

Public Law 112–40
112th Congress

An Act

To extend the Generalized System of Preferences, and for other purposes.

Oct. 21, 2011
[H.R. 2832]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES.

(a) EXTENSION.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking “December 31, 2010” and inserting “July 31, 2013”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles entered on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to subparagraph (B), any entry of an article to which duty-free treatment or other preferential treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on December 31, 2010, that was made—

(i) after December 31, 2010; and

(ii) before the 15th day after the date of the enactment of this Act,

shall be liquidated or reliquidated as though such entry occurred on the 15th day after the date of the enactment of this Act.

(B) REQUESTS.—A liquidation or reliquidation may be made under subparagraph (A) with respect to an entry only if a request therefor is filed with U.S. Customs and Border Protection not later than 180 days after the date of the enactment of this Act that contains sufficient information to enable U.S. Customs and Border Protection—

(i) to locate the entry; or

(ii) to reconstruct the entry if it cannot be located.

(C) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry of an article under subparagraph (A) shall be paid, without interest, not later than 90 days after the date of the liquidation or reliquidation (as the case may be).

19 USC 2465
note.

Deadlines.

(3) DEFINITION.—As used in this subsection, the terms “enter” and “entry” include a withdrawal from warehouse for consumption.

19 USC 58c note.

SEC. 2. MERCHANDISE PROCESSING FEES.

Time period.
Applicability.

For the period beginning on October 1, 2011, and ending on June 30, 2014, section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be applied and administered—

- (1) in subparagraph (A), by substituting “0.3464” for “0.21”; and
- (2) in subparagraph (B)(i), by substituting “0.3464” for “0.21”.

Trade
Adjustment
Assistance
Extension Act
of 2011.
19 USC 2101
note.

TITLE II—TRADE ADJUSTMENT ASSISTANCE

SEC. 200. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the “Trade Adjustment Assistance Extension Act of 2011”.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE II—TRADE ADJUSTMENT ASSISTANCE

Sec. 200. Short title; table of contents.

Subtitle A—Extension of Trade Adjustment Assistance

PART I—APPLICATION OF PROVISIONS RELATING TO TRADE ADJUSTMENT ASSISTANCE

Sec. 201. Application of provisions relating to trade adjustment assistance.

PART II—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

- Sec. 211. Group eligibility requirements.
- Sec. 212. Reductions in waivers from training.
- Sec. 213. Limitations on trade readjustment allowances.
- Sec. 214. Funding of training, employment and case management services, and job search and relocation allowances.
- Sec. 215. Reemployment trade adjustment assistance.
- Sec. 216. Program accountability.
- Sec. 217. Extension.

PART III—OTHER ADJUSTMENT ASSISTANCE

- Sec. 221. Trade adjustment assistance for firms.
- Sec. 222. Trade adjustment assistance for communities.
- Sec. 223. Trade adjustment assistance for farmers.

PART IV—GENERAL PROVISIONS

- Sec. 231. Applicability of trade adjustment assistance provisions.
- Sec. 232. Termination provisions.
- Sec. 233. Sunset provisions.

Subtitle B—Health Coverage Improvement

- Sec. 241. Health care tax credit.
- Sec. 242. TAA pre-certification period rule for purposes of determining whether there is a 63-day lapse in creditable coverage.
- Sec. 243. Extension of COBRA benefits for certain TAA-eligible individuals and PBGC recipients.

Subtitle C—Offsets

PART I—UNEMPLOYMENT COMPENSATION PROGRAM INTEGRITY

- Sec. 251. Mandatory penalty assessment on fraud claims.
- Sec. 252. Prohibition on noncharging due to employer fault.

Sec. 253. Reporting of rehired employees to the directory of new hires.

PART II—ADDITIONAL OFFSETS

Sec. 261. Improvements to contracts with Medicare quality improvement organizations (QIOs) in order to improve the quality of care furnished to Medicare beneficiaries.

Sec. 262. Rates for merchandise processing fees.

Sec. 263. Time for remitting certain merchandise processing fees.

Subtitle A—Extension of Trade Adjustment Assistance

PART I—APPLICATION OF PROVISIONS RELATING TO TRADE ADJUSTMENT ASSISTANCE

SEC. 201. APPLICATION OF PROVISIONS RELATING TO TRADE ADJUSTMENT ASSISTANCE.

(a) **REPEAL OF SNAPBACK.**—Section 1893 of the Trade and Globalization Adjustment Assistance Act of 2009 (Public Law 111-5; 123 Stat. 422) is repealed.

(b) **APPLICABILITY OF CERTAIN PROVISIONS.**—Except as otherwise provided in this subtitle, the provisions of chapters 2 through 6 of title II of the Trade Act of 1974, as in effect on February 12, 2011, and as amended by this subtitle, shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to petitions for certification filed under chapter 2, 3, or 6 of title II of the Trade Act of 1974 on or after such date of enactment.

(c) **REFERENCES.**—Except as otherwise provided in this subtitle, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a provision of chapters 2 through 6 of title II of the Trade Act of 1974, the reference shall be considered to be made to a provision of any such chapter, as in effect on February 12, 2011.

19 USC 2271
note prec.
19 USC 2271 and
note prec.,
2272-2275,
2291-2298, 2311,
2315-2323, 2341,
2343-2352,
2354-2356,
2371-2374, 2393,
2395, 2397a,
2401-2401b,
2401e-2401g.
Effective date.
19 USC 2271 and
note prec.,
2272-2275,
2291-2298, 2311,
2315-2323, 2341,
2343-2352,
2354-2356,
2371-2374, 2393,
2395, 2397a,
2401-2401b,
2401e-2401g.

PART II—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

SEC. 211. GROUP ELIGIBILITY REQUIREMENTS.

(a) **IN GENERAL.**—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c) through (f) as subsections (b) through (e), respectively;

(3) in paragraph (2) of subsection (b), as redesignated, by striking “(d)” and inserting “(c)”; and

(4) in subsection (c), as redesignated, by striking paragraph (5); and

(5) in paragraph (2) of subsection (d), as redesignated, by striking “(b), or (c)” and inserting “or (b)”.

(b) **CONFORMING AMENDMENTS.**—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking “Subject to section 222(d)(5), the term” and inserting “The term”; and

- (B) in subparagraph (A), by striking “, service sector firm, or public agency” and inserting “or service sector firm”;
- (2) by striking paragraph (7); and
- (3) by redesignating paragraphs (8) through (19) as paragraphs (7) through (18), respectively.

SEC. 212. REDUCTIONS IN WAIVERS FROM TRAINING.

(a) **IN GENERAL.**—Section 231(c) of the Trade Act of 1974 (19 U.S.C. 2291(c)) is amended—

- (1) in paragraph (1)—
 - (A) by striking subparagraphs (A), (B), and (C); and
 - (B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (A), (B), and (C), respectively; and
- (2) in paragraph (3)(B), by striking “(D), (E), or (F)” and inserting “or (C)”.

(b) **GOOD CAUSE EXCEPTION.**—Section 234(b) of the Trade Act of 1974 (19 U.S.C. 2294(b)) is amended to read as follows:

“(b) **SPECIAL RULE ON GOOD CAUSE FOR WAIVER OF TIME LIMITS OR LATE FILING OF CLAIMS.**—The Secretary shall establish procedures and criteria that allow for a waiver for good cause of the time limitations with respect to an application for a trade readjustment allowance or enrollment in training under this chapter.”

SEC. 213. LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended—

- (1) in subsection (a)—
 - (A) in paragraph (2), in the matter preceding subparagraph (A), by striking “(or” and all that follows through “period”); and
 - (B) in paragraph (3)
 - (i) in the matter preceding subparagraph (A), by striking “78” and inserting “65”; and
 - (ii) by striking “91-week period” each place it appears and inserting “78-week period”; and
- (2) by amending subsection (f) to read as follows:

“(f) **PAYMENT OF TRADE READJUSTMENT ALLOWANCES TO COMPLETE TRAINING.**—Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 that leads to the completion of a degree or industry-recognized credential, payments may be made as trade readjustment allowances for not more than 13 weeks within such period of eligibility as the Secretary may prescribe to account for a break in training or for justifiable cause that follows the last week for which the worker is otherwise entitled to a trade readjustment allowance under this chapter if—

“(1) payment of the trade readjustment allowance for not more than 13 weeks is necessary for the worker to complete the training;

“(2) the worker participates in training in each such week; and

“(3) the worker—

“(A) has substantially met the performance benchmarks established as part of the training approved for the worker;

“(B) is expected to continue to make progress toward the completion of the training; and

Procedures.

Time period.

“(C) will complete the training during that period of eligibility.”.

SEC. 214. FUNDING OF TRAINING, EMPLOYMENT AND CASE MANAGEMENT SERVICES, AND JOB SEARCH AND RELOCATION ALLOWANCES.

(a) **IN GENERAL.**—Section 236(a)(2) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)) is amended—

(1) by inserting “and sections 235, 237, and 238” after “to carry out this section” each place it appears;

(2) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “of payments that may be made under paragraph (1)” and inserting “of funds available to carry out this section and sections 235, 237, and 238”; and

(B) by striking clauses (i) and (ii) and inserting the following:

“(i) \$575,000,000 for each of fiscal years 2012 and 2013; and

“(ii) \$143,750,000 for the 3-month period beginning on October 1, 2013, and ending on December 31, 2013.”;

(3) in subparagraph (C)(ii)(V), by striking “relating to the provision of training under this section” and inserting “to carry out this section and sections 235, 237, and 238”; and

(4) in subparagraph (E), by striking “to pay the costs of training approved under this section” and inserting “to carry out this section and sections 235, 237, and 238”.

(b) **LIMITATIONS ON ADMINISTRATIVE EXPENSES AND EMPLOYMENT AND CASE MANAGEMENT SERVICES.**—

(1) **IN GENERAL.**—Section 235A of the Trade Act of 1974 (19 U.S.C. 2295a) is amended—

(A) in the section heading, by striking “**FUNDING FOR**” and inserting “**LIMITATIONS ON**”; and

(B) by striking subsections (a) and (b) and inserting the following:

“Of the funds made available to a State to carry out sections 235 through 238 for a fiscal year, the State shall use—

“(1) not more than 10 percent for the administration of the trade adjustment assistance for workers program under this chapter, including for—

“(A) processing waivers of training requirements under section 231;

“(B) collecting, validating, and reporting data required under this chapter; and

“(C) providing reemployment trade adjustment assistance under section 246; and

“(2) not less than 5 percent for employment and case management services under section 235.”.

(2) **CLERICAL AMENDMENT.**—The table of contents for the Trade Act of 1974 is amended by striking the item relating to section 235A and inserting the following:

“Sec. 235A. Limitations on administrative expenses and employment and case management services.”.

(c) **REALLOTMENT OF FUNDS.**—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by adding at the end the following:

“(c) **REALLOTMENT OF FUNDS.**—

“(1) IN GENERAL.—The Secretary may—

“(A) reallocate funds that were allotted to any State to carry out sections 235 through 238 and that remain unobligated by the State during the second or third fiscal year after the fiscal year in which the funds were provided to the State; and

“(B) provide such reallocated funds to States to carry out sections 235 through 238 in accordance with procedures established by the Secretary.

“(2) REQUESTS BY STATES.—In establishing procedures under paragraph (1)(B), the Secretary shall include procedures that provide for the distribution of reallocated funds under that paragraph pursuant to requests submitted by States in need of such funds.

“(3) AVAILABILITY OF AMOUNTS.—The reallocation of funds under paragraph (1) shall not extend the period for which such funds are available for expenditure.”.

(d) JOB SEARCH ALLOWANCES.—Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended—

(1) in subsection (a)(1)—

(A) by striking “An adversely affected worker” and inserting “Each State may use funds made available to the State to carry out sections 235 through 238 to allow an adversely affected worker”; and

(B) by striking “may” and inserting “to”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “An” and inserting “Any”; and

(ii) by striking “all necessary job search expenses” and inserting “not more than 90 percent of the necessary job search expenses of the worker”; and

(B) in paragraph (2), by striking “\$1,500” and inserting “\$1,250”; and

(3) in subsection (c), by striking “the Secretary shall” and inserting “a State may”.

(e) RELOCATION ALLOWANCES.—Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended—

(1) in subsection (a)(1)—

(A) by striking “Any adversely affected worker” and inserting “Each State may use funds made available to the State to carry out sections 235 through 238 to allow an adversely affected worker”; and

(B) by striking “may file” and inserting “to file”; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by striking “The” and inserting “Any”; and

(ii) by striking “includes” and inserting “shall include”;

(B) in paragraph (1), by striking “all” and inserting “not more than 90 percent of the”; and

(C) in paragraph (2), by striking “\$1,500” and inserting “\$1,250”.

(f) CONFORMING AMENDMENTS.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended—

(1) in subsection (b), in the first sentence, by striking “appropriate” and inserting “appropriate”; and

(2) by striking subsection (g) and redesignating subsection (h) as subsection (g).

SEC. 215. REEMPLOYMENT TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Section 246(a) of the Trade Act of 1974 (19 U.S.C. 2318(a)) is amended—

(1) in paragraph (3)(B)(ii), by striking “\$55,000” and inserting “\$50,000”; and

(2) in paragraph (5)—

(A) in subparagraph (A)(i), by striking “\$12,000” and inserting “\$10,000”; and

(B) in subparagraph (B)(i), by striking “\$12,000” and inserting “\$10,000”.

(b) EXTENSION.—Section 246(b)(1) of the Trade Act of 1974 (19 U.S.C. 2318(b)(1)) is amended by striking “February 12, 2011” and inserting “December 31, 2013”.

SEC. 216. PROGRAM ACCOUNTABILITY.

(a) CORE INDICATORS OF PERFORMANCE.—

(1) IN GENERAL.—Section 239(j)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2311(j)(2)(A)) is amended to read as follows:

“(A) IN GENERAL.—The core indicators of performance described in this paragraph are—

“(i) the percentage of workers receiving benefits under this chapter who are employed during the first or second calendar quarter following the calendar quarter in which the workers cease receiving such benefits;

“(ii) the percentage of such workers who are employed during the 2 calendar quarters following the earliest calendar quarter during which the worker was employed as described in clause (i);

“(iii) the average earnings of such workers who are employed during the 2 calendar quarters described in clause (ii); and

“(iv) the percentage of such workers who obtain a recognized postsecondary credential, including an industry-recognized credential, or a secondary school diploma or its recognized equivalent if combined with employment under clause (i), while receiving benefits under this chapter or during the 1-year period after such workers cease receiving such benefits.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph

(1) shall—

(A) take effect on October 1, 2011; and

(B) apply with respect to agreements under section 239 of the Trade Act of 1974 (19 U.S.C. 2311) entered into before, on, or after October 1, 2011.

(b) COLLECTION AND PUBLICATION OF DATA.—

(1) IN GENERAL.—Section 249B(b) of the Trade Act of 1974 (19 U.S.C. 2323(b)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (B), by inserting “(including such allowances classified by payments under paragraphs (1) and (3) of section 233(a), and section 233(f), respectively) and payments under section 246” after “readjustment allowances”; and

(ii) by adding at the end the following:

19 USC 2311
note.

Applicability.

“(D) The average number of weeks trade readjustment allowances were paid to workers.

“(E) The number of workers who report that they have received benefits under a prior certification issued under this chapter in any of the 10 fiscal years preceding the fiscal year for which the data is collected under this section.”;

(B) in paragraph (3)—

(i) in subparagraph (A), by inserting “training leading to an associate’s degree, remedial education, prerequisite education,” after “distance learning,”;

(ii) by amending subparagraph (B) to read as follows:

“(B) The number of workers who complete training approved under section 236 who were enrolled in pre-layoff training or part-time training at any time during that training.”;

(iii) in subparagraph (C), by inserting “, and the average duration of training that does not include remedial or prerequisite education” after “training”;

(iv) in subparagraph (E), by striking “duration” and inserting “average duration”; and

(v) in subparagraph (F), by inserting “and the average duration of the training that was completed by such workers” after “training”; and

(C) in paragraph (4)—

(i) by redesignating subparagraph (B) as subparagraph (D); and

(ii) by inserting after subparagraph (A) the following:

“(B) A summary of the data on workers in the quarterly reports required under section 239(j) classified by the age, pre-program educational level, and post-program credential attainment of the workers.

“(C) The average earnings of workers described in section 239(j)(2)(A)(i) in the second, third, and fourth calendar quarters following the calendar quarter in which such workers cease receiving benefits under this chapter, expressed as a percentage of the average earnings of such workers in the 3 calendar quarters before the calendar quarter in which such workers began receiving benefits under this chapter.”; and

(D) by adding at the end the following:

“(6) DATA ON SPENDING.—

“(A) The total amount of funds used to pay for trade readjustment allowances, in the aggregate and by each State.

“(B) The total amount of the payments to the States to carry out sections 235 through 238 used for training, in the aggregate and for each State.

“(C) The total amount of payments to the States to carry out sections 235 through 238 used for the costs of administration, in the aggregate and for each State.

“(D) The total amount of payments to the States to carry out sections 235 through 238 used for job search and relocation allowances, in the aggregate and for each State.”.

(2) EFFECTIVE DATE.—Not later than October 1, 2012, the Secretary of Labor shall update the system required by section 249B(a) of the Trade Act of 1974 (19 U.S.C. 2323(a)) to include the collection of and reporting on the data required by the amendments made by paragraph (1). 19 USC 2323 note.

(3) ANNUAL REPORT.—Section 249B(d) of the Trade Act of 1974 (19 U.S.C. 2323(d)) is amended by striking “December 15” and inserting “February 15”.

SEC. 217. EXTENSION.

Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking “February 12, 2011” and inserting “December 31, 2013”.

PART III—OTHER ADJUSTMENT ASSISTANCE

SEC. 221. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS.

(a) ANNUAL REPORT.—

(1) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by inserting after section 255 the following:

“SEC. 255A. ANNUAL REPORT ON TRADE ADJUSTMENT ASSISTANCE FOR FIRMS.

19 USC 2345a.

“(a) IN GENERAL.—Not later than December 15, 2012, and annually thereafter, the Secretary shall prepare a report containing data regarding the trade adjustment assistance for firms program under this chapter for the preceding fiscal year. The data shall include the following:

“(1) The number of firms that inquired about the program.

“(2) The number of petitions filed under section 251.

“(3) The number of petitions certified and denied by the Secretary.

“(4) The average time for processing petitions after the petitions are filed.

“(5) The number of petitions filed and firms certified for each congressional district of the United States.

“(6) Of the number of petitions filed, the number of firms that entered the program and received benefits.

“(7) The number of firms that received assistance in preparing their petitions.

“(8) The number of firms that received assistance developing business recovery plans.

“(9) The number of business recovery plans approved and denied by the Secretary.

“(10) The average duration of benefits received under the program nationally and in each region served by an intermediary organization referred to in section 253(b)(1).

“(11) Sales, employment, and productivity at each firm participating in the program at the time of certification.

“(12) Sales, employment, and productivity at each firm upon completion of the program and each year for the 2-year period following completion of the program.

“(13) The number of firms in operation as of the date of the report and the number of firms that ceased operations after completing the program and in each year during the 2-year period following completion of the program.

“(14) The financial assistance received by each firm participating in the program.

“(15) The financial contribution made by each firm participating in the program.

“(16) The types of technical assistance included in the business recovery plans of firms participating in the program.

“(17) The number of firms leaving the program before completing the project or projects in their business recovery plans and the reason the project or projects were not completed.

“(18) The total amount expended by all intermediary organizations referred to in section 253(b)(1) and by each such organization to administer the program.

“(19) The total amount expended by intermediary organizations to provide technical assistance to firms under the program nationally and in each region served by such an organization.

“(b) CLASSIFICATION OF DATA.—To the extent possible, in collecting and reporting the data described in subsection (a), the Secretary shall classify the data by intermediary organization, State, and national totals.

“(c) REPORT TO CONGRESS; PUBLICATION.—The Secretary shall—

“(1) submit the report described in subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives; and

“(2) publish the report in the Federal Register and on the website of the Department of Commerce.

“(d) PROTECTION OF CONFIDENTIAL INFORMATION.—

“(1) IN GENERAL.—The Secretary may not release information described in subsection (a) that the Secretary considers to be confidential business information unless the person submitting the confidential business information had notice, at the time of submission, that such information would be released by the Secretary, or such person subsequently consents to the release of the information.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the Secretary from providing information the Secretary considers to be confidential business information under paragraph (1) to a court in camera or to another party under a protective order issued by a court.”.

“(2) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 255 the following:

“Sec. 255A. Annual report on trade adjustment assistance for firms.”.

Effective date.
19 USC 2356
note.

“(3) CONFORMING REPEAL.—Effective on the day after the date on which the Secretary of Commerce submits the report required by section 1866 of the Trade and Globalization Adjustment Assistance Act of 2009 (19 U.S.C. 2356) for fiscal year 2011, such section is repealed.

“(b) EXTENSION.—Section 255(a) of the Trade Act of 1974 (19 U.S.C. 2345(a)) is amended—

“(1) by striking “\$50,000,000” and all that follows through “February 12, 2011.” and inserting “\$16,000,000 for each of the fiscal years 2012 and 2013, and \$4,000,000 for the 3-month period beginning on October 1, 2013, and ending on December 31, 2013.”; and

“(2) by striking “shall—” and all that follows through “otherwise remain” and inserting “shall remain”.

Federal Register,
publication.
Web posting.

Notice.

SEC. 222. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

(a) IN GENERAL.—Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is amended—

19 USC
2371-2374.

- (1) by striking subchapters A, C, and D;
- (2) in subchapter B, by striking the subchapter heading; and
- (3) by redesignating sections 278 and 279 as sections 271 and 272, respectively.

(b) ANNUAL REPORT.—

(1) IN GENERAL.—Subsection (e) of section 271 of the Trade Act of 1974, as redesignated by subsection (a)(3), is amended—

19 USC 2371,
2372.

- (A) in the matter preceding paragraph (1), by striking “December 15 in each of the calendar years 2009 through” and inserting “December 15, 2009”;

- (B) in paragraph (1), by striking “and” at the end;
- (C) in paragraph (2), by striking the period at the end and inserting “; and”; and

- (D) by adding at the end the following:

“(3) providing the following data relating to program performance and outcomes:

- “(A) Of the grants awarded under this section, the amount of funds spent by grantees.

- “(B) The average dollar amount of grants awarded under this section.

- “(C) The average duration of grants awarded under this section.

- “(D) The percentage of workers receiving benefits under chapter 2 that are served by programs developed, offered, or improved using grants awarded under this section.

- “(E) The percentage and number of workers receiving benefits under chapter 2 who obtained a degree through such programs and the average duration of the participation of such workers in training under section 236.

- “(F) The number of workers receiving benefits under chapter 2 served by such programs who did not complete a degree and the average duration of the participation of such workers in training under section 236.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph

19 USC 2371
note.

(1) shall—

- (A) take effect on October 1, 2011; and

- (B) apply with respect to reports submitted under subsection (e) of section 271 of the Trade Act of 1974, as redesignated by subsection (a)(3), on or after October 1, 2012.

Applicability.

(c) CONFORMING AMENDMENTS.—

(1) Section 271 of the Trade Act of 1974, as redesignated by subsection (a)(3), is amended—

19 USC 2371.

- (A) in subsection (c)—

- (i) in paragraph (4)—

- (I) in subparagraph (A)—

- (aa) in clause (ii), by striking the semi-colon and inserting “; and”;

- (bb) by striking clauses (iii) and (iv); and

- (cc) by redesignating clause (v) as clause (iii);

- (II) in subparagraph (B), by striking “(A)(v)” and inserting “(A)(iii)”; and

19 USC 2372.

- (ii) in paragraph (5)(A)—
 - (I) in clause (i)—
 - (aa) in the matter preceding subclause (I), by striking “, and other entities described in section 276(a)(2)(B)”; and
 - (bb) in subclause (II), by striking the semicolon and inserting “; and”;
 - (II) by striking clause (iii); and
- (B) in subsection (d), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).
- (2) Subsection (b) of section 272 of the Trade Act of 1974, as redesignated by subsection (a)(3), is amended by striking “278(a)(2)” and inserting “271(a)(2)”.
- (d) **CLERICAL AMENDMENT.**—The table of contents for the Trade Act of 1974 is amended by striking the items relating to chapter 4 of title II and inserting the following:
 - “CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES
 - “Sec. 271. Community College and Career Training Grant Program.
 - “Sec. 272. Authorization of appropriations.”

SEC. 223. TRADE ADJUSTMENT ASSISTANCE FOR FARMERS.

- (a) **ANNUAL REPORT.**—
 - (1) **IN GENERAL.**—Section 293(d) of the Trade Act of 1974 (19 U.S.C. 2401b(d)) is amended to read as follows:
 - “(d) **ANNUAL REPORT.**—Not later than January 30 of each year, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the following information with respect to the trade adjustment assistance for farmers program under this chapter during the preceding fiscal year:
 - “(1) A list of the agricultural commodities covered by a certification under this chapter.
 - “(2) The States or regions in which agricultural commodities are produced and the aggregate amount of such commodities produced in each such State or region.
 - “(3) The number of petitions filed.
 - “(4) The number of petitions certified and denied by the Secretary.
 - “(5) The average time for processing petitions.
 - “(6) The number of petitions filed and agricultural commodity producers approved for each congressional district of the United States.
 - “(7) Of the number of producers approved, the number of agricultural commodity producers that entered the program and received benefits.
 - “(8) The number of agricultural commodity producers that completed initial technical assistance.
 - “(9) The number of agricultural commodity producers that completed intensive technical assistance.
 - “(10) The number of initial business plans approved and denied by the Secretary.
 - “(11) The number of long-term business plans approved and denied by the Secretary.
 - “(12) The total number of agricultural commodity producers, by congressional district, receiving initial technical assistance and intensive technical assistance, respectively, under this chapter.

“(13) The types of initial technical assistance received by agricultural commodity producers participating in the program.

“(14) The types of intensive technical assistance received by agricultural commodity producers participating in the program.

“(15) The number of agricultural commodity producers leaving the program before completing the projects in their long-term business plans and the reason those projects were not completed.

“(16) The total number of agricultural commodity producers, by congressional district, receiving benefits under this chapter.

“(17) The average duration of benefits received under this chapter.

“(18) The number of agricultural commodity producers in operation as of the date of the report and the number of agricultural commodity producers that ceased operations after completing the program and in the 1-year period following completion of the program.

“(19) The number of agricultural commodity producers that report that such producers received benefits under a prior certification issued under this chapter in any of the 10 fiscal years preceding the date of the report.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall—

(A) take effect on October 1, 2011; and

(B) apply with respect to reports submitted under section 293(d) of the Trade Act of 1974 (19 U.S.C. 2401b(d)) on or after October 1, 2012.

19 USC 2401b note.

Applicability.

(b) EXTENSION.—Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended—

(1) by striking “and there are appropriated”; and

(2) by striking “not to exceed” and all that follows through “February 12, 2011” and inserting “not to exceed \$90,000,000 for each of the fiscal years 2012 and 2013, and \$22,500,000 for the 3-month period beginning on October 1, 2013, and ending on December 31, 2013”.

PART IV—GENERAL PROVISIONS

SEC. 231. APPLICABILITY OF TRADE ADJUSTMENT ASSISTANCE PROVISIONS.

19 USC 2271 note.

(a) TRADE ADJUSTMENT ASSISTANCE FOR WORKERS.—

(1) PETITIONS FILED ON OR AFTER FEBRUARY 13, 2011, AND BEFORE DATE OF ENACTMENT.—

(A) CERTIFICATIONS OF WORKERS NOT CERTIFIED BEFORE DATE OF ENACTMENT.—

(i) CRITERIA IF A DETERMINATION HAS NOT BEEN MADE.—If, as of the date of the enactment of this Act, the Secretary of Labor has not made a determination with respect to whether to certify a group of workers as eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974 pursuant to a petition described in clause (iii), the Secretary shall make that determination based on the requirements of section 222 of the Trade Act of 1974, as in effect on such date of enactment.

(ii) RECONSIDERATION OF DENIALS OF CERTIFICATIONS.—If, before the date of the enactment of this Act, the Secretary made a determination not to certify a group of workers as eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974 pursuant to a petition described in clause (iii), the Secretary shall—

(I) reconsider that determination; and

(II) if the group of workers meets the requirements of section 222 of the Trade Act of 1974, as in effect on such date of enactment, certify the group of workers as eligible to apply for adjustment assistance.

(iii) PETITION DESCRIBED.—A petition described in this clause is a petition for a certification of eligibility for a group of workers filed under section 221 of the Trade Act of 1974 on or after February 13, 2011, and before the date of the enactment of this Act.

(B) ELIGIBILITY FOR BENEFITS.—

(i) IN GENERAL.—Except as provided in clause (ii), a worker certified as eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974 pursuant to a petition described in subparagraph (A)(iii) shall be eligible, on and after the date that is 60 days after the date of the enactment of this Act, to receive benefits only under the provisions of chapter 2 of title II of the Trade Act of 1974, as in effect on such date of enactment.

(ii) ELECTION FOR WORKERS RECEIVING BENEFITS ON THE 60TH DAY AFTER ENACTMENT.—

(I) IN GENERAL.—A worker certified as eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974 pursuant to a petition described in subparagraph (A)(iii) who is receiving benefits under chapter 2 of title II of the Trade Act of 1974 as of the date that is 60 days after the date of the enactment of this Act may, not later than the date that is 150 days after such date of enactment, make a one-time election to receive benefits pursuant to—

(aa) the provisions of chapter 2 of title II of the Trade Act of 1974, as in effect on such date of enactment; or

(bb) the provisions of chapter 2 of title II of the Trade Act of 1974, as in effect on February 13, 2011.

(II) EFFECT OF FAILURE TO MAKE ELECTION.—

A worker described in subclause (I) who does not make the election described in that subclause on or before the date that is 150 days after the date of the enactment of this Act shall be eligible to receive benefits only under the provisions of chapter 2 of title II of the Trade Act of 1974, as in effect on February 13, 2011.

(III) COMPUTATION OF MAXIMUM BENEFITS.—Benefits received by a worker described in subclause (I) under chapter 2 of title II of the Trade

Effective date.

Deadline.

Act of 1974, as in effect on February 13, 2011, before the worker makes the election described in that subclause shall be included in any determination of the maximum benefits for which the worker is eligible under the provisions of chapter 2 of title II of the Trade Act of 1974, as in effect on the date of the enactment of this Act, or as in effect on February 13, 2011, whichever is applicable after the election of the worker under subclause (I).

(2) PETITIONS FILED BEFORE FEBRUARY 13, 2011.—A worker certified as eligible to apply for adjustment assistance pursuant to a petition filed under section 221 of the Trade Act of 1974—

(A) on or after May 18, 2009, and on or before February 12, 2011, shall continue to be eligible to apply for and receive benefits under the provisions of chapter 2 of title II of such Act, as in effect on February 12, 2011; or

(B) before May 18, 2009, shall continue to be eligible to apply for and receive benefits under the provisions of chapter 2 of title II of such Act, as in effect on May 17, 2009.

(3) QUALIFYING SEPARATIONS WITH RESPECT TO PETITIONS FILED WITHIN 90 DAYS OF DATE OF ENACTMENT.—Section 223(b) of the Trade Act of 1974, as in effect on the date of the enactment of this Act, shall be applied and administered by substituting “before February 13, 2010” for “more than one year before the date of the petition on which such certification was granted” for purposes of determining whether a worker is eligible to apply for adjustment assistance pursuant to a petition filed under section 221 of the Trade Act of 1974 on or after the date of the enactment of this Act and on or before the date that is 90 days after such date of enactment.

(b) TRADE ADJUSTMENT ASSISTANCE FOR FIRMS.—

(1) CERTIFICATION OF FIRMS NOT CERTIFIED BEFORE DATE OF ENACTMENT.—

(A) CRITERIA IF A DETERMINATION HAS NOT BEEN MADE.—If, as of the date of the enactment of this Act, the Secretary of Commerce has not made a determination with respect to whether to certify a firm as eligible to apply for adjustment assistance under section 251 of the Trade Act of 1974 pursuant to a petition described in subparagraph (C), the Secretary shall make that determination based on the requirements of section 251 of the Trade Act of 1974, as in effect on such date of enactment.

(B) RECONSIDERATION OF DENIAL OF CERTAIN PETITIONS.—If, before the date of the enactment of this Act, the Secretary made a determination not to certify a firm as eligible to apply for adjustment assistance under section 251 of the Trade Act of 1974 pursuant to a petition described in subparagraph (C), the Secretary shall—

(i) reconsider that determination; and

(ii) if the firm meets the requirements of section 251 of the Trade Act of 1974, as in effect on such date of enactment, certify the firm as eligible to apply for adjustment assistance.

(C) PETITION DESCRIBED.—A petition described in this subparagraph is a petition for a certification of eligibility

Time period.

Deadline.

Applicability.

filed by a firm or its representative under section 251 of the Trade Act of 1974 on or after February 13, 2011, and before the date of the enactment of this Act.

(2) CERTIFICATION OF FIRMS THAT DID NOT SUBMIT PETITIONS BETWEEN FEBRUARY 13, 2011, AND DATE OF ENACTMENT.—

Deadline.

(A) IN GENERAL.—The Secretary of Commerce shall certify a firm described in subparagraph (B) as eligible to apply for adjustment assistance under section 251 of the Trade Act of 1974, as in effect on the date of the enactment of this Act, if the firm or its representative files a petition for a certification of eligibility under section 251 of the Trade Act of 1974 not later than 90 days after such date of enactment.

(B) FIRM DESCRIBED.—A firm described in this subparagraph is a firm that the Secretary determines would have been certified as eligible to apply for adjustment assistance if—

Time period.

(i) the firm or its representative had filed a petition for a certification of eligibility under section 251 of the Trade Act of 1974 on a date during the period beginning on February 13, 2011, and ending on the day before the date of the enactment of this Act; and

(ii) the provisions of chapter 3 of title II of the Trade Act of 1974, as in effect on such date of enactment, had been in effect on that date during the period described in clause (i).

19 USC 2271
note prec.

SEC. 232. TERMINATION PROVISIONS.

Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended—

(1) by striking “February 12, 2011” each place it appears and inserting “December 31, 2013”;

(2) in subsection (a)(2)—

(A) in the matter preceding subparagraph (A), by striking “that chapter” and all that follows through “the worker is—” and inserting “that chapter if the worker is—”; and

(B) in subparagraph (A), by striking “petitions” and inserting “a petition”; and

(3) in subsection (b)—

(A) in paragraph (1)(B), in the matter preceding clause (i), by inserting “pursuant to a petition filed under section 251” after “chapter 3”;

(B) in paragraph (2)(B), in the matter preceding clause (i), by inserting “pursuant to a petition filed under section 292” after “chapter 6”; and

(C) by striking paragraph (3).

19 USC 2271
note prec.
Effective date.

SEC. 233. SUNSET PROVISIONS.

(a) APPLICATION OF PRIOR LAW.—Subject to subsection (b), beginning on January 1, 2014, the provisions of chapters 2, 3, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), as in effect on February 13, 2011, shall apply, except that in applying and administering such chapters—

(1) paragraph (1) of section 231(c) of that Act shall be applied and administered as if subparagraphs (A), (B), and (C) of that paragraph were not in effect;

(2) section 233 of that Act shall be applied and administered—

(A) in subsection (a)—

(i) in paragraph (2), by substituting “104-week period” for “104-week period” and all that follows through “130-week period”; and

(ii) in paragraph (3)—

(I) in the matter preceding subparagraph (A), by substituting “65” for “52”; and

(II) by substituting “78-week period” for “52-week period” each place it appears; and

(B) by applying and administering subsection (g) as if it read as follows:

“(g) PAYMENT OF TRADE READJUSTMENT ALLOWANCES TO COMPLETE TRAINING.—Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 that leads to the completion of a degree or industry-recognized credential, payments may be made as trade readjustment allowances for not more than 13 weeks within such period of eligibility as the Secretary may prescribe to account for a break in training or for justifiable cause that follows the last week for which the worker is otherwise entitled to a trade readjustment allowance under this chapter if—

“(1) payment of the trade readjustment allowance for not more than 13 weeks is necessary for the worker to complete the training;

“(2) the worker participates in training in each such week; and

“(3) the worker—

“(A) has substantially met the performance benchmarks established as part of the training approved for the worker;

“(B) is expected to continue to make progress toward the completion of the training; and

“(C) will complete the training during that period of eligibility.”;

(3) section 245 of that Act shall be applied and administered by substituting “2014” for “2007”;

(4) section 246(b)(1) of that Act shall be applied and administered by substituting “December 31, 2014” for “the date that is 5 years” and all that follows through “State”;

(5) section 256(b) of that Act shall be applied and administered by substituting “the 1-year period beginning on January 1, 2014” for “each of fiscal years 2003 through 2007, and \$4,000,000 for the 3-month period beginning on October 1, 2007”;

(6) section 298(a) of that Act shall be applied and administered by substituting “the 1-year period beginning on January 1, 2014” for “each of the fiscal years” and all that follows through “October 1, 2007”; and

(7) section 285 of that Act shall be applied and administered—

(A) in subsection (a), by substituting “2014” for “2007” each place it appears; and

(B) by applying and administering subsection (b) as if it read as follows:

“(b) OTHER ASSISTANCE.—

“(1) ASSISTANCE FOR FIRMS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), assistance may not be provided under chapter 3 after December 31, 2014.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), any assistance approved under chapter 3 on or before December 31, 2014, may be provided—

“(i) to the extent funds are available pursuant to such chapter for such purpose; and

“(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.

“(2) FARMERS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), assistance may not be provided under chapter 6 after December 31, 2014.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), any assistance approved under chapter 6 on or before December 31, 2014, may be provided—

“(i) to the extent funds are available pursuant to such chapter for such purpose; and

“(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.”.

Applicability.

(b) EXCEPTIONS.—The provisions of chapters 2, 3, 5, and 6 of title II of the Trade Act of 1974, as in effect on the date of the enactment of this Act, shall continue to apply on and after January 1, 2014, with respect to—

(1) workers certified as eligible for trade adjustment assistance benefits under chapter 2 of title II of that Act pursuant to petitions filed under section 221 of that Act before January 1, 2014;

(2) firms certified as eligible for technical assistance or grants under chapter 3 of title II of that Act pursuant to petitions filed under section 251 of that Act before January 1, 2014; and

(3) agricultural commodity producers certified as eligible for technical or financial assistance under chapter 6 of title II of that Act pursuant to petitions filed under section 292 of that Act before January 1, 2014.

Subtitle B—Health Coverage Improvement

SEC. 241. HEALTH CARE TAX CREDIT.

26 USC 35.

(a) TERMINATION OF CREDIT.—Subparagraph (B) of section 35(b)(1) of the Internal Revenue Code of 1986 is amended by inserting “, and before January 1, 2014” before the period.

(b) EXTENSION THROUGH CREDIT TERMINATION DATE OF CERTAIN EXPIRED CREDIT PROVISIONS.—

(1) PARTIAL EXTENSION OF INCREASED CREDIT RATE.—Section 35(a) of such Code is amended by striking “65 percent (80 percent in the case of eligible coverage months beginning before February 13, 2011)” and inserting “72.5 percent”.

(2) EXTENSION OF ADVANCE PAYMENT PROVISIONS.—

(A) Section 7527(b) of such Code is amended by striking “65 percent (80 percent in the case of eligible coverage months beginning before February 13, 2011)” and inserting “72.5 percent”.

26 USC 7527.

- (B) Section 7527(d)(2) of such Code is amended by striking “which is issued before February 13, 2011”. 26 USC 7527.
- (C) Section 7527(e) of such Code is amended by striking “80 percent” and inserting “72.5 percent”.
- (D) Section 7527(e) of such Code is amended by striking “In the case of eligible coverage months beginning before February 13, 2011—”.
- (3) EXTENSION OF CERTAIN OTHER RELATED PROVISIONS.—
 - (A) Section 35(c)(2)(B) of such Code is amended by striking “and before February 13, 2011”. 26 USC 35.
 - (B) Section 35(e)(1)(K) of such Code is amended by striking “In the case of eligible coverage months beginning before February 13, 2012, coverage” and inserting “Coverage”.
 - (C) Section 35(g)(9) of such Code, as added by section 1899E(a) of the American Recovery and Reinvestment Tax Act of 2009 (relating to continued qualification of family members after certain events), is amended by striking “In the case of eligible coverage months beginning before February 13, 2011—”.
 - (D) Section 173(f)(8) of the Workforce Investment Act of 1998 is amended by striking “In the case of eligible coverage months beginning before February 13, 2011—”. 29 USC 2918.
- (c) EFFECTIVE DATES.—
 - (1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to coverage months beginning after February 12, 2011. 26 USC 35 note.
 - (2) ADVANCE PAYMENT PROVISIONS.—
 - (A) The amendment made by subsection (b)(2)(B) shall apply to certificates issued after the date which is 30 days after the date of the enactment of this Act.
 - (B) The amendment made by subsection (b)(2)(D) shall apply to coverage months beginning after the date which is 30 days after the date of the enactment of this Act.

SEC. 242. TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

- (a) IN GENERAL.—The following provisions are each amended by striking “February 13, 2011” and inserting “January 1, 2014”:
 - (1) Section 9801(c)(2)(D) of the Internal Revenue Code of 1986. 26 USC 9801.
 - (2) Section 701(c)(2)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)(C)).
 - (3) Section 2701(c)(2)(C) of the Public Health Service Act (as in effect for plan years beginning before January 1, 2014).
 - (4) Section 2704(c)(2)(C) of the Public Health Service Act (as in effect for plan years beginning on or after January 1, 2014). 42 USC 300gg, 300gg-3.
- (b) EFFECTIVE DATE.—
 - (1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after February 12, 2011. 42 USC 300gg-3.
 - (2) TRANSITIONAL RULES.—
 - (A) BENEFIT DETERMINATIONS.—Notwithstanding the amendments made by this section (and the provisions of law amended thereby), a plan shall not be required to modify benefit determinations for the period beginning on 26 USC 9801 note.

February 13, 2011, and ending 30 days after the date of the enactment of this Act, but a plan shall not fail to be qualified health insurance within the meaning of section 35(e) of the Internal Revenue Code of 1986 during this period merely due to such failure to modify benefit determinations.

(B) GUIDANCE CONCERNING PERIODS BEFORE 30 DAYS AFTER ENACTMENT.—Except as provided in subparagraph (A), the Secretary of the Treasury (or his designee), in consultation with the Secretary of Health and Human Services and the Secretary of Labor, may issue regulations or other guidance regarding the scope of the application of the amendments made by this section to periods before the date which is 30 days after the date of the enactment of this Act.

Time period.

(C) SPECIAL RULE RELATING TO CERTAIN LOSS OF COVERAGE.—In the case of a TAA-related loss of coverage (as defined in section 4980B(f)(5)(C)(iv) of the Internal Revenue Code of 1986) that occurs during the period beginning on February 13, 2011, and ending 30 days after the date of the enactment of this Act, the 7-day period described in section 9801(c)(2)(D) of the Internal Revenue Code of 1986, section 701(c)(2)(C) of the Employee Retirement Income Security Act of 1974, and section 2701(c)(2)(C) of the Public Health Service Act shall be extended until 30 days after such date of enactment.

SEC. 243. EXTENSION OF COBRA BENEFITS FOR CERTAIN TAA-ELIGIBLE INDIVIDUALS AND PBGC RECIPIENTS.

(a) IN GENERAL.—The following provisions are each amended by striking “February 12, 2011” and inserting “January 1, 2014”:

(1) Section 602(2)(A)(v) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)(v)).

(2) Section 602(2)(A)(vi) of such Act (29 U.S.C. 1162(2)(A)(vi)).

(3) Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986.

(4) Section 4980B(f)(2)(B)(i)(VI) of such Code.

(5) Section 2202(2)(A)(iv) of the Public Health Service Act (42 U.S.C. 300bb-2(2)(A)(iv)).

26 USC 4980B.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to periods of coverage which would (without regard to the amendments made by this section) end on or after the date which is 30 days after the date of the enactment of this Act.

26 USC 4980B note.

Subtitle C—Offsets

PART I—UNEMPLOYMENT COMPENSATION PROGRAM INTEGRITY

SEC. 251. MANDATORY PENALTY ASSESSMENT ON FRAUD CLAIMS.

(a) IN GENERAL.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended—

(1) in paragraph (10), by striking the period at the end of subparagraph (B) and inserting “; and”; and

(2) by adding at the end the following new paragraph:

“(11)(A) At the time the State agency determines an erroneous payment from its unemployment fund was made to an individual due to fraud committed by such individual, the assessment of a penalty on the individual in an amount of not less than 15 percent of the amount of the erroneous payment; and

“(B) The immediate deposit of all assessments paid pursuant to subparagraph (A) into the unemployment fund of the State.”

(b) APPLICATION TO FEDERAL PAYMENTS.—

(1) IN GENERAL.—As a condition for administering any unemployment compensation program of the United States (as defined in paragraph (2)) as an agent of the United States, if the State determines that an erroneous payment was made by the State to an individual under any such program due to fraud committed by such individual, the State shall assess a penalty on such individual and deposit any such penalty received in the same manner as the State assesses and deposits such penalties under provisions of State law implementing section 303(a)(11) of the Social Security Act, as added by subsection (a).

(2) DEFINITION.—For purposes of this subsection, the term “unemployment compensation program of the United States” means—

(A) unemployment compensation for Federal civilian employees under subchapter I of chapter 85 of title 5, United States Code;

(B) unemployment compensation for ex-servicemembers under subchapter II of chapter 85 of title 5, United States Code;

(C) trade readjustment allowances under sections 231 through 234 of the Trade Act of 1974 (19 U.S.C. 2291–2294);

(D) disaster unemployment assistance under section 410(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5177(a));

(E) any Federal temporary extension of unemployment compensation;

(F) any Federal program which increases the weekly amount of unemployment compensation payable to individuals; and

(G) any other Federal program providing for the payment of unemployment compensation.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to erroneous payments established after the end of the 2-year period beginning on the date of the enactment of this Act.

(2) AUTHORITY.—A State may amend its State law to apply such amendments to erroneous payments established prior to the end of the period described in paragraph (1).

SEC. 252. PROHIBITION ON NONCHARGING DUE TO EMPLOYER FAULT.

(a) IN GENERAL.—Section 3303 of the Internal Revenue Code of 1986 is amended—

(1) by striking subsections (f) and (g); and

42 USC 503 note.

42 USC 503 note.

26 USC 3303.

(2) by inserting after subsection (e) the following new subsection:

“(f) PROHIBITION ON NONCHARGING DUE TO EMPLOYER FAULT.—

“(1) IN GENERAL.—A State law shall be treated as meeting the requirements of subsection (a)(1) only if such law provides that an employer’s account shall not be relieved of charges relating to a payment from the State unemployment fund if the State agency determines that—

“(A) the payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the agency for information relating to the claim for compensation; and

“(B) the employer or agent has established a pattern of failing to respond timely or adequately to such requests.

“(2) STATE AUTHORITY TO IMPOSE STRICTER STANDARDS.— Nothing in paragraph (1) shall limit the authority of a State to provide that an employer’s account not be relieved of charges relating to a payment from the State unemployment fund for reasons other than the reasons described in subparagraphs (A) and (B) of such paragraph, such as after the first instance of a failure to respond timely or adequately to requests described in paragraph (1)(A).”.

(b) EFFECTIVE DATE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to erroneous payments established after the end of the 2-year period beginning on the date of the enactment of this Act.

“(2) AUTHORITY.—A State may amend its State law to apply such amendments to erroneous payments established prior to the end of the period described in paragraph (1).

SEC. 253. REPORTING OF REHIRED EMPLOYEES TO THE DIRECTORY OF NEW HIRES.

(a) DEFINITION OF NEWLY HIRED EMPLOYEE.—Section 453A(a)(2) of the Social Security Act (42 U.S.C. 653a(a)(2)) is amended by adding at the end the following:

“(C) NEWLY HIRED EMPLOYEE.—The term ‘newly hired employee’ means an employee who—

“(i) has not previously been employed by the employer; or

“(ii) was previously employed by the employer but has been separated from such prior employment for at least 60 consecutive days.”.

(b) EFFECTIVE DATE.—

“(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall take effect 6 months after the date of the enactment of this Act.

“(2) COMPLIANCE TRANSITION PERIOD.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under part D of title IV of the Social Security Act to meet the additional requirement imposed by the amendment made by subsection (a), the plan shall not be regarded as failing to meet such requirement before the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after

the effective date of such amendment. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

PART II—ADDITIONAL OFFSETS

SEC. 261. IMPROVEMENTS TO CONTRACTS WITH MEDICARE QUALITY IMPROVEMENT ORGANIZATIONS (QIOS) IN ORDER TO IMPROVE THE QUALITY OF CARE FURNISHED TO MEDICARE BENEFICIARIES.

(a) AUTHORITY TO CONTRACT WITH A BROAD RANGE OF ENTITIES.—

(1) DEFINITION.—Section 1152 of the Social Security Act (42 U.S.C. 1320c–1) is amended by striking paragraphs (1) and (2) and inserting the following new paragraphs:

“(1) is able, as determined by the Secretary, to perform its functions under this part in a manner consistent with the efficient and effective administration of this part and title XVIII;

“(2) has at least one individual who is a representative of health care providers on its governing body; and”.

(2) NAME CHANGE.—Part B of title XI of the Social Security Act (42 U.S.C. 1320c et seq.) is amended—

(A) in the headings for sections 1152 and 1153, by striking “UTILIZATION AND QUALITY CONTROL PEER REVIEW” and inserting “QUALITY IMPROVEMENT”; 42 USC 1320c–1,
1320c–2.

(B) in the heading for section 1154, by striking “PEER REVIEW” and inserting “QUALITY IMPROVEMENT”; and 42 USC 1320c–3.

(C) by striking “utilization and quality control peer review” and “peer review” each place it appears before “organization” or “organizations” and inserting “quality improvement”. 42 USC
1320c–1320c–7,
1320c–9,
1320c–10.

(3) CONFORMING AMENDMENTS TO THE MEDICARE PROGRAM.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended—

(A) by striking “utilization and quality control peer review” and inserting “quality improvement” each place it appears; 42 USC 1395y,
1395cc, 1395dd,
1395ff, 1395mm,
1395pp, 1395ww.

(B) by striking “quality control and peer review” and inserting “quality improvement” each place it appears; 42 USC 1395g,
1395k, 1395x,
1395pp.

(C) in paragraphs (1)(A)(iii)(I) and (2) of section 1842(l), by striking “peer review organization” and inserting “quality improvement organization”; 42 USC 1395u.

(D) in subparagraphs (A) and (B) of section 1866(a)(3), by striking “peer review” and inserting “quality improvement”; 42 USC 1395cc.

(E) in section 1867(d)(3), in the heading, by striking “PEER REVIEW” and inserting “QUALITY IMPROVEMENT”; and 42 USC 1395dd.

(F) in section 1869(c)(3)(G), by striking “peer review organizations” and inserting “quality improvement organizations”. 42 USC 1395ff.

(b) IMPROVEMENTS WITH RESPECT TO THE CONTRACT.—

(1) FLEXIBILITY WITH RESPECT TO THE GEOGRAPHIC SCOPE OF CONTRACTS.—Section 1153 of the Social Security Act (42 U.S.C. 1320c–2) is amended—

(A) by striking subsection (a) and inserting the following new subsection:

“(a) The Secretary shall establish throughout the United States such local, State, regional, national, or other geographic areas as the Secretary determines appropriate with respect to which contracts under this part will be made.”;

(B) in subsection (b)(1), as amended by subsection (a)(2)—

(i) in the first sentence, by striking “a contract with a quality improvement organization” and inserting “contracts with one or more quality improvement organizations”; and

(ii) in the second sentence, by striking “meets the requirements” and all that follows before the period at the end and inserting “will be operating in an area, the Secretary shall ensure that there is no duplication of the functions carried out by such organizations within the area”;

(C) in subsection (b)(2)(B), by inserting “or the Secretary determines that there is a more qualified entity to perform one or more of the functions in section 1154(a)” after “under this part”;

(D) in subsection (b)(3)—

(i) in subparagraph (A), by striking “, or association of such facilities,”; and

(ii) in subparagraph (B)—

(I) by striking “or association of such facilities”; and

(II) by striking “or associations”; and

(E) by striking subsection (i).

(2) EXTENSION OF LENGTH OF CONTRACTS.—Section 1153(c)(3) of the Social Security Act (42 U.S.C. 1320c-2(c)(3)) is amended—

(A) by striking “three years” and inserting “five years”; and

(B) by striking “on a triennial basis” and inserting “for terms of five years”.

(3) AUTHORITY TO TERMINATE IN A MANNER CONSISTENT WITH THE FEDERAL ACQUISITION REGULATION.—Section 1153 of the Social Security Act (42 U.S.C. 1320c-2) is amended—

(A) in subsection (b), by adding at the end the following new paragraph:

“(4) The Secretary may consider a variety of factors in selecting the contractors that the Secretary determines would provide for the most efficient and effective administration of this part, such as geographic location, size, and prior experience in health care quality improvement. Quality improvement organizations operating as of January 1, 2012, shall be allowed to compete for new contracts (as determined appropriate by the Secretary) along with other qualified organizations and are eligible for renewal of contracts for terms five years thereafter (as determined appropriate by the Secretary).”;

(B) in subsection (c), by striking paragraphs (4) through (6) and redesignating paragraphs (7) and (8) as paragraphs (4) and (5), respectively; and

(C) by striking subsection (d).

(4) ADMINISTRATIVE IMPROVEMENT.—Section 1153(c)(5) of the Social Security Act (42 U.S.C. 1320c-2(c)(5)), as redesignated by this subsection, is amended to read as follows:

“(5) reimbursement shall be made to the organization on a monthly basis, with payments for any month being made consistent with the Federal Acquisition Regulation.”.

(c) AUTHORITY FOR QUALITY IMPROVEMENT ORGANIZATIONS TO PERFORM SPECIALIZED FUNCTIONS AND TO ELIMINATE CONFLICTS OF INTEREST.—Part B of title XI of the Social Security Act (42 U.S.C. 1320c et seq.) is amended—

(1) in section 1153—

(A) in subsection (b)(1), as amended by subsection (b)(1)(B), by inserting after the first sentence the following new sentence: “In entering into contracts with such qualified organizations, the Secretary shall, to the extent appropriate, seek to ensure that each of the functions described in section 1154(a) are carried out within an area established under subsection (a).”; and

(B) in subsection (c)(1), by striking “the functions set forth in section 1154(a), or may subcontract for the performance of all or some of such functions” and inserting “a function or functions under section 1154 directly or may subcontract for the performance of all or some of such function or functions”; and

(2) in section 1154—

42 USC 1320c-2.

(A) in subsection (a)—

(i) in the matter preceding paragraph (1)—

(I) by striking “Any” and inserting “Subject to subsection (b), any”; and

(II) by inserting “one or more of” before “the following functions”;

(ii) in paragraph (4), by striking subparagraph (C);

(iii) by inserting after paragraph (11) the following new paragraph:

“(12) As part of the organization’s review responsibility under paragraph (1), the organization shall review all ambulatory surgical procedures specified pursuant to section 1833(i)(1)(A) which are performed in the area, or, at the discretion of the Secretary, a sample of such procedures.”; and

(iv) in paragraph (15), by striking “significant on-site review activities” and all that follows before the period at the end and inserting “on-site review activities as the Secretary determines appropriate”.

(B) by striking subsection (d) and redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(C) by inserting after subsection (a) the following new subsection:

“(b) A quality improvement organization entering into a contract with the Secretary to perform a function described in a paragraph under subsection (a) must perform all of the activities described in such paragraph, except to the extent otherwise negotiated with the Secretary pursuant to the contract or except for a function for which the Secretary determines it is not appropriate for the organization to perform, such as a function that could cause a conflict of interest with another function.”.

(d) QUALITY IMPROVEMENT AS SPECIFIED FUNCTION.—Section 1154(a) of the Social Security Act (42 U.S.C. 1320c-3(a)) is amended by adding at the end the following new paragraph:

42 USC 1320c note.

19 USC 58c note.

“(18) The organization shall perform, subject to the terms of the contract, such other activities as the Secretary determines may be necessary for the purposes of improving the quality of care furnished to individuals with respect to items and services for which payment may be made under title XVIII.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into or renewed on or after January 1, 2012.

SEC. 262. RATES FOR MERCHANDISE PROCESSING FEES.

(a) FEES FOR PERIOD FROM JULY 1, 2014, TO NOVEMBER 30, 2015.—For the period beginning on July 1, 2014, and ending on November 30, 2015, section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be applied and administered—

(1) in subparagraph (A), by substituting “0.3464” for “0.21”; and

(2) in subparagraph (B)(i), by substituting “0.3464” for “0.21”.

(b) FEES FOR PERIOD FROM OCTOBER 1, 2016, TO SEPTEMBER 30, 2019.—For the period beginning on October 1, 2016, and ending on September 30, 2019, section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be applied and administered—

(1) in subparagraph (A), by substituting “0.1740” for “0.21”; and

(2) in subparagraph (B)(i), by substituting “0.1740” for “0.21”.

Deadlines.
19 USC 58c note.

SEC. 263. TIME FOR REMITTING CERTAIN MERCHANDISE PROCESSING FEES.

(a) IN GENERAL.—Notwithstanding any other provision of law, any fees authorized under paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9) and (10)) with respect to processing merchandise entered on or after October 1, 2012, and before November 12, 2012, shall be paid not later than September 25, 2012, in an amount equivalent to the amount of such fees paid by the person responsible for such fees with respect to merchandise entered on or after October 1, 2011, and before November 12, 2011, as determined by the Secretary of the Treasury.

(b) RECONCILIATION OF MERCHANDISE PROCESSING FEES.—

(1) IN GENERAL.—Not later than December 12, 2012, the Secretary of the Treasury shall reconcile the fees paid pursuant to subsection (a) with the fees for services actually provided on or after October 1, 2012, and before November 12, 2012.

(2) REFUNDS OF OVERPAYMENTS.—

(A) After making the reconciliation required under paragraph (1), the Secretary of the Treasury shall refund with interest any overpayment of such fees made under subsection (a) and make proper adjustments with respect to any underpayment of such fees.

(B) No interest may be assessed with respect to any such underpayment that was based on the amount of fees

paid for merchandise entered on or after October 1, 2012,
and before November 12, 2012.

Approved October 21, 2011.

LEGISLATIVE HISTORY—H.R. 2832:

CONGRESSIONAL RECORD, Vol. 157 (2011):

Sept. 7, considered and passed House.
Sept. 20–22, considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendment.

