

of Pub. L. 97–35, set out as a note under section 2291 of this title.

TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after June 30, 2022, except as otherwise provided, see section 285 of Pub. L. 93–618, as modified by section 406(a)(7) of Pub. L. 114–27, set out as notes preceding section 2271 of this title.

APPLICATION OF SUBSECTION (a)

Subsection (a) of this section to be applied and administered by substituting “June 30, 2022” for “December 31, 2007”, see section 406(a)(3) of Pub. L. 114–27, set out in an Effective and Termination Dates of 2015 Revival note preceding section 2271 of this title.

§ 2318. Demonstration project for alternative trade adjustment assistance for older workers

(a) In general

(1) Establishment

Not later than 1 year after August 6, 2002, the Secretary shall establish an alternative trade adjustment assistance program for older workers that provides the benefits described in paragraph (2).

(2) Benefits

(A) Payments

A State shall use the funds provided to the State under section 2313 of this title to pay, for a period not to exceed 2 years, to a worker described in paragraph (3)(B), 50 percent of the difference between—

- (i) the wages received by the worker from reemployment; and
- (ii) the wages received by the worker at the time of separation.

(B) Health insurance

A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive, for a period not to exceed 2 years, a credit for health insurance costs under section 35 of title 26, as added by section 201 of the Trade Act of 2002.

(3) Eligibility

(A) Firm eligibility

(i) In general

The Secretary shall provide the opportunity for a group of workers on whose behalf a petition is filed under section 2271 of this title to request that the group of workers be certified for the alternative trade adjustment assistance program under this section at the time the petition is filed.

(ii) Criteria

In determining whether to certify a group of workers as eligible for the alternative trade adjustment assistance program, the Secretary shall consider the following criteria:

- (I) Whether a significant number of workers in the workers’ firm are 50 years of age or older.
- (II) Whether the workers in the workers’ firm possess skills that are not easily transferable.

- (III) The competitive conditions within the workers’ industry.

(iii) Deadline

The Secretary shall determine whether the workers in the group are eligible for the alternative trade adjustment assistance program by the date specified in section 2273(a) of this title.

(B) Individual eligibility

A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

- (i) is covered by a certification under subpart A of this part;
- (ii) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;
- (iii) is at least 50 years of age;
- (iv) earns not more than \$50,000 a year in wages from reemployment;
- (v) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and
- (vi) does not return to the employment from which the worker was separated.

(4) Total amount of payments

The payments described in paragraph (2)(A) made to a worker may not exceed \$10,000 per worker during the 2-year eligibility period.

(5) Limitation on other benefits

Except as provided in paragraph (2)(B), if a worker is receiving payments pursuant to the program established under paragraph (1), the worker shall not be eligible to receive any other benefits under this subchapter.

(b) Termination

(1) In general

Except as provided in paragraph (2), no payments may be made by a State under the program established under subsection (a)(1) after the date that is 5 years after the date on which such program is implemented by the State.¹

(2) Exception

Notwithstanding paragraph (1), a worker receiving payments under the program established under subsection (a)(1) on the termination date described in paragraph (1) shall continue to receive such payments if the worker meets the criteria described in subsection (a)(3)(B).

(Pub. L. 93–618, title II, §246, as added Pub. L. 107–210, div. A, title I, §124(a), Aug. 6, 2002, 116 Stat. 944; amended Pub. L. 108–429, title II, §2004(a)(7), Dec. 3, 2004, 118 Stat. 2590; Pub. L. 111–5, div. B, title I, §1841(a), (b), Feb. 17, 2009, 123 Stat. 386, 389; Pub. L. 111–344, title I, §101(c)(3), Dec. 29, 2010, 124 Stat. 3613; Pub. L. 112–40, title II, §§201(b), (c), 215, Oct. 21, 2011, 125 Stat. 403, 407; Pub. L. 114–27, title IV, §§402(b), (c), 403(c), June 29, 2015, 129 Stat. 374.)

¹ See Application of Subsection (b)(1) note below.

TERMINATION OF ASSISTANCE

For termination of assistance under this part after June 30, 2022, see Termination Date note below.

Editorial Notes

CODIFICATION

Section reflects the July 1, 2021, reversion to provisions in effect on Jan. 1, 2014. See Effective and Termination Dates of 2015 Revival note below.

Section 233 of Pub. L. 112-40, which provided for the Jan. 1, 2014, revival of this section as in effect on Feb. 13, 2011, was repealed by Pub. L. 114-27, title IV, §402(a), June 29, 2015, 129 Stat. 374, and the provisions of this section, as in effect on Dec. 31, 2013, were temporarily revived, effective June 29, 2015, until July 1, 2021, by Pub. L. 114-27, §§402(b), (c), 406. See 2011 and 2015 Amendment notes, Effective and Termination Dates of 2011 Revival notes, and Effective and Termination Dates of 2015 Revival notes below.

Section 1893 of Pub. L. 111-5, which provided for Feb. 13, 2011, termination of amendment by Pub. L. 111-5, was repealed by Pub. L. 112-40, title II, §201(a), Oct. 21, 2011, 125 Stat. 403, and the provisions of this section, as amended by Pub. L. 111-5 and Pub. L. 111-344 and as in effect on Feb. 12, 2011, were temporarily revived, effective Oct. 21, 2011, until Jan. 1, 2014, by Pub. L. 112-40, §§201(b), (c), 233. See 2009, 2010, and 2011 Amendment notes, Effective and Termination Dates of 2009 Amendment notes, Effective Date of 2010 Amendment note, and Effective and Termination Dates of 2011 Revival notes below.

PRIOR PROVISIONS

A prior section 2318, Pub. L. 93-618, title II, §246, as added Pub. L. 100-418, title I, §1423(d)(1), Aug. 23, 1988, 102 Stat. 1246; amended Pub. L. 101-382, title I, §136, Aug. 20, 1990, 104 Stat. 652, related to supplemental wage allowance demonstration projects, prior to repeal by Pub. L. 107-210, div. A, title I, §§124(a), 151, Aug. 6, 2002, 116 Stat. 944, 953, applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002.

Another prior section 2318, Pub. L. 93-618, title II, §246, Jan. 3, 1975, 88 Stat. 2027, contained transition provisions for events taking place during specified periods prior to the effective date of this part, prior to repeal by Pub. L. 97-35, title XXV, §2513(c), Aug. 13, 1981, 95 Stat. 889.

AMENDMENTS

2015—Pub. L. 114-27, §§402(b), (c), 406, temporarily revived the provisions of this section, as in effect on Dec. 31, 2013. See Codification note above and 2011 Amendment and Effective and Termination Dates of 2015 Revival notes below.

Subsec. (b)(1). Pub. L. 114-27, §§403(c), 406, temporarily substituted “June 30, 2021” for “December 31, 2013”. See Codification note above and Effective and Termination Dates of 2015 Revival note below.

2011—Pub. L. 112-40, §§201(b), (c), 233, temporarily revived the provisions of this section, as in effect on Feb. 12, 2011. See Codification note above and 2009 and 2010 Amendment and Effective and Termination Dates of 2011 Revival notes below.

Subsec. (a)(3)(B)(ii). Pub. L. 112-40, §§215(a)(1), 233, temporarily substituted “\$50,000” for “\$55,000”. See Codification note above and Effective and Termination Dates of 2011 Revival note below.

Subsec. (a)(5)(A)(i), (B)(i). Pub. L. 112-40, §§215(a)(2), 233, temporarily substituted “\$10,000” for “\$12,000”. See Codification note above and Effective and Termination Dates of 2011 Revival note below.

Subsec. (b)(1). Pub. L. 112-40, §§215(b), 233, temporarily substituted “December 31, 2013” for “February 12, 2011”. See Codification note above and Effective and Termination Dates of 2011 Revival note below.

2010—Subsec. (b)(1). Pub. L. 111-344 substituted “February 12, 2011” for “December 31, 2010”. See Codification note above.

2009—Pub. L. 111-5, §§1841(a)(1), 1893, temporarily substituted “Reemployment trade adjustment assistance program” for “Demonstration project for alternative trade adjustment assistance for older workers” in section catchline. See Codification note above and Effective and Termination Dates of 2009 Amendment note below.

Subsec. (a)(1). Pub. L. 111-5, §§1841(a)(2)(A), 1893, temporarily substituted “The Secretary” for “Not later than 1 year after August 6, 2002, the Secretary” and “a reemployment trade adjustment assistance program” for “an alternative trade adjustment assistance program for older workers”. See Codification note above and Effective and Termination Dates of 2009 Amendment note below.

Subsec. (a)(2)(A). Pub. L. 111-5, §§1841(a)(2)(B)(i)(I), 1893, temporarily substituted “for the eligibility period under subparagraph (A) or (B) of paragraph (4) (as the case may be)” for “for a period not to exceed 2 years” in introductory provisions. See Codification note above and Effective and Termination Dates of 2009 Amendment note below.

Subsec. (a)(2)(A)(i), (ii). Pub. L. 111-5, §§1841(a)(2)(B)(i)(II), 1893, temporarily added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

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

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

See Codification note above and Effective and Termination Dates of 2009 Amendment note below.

Subsec. (a)(2)(B). Pub. L. 111-5, §§1841(a)(2)(B)(ii), 1893, temporarily substituted “for the eligibility period under subparagraph (A) or (B) of paragraph (4) (as the case may be)” for “for a period not to exceed 2 years” and struck out “, as added by section 201 of the Trade Act of 2002” before period. See Codification note above and Effective and Termination Dates of 2009 Amendment note below.

Subsec. (a)(2)(C). Pub. L. 111-5, §§1841(a)(2)(B)(iii), 1893, temporarily added subpar. (C). See Codification note above and Effective and Termination Dates of 2009 Amendment note below.

Subsec. (a)(3) to (7). Pub. L. 111-5, §§1841(a)(2)(C), 1893, temporarily added pars. (3) to (7) and struck out former pars. (3) to (5) which related to eligibility, total amount of payments, and limitation on other benefits, respectively. See Codification note above and Effective and Termination Dates of 2009 Amendment note below.

Subsec. (b)(1). Pub. L. 111-5, §§1841(b), 1893, temporarily substituted “December 31, 2010.” for “the date that is 5 years after the date on which such program is implemented by the State.” See Codification note above and Effective and Termination Dates of 2009 Amendment note below.

Subsec. (b)(2). Pub. L. 111-5, §§1841(a)(3), 1893, temporarily substituted “subsection (a)(3)” for “subsection (a)(3)(B)”. See Codification note above and Effective and Termination Dates of 2009 Amendment note below.

2004—Subsec. (a)(3)(B)(iii). Pub. L. 108-429, §2004(a)(7)(A), struck out “and” after semicolon.

Subsec. (a)(5). Pub. L. 108-429, §2004(a)(7)(B), substituted “paragraph (2)(B)” for “section 2298(a)(2)(B) of this title”.

Subsec. (b)(2). Pub. L. 108-429, §2004(a)(7)(C), substituted “if” for “provided that”.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES OF 2015 REVIVAL

For revival and applicability, beginning on June 29, 2015, of the provisions of this section as in effect on Dec. 31, 2013, see section 402(b), (c) of Pub. L. 114-27, set out as a note preceding section 2271 of this title.

For reversion, beginning on July 1, 2021, to the provisions of this section as in effect on Jan. 1, 2014, with

certain exceptions and subject to section 406(b) of Pub. L. 114-27, see section 406 of Pub. L. 114-27, set out as a note preceding section 2271 of this title.

EFFECTIVE AND TERMINATION DATES OF 2011 REVIVAL

For revival and applicability, beginning on Oct. 21, 2011, of the provisions of this section as in effect on Feb. 12, 2011, see section 201(b), (c) of Pub. L. 112-40, set out as a note preceding section 2271 of this title.

Section 233 of Pub. L. 112-40, formerly set out as a note preceding section 2271 of this title, which provided for the reversion, beginning on Jan. 1, 2014, of the provisions of this section to those in effect on Feb. 13, 2011, subject to certain exceptions, was repealed by Pub. L. 114-27, title IV, § 402(a), June 29, 2015, 129 Stat. 374, effective June 29, 2015. See Codification note above.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-344 effective Jan. 1, 2011, see section 101(d) of Pub. L. 111-344, set out as a note preceding section 2271 of this title.

EFFECTIVE AND TERMINATION DATES OF 2009 AMENDMENT

Except as otherwise provided and subject to certain applicability provisions, amendment by Pub. L. 111-5 effective upon the expiration of the 90-day period beginning on Feb. 17, 2009, see section 1891 of Pub. L. 111-5, set out as a note under section 2271 of this title.

Section 1893 of Pub. L. 111-5, formerly set out as a Termination Date of 2009 Amendment note preceding section 2271 of this title, which provided that, except as otherwise provided, amendment by Pub. L. 111-5 not applicable on or after Feb. 13, 2011, and that this section be applied and administered beginning Feb. 13, 2011, as if amendment by Pub. L. 111-5 had never been enacted, was repealed by Pub. L. 112-40, title II, § 201(a), Oct. 21, 2011, 125 Stat. 403, effective Oct. 21, 2011. See Codification note above.

EFFECTIVE DATE

Section applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as an Effective Date of 2002 Amendment note preceding section 2271 of this title.

TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after June 30, 2022, except as otherwise provided, see section 285 of Pub. L. 93-618, as modified by section 406(a) of Pub. L. 114-27, set out as notes preceding section 2271 of this title.

APPLICATION OF SUBSECTION (b)(1)

Subsection (b)(1) of this section to be applied and administered by substituting “June 30, 2022” for “the date that is 5 years” and all that follows through “State”, see section 406(a)(4) of Pub. L. 114-27, set out in an Effective and Termination Dates of 2015 Revival note preceding section 2271 of this title.

§ 2319. Definitions

For purposes of this part—

(1) The term “adversely affected employment” means employment in a firm or appropriate subdivision of a firm, if workers of such firm or subdivision are eligible to apply for adjustment assistance under this part.

(2) The term “adversely affected worker” means an individual who, because of lack of work in adversely affected employment—

(A) has been totally or partially separated from such employment, or

(B) has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.

(3) Repealed. Pub. L. 97-35, title XXV, § 2511(1), Aug. 13, 1981, 95 Stat. 888.

(4) The term “average weekly wage” means one-thirteenth of the total wages paid to an individual in the high quarter. For purposes of this computation, the high quarter shall be that quarter in which the individual’s total wages were highest among the first 4 of the last 5 completed calendar quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

(5) The term “average weekly hours” means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (4).

(6) The term “partial separation” means, with respect to an individual who has not been totally separated, that he has had—

(A) his hours of work reduced to 80 percent or less of his average weekly hours in adversely affected employment, and

(B) his wages reduced to 80 percent or less of his average weekly wage in such adversely affected employment.

(7) Repealed. Pub. L. 97-35, title XXV, § 2511(1), Aug. 13, 1981, 95 Stat. 888.

(8) The term “State” includes the District of Columbia and the Commonwealth of Puerto Rico; and the term “United States” when used in the geographical sense includes such Commonwealth.

(9) The term “State agency” means the agency of the State which administers the State law.

(10) The term “State law” means the unemployment insurance law of the State approved by the Secretary of Labor under section 3304 of title 26.

(11) The term “total separation” means the layoff or severance of an individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.

(12) The term “unemployment insurance” means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5 and the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.]. The terms “regular compensation”, “additional compensation”, and “extended compensation” have the same respective meanings that are given them in section 205(2), (3), and (4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(13) The term “week” means a week as defined in the applicable State law.