 million was appropriated for job search and relocation expenses.

Alternatively, older workers may be eligible for ATAA, which pays 50% of the difference between the wages received at the time of separation and the wages received from reemployment. Workers must be 50 years or older at the time of reemployment and earn \$50,000 or less. Individuals' ATAA benefits are limited to \$10,000 or two years since the start of qualifying reemployment (whichever comes first). The HCTC, available to workers receiving TAA or ATAA benefits, is a refundable tax credit equal to 65% of workers' monthly health insurance premiums.

TAA was formally established by the Trade Expansion Act of 1962 (P.L. 87-794) but was little used until the Trade Act of 1974 (P.L. 93-618) expanded benefits and eligibility. Most recently, the Trade Act of 2002 (P.L. 107-210) established ATAA and reauthorized and expanded TAA. The TAA and ATAA programs, which were set to expire on September 30, 2007, were extended for three months by P.L. 110-89. P.L. 110-89 was signed by President George W. Bush on September 28, 2007. On December 11, 2007, the House passed another three-month extension (H.R. 4341) by a vote of 264-137. As of February 20, 2008, the Senate has not acted on the measure. The Consolidated Appropriations Act, 2008 (P.L. 110-161, signed by President George W. Bush on December 26, 2007) contains an appropriation for the TAA for Workers and ATAA programs that fully funds the programs for FY2008. A letter from the Assistant Secretary for Employment and Training at DOL to the Senate Finance Committee as well as Training and Employment Guidance Letter (TEGL) No. 15-07, issued by DOL, indicate that full operation of the programs, including issuing new certifications for eligibility, will continue through FY2008.⁴

⁴ The letter to the Senate Finance Committee is available at [<http://www.senate.gov/~finance/press/Bpress/2007press/prb121907e.pdf>]. The TEGL is available online from the Department of Labor at [http://wdr.doleta.gov/directives/corr_doc.cfm?docn=2567].

TAA and ATAA Reauthorization Issues in the 110th Congress

Since the previous TAA reauthorization (the Trade Act of 2002, P.L. 107-210), Congress has considered a number of issues, discussed below, that have arisen in the context of TAA and ATAA reauthorization.

Extension of Eligibility to Service Workers. Currently, only workers who make articles are eligible for TAA. In determining whether a firm produces an article, the Department of Labor relies on the Harmonized Tariff Schedule of the United States (HTS), published by the United States International Trade Commission. The HTS is the list of tariffs charged for all products imported into the United States. DOL statistics indicate that only 10% of the U.S. workforce are in manufacturing occupations and thus potentially eligible for TAA benefits. Under current law, service industry and public sector workers who become unemployed for trade-related reasons are not eligible to receive TAA benefits. As the United States has shifted to a more service-based economy and as concern over “outsourcing” has increased, there have been increasing calls to extend TAA benefits to service workers (for example, to call-center workers whose jobs have shifted to India).⁵ Congress has considered amending the Trade Act of 1974 to extend TAA eligibility to service and public sector workers. Related provisions are included in the following bills: H.R. 3920, H.R. 3943, H.R. 3801, S. 1848, S. 122, and H.R. 3589. See the “TAA and ATAA Legislation in the 110th Congress” section of this report for more information on these bills.

Production Shifts to Non-Trade Agreement Countries. Only workers in firms that have shifted production to countries with which the United States has a free-trade agreement or those that are named as beneficiary countries under the Caribbean Basin Economic Recovery Act (P.L. 98-67), the Andean Trade Preference Act (P.L. 102-182), or the African Growth and Opportunity Act (P.L. 106-200) are eligible for TAA. For example, if a firm shifts production to Canada or Mexico, the workers in the U.S. plant would be eligible for TAA because Canada and Mexico are both parties to the North American Free Trade Agreement (NAFTA, P.L. 103-182). However, if the firm shifts production to China, the workers in the U.S. plant would not be eligible for TAA because the United States does not have a free-trade agreement with China. In contrast, workers in U.S. manufacturing facilities may be eligible for TAA if they become unemployed due to increased imports from any country, regardless of whether the country has a free-trade agreement with the United States. Congress has considered eliminating the requirement that production shifts be to countries with which the United States has free-trade agreements. Related provisions are included in the following bills: H.R. 3920, H.R. 3801, H.R. 910, S. 1848, S. 122, and H.R. 1729/S. 1652. See the “TAA and ATAA Legislation in the 110th Congress” section of this report for more information on these bills.

⁵ For more information, see CRS Report RS2276, *Extending Trade Adjustment Assistance (TAA) to Service Workers: How Many Workers Could Potentially Be Covered?*, by John J. Topoleski and CRS Report RL32292, *Offshoring (a.k.a. Offshore Outsourcing) and Job Insecurity Among U.S. Workers*, by Linda Levine.

Training Funding Level. Training funding is a capped entitlement, currently set at \$220 million per fiscal year. Some policymakers maintain that the current funding level, which has been in place since FY2003, may be inadequate as some states have had to ration training benefits to eligible workers.⁶ Because of the effects of inflation, \$220 million purchased less training in FY2007 compared to FY2003. Moreover, if TAA benefits are extended to service and public sector workers, the current level of funding would likely be exhausted more quickly, resulting in training being available to a smaller percentage of TAA-eligible workers. Congress has considered at least doubling the amount of training funds available. Related provisions are included in the following bills: H.R. 3920, H.R. 3801, S. 1848, and S. 122. See the “TAA and ATAA Legislation in the 110th Congress” section of this report for more information on these bills.

Training Funding Allocations. The Department of Labor allocates 75% of the annual \$220 million of training funds available to states on the basis of a state’s accrued training expenditures and the number of training participants over the previous two and one-half years. The higher a state’s level of prior years’ accrued expenditures and number of training participants, the higher the following year’s initial allocation of the state’s training funds. The remaining funds are held in reserve to be used on an “as-needed” basis.⁷ Given the episodic nature of layoffs, states could need much greater funding than allocated based on previous years’ experience if they experience large layoffs of TAA-eligible workers. Conversely, states could have large amounts of unused training funds if the number of layoffs is substantially lower than in prior years. Congress has considered providing states with lower initial allocations of training funds, requiring that funds be allocated more evenly throughout the fiscal year, and requiring that additional criteria be used to allocate the training funds to states. Related provisions are included in the following bills: H.R. 3920, H.R. 3943, H.R. 3801, and S. 1848. See the “TAA and ATAA Legislation in the 110th Congress” section of this report for more information on these bills.

Administrative and Employment Services Expenses. States provide TAA-eligible workers with a variety of employment services such as the evaluation of training needs and case management. The Trade Act does not allocate funds for these expenses. DOL and Congress have customarily provided states with administrative funds equal to 15% of the training allocation they receive. These services are often provided through state one-stop career centers using funds from other programs, such as the Workforce Investment Act (WIA). Congress has

⁶ Two Government Accountability Office (GAO) reports address concerns about training funding levels and allocations to states. See GAO-07-702, *Trade Adjustment Assistance: Changes to Funding Allocation and Eligibility Requirements Could Enhance States’ Ability to Provide Benefits and Services*, available at [<http://www.gao.gov/new.items/d07702.pdf>], and GAO-08-165, *States Have Fewer Training Funds Available than Labor Estimates When Both Expenditures and Obligations Are Considered*, available at [<http://www.gao.gov/new.items/d08165.pdf>].

⁷ For more information on the funding formula, see Training and Employment Guidance Letter No. 8-07 (TEGL 8-07) issued by the Employment & Training Administration, available at [http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2539].

considered providing funding to states for employment services provided to TAA-eligible workers. Related provisions are included in H.R. 3920. See the “TAA and ATAA Legislation in the 110th Congress” section of this report for more information on this bill.

Integration with Other Programs for Displaced Workers. To streamline the operation of the TAA program, the Education and Training Administration (ETA) has been integrating TAA services with the services provided at state one-stop career centers under WIA. However, TAA-eligible workers may require more specialized attention because they tend to be older and have more specialized skills than other displaced workers. Congress has considered ways to more efficiently provide intake, assessment, and other employment services to TAA-eligible workers, who may also be eligible for other Department of Labor programs. Related provisions are included in H.R. 3920 and H.R. 3943. See the “TAA and ATAA Legislation in the 110th Congress” section of this report for more information on these bills.

Training Deadline. Workers who are eligible for TAA training benefits must be enrolled in training by the later of 8 weeks after a TAA petition for benefits was certified by DOL or 16 weeks after the layoff (the *8/16 rule*). States report that this may be an insufficient period of time to properly assess workers’ training needs.⁸ Congress has considered extending the deadline for workers’ enrollment in training. Related provisions are included in the following bills: H.R. 3920, H.R. 3943, H.R. 3801, H.R. 910, S. 1848, and S. 122. See the “TAA and ATAA Legislation in the 110th Congress” section of this report for more information on these bills.

Higher Education. Several provisions of current law may preclude TAA-eligible workers from enrolling in some college degree programs. First, the 8/16 rule may prevent workers laid off in February from enrolling in degree programs the following September. Second, the two-year training limit and prohibition on workers contributing to the costs of their own training may inhibit enrollment in four-year degree programs. Finally, some states prohibit two- and four-year colleges from providing TAA training. Congress has considered explicitly allowing higher education as a training option. Related provisions are included in the following bills: H.R. 3920, H.R. 3943, H.R. 3801, and S. 1848. See the “TAA and ATAA Legislation in the 110th Congress” section of this report for more information on these bills.

Wage Insurance. Alternative Trade Adjustment Assistance (ATAA) was established in 2002 as a demonstration project to encourage workers aged 50 and older to quickly reenter the workforce. Workers certified for ATAA receive 50% of the difference between their former and current wages, up to a maximum of \$10,000 over two years. Current law requires separate petition and certification decisions for TAA and ATAA benefits, requires that workers find qualified reemployment within 26 weeks of being laid off, and limits wages in reemployment to \$50,000. The separate ATAA certification, the 26-week deadline for finding reemployment, and

⁸ For more information, see GAO-07-702, *Trade Adjustment Assistance: Changes to Funding Allocation and Eligibility Requirements Could Enhance States’ Ability to Provide Benefits and Services*, available at [<http://www.gao.gov/new.items/d07702.pdf>].

the \$50,000 wage limit are obstacles to greater participation in ATAA. Congress has considered eliminating separate ATAA applications, raising the maximum benefit to \$12,000 over two years, lowering the age requirement from age 50 to age 40, and raising the limit on wages in employment for the purposes of qualifying for ATAA from \$50,000 to \$60,000. Related provisions are included in the following bills: H.R. 3920, H.R. 3943, H.R. 3801, H.R. 910, S. 1848, and S. 122. See the “TAA and ATAA Legislation in the 110th Congress” section of this report for more information on these bills.

Merit-Based Employees. Currently, local one-stop career centers administer a number of programs for unemployed workers, such as Unemployment Compensation (UC), Employment Service (ES), TAA, and ATAA. Employees of state UC or ES agencies are required to be state civil service workers; that is, appointed in a merit-based system. Current law does not require that TAA and ATAA benefits be provided by state merit-based employees. The Department of Labor has proposed regulations that would clarify that merit staffing is not required for the provision of TAA and ATAA benefits and services (except for merit-based standards that apply to employees of state UC or ES agencies who perform functions under both TAA and UI/ES programs).⁹ P.L. 110-161 (discussed in the “TAA and ATAA Legislation in the 110th Congress” section of this report) prohibits the Department of Labor from finalizing this regulation. In addition, Congress has considered requiring that determinations for TRA allowances and training benefits be made only by state merit-based employees. Related provisions are included in H.R. 2764/P.L. 110-161 and H.R. 3920. See the “TAA and ATAA Legislation in the 110th Congress” section of this report for more information on these bills.

Health Coverage Tax Credit: GAO has reported that the HCTC is claimed by only a small percentage of eligible workers.¹⁰ Although the HCTC covers 65% of workers’ health insurance premiums, participation may be limited because the high cost of premiums may preclude workers from purchasing health insurance. In addition, there can be a delay of several months between workers’ separation from employment and HCTC approval, during which time workers must pay the full cost of their health insurance premiums. Congress has considered increasing the HCTC from 65% to 85% of workers’ health insurance premiums, allowing the HCTC to be applied retroactively, and establishing a deadline for replacing the current program. Related provisions are included in the following bills: H.R. 3920, H.R. 3943, H.R. 3801, H.R. 910, S. 1848, S. 122, and S. 1739. See the “TAA and ATAA Legislation in the 110th Congress” section of this report for more information on these bills.

⁹ See Department of Labor, “Notice of Proposed Rulemaking,” 71 *Federal Register* 165, August 25, 2006, pp. 50760-50832.

¹⁰ For more information, see GAO-04-1029, *Health Coverage Tax Credit: Simplified and More Timely Enrollment Process Could Increase Participation*, available at [<http://www.gao.gov/new.items/d041029.pdf>].

TAA and ATAA Legislation in the 110th Congress

The following sections briefly describe legislation in the 110th Congress that would make changes to the TAA and ATAA programs.

Bills to Temporarily Extend TAA and ATAA

H.R. 2764/P.L. 110-161. The Consolidated Appropriations Act, 2008 appropriates \$888.7 million for TAA for FY2008. This includes the \$220 million authorized by P.L. 107-210 for training programs. The Department of Labor considers the appropriations language sufficient to continue the operation of the TAA for Workers and ATAA programs throughout FY2008, including issuing new certifications for eligibility. This act prohibits any of the funds made available from being used to finalize or implement any proposed regulation related to TAA until TAA is reauthorized. President George W. Bush signed it into law on December 26, 2007.

H.R. 3375/P.L. 110-89. Representative Wally Herger introduced this bill on August 3, 2007, to extend the TAA and ATAA programs through December 31, 2007. President George W. Bush signed it into law on September 28, 2007.

H.R. 4341. This bill, introduced by Representative Sander Levin on December 10, 2007, would extend the TAA and ATAA programs through March 31, 2008. H.R. 4341 was passed by the House by a voice vote on December 11, 2007. As of February 20, 2008, the Senate has not acted on this bill.

Bills to Reauthorize TAA and ATAA in the House

H.R. 3920. Representative Charles Rangel introduced the Trade and Globalization Assistance Act of 2007 on October 22, 2007. Among other provisions, this bill would extend TAA eligibility to service and public sector workers; eliminate the requirement that shifts in production be to countries with which the United States has a free-trade agreement; allow for automatic approval of firms within an industry; extend the deadline to enroll in training from the later of 8 weeks after the petition was certified or 16 weeks after the layoff to the later of 26 weeks after certification or layoff; allow participants to work part-time while enrolled in training; increase the cap on training from \$220 million to \$440 million in FY2008 and FY2009 and \$660 million in each fiscal year thereafter; require that TAA services be administered by state merit-based employees; require at least three distributions of training funds to states each year with no more than 50% in the first distribution; require consideration by the Secretary of Labor of a broad range of factors in the allocation of training funds to states; provide states with funds for the administration of the TAA program; increase the HCTC from 65% to 85% of workers' health insurance premiums; sunset the HCTC after December 31, 2009; eliminate separate ATAA applications; raise the maximum ATAA benefit to \$12,000 over two years; raise the limit on wages in reemployment for the purposes of qualifying for ATAA from \$50,000 to \$60,000; establish 24 manufacturing redevelopment zones that would be eligible for redevelopment tax incentives; and reauthorize the programs through FY2012. H.R. 3920 was passed by the House on October 31, 2007, by a vote of 264 to 137.

H.R. 3943. Representative Wally Herger introduced the Trade Adjustment Assistance and Training Improvement Act of 2007 on October 23, 2007. Among other provisions, this bill would expand TAA eligibility to include workers who make intangible products such as software that are electronically distributed to customers; require effective implementation of the requirement that adversely affected workers be enrolled in WIA programs; extend the deadline to enroll in training from the later of 8 weeks after the petition was certified or 16 weeks after the layoff to the later of 13 weeks after certification or 39 weeks after the layoff; allow participants to simultaneously work and receive training; require the Secretary of Labor to establish a formula for apportioning training funds among the states; reimburse a worker's training costs of up to \$4,000 per year, up to \$8,000 over a four-year period per TAA participant; replace the ATAA program with a wage supplement program; and reauthorize the programs through FY2012.

H.R. 3801. Representative Adam Smith introduced the Trade Adjustment Assistance Improvement Act on October 10, 2007. This bill is nearly identical to S. 1848 (described in the "Bills to Reauthorize TAA and ATAA in the Senate" section).

H.R. 910. Representative Phil English introduced the American Competitiveness and Adjustment Act on February 8, 2007. Among other provisions, this bill would eliminate the requirement that shifts in production be to countries with which the United States has a free-trade agreement, extend certification to an entire industry after three or more certifications within a six-month period, allow certifications for production shifts to any foreign country, extend the deadline to enroll in training from the later of 8 weeks after the petition was certified or 16 weeks after the layoff to the later of 16 weeks after certification or 32 weeks after the layoff, lower the age requirement for ATAA from age 50 to age 40, increase the HCTC from 65% to 75% of workers' health care premiums, and reauthorize the programs through FY2012.

Bills to Reauthorize TAA and ATAA in the Senate

S. 1848. Senator Max Baucus introduced the Trade and Globalization Adjustment Assistance Act of 2007 on July 23, 2007. Among other provisions, this bill would extend benefits to workers in service industries and the public sector, eliminate the requirement that shifts in production be to countries with which the United States has a free-trade agreement, expand eligibility to include workers within an entire industry or occupation, allow training funds to be used for higher education expenses, waive the training requirement for post-graduate degree holders, extend the deadline to enroll in training from the later of 8 weeks after the petition was certified or 16 weeks after the layoff to the later of 26 weeks after certification or layoff, increase the HCTC from 65% to 85% of workers' health care premiums, increase the cap on training funds from \$220 million to \$440 million with a provision to increase funding by 10% if at least 90% of the prior year's authorized funds are obligated, eliminate separate ATAA applications, lower the age requirement for ATAA from age 50 to age 40, raise the maximum ATAA benefit to \$12,000 over two years, raise the limit on wages in reemployment for the purposes of qualifying for ATAA from \$50,000 to \$60,000, and reauthorize the programs through FY2012.

S. 122. Senator Max Baucus introduced the Trade Adjustment Assistance Improvement Act of 2007 on January 4, 2007. Among other provisions, this bill would extend benefits to workers in service industries and the public sector, eliminate the requirement that shifts in production be to countries with which the United States has a free-trade agreement, expand eligibility to include workers within an entire industry or occupation, require the Secretary of Labor to develop a formula for the amount of training funds, extend the deadline to enroll in training from the later of 8 weeks after the petition was certified or 16 weeks after the layoff to the later of 20 weeks after certification or 26 weeks after the layoff, lower the age requirement for ATAA from age 50 to age 40, and reauthorize the programs through FY2012.

Other Related Bills

H.R. 1729/S. 1652. Representative Robin Hayes introduced the Trade Adjustment Assistance Reform Act on March 28, 2007, and Senator Elizabeth Dole introduced an identical companion bill on June 19, 2007. These bills would eliminate the requirement that shifts in production be to countries with which the United States has a free-trade agreement and would extend TAA to textile and apparel workers without regard to the group eligibility requirements.

S. 1739. Senator Jay Rockefeller introduced the TAA Health Coverage Improvement Act of 2007 on June 28, 2007. Among other provisions, this bill would increase the HCTC from 65% to 95% of workers' health insurance premium benefits and offer TAA-eligible workers enrollment in the Federal Employees Health Benefits Program.

H.R. 3589. Representative Peter King introduced this bill on September 19, 2007. This bill would extend TAA benefits to service industry workers who provide "information technology or other high technology services."

H.R. 3843. Representative Thomas Reynolds introduced the NEW JOBS Act of 2007 on October 16, 2007. This bill would expand the New Markets Tax Credit to spur investments into businesses that receive benefits under the TAA for Firms program or employ TAA-eligible workers.¹¹

¹¹ The New Markets Tax Credit was part of the Community Renewal Tax Relief Act of 2000 (H.R. 5662 in the 106th Congress), which was incorporated into the Consolidated Appropriations Act, 2001 (P.L. 106-554).