

(ii) for fiscal year 2000, reserve up to 20 percent for carrying out section 9273 of title 20; and

(iii) for each of the fiscal years 2001 through 2003, reserve up to 25 percent for carrying out section 9273 of title 20.

(c) Assistance for eligible workers

(1) Appropriations

There are authorized to be appropriated and appropriated—

(A) to carry out subsection (a)(4)(A) of section 2918 of this title—

(i) \$10,000,000 for fiscal year 2002; and

(ii) \$150,000,000 for the period of fiscal years 2009 through 2010; and

(B) to carry out subsection (a)(4)(B) of section 2918 of this title, \$50,000,000 for fiscal year 2002.

(2) Authorization of appropriations for subsequent fiscal years

There are authorized to be appropriated—

(A) to carry out subsection (a)(4)(A) of section 2918 of this title, \$60,000,000 for each of fiscal years 2003 through 2007; and

(B) to carry out subsection (a)(4)(B) of section 2918 of this title—

(i) \$100,000,000 for fiscal year 2003; and

(ii) \$50,000,000 for fiscal year 2004.

(3) Availability of funds

Funds appropriated pursuant to—

(A) paragraphs (1)(A) and (2)(A) for each fiscal year shall, notwithstanding section 2939(g) of this title, remain available for obligation during the pendency of any outstanding claim under the Trade Act of 1974 [19 U.S.C. 2101 et seq.], as amended by the Trade Act of 2002; and

(B) paragraph¹ (1)(B) and (2)(B), for each fiscal year shall, notwithstanding section 2939(g) of this title, remain available during the period that begins on August 6, 2002, and ends on September 30, 2004.

(Pub. L. 105-220, title I, §174, Aug. 7, 1998, 112 Stat. 1037; Pub. L. 107-210, div. A, title II, §203(c), Aug. 6, 2002, 116 Stat. 969; Pub. L. 111-5, div. B, title I, §1899K(b), Feb. 17, 2009, 123 Stat. 435.)

REFERENCES IN TEXT

The Trade Act of 1974, as amended by the Trade Act of 2002, referred to in subsec. (c)(3)(A), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended by Pub. L. 107-210, which is classified principally to chapter 12 (§2101 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of Title 19 and Tables.

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111-5, §1899K(b)(1), substituted “Appropriations” for “Authorization and appropriation for fiscal year 2002” in heading.

Subsec. (c)(1)(A). Pub. L. 111-5, §1899K(b)(2), added subpar. (A) and struck out former subpar. (A) which read as follows: “to carry out subsection (a)(4)(A) of section 2918 of this title, \$10,000,000 for fiscal year 2002; and”.

2002—Subsec. (c). Pub. L. 107-210 added subsec. (c).

EFFECTIVE DATE 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 an Effective and Termination Dates of 2009 Amendment note under section 2271 of Title 19, Customs Duties.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of Title 19, Customs Duties, 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 a note preceding section 2271 of Title 19.

CONSTRUCTION OF 2002 AMENDMENT

Nothing in amendment by Pub. L. 107-210, other than provisions relating to COBRA continuation coverage and reporting requirements, to be construed as creating new mandate on any party regarding health insurance coverage, see section 203(f) of Pub. L. 107-210, set out as a note under section 2918 of this title.

§ 2920. Educational assistance and training

(a) Use of fund

The Secretary of Labor shall provide for grants to States to provide educational assistance and training for United States workers. The Secretary shall consult with the Secretary of Education in making grants under this section.

(b) Allocation of funds

Within the purposes described in subsection (a) of this section, funds in the account used under this section shall be allocated among the States based on a formula, established jointly by the Secretaries of Labor and Education, that takes into consideration—

(1) the location of foreign workers admitted into the United States,

(2) the location of individuals in the United States requiring and desiring the educational assistance and training for which the funds can be applied, and

(3) the location of unemployed and underemployed United States workers.

(c) Disbursement to States

(1) Within the purposes and allocations established under this section, disbursements shall be made to the States, in accordance with grant applications submitted to and approved jointly by the Secretaries of Labor and Education, to be applied in a manner consistent with the guidelines established by such Secretaries in consultation with the States. In applying such grants, the States shall consider providing funding to joint labor-management trust funds and other such non-profit organizations which have demonstrated capability and experience in directly training and educating workers.

(2) Not more than 5 percent of the funds disbursed to any State under this section may be used for administrative expenses.

(d) Limitation on Federal overhead

The Secretaries shall provide that not more than 2 percent of the amount of funds disbursed to States under this section may be used by the Federal Government in the administration of this section.

(e) Annual report

The Secretary of Labor shall report annually to the Congress on the grants to States provided under this section.

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

(f) “State” defined

In this section, the term “State” has the meaning given such term in section 1101(a)(36) of title 8.

(Pub. L. 101-649, title VIII, § 801, Nov. 29, 1990, 104 Stat. 5087.)

CODIFICATION

Section was enacted as part of the Immigration Act of 1990, and not as part of title I of the Workforce Investment Act of 1998 which comprises this chapter.

Section was formerly classified to section 1506 of this title.

SUBCHAPTER V—ADMINISTRATION

§ 2931. Requirements and restrictions**(a) Benefits****(1) Wages****(A) In general**

Individuals in on-the-job training or individuals employed in activities under this chapter shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills, and such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section 206(a)(1) of this title or the applicable State or local minimum wage law.

(B) Rule of construction

The reference in subparagraph (A) to section 206(a)(1) of this title—

(i) shall be deemed to be a reference to section 206(a)(3)¹ of this title for individuals in American Samoa; and

(ii) shall not be applicable for individuals in other territorial jurisdictions in which section 206 of this title does not apply.

(2) Treatment of allowances, earnings, and payments

Allowances, earnings, and payments to individuals participating in programs under this chapter shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).

(b) Labor standards**(1) Limitations on activities that impact wages of employees**

No funds provided under this chapter shall be used to pay the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system.

(2) Displacement**(A) Prohibition**

A participant in a program or activity authorized under this chapter (referred to in

this section as a “specified activity”) shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(B) Prohibition on impairment of contracts

A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) Other prohibitions

A participant in a specified activity shall not be employed in a job if—

(A) any other individual is on layoff from the same or any substantially equivalent job;

(B) the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

(C) the job is created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation).

(4) Health and safety

Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers’ compensation law applies, workers’ compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

(5) Employment conditions

Individuals in on-the-job training or individuals employed in programs and activities under this chapter, shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

(6) Opportunity to submit comments

Interested members of the public, including representatives of businesses and of labor organizations, shall be provided an opportunity to submit comments to the Secretary with respect to programs and activities proposed to be funded under subchapter II of this chapter.

(7) No impact on union organizing

Each recipient of funds under this chapter shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(c) Grievance procedure**(1) In general**

Each State and local area receiving an allotment under this chapter shall establish and

¹ See References in Text note below.