

section 233(b) of Pub. L. 112-40, see Codification and Effective and Termination Dates notes below.

CODIFICATION

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 L. 111-5, which provided for Feb. 13, 2011, termination of section, was repealed by Pub.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

PRIOR PROVISIONS

A prior section 2322, Pub. L. 93-618, title II, §249A, as added Pub. L. 103-182, title V, §503(c), Dec. 8, 1993, 107 Stat. 2151, prohibited assistance relating to a separation pursuant to certifications under subparts A and D of this part, prior to repeal by Pub. L. 107-210, div. A, title I, §123(b)(2), (c), Aug. 6, 2002, 116 Stat. 944, applicable with respect to petitions filed under this part on or after the date that was 90 days after Aug. 6, 2002, except with respect to certain workers.

Another prior section 2322, Pub. L. 93-618, title II, §250, Jan. 3, 1975, 88 Stat. 2029, provided for judicial review for workers or groups aggrieved by a final determination by the Secretary under section 2273 of this title, prior to repeal by Pub. L. 96-417, title VI, §612, title VII, §701(a), Oct. 10, 1980, 94 Stat. 1746, 1747, effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date. See section 2395 of this title.

EFFECTIVE AND TERMINATION DATES

For temporary revival and applicability of section, as in effect on Feb. 12, 2011, see sections 201(b), (c) and 233 of Pub. L. 112-40, set out as Effective and Termination Dates of 2011 Revival notes preceding section 2271 of this title. For termination beginning on Jan. 1, 2014, with certain exceptions and subject to section 233(b) of Pub. L. 112-40, see section 233 of Pub. L. 112-40, set out as an Effective and Termination Dates of 2011 Revival note preceding section 2271 of this title.

Except as otherwise provided and subject to certain applicability provisions, section 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 an Effective and Termination Dates of 2009 Amendment note under section 2271 of this title.

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

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this section after Dec. 31, 2013, except as otherwise provided, see section 285 of Pub. L. 93-618, set out as a Termination Date note preceding section 2271 of this title.

§ 2323. Collection and publication of data and reports; information to workers

(a) In general

Not later than 180 days after February 17, 2009, the Secretary shall implement a system to collect and report the data described in subsection (b), as well as any other information that the Secretary considers appropriate to effectively carry out this part.

(b) Data to be included

The system required under subsection (a) shall include collection of and reporting on the following data for each fiscal year:

(1) Data on petitions filed, certified, and denied

(A) The number of petitions filed, certified, and denied under this part.

(B) The number of workers covered by petitions filed, certified, and denied.

(C) The number of petitions, classified by—

(i) the basis for certification, including increased imports, shifts in production, and other bases of eligibility; and

(ii) congressional district of the United States.

(D) The average time for processing such petitions.

(2) Data on benefits received

(A) The number of workers receiving benefits under this part.

(B) The number of workers receiving each type of benefit, including training, trade readjustment allowances (including such allowances classified by payments under paragraphs (1) and (3) of section 2293(a) of this title, and section 2293(f) of this title, respectively) and payments under section 2318 of this title, employment and case management services, and relocation and job search allowances, and, to the extent feasible, credits for health insurance costs under section 35 of title 26.

(C) The average time during which such workers receive each such type of benefit.

(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 part in any of the 10 fiscal years preceding the fiscal year for which the data is collected under this section.

(3) Data on training

(A) The number of workers enrolled in training approved under section 2296 of this title, classified by major types of training, including classroom training, training through distance learning, training leading to an associate's degree, remedial education, prerequisite education, on-the-job training, and customized training.

(B) The number of workers who complete training approved under section 2296 of this title who were enrolled in pre-layoff training or part-time training at any time during that training.

(C) The average duration of training, and the average duration of training that does not include remedial or prerequisite education.

(D) The number of training waivers granted under section 2291(c) of this title, classified by type of waiver.

(E) The number of workers who complete training and the average duration of such training.

(F) The number of workers who do not complete training and the average duration of the training that was completed by such workers.

(4) Data on outcomes

(A) A summary of the quarterly reports required under section 2311(j) of this title.

(B) A summary of the data on workers in the quarterly reports required under section

2311(j) of this title 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 2311(j)(2)(A)(i) of this title in the second, third, and fourth calendar quarters following the calendar quarter in which such workers cease receiving benefits under this part, 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 part.

(D) The sectors in which workers are employed after receiving benefits under this part.

(5) Data on rapid response activities

Whether rapid response activities were provided with respect to each petition filed under section 2271 of this title.

(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 2295 through 2298 of this title used for training, in the aggregate and for each State.

(C) The total amount of payments to the States to carry out sections 2295 through 2298 of this title 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 2295 through 2298 of this title used for job search and relocation allowances, in the aggregate and for each State.

(c) Classification of data

To the extent possible, in collecting and reporting the data described in subsection (b), the Secretary shall classify the data by industry, State, and national totals.

(d) Report

Not later than February 15 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 that includes—

(1) a summary of the information collected under this section for the preceding fiscal year;

(2) information on the distribution of funds to each State pursuant to section 2296(a)(2) of this title; and

(3) any recommendations of the Secretary with respect to changes in eligibility requirements, benefits, or training funding under this part based on the data collected under this section.

(e) Availability of data

(1) In general

The Secretary shall make available to the public, by publishing on the website of the Department of Labor and by other means, as appropriate—

(A) the report required under subsection (d);

(B) the data collected under this section, in a searchable format; and

(C) a list of cooperating States and cooperating State agencies that failed to submit the data required by this section to the Secretary in a timely manner.

(2) Updates

The Secretary shall update the data under paragraph (1) on a quarterly basis.

(Pub. L. 93–618, title II, §249B, as added Pub. L. 111–5, div. B, title I, §1854(a), Feb. 17, 2009, 123 Stat. 392; as added and amended Pub. L. 112–40, title II, §§201(b), (c), 216(b)(1), (3), Oct. 21, 2011, 125 Stat. 403, 407, 409.)

TERMINATION OF SECTION

For termination of section beginning on Jan. 1, 2014, with certain exceptions and subject to section 233(b) of Pub. L. 112–40, see Codification and Effective and Termination Dates notes below.

CODIFICATION

Section 1893 of Pub. L. 111–5, which provided for Feb. 13, 2011, termination of section, was repealed by Pub. L. 112–40, title II, §201(a), Oct. 21, 2011, 125 Stat. 403, and this section, as added by Pub. L. 111–5 and as in effect on Feb. 12, 2011, was temporarily revived, effective Oct. 21, 2011, until Jan. 1, 2014, by Pub. L. 112–40, §§201(b), (c), 233. See Effective and Termination Dates notes below.

AMENDMENTS

2011—Subsec. (b)(2)(B). Pub. L. 112–40, §§216(b)(1)(A)(i), 233, temporarily inserted “(including such allowances classified by payments under paragraphs (1) and (3) of section 2293(a) of this title, and section 2293(f) of this title, respectively) and payments under section 2318 of this title” after “readjustment allowances”. See Codification note above and Effective and Termination Dates note below.

Subsec. (b)(2)(D), (E). Pub. L. 112–40, §§216(b)(1)(A)(ii), 233, temporarily added subpars. (D) and (E). See Codification note above and Effective and Termination Dates note below.

Subsec. (b)(3)(A). Pub. L. 112–40, §§216(b)(1)(B)(i), 233, temporarily inserted “training leading to an associate’s degree, remedial education, prerequisite education,” after “distance learning.”. See Codification note above and Effective and Termination Dates note below.

Subsec. (b)(3)(B). Pub. L. 112–40, §§216(b)(1)(B)(ii), 233, temporarily amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “The number of workers enrolled in full-time training and part-time training.” See Codification note above and Effective and Termination Dates note below.

Subsec. (b)(3)(C). Pub. L. 112–40, §§216(b)(1)(B)(iii), 233, temporarily inserted “, and the average duration of training that does not include remedial or prerequisite education” after “training”. See Codification note above and Effective and Termination Dates note below.

Subsec. (b)(3)(E). Pub. L. 112–40, §§216(b)(1)(B)(iv), 233, temporarily substituted “average duration” for “duration”. See Codification note above and Effective and Termination Dates note below.

Subsec. (b)(3)(F). Pub. L. 112–40, §§216(b)(1)(B)(v), 233, temporarily inserted “and the average duration of the training that was completed by such workers” after “training”. See Codification note above and Effective and Termination Dates note below.

Subsec. (b)(4)(B) to (D). Pub. L. 112–40, §§216(b)(1)(C), 233, temporarily added subpars. (B) and (C) and temporarily redesignated former subpar. (B) as (D). See Codification note above and Effective and Termination Dates note below.

Subsec. (b)(6). Pub. L. 112–40, §§216(b)(1)(D), 233, temporarily added par. (6). See Codification note above and Effective and Termination Dates note below.

Subsec. (d). Pub. L. 112-40, §§216(b)(3), 233, temporarily substituted “February 15” for “December 15” in introductory provisions. See Codification note above and Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

For temporary revival and applicability of section, as in effect on Feb. 12, 2011, see sections 201(b), (c) and 233 of Pub. L. 112-40, set out as Effective and Termination Dates of 2011 Revival notes preceding section 2271 of this title. For termination beginning on Jan. 1, 2014, with certain exceptions and subject to section 233(b) of Pub. L. 112-40, see section 233 of Pub. L. 112-40, set out as an Effective and Termination Dates of Revival note preceding section 2271 of this title.

Pub. L. 111-5, div. B, title I, §1854(c), Feb. 17, 2009, 123 Stat. 394, provided that: “The amendments made by this section [enacting this section] shall take effect on the date of the enactment of this Act [Feb. 17, 2009].”

Except as otherwise provided and subject to certain applicability provisions, section 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, which provided that, except as otherwise provided, section not applicable on or after Feb. 13, 2011, and that this section be applied and administered beginning Feb. 13, 2011, as if this section had never been enacted, was repealed by Pub. L. 112-40, title II, §201(a), Oct. 21, 2011, 125 Stat. 403. See Codification note above.

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this section after Dec. 31, 2013, except as otherwise provided, see section 285 of Pub. L. 93-618, set out as a Termination Date note preceding section 2271 of this title.

DEADLINE FOR UPDATING DATA REPORTING SYSTEM

Pub. L. 112-40, title II, §216(b)(2), Oct. 21, 2011, 125 Stat. 409, provided that: “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) [amending this section].”

SUBPART D—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

§ 2331. Repealed. Pub. L. 107-210, div. A, title I, § 123(a), Aug. 6, 2002, 116 Stat. 944

Section, Pub. L. 93-618, title II, §250, as added Pub. L. 103-182, title V, §502, Dec. 8, 1993, 107 Stat. 2149; amended Pub. L. 105-277, div. J, title I, §1012(b), Oct. 21, 1998, 112 Stat. 2681-901; Pub. L. 106-113, div. B, §1000(a)(5) [title VII, §702(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-319, established a NAFTA transitional adjustment assistance program.

PRIOR PROVISIONS

A prior section 250 of Pub. L. 93-618, title II, Jan. 3, 1975, 88 Stat. 2029, provided for judicial review for workers or groups aggrieved by a final determination by the Secretary under section 2273 of this title, and was classified to section 2322 of this title, prior to repeal by Pub. L. 96-417.

EFFECTIVE DATE OF REPEAL

Pub. L. 107-210, div. A, title I, §123(c), Aug. 6, 2002, 116 Stat. 944, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending sections 2275 and 2395 of this title and repealing this subpart and section 2322 of this title] shall apply with respect to petitions filed under chapter 2 of title II of the Trade Act of 1974 [this part], on or after the date that is 90 days after the date of enactment of this Act [Aug. 6, 2002].

“(2) WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.—Notwithstanding subsection (a), a worker receiving benefits under chapter 2 of title II of the Trade Act of 1974 shall continue to receive (or be eligible to receive) benefits and services under chapter 2 of title II of the Trade Act of 1974, as in effect on the day before the amendments made by this section take effect under subsection (a), for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date.”

PART 3—ADJUSTMENT ASSISTANCE FOR FIRMS

TERMINATION DATE

Except as otherwise provided, technical assistance and grants may not be provided under this part after Dec. 31, 2013, see section 285 of Pub. L. 93-618, set out as a note preceding section 2271 of this title.

§ 2341. Petitions and determinations

(a) Filing of petition; receipt of petition; initiation of investigation

A petition for a certification of eligibility to apply for adjustment assistance under this part may be filed with the Secretary of Commerce (hereinafter in this part referred to as the “Secretary”) by a firm (including any agricultural firm or service sector firm) or its representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

(b) Public hearing

If the petitioner, or any other person, organization, or group found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary’s publication under subsection (a) of this section a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

(c) Certification

(1) The Secretary shall certify a firm (including any agricultural firm or service sector firm) as eligible to apply for adjustment assistance under this part if the Secretary determines—

(A) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

(B) that—

(i) sales or production, or both, of the firm have decreased absolutely,

(ii) sales or production, or both, of an article or service that accounted for not less than 25 percent of the total sales or production of the firm during the 12-month period preceding the most recent 12-month period for which data¹ are available have decreased absolutely,

(iii) sales or production, or both, of the firm during the most recent 12-month period for which data are available have decreased compared to—

(I) the average annual sales or production for the firm during the 24-month period preceding that 12-month period, or

(II) the average annual sales or production for the firm during the 36-month period preceding that 12-month period, and

¹ So in original. Probably should be “data”.