

and re-enrolled in an alternative school, if that re-enrollment is part of a sequential service strategy.

(Pub. L. 111-117, div. D, title I, (2)(E), Dec. 16, 2009, 123 Stat. 3227.)

CODIFICATION

Section was enacted as part of the Department of Labor Appropriations Act, 2010, and also as part of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2010, and the Consolidated Appropriations Act, 2010, and not as part of title I of the Workforce Innovation and Opportunity Act which comprises this subchapter.

Section was formerly classified to section 2918b of this title.

§ 3227. Authorization of appropriations

(a) Native American programs

There are authorized to be appropriated to carry out section 3221 of this title (not including subsection (k) of such section)—

- (1) \$46,082,000 for fiscal year 2015;
- (2) \$49,641,000 for fiscal year 2016;
- (3) \$50,671,000 for fiscal year 2017;
- (4) \$51,795,000 for fiscal year 2018;
- (5) \$53,013,000 for fiscal year 2019; and
- (6) \$54,137,000 for fiscal year 2020.

(b) Migrant and seasonal farmworker programs

There are authorized to be appropriated to carry out section 3222 of this title—

- (1) \$81,896,000 for fiscal year 2015;
- (2) \$88,222,000 for fiscal year 2016;
- (3) \$90,052,000 for fiscal year 2017;
- (4) \$92,050,000 for fiscal year 2018;
- (5) \$94,214,000 for fiscal year 2019; and
- (6) \$96,211,000 for fiscal year 2020.

(c) Technical assistance

There are authorized to be appropriated to carry out section 3223 of this title—

- (1) \$3,000,000 for fiscal year 2015;
- (2) \$3,232,000 for fiscal year 2016;
- (3) \$3,299,000 for fiscal year 2017;
- (4) \$3,372,000 for fiscal year 2018;
- (5) \$3,451,000 for fiscal year 2019; and
- (6) \$3,524,000 for fiscal year 2020.

(d) Evaluations and research

There are authorized to be appropriated to carry out section 3224 of this title—

- (1) \$91,000,000 for fiscal year 2015;
- (2) \$98,029,000 for fiscal year 2016;
- (3) \$100,063,000 for fiscal year 2017;
- (4) \$102,282,000 for fiscal year 2018;
- (5) \$104,687,000 for fiscal year 2019; and
- (6) \$106,906,000 for fiscal year 2020.

(e) Assistance for veterans

If, as of July 22, 2014, any unobligated funds appropriated to carry out section 2913 of this title, as in effect on the day before July 22, 2014, remain available, the Secretary of Labor shall continue to use such funds to carry out such section, as in effect on such day, until all of such funds are expended.

(f) Assistance for eligible workers

If, as of July 22, 2014, any unobligated funds appropriated to carry out subsections (f) and (g) of section 2918 of this title, as in effect on the day before July 22, 2014, remain available, the

Secretary of Labor shall continue to use such funds to carry out such subsections, as in effect on such day, until all of such funds are expended.

(Pub. L. 113-128, title I, §172, July 22, 2014, 128 Stat. 1585.)

REFERENCES IN TEXT

Sections 2913 and 2918 of this title, referred to in subsections (e) and (f), were repealed by Pub. L. 113-128, title V, § 511(a), July 22, 2014, 128 Stat. 1705, effective July 1, 2015.

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as a note under section 3101 of this title.

PART E—ADMINISTRATION

DEFINITION OF “SECRETARY”

In this part, “Secretary” means the Secretary of Labor, see section 3151(b)(1)(C)(ii)(II) of this title.

§ 3241. Requirements and restrictions

(a) Benefits

(1) Wages

(A) In general

Individuals in on-the-job training or individuals employed in activities under this subchapter 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 shall not be applicable for individuals in territorial jurisdictions in which section 206(a)(1) of this title does not apply.

(2) Treatment of allowances, earnings, and payments

Allowances, earnings, and payments to individuals participating in programs under this subchapter 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 subchapter shall be used to pay the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce development system.

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

A participant in a program or activity authorized under this subchapter (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 subchapter 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 part B.

(7) No impact on union organizing

Each recipient of funds under this subchapter 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 or allocation under this subchapter shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this subchapter from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days after the filing of the grievance or complaint.

(2) Investigation**(A) In general**

The Secretary shall investigate an allegation of a violation described in paragraph (1) if—

(i) a decision relating to such violation has not been reached within 60 days after the date of the filing of the grievance or complaint and either party appeals to the Secretary; or

(ii) a decision relating to such violation has been reached within such 60 days and the party to which such decision is adverse appeals such decision to the Secretary.

(B) Additional requirement

The Secretary shall make a final determination relating to an appeal made under subparagraph (A) no later than 120 days after receiving such appeal.

(3) Remedies

Remedies that may be imposed under this section for a violation of any requirement of this subchapter shall be limited—

(A) to suspension or termination of payments under this subchapter;

(B) to prohibition of placement of a participant with an employer that has violated any requirement under this subchapter;

(C) where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and

(D) where appropriate, to other equitable relief.

(4) Rule of construction

Nothing in paragraph (3) shall be construed to prohibit a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law for a violation of this subchapter.

(d) Relocation**(1) Prohibition on use of funds to encourage or induce relocation**

No funds provided under this subchapter shall be used, or proposed for use, to encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(2) Prohibition on use of funds after relocation

No funds provided under this subchapter for an employment or training activity shall be used for customized or skill training, on-the-

job training, incumbent worker training, transitional employment, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated, until the date that is 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(3) Repayment

If the Secretary determines that a violation of paragraph (1) or (2) has occurred, the Secretary shall require the State that has violated such paragraph (or that has provided funding to an entity that has violated such paragraph) to repay to the United States an amount equal to the amount expended in violation of such paragraph.

(e) Limitation on use of funds

No funds available to carry out an activity under this subchapter shall be used for employment generating activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, economic development activities, or similar activities, that are not directly related to training for eligible individuals under this subchapter. No funds received to carry out an activity under part B shall be used for foreign travel.

(f) Testing and sanctioning for use of controlled substances

(1) In general

Notwithstanding any other provision of law, a State shall not be prohibited by the Federal Government from—

(A) testing participants in programs under part B for the use of controlled substances; and

(B) sanctioning such participants who test positive for the use of such controlled substances.

(2) Additional requirements

(A) Period of sanction

In sanctioning participants in a program under part B who test positive for the use of controlled substances—

(i) with respect to the first occurrence for which a participant tests positive, a State may exclude the participant from the program for a period not to exceed 6 months; and

(ii) with respect to the second occurrence and each subsequent occurrence for which a participant tests positive, a State may exclude the participant from the program for a period not to exceed 2 years.

(B) Appeal

The testing of participants and the imposition of sanctions under this subsection shall be subject to expeditious appeal in accordance with due process procedures established by the State.

(C) Privacy

A State shall establish procedures for testing participants for the use of controlled

substances that ensure a maximum degree of privacy for the participants.

(3) Funding requirement

In testing and sanctioning of participants for the use of controlled substances in accordance with this subsection, the only Federal funds that a State may use are the amounts made available for the administration of statewide workforce investment activities under section 3174(a)(3)(B) of this title.

(g) Subgrant authority

A recipient of grant funds under this subchapter shall have the authority to enter into subgrants in order to carry out the grant, subject to such conditions as the Secretary may establish.

(Pub. L. 113-128, title I, §181, July 22, 2014, 128 Stat. 1586.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as a note under section 3101 of this title.

§ 3242. Prompt allocation of funds

(a) Allotments based on latest available data

All allotments to States and grants to outlying areas under this subchapter shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to disadvantaged adults and disadvantaged youth shall be based on the most recent satisfactory data from the Bureau of the Census.

(b) Publication in Federal Register relating to formula funds

Whenever the Secretary allots funds required to be allotted under this subchapter, the Secretary shall publish in a timely fashion in the Federal Register the amount proposed to be distributed to each recipient of the funds.

(c) Requirement for funds distributed by formula

All funds required to be allotted under section 3162 or 3172 of this title shall be allotted within 45 days after the date of enactment of the Act appropriating the funds, except that, if such funds are appropriated in advance as authorized by section 3249(g) of this title, such funds shall be allotted or allocated not later than the March 31 preceding the program year for which such funds are to be available for obligation.

(d) Publication in Federal Register relating to discretionary funds

Whenever the Secretary utilizes a formula to allot or allocate funds made available for distribution at the Secretary's discretion under this subchapter, the Secretary shall, not later than 30 days prior to such allotment or allocation, publish for comment in the Federal Register the formula, the rationale for the formula,