

Calendar No. 366

108TH CONGRESS } 1st Session }	SENATE	{ REPORT 108-187
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WORKFORCE INVESTMENT ACT OF 1998

NOVEMBER 5, 2003.—Ordered to be printed

Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, submitted the following

R E P O R T

[To accompany S. 1627]

The Committee on Health, Education, Labor, and Pensions, to which was referred the bill (S. 1627) to reauthorize the Workforce Investment Act of 1998, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

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I. PURPOSE AND SUMMARY OF LEGISLATION

The purpose of S. 1627, the Workforce Investment Act Amendments of 2003, is to reauthorize and improve the workforce investment system created under the Workforce Investment Act of 1998. The bill also reauthorizes and enhances the Adult Education and Family Literacy Act and the Rehabilitation Act.

## TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT

S. 1627 is the product of an extensive bipartisan effort, as well as significant input from stakeholders and the Department of Labor. The goals of the legislation include: helping workers find new or better jobs, thereby increasing self-sufficiency; providing employers, including small employers, with an appropriately trained workforce they need to compete in the global marketplace; improving the existing one-stop career center delivery system to ensure that it can respond quickly and effectively to the changing needs of employers and workers in the new economy and can address the needs of hard-to-serve populations, including individuals with disabilities, in all areas of the Nation; better connecting the job training system with the private sector and with post-secondary education and training, social services, and economic development systems to prepare the 21st century workforce for career opportunities and skills in high-growth sectors; promoting the informed choice of participants; allowing flexibility to meet State, local, regional, and individual workforce investment needs; removing barriers in the law that have discouraged business involvement in workforce training, that have discouraged qualified training providers from participating, and that have discouraged States and localities from serving hard-to-serve populations.

### *State Workforce Investment Boards*

This legislation streamlines membership on the State workforce investment boards. To improve the link between workforce development and economic development, State boards must include the State economic development agency. The legislation requires that business representatives include representatives of small businesses. The State board functions are expanded, including the development and review statewide policies affecting the coordinated provision of services through the one-stop systems, and the development of objective criteria for use by local boards in assessing the effectiveness and continuous improvement of one-stops.

### *State Plans*

States are required to submit strategic plans every 4 years, and amend such plans, as needed, after 2 years to reflect labor market and economic conditions. S. 1627 expands the contents of the state plan to reflect the additional purposes of the legislation.

### *Local Workforce Investment Areas*

Automatic designation of local areas is tied to successful performance and fiscal integrity.

### *Local Workforce Investment Boards*

Membership on local workforce investment boards is streamlined by eliminating the requirement that one-stop partners serve on the local board. Local boards have the option of creating advisory committees and youth councils.

### *Local Plans*

Local boards are required to submit strategic plans every 4 years, and amend such plans, as needed, after 2 years to reflect labor market and economic conditions. S. 1627 expands the contents of the local plan to reflect the additional purposes of the legislation.

### *One-Stop Delivery System*

The legislation places greater emphasis on the role of the one-stop partners in the delivery of program services, consistent with the local Memorandum of Understanding. The State board, in consultation with chief local elected officials and local boards, is required to establish criteria for use by the local board in assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and delivery systems. If local areas fail to come to an agreement with mandatory partners regarding sufficient funding of one-stop infrastructure costs, a State one-stop infrastructure funding mechanism can be imposed. Mandatory partner program contributions pursuant to the State one-stop infrastructure funding mechanism are based on the proportionate use of the one-stop centers and subject to specified caps.

### *Eligible Providers of Training Services*

The legislation amends the current eligibility requirements to authorize the Governors to establish new criteria and procedures for the eligibility of training providers. The Criteria must take into account such factors as: performance, access throughout the State, information required to be reported to State agencies, applicable State licensing requirements, encouraging industry recognized standards where practicable, and the ability to serve hard-to-serve populations. Local boards may establish additional performance criteria. The legislation provides a transition period for implementation and an exception for on-the-job or customized training. Local boards may award grants or contracts to providers of youth activities on a sole-source basis if there is an insufficient number of eligible providers in the local area.

### *Youth Activities*

The legislation authorizes up to \$250,000,000 for Youth Challenge Grants for each year in which the appropriation for youth activities exceeds \$1,000,000,000. At least 80 percent of the funds for Youth Challenge Grants are to be awarded by the Secretary on a competitive basis. The Secretary is authorized to use up to 20 percent of the funds for Youth Challenge Grants to award discretionary grants. The Secretary must reserve at least \$10,000,000 for migrant and seasonal farmworker youth activities. State allotments up to the 2003 allotted amount are distributed pursuant to the current law formula. State allotments in excess of the 2003 allotted amount are distributed as follows:  $\frac{1}{3}$  on the basis of the relative number of the labor force aged 16–21 in the State,  $\frac{1}{3}$  of the basis of the relative number of unemployed individuals in the State,  $\frac{1}{3}$  on the basis of the number of disadvantaged youth aged 16–21 in the State. The Governor is allowed to reserve up to 15 percent of the State allotment for statewide workforce investment activities. S. 1627 defines in-school and out-of-school youth for purposes of

youth participant eligibility. The legislation requires that no more than 60 percent of the State and local funds be spent on in-school youth.

*Adult and Dislocated Worker Employment and Training Activities*

S. 1627 retains the three separate funding streams of WIA Adult, WIA Dislocated Workers, and Wagner-Peyser Act employment service program. The formula for allotting the Adult funding to States is revised as follows: 40 percent is allotted on the basis of the relative number of unemployed in areas of substantial unemployment in each State, 25 percent is allotted on the basis of the relative number in the civilian workforce in each State, 35 percent is allotted on the basis of the relative number of disadvantaged workers in each State. States that lose funding because of formula change will be made whole from a Secretary's reserve fund of up to \$20,000,000. The legislation bases the reallocation of funds on the amount by which the unexpended balance exceeds 30 percent of the previous year's allotment. Unexpended balance is defined as the total amount of funds available the previous year less accrued expenditures.

As under current law, the Governor must reserve up to 25 percent of dislocated worker funds for statewide rapid response activities. S. 1627 allows the Governor to redistribute rapid response funds unexpended after the program year. The legislation adds required and allowable statewide activities which reflect the purposes of the legislation.

In order to avoid duplication of services, the legislation requires the co-location of employment services under the Wagner-Peyser Act at comprehensive one-stop centers. To provide greater flexibility in the delivery of services, the provisions regarding eligibility for intensive and training services are amended. Participants are not required to spend a specific amount of time in one tier of service. The legislation continues to utilize the term self-sufficiency for purposes of determining eligibility for intensive and training services. S. 1627 adds permissible local activities which reflect the purposes of the legislation. S. 1627 allows a local board to use up to 10 percent of local funds for incumbent worker training.

*Performance Measures*

The legislation amends current law to provide for more accurate and complete data collection, reporting, and performance measures that are not unduly burdensome. S. 1627 requires adjustment of performance measures to reflect economic conditions and the characteristics of the population served to remove disincentives to serving hard-to-serve populations. States are required to provide more complete information on the type of services being provided with WIA funds.

**TITLE II—AMENDMENTS TO THE ADULT EDUCATION AND FAMILY LITERACY ACT**

This title reauthorizes and amends the Adult Education and Family Literacy Act of 1998. It includes the formula allocations for State adult education programs, the required content of State plans submitted, national and State leadership activities that may be

performed with funds appropriated for this Act, and authorizes such sums as necessary to carry out this title.

Because of the increasing number of individuals needing basic skills education in reading, writing, English language acquisition, and math, there is more focus on providing courses in these areas. Programs offered by local providers should include a sequence of rigorous, academic courses and activities leading to proficiency in the basic literacy and mathematics skills, as well as family literacy. Accountability provisions are strengthened to ensure programmatic effectiveness.

The National Institute for Literacy is reauthorized and includes literacy activities across the life span of individuals: children, youth, adults and families. It continues to be instrumental in the federal effort to promote literacy activities, and is charged with disseminating scientifically-based literacy information to eligible programs and providers.

#### TITLE IV—AMENDMENTS TO THE REHABILITATION ACT OF 1973

Title IV of the bill reauthorizes and amends the Rehabilitation Act of 1973. The major goals of the Rehabilitation Act Amendments of 2003 provisions are to: strengthen individual choice and transition planning for individuals with disabilities; create a stronger link between the Rehabilitation Act, the President's New Freedom Initiative and the Olmstead Executive Order (13217: Community-Based Alternatives for Individuals with Disabilities); increase the opportunity to expand Vocational Rehabilitation partnerships with business/employers; and improve coordination with other employment programs such as the Workforce Investment Act and the Ticket to Work Act.

### II. BACKGROUND AND NEED FOR THE LEGISLATION

#### TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT

The Workforce Investment Act (WIA) was enacted in 1998 to unify a fragmented employment and training system into a more comprehensive workforce investment system that better serves job seekers and employers. At the time WIA was enacted, the Nation's job training system was a complex patchwork of numerous rules and overlapping bureaucracies. Individuals seeking employment opportunities and employers seeking to hire them faced a duplicative maze of narrowly focused programs that lacked coordination or a coherent strategy. The result was a Federal job training, adult education, and vocational education system that failed to meet the needs of those seeking assistance.

WIA abolished the Job Training Partnership Act (JTPA) and created 3 new funding Streams: Adult, Dislocated Worker, and Youth. The foundation of WIA was the creation of the one-stop center system through which 17 mandatory programs were required to deliver employment and training services that job seekers and employers could readily access. WIA expected such mandatory partners to share the costs of operating one-stop centers through memorandums of understanding negotiated at the local level.

WIA also sought to engage business to ensure that the workforce investment system was responsive to employers' needs. The private sector was to drive the system through participation on State and Local workforce investment boards. WIA services were redesigned from those offered under JTPA and included core, intensive and training services. WIA training services were offered primarily through the use of vouchers for eligible training providers. Recognizing that Washington cannot and should not determine State and local workforce needs, WIA intended to provide flexibility to States and localities to meet their own workforce needs.

WIA represented a fundamental change in the delivery of the Nation's employment and training services. States were required to implement major provisions of WIA by July 1, 2000. Therefore, WIA is still a fairly new system. While the system has certainly experienced some successes as States and localities increase their understanding of WIA, the full promise of WIA has yet to be realized. As the dust has settled after 3 years of implementation, challenges to WIA's full success have become clearer.

The General Accounting Office (GAO) identified aspects of the law that have hampered implementation in its study on "Exemplary One-Stops Devised Strategies to Strengthen Services, but Challenges Remain for Reauthorization" (GAO-03-884T). The GAO found that the performance measurement system developed under WIA may be causing some clients to be denied service and does not allow for an accurate understanding of WIA's effectiveness. Local areas are reluctant to provide WIA-funded services to job seekers who may be less likely to find employment or experience an increase in earnings when they are placed in a job.

The GAO also identified flaws in the funding formula, including the problem that formula factors used to allocate funds are not aligned with the target populations. Implementation of WIA has also been hampered by uncertainty and inconsistency of funding for one-stop infrastructure costs. The GAO found that across all the sites it visited for an early implementation study, WIA's Adult and Dislocated Worker programs and, across most sites, Wagner-Peyser Employment Service, were the only partners consistently making monetary contributions to pay for the one-stops' operational costs. According to GAO's study, WIA's system for certifying training providers may reduce training options for job seekers. Many training providers consider the current process for certifying their eligibility to be overly burdensome, and reduce their course offerings available for WIA participants. Such eligibility requirements have undermined the "consumer choice" that WIA was intended to provide.

WIA replaced a public job training and employment system in which employers have lost confidence. Prior to the enactment of WIA, many employers turned to nonpublic sources to identify and train workers. WIA envisioned statewide and local partnerships, led by employers, to develop the strategy for the comprehensive State workforce investment system. These partnerships at the State and local level were to be "policy entities" outlining the employment, training and skills needs, not entities burdened by bureaucratic and administrative duties. Unfortunately, the public-private workforce investment partnership remains burdened by bureaucratic and administrative duties, which has discouraged business involvement. Many businesses, including small businesses, re-

main unengaged or unaware of WIA's workforce investment system.

Some States and localities have found creative ways to overcome the challenges imposed by current law. Many others remain impeded by these barriers. The Workforce Investment Act Amendments of 2003 removes the barriers and builds upon the successes of the landmark 1998 legislation.

As was the case in 1998, reform of the Nation's job training and employment system is needed because the economic future of our country depends on a well-trained workforce. To keep the American dream within the grasp of all Americans, we have to deal with the changing face of our Nation's economy. The kind of jobs that are available today and will be in the future are different from those that were highly valued a few years, or even a few months, ago. Those seeking new or better jobs must have the training they will need for these new positions. Our businesses must have the skilled employees they need to compete in the new, more global economy. Improving the Workforce Investment Act will improve the lives of America's workers and their families and increase the strength of our Nation's businesses and communities.

## TITLE II—AMENDMENTS TO THE ADULT EDUCATION AND FAMILY LITERACY ACT

There is a significant need for services that can reach the adult population that lacks basic mathematics and literacy skills. The Bureau of the Census has reported that 9.8 percent of the nation's young people between the ages of 16 and 19 have not completed the work necessary for a high school diploma or its equivalent. Of all Americans over age 25, 7.5 percent have a ninth grade education or lower.

According to 2002 data from the National Assessment of Education Progress (NAEP), roughly two thirds of the students leaving high school read at basic levels of literacy or below. This extraordinary statistic is appropriately being addressed through the landmark No Child Left Behind Act, but there is a definite need for services provided for those individuals who are now beyond the secondary education system and still lack basic literacy skills.

In addition, the growing immigrant and limited English proficient population, which makes up a growing share of adult education participants, has a demonstrated need for a stronger background in American history and civics education. The Committee believes that the adult education and family literacy programs are a natural programmatic fit for efforts to help immigrants to this country identify the principles that make this nation great.

## III. LEGISLATIVE HISTORY AND VOTES IN COMMITTEE

The Subcommittee on Employment, Safety and Training held two hearings on the reauthorization of the Workforce Investment Act. The first hearing was held on March 6, 2003. The only witness to testify was D. Cameron Findlay, Deputy Secretary of Labor.

The second hearing was held on June 18, 2003. The hearing included two panels. Testifying at the first panel was Sigurd Nilsen, representing the General Accounting Office. The second panel was made up of Curtis Austin, executive director, Workforce Florida

Inc., James Ellenberger, deputy commissioner, Virginia Employment Commission; Michael Kennedy, executive director, Pacific Mountain Workforce Development Council; Michael Smeltzer, executive director, Manufacturers' Association of South Central Pennsylvania; Charles Ware, chairman, Wyoming Workforce Development Council.

Senator Enzi introduced S. 1627 on September 27, 2003, with Senators Gregg, Kennedy, and Murray as cosponsors. On October 2, 2003, the Senate Committee on Health, Education, Labor and Pensions met in executive session and favorably reported the bill unanimously after also unanimously accepting an amendment from Senator Clinton.

#### IV. EXPLANATION OF BILL AND COMMITTEE VIEWS

##### TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT

The Workforce Investment Act of 1998 (WIA) was enacted to create a streamlined workforce development system that could effectively respond to the needs of workers and employers alike. WIA has helped many Americans seeking new or better jobs. However, the full promise of WIA has yet to be realized. This legislation reflects the Committee's bipartisan belief that our Nation's workforce development system must work at all stages of the economic cycle and in all areas of the country. The Committee believes that reauthorization of WIA gives Congress the opportunity to improve the lives of our Nation's workers and increase the strength of our businesses and communities. Reauthorization of WIA is an opportunity to complete the transformation of fragmented employment and training programs into a seamless workforce investment system.

The Workforce Investment Act Amendments of 2003 builds upon the success of WIA while addressing its shortcomings. The Committee believes that reauthorization of WIA should address concerns that have come to light in the implementation of this relatively new workforce development system and push the system towards innovation and needed reforms. The bill focuses on changes to the law that: fix problems with the statute that stand in the way of successful implementation; encourage the building of a comprehensive, high quality workforce investment system; encourage innovation in serving workers and in providing enhanced services to businesses, both large and small; improve access to services in all areas; and expand opportunities for education and training.

S. 1627 is the product of an extensive bipartisan effort. The Committee solicited and received extensive input from stakeholders in crafting the bill. The principal organizations representing the local workforce delivery system, the National Association of Counties, the National Association of Workforce Boards, the National Workforce Association, and the United States Conference of Mayors, wrote a letter on September 24, 2003 in strong support of S. 1627:

S. 1627 represents the committee's sincere commitment to responding to the workforce development needs of business and workers throughout America at a time when joblessness remains a major impediment to full economic recovery. We believe that this bill will do much to strengthen



the workforce investment system by enhancing services to business, unemployed and dislocated workers and others in need of workforce development assistance, while strengthening the relationships between the public and private sectors and states, counties and cities.

The committee also received significant assistance from the Department of Labor in crafting the bill.

#### *Purpose*

The committee believes that the self-sufficiency of participants is a key goal of WIA. Therefore, the committee added as an additional purpose of WIA to provide workforce investment activities that increase self-sufficiency. The committee wants to ensure that the workforce investment system is demand driven and responsive to the needs of employers, including small employers. The committee also wants to ensure that the system works in all areas of the Nation, allows flexibility to meet State, local, regional, and individual needs, recognizes the vital link between economic development and workforce development, equips workers with higher skills and contributes to lifelong education, eliminates training disincentives for hard-to-serve population, educates limited English proficient individuals to become employable, and increases the employment, retention and earnings of individuals with disabilities. As reflected throughout S. 1627, the committee included these objectives among additional purposes of WIA.

One of the purposes of the bill is to increase the employment, retention, and earnings of individuals with disabilities. The committee intends that the Vocational Rehabilitation System and the One-Stops work together appropriately to meet the employment needs of all people with disabilities. The committee notes that only 30 percent of people with disabilities are employed, compared to 82 percent for those without disabilities, and approximately 79 percent of people with disabilities who are not working want to work. The committee strongly believes that the WIA one-stops should play a vital role helping to increase employment and training opportunities for individuals with disabilities. According to the Department of Labor, "in strengthening the ability of the One-Stops and mainstream employment systems to serve people with disabilities, there are multiple challenges relating to physical and programmatic accessibility, customer relations, and access to knowledge about accommodations and effective service strategies."

In recognition of these challenges, the committee has included numerous provisions designed to improve employment outcomes for people with disabilities. To ensure successful employment outcomes the one-stop system must be accessible to people with disabilities both physically and programmatically, as section 188 requires. The term programmatic access means policies, practices, and procedures providing effective and meaningful opportunity for persons with disabilities to participate in or benefit from core, intensive, training, and support services.

Programmatic access includes providing reasonable accommodations for individuals with disabilities, making reasonable modifications to policies, practices, and procedures, administering programs in the most integrated setting appropriate, communicating with persons with disabilities as effectively as with others, and pro-

viding appropriate auxiliary aids or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity. Key aspects of the “program” include registration, customer outreach, service delivery and coordination, and performance measures and outcome data collection.

The committee intends that one-stops to be both physically and programmatically accessible to all participants and commends the Civil Rights Center (CRC) in the Office of the Assistant Secretary for Administration and Management, the Assistant Secretary for Disability Employment Policy (ODEP), and the Assistant Secretary for Employment and Training (ETA) for their efforts to improve employment outcomes for people with disabilities by working together to issue the WIA Section 188 Disability Checklist and awarding numerous grants as part of the New Freedom Initiative. The committee expects that ODEP, working in conjunction with ETA, CRC, other program operating components with DOL and other agencies and departments, will continue to enhance meaningful and effective employment opportunities for persons with disabilities consistent with the disability-related amendments included in S. 1627. The committee also expects that ETA and CRC will carry out their responsibilities under section 183 for the various disability related amendments included in S. 1627.

#### *State Workforce Investment Boards*

S. 1627 amends the State workforce investment board membership requirements to better focus the State board on statewide workforce and economic issues. Required members include the lead State agency officials for one-stop partner programs, the State economic development agency, representatives of business, including small business, a chief local elected officials, labor representatives, and state legislators. Governors retain the right to designate additional members. To ensure that the system is demand-driven and responsive to the needs of employers, the Committee retains the requirement that a majority of board members be business representatives.

S. 1627 adds to the State board a representative of the Vocational Rehabilitation (VR) program authorized under the Rehabilitation Act of 1973. If a State has established a separate agency or unit to provide VR services to individuals who are blind, the Governor may appoint this person to the State board as well as the head of the state VR agency.

It is important that States play a pivotal role in providing resources and support for the one-stop delivery system and in providing rapid response assistance for dislocated workers, in conjunction with local efforts. States also play an essential role in providing leadership, guidance, technical assistance, professional development opportunities, and incentives for carrying out initiatives that foster comprehensive workforce investment systems, innovative service strategies for meeting the needs of business and workers, linkages between workforce and economic development, and expanded opportunities for training tied to the skill needs of workers and employers in the State. State Boards are an important resource in providing such strategic leadership and guidance in the

buildings and implementation of comprehensive statewide workforce investment systems in each State. In particular, the committee concluded that the boards should provide guidance to all WIA partner programs on the integration of service delivery and on appropriate resource contributions to the one-stop infrastructure in each State.

With regard to the one-stop delivery system, while the committee did not provide State boards with authority to certify the selection and operation of one-stops, S. 1627 does require that State Boards develop objective criteria for use by local boards in determining one-stop effectiveness and continuous improvement. This function of the State boards is very important to ensure consistency and high quality one-stop delivery systems throughout the State without undermining or lessening the role of local boards in the selection and oversight of the one-stop delivery system within each local area.

The committee believes that technology can, and should, be used to make the one-stop delivery system more accessible. Therefore, S. 1627 adds as a State board function the development of strategies to leverage technology to facilitate access to services provided through the one-stop delivery system in remote areas and for individuals with disabilities. Charles Ware, Chairman of the Wyoming Workforce Development Council, testified before the Subcommittee on Employment, Safety and Training on June 18, 2003 regarding the use of technology to improve access to WIA services in rural areas. Mr. Ware stated that: "As Wyoming moves into its fourth year of WIA implementation we look to new technologies like our state's video conferencing system and Internet based programs as a means to provide rural access to workforce services." The committee urges other States and localities to leverage technology to expand access to services.

To avoid undue disruption to the workforce investment system, the bill retains the alternative entity grandfathering provisions in section 111(e) of WIA. However, the committee strongly believes that the system must be built on a performance-based structure. Therefore, the committee decided to base eligibility for alternative entity grandfathering on the State's successful performance. Such determination of whether or not a State performed successfully would be determined by the same criteria used to determine whether or not the State is sanctioned under section 136 of WIA.

S. 1627 also adds a section providing that the State board has the authority to hire staff to carry out its functions using funds allocated to the State for WIA youth and adult activities.

#### *State Plans*

For a state to be eligible to receive money under section 127 or 132, or to receive financial assistance under the Wagner Peyser Act, the Governor of the state must continue to submit a state plan that outlines a 4-year strategy. This is a change from the 5-year plan required under the previous Act. The committee unanimously agreed that the plan should be reviewed, updated, and modified as needed at the end of 2 years, to accurately reflect the labor market and economic conditions of the state. Should the State determine that modifications are necessary, such modifications shall be submitted to the Secretary.

The State plan shall continue to include:

- (1) A description of the State board;
- (2) The requirements for the State workforce investment system;
- (3) A description of the State accountability system;
- (4) Information on the current employment needs within the state by occupation, the skills necessary to obtain those jobs, the skills and economic development needs of the State, and the type and availability of workforce investment needs;
- (5) Designation of local areas within the State;
- (6) Identification of criteria to be used by chief elected officials for local boards' membership;
- (7) The Wagner-Peyser plan;
- (8) A description of the procedures to assure coordination of and avoid duplication among programs under Title II of the Social Security Act, Title XIX of such act, programs authorized under Title VII of the Rehabilitation Act of 1972, and programs carried out by State agencies relating to mental retardation and developmental disabilities;
- (9) A description of the process used by the state to provide an opportunity for public comment;
- (10) Information about how the State will use resources to leverage other funds and maximize effectiveness, including a new provision to include how the State will provide incentives for improved performance and technical assistance;
- (11) Assurance that the State will provide the fiscal control and fund accounting procedures to ensure proper disbursement of funds under this act;
- (12) A description of the methods and factors the State will use in distributing funds for youth activities and adult employment and training activities;
- (13) Information specifying the actions that constitute conflict of interest;
- (14) A description of how the State will operate an effective one-stop delivery system;
- (15) A description of the appeals process;
- (16) A description of the competitive process to award grants and contracts;
- (17) A description of the employment and training process, rapid response activities, procedures for selecting training providers, and specifically how the State will meet the needs of hard to serve populations, including the use for the first time of local customized training and training for non-traditional employment; and
- (18) A description of the State strategy for providing comprehensive services to youth, particularly those facing barriers to employment, for identifying criteria to be used by local boards in awarding grants for youth activities, describing the coordination with Job Corps, and describing how the State will coordinate youth activities with the newly created youth challenge grants.

To reflect the purpose of the bill, S. 1627 expands the provisions of the State plan to also include a description of the following:

How the State will use technology to facilitate access to services in remote areas;

The State strategy for coordinating workforce investment activities with economic development activities;

The State strategy for regional cooperation and planning;

The State strategy for innovative programs to meet the needs of businesses, including small businesses which may include incumbent workers training programs, sectoral and industry cluster strategies, regional skills alliances, career ladder programs, utilization of effective business intermediaries, and providing technical assistance;

The State strategy for ensuring cooperation between transportation providers and workforce investment activities;

How the State will assist local areas in assuring physical and programmatic accessibility for individuals with disabilities at one-stop centers;

The process and methodology that will be used by the State board to review statewide policies, establish in consultation with local elected officials the procedures and objective criteria for use by local boards in assessing the effectiveness and continuous improvement of one-stop centers and the one-stop delivery system, and determine the costs of the infrastructure of the centers and the formula for allocating the refunds for such infrastructure if it is in use;

The State strategy for ensuring that activities carried out under this title are placing women and men in jobs, education and training that lead to comparable employment; and

The technical assistance available to one-stop operators and training providers for strategies to serve hard-to-serve populations and promoting placement in non-traditional employment.

The State must also describe how it will serve the employment and training needs of individuals with disabilities, consistent with Executive Order 13217, relating to community-based alternatives for individuals with disabilities. In addition, the State must also coordinate Independent Living Services with other programs and activities under the State plan.

Further, the State must describe how it will assist local areas in assuring physical and programmatic accessibility for individuals with disabilities at the one stop centers. The Committee suggests that the WIA Section 188 Checklist provides useful information to States in meeting this requirement.

#### *Local Workforce Investment Areas*

The committee believes strongly that the reauthorization of the Workforce Investment Act must build upon the locally based, private sector led workforce investment system established in 1998. It should in no way impede local progress, innovation, and partnerships forged with the private sector. The wholesale re-designation of local areas, including the Nation's largest metropolitan areas, would be tremendously disruptive to the entire workforce development system.

We believe that local workforce investment areas established under the Workforce Investment Act of 1998 should be maintained based upon their fiscal integrity and performance established jointly with the states as defined in section 136(c). Furthermore, local areas with a population of 500,000 or above and local areas which

have grown in population to 500,000 or above according to the 2000 Census should be given the opportunity to be automatically designated by the Governor and given a 2-year grace period to prove their performance and fiscal integrity under the new Act.

The committee also believes that Governors should have the flexibility to maintain their single local area state designations if the Governor identifies the State as a local area in the State plan under section 112(b)(5).

In keeping with the committee's theme of increasing flexibility in the reauthorization, the Governor of a State does have the ability to designate the State as a single local area if no local area meeting automatic designation requirements in the bill requests such designation.

The committee strongly believes that regional planning among local boards may be an effective tool in appropriately leveraging and targeting scarce training resources in local labor markets. The committee encourages those local workforce areas, where a common regional labor market may exist, to develop a coordinated regional plan to better assist workers and employers with their employment needs.

#### *Local Boards*

The committee has heard concerns that the large size of local boards and focus on bureaucratic issues has deterred the engagement of local business representatives. The committee believes that the involvement of local businesses, including small businesses, is critical to an effective workforce development system. To increase the involvement of the business sector and focus the board on workforce planning and decision-making, S. 1627 eliminates the requirement that each of the one-stop partners be a member of the local board. While one-stop partner programs are no longer required local board members, the bill allows the local board to establish or continue advisory councils to assist the board. Such advisory council(s) could include one-stop partners. Furthermore, the bill retains the authority of the chief local elected official to appoint to the local board such other individuals or representatives as the chief local elected official deems appropriate.

S. 1627 also provides direction on the types of representatives to be appointed to the local board. The workforce investment system must effectively tap into the opportunities provided by small businesses and high-growth and emerging industries. The committee believes that greater involvement of high-growth and emerging technologies and small businesses is needed.

In order to keep up with the rapid rate of technological changes, information technology (IT) skills training is essential to create a more effective and productive workforce and remain globally competitive. A comprehensive array of IT services and solutions should be offered to meet the needs of the worker and employer. As the U.S. economy becomes more dynamic, the types of growing industries are changing. Many new jobs are in technology-based industries and service industries and the demand for IT-skilled workers is increasing.

To ensure that business representatives reflect a cross-section of businesses and the changing economy in the area, S. 1627 requires that the local board include representatives of high-growth and

emerging technologies in the local area, as well as small businesses. S. 1627 also requires that board members represent diverse geographic areas within each local area.

Current law requires that all local boards establish a youth council. While some local youth councils have no doubt been effective, other youth councils have not. Because of the burden of establishing and operating youth councils that are not consistently effective, the committee has decided to eliminate the requirement for establishing a youth council. However, the bill gives local boards the option of continuing or establishing a youth council. While, youth councils are no longer mandatory, the committee believes that the needs of out-of-school youth must be represented at the local level. Therefore, if the local board opts not to have a youth council, the bill requires experts on serving out-of-school youth to be represented on the board.

The committee believes that participants in the workforce investment system should be able to choose among qualified training providers that best meet their individual needs. To enhance consumer choice and integration of individuals with disabilities, the local workforce board must ensure that there are sufficient providers of intensive and training services in a manner that maximizes local choice, including providers with expertise in assisting individuals with disabilities. The committee believes that community providers often have creative and innovative approaches for addressing the needs of individuals with disabilities, particularly those with the most significant disabilities.

The committee believes that technology can, and should, be used to make the one-stop delivery system more accessible. Therefore, S. 1627 adds as a local board function the development of strategies to leverage technology to facilitate access to services provided through the one-stop delivery system in remote areas.

The committee has decided to include a limited alternative entity grandfathering provision. Eligibility for alternative entity continuation is limited to a local entity that was in existence on August 7, 1989 pursuant to State law.

#### *Local Plans*

As in the State plan, the local plan is changed to a 4-year plan with a provision that at the end of year 2, the local workforce board will review and amend the plan as needed to reflect labor market and economic conditions.

The plan will include:

- (1) An identification of businesses, job seekers and workers in a local area, the current and projected employment opportunities, and the job skills necessary to obtain employment;
- (2) A description of the one-stop delivery system, including a description of how the local board will ensure the continuous improvement of the training providers and a description of how the local board will ensure within remote areas physical and programmatic accessibility for individuals with disabilities at one-stop centers. There is no longer a requirement to include a physical copy of the memorandum of understanding;
- (3) A description of the local levels of performance negotiated with the Governor and chief elected official;

(4) A description and assessment of the type and availability of adult and dislocated worker training activities;

(5) A description of how the local board will coordinate workforce investment activities carried out in the local area with rapid response activities;

(6) A description and assessment of youth activities in the local area;

(7) A description of the process used by the local area to ensure adequate public comment by various stakeholder groups;

(8) An identification of the entity responsible for the disbursement of grant funds;

(9) A description of the competitive process for grants and contracts;

(10) A new requirement for a description of how the local board will coordinate workforce investment activities with economic development activities;

(11) A new requirement for a description of the strategies and service that will be initiated in the local area to more fully engage employers, including small employers, to improve workforce and economic development, including such activities as incumbent worker training, sectoral and industry cluster programs, career ladder programs, the use of business intermediaries, and other business services and strategies;

(12) A new requirement for a description of how the local board will expand access to education and training services and the utilization of other resources;

(13) A new requirement for a description of how the local board will coordinate workforce investment activities carried out in the local area with the provision of transportation; and

(14) As in current law, any other information that the Governor may require.

As in current law, the local plan submitted to the Governor shall be considered approved at the end of the 90-day period, beginning on the day the Governor receives the plan, unless the Governor makes a written determination during the 90-day period that there are deficiencies in activities or the plan does not comply with the title.

#### *Establishment of One-Stop Delivery Systems*

The committee is very concerned about the ongoing challenges facing local areas to maintain infrastructure funding for the one-stops in their communities. Members explored a variety of options seeking to ensure long-range financial stability for the operations of the one-stops.

There are significant infrastructure costs incurred in establishing and maintaining the approximately 1,900 one-stops around the country. Local boards have sought to develop Memoranda of Understanding (MOUs) with each participating partner program in order to cover some of these infrastructure costs. While the process has worked well in some local communities, in other local areas problems have arisen because of uncertainty in determining the amount of partner contributions.

The bill provides for continued use of MOUs to establish partner contributions at the local level. The committee encourages the development of local memoranda of understanding so that the infra-



structure funding of one-stops is accomplished with the cooperation and participation of one-stop programs partners while minimizing any disruption of program partners' ability to meet the service needs of their target populations.

However, if a local area fails to successfully negotiate MOUs, the Governor is given the authority to require and determine the amount of contributions from partner programs. There are limitations placed on the amount non-WIA partner programs can be required to contribute (1.5%). In all cases, committee strongly believes that the contributions from non-WIA partners should be an amount equivalent to the cost of the proportionate use of the one-stop centers in the local area. The bill does recognize and allow for the continuation of pre-existing agreements that exceed the cap until terminated by the parties.

In States where a State government official other than the Governor has authority over the administration of a program, such as VR, the bill allows the State official to determine the infrastructure costs for that program, in consultation with the Governor.

The bill also provides a phase-in for contributions by vocational rehabilitation programs administered under the Rehabilitation Act. Section 117 of the bill places special limitations on infrastructure contributions from vocational rehabilitation (VR) programs administered under the Rehabilitation Act. In cases where the Governor must determine infrastructure contributions, a VR program will not be required to provide more than .75 percent of the amount it receives in the second program year beginning after the date of enactment of the bill; more than 1 percent of the amount it receives in the third program year; more than 1.25 percent of the amount it receives in the fourth program year; and more than 1.5 percent of what it receives in the fifth and each succeeding program year. The committee believes that this provision will result in a fair and equitable determination of infrastructure costs for VR programs. In addition, the committee emphasizes that VR programs would be subject to the Governor's determination only in cases when partners in a local area cannot agree on a Memorandum of Understanding. In addition, the committee does not intend that solely referring an individual with a disability to the Vocational Rehabilitation Agency be considered "proportionate use" for the purposes of calculating infrastructure support.

While the committee feels strongly enough about the importance of ensuring adequate financial support for one-stop development to allow Governors, working in concert with State workforce investment boards, to allocate for this purpose a percentage of program partner administrative funds, the effective course for achieving the same goal is likely to be found through the collaborative process of developing a Memorandum of Understanding carried out at the local level.

The committee also believes that the concept of proportionate use means the same thing as the cost of allocation concept embedded in the Office of Management and Budget (OMB) Cost Principles Circulars. The Circulars establish the principle that Federal programs should bear an equitable proportion of shared costs based on the benefit received by each program and the benefits received by the population served by each program. The specific method for determining proportionate costs may vary, but the principle of cost al-

location is applicable to all methods of financing one-stop systems under the bill.

The committee notes that only postsecondary vocational and technical activities authorized under the Carl D. Perkins Vocational and Technical Education Act are included as a required one-stop partner under WIA. Therefore, S. 1627 requires contributions to the one-stop system from only that portion of the administrative funds allocated to a State's postsecondary vocational and technical education activities authorized under Carl D. Perkins Vocational and Technical Education Act.

#### *Continuous Improvement of One-Stop Systems*

Many stakeholders have raised concerns about the lack of accessibility of one-stop centers for hard-to-serve populations, particularly individuals with disabilities and individuals with limited English speaking proficiency.

In part to address these concerns, the bill requires the State board, in consultation with the chief local elected official and local boards, to establish procedures and objective criteria for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop systems. Physical and programmatic accessibility applies to all populations listed in the hard-to-serve population definition, including individuals with disabilities and individuals with limited English speaking proficiency.

The committee suggests that the WIA Section 188 Checklist is a very useful tool to assist State boards with respect to assessing physical and programmatic accessibility for people with disabilities.

#### *Eligible Providers of Training Services*

The committee considers the eligibility criteria and corresponding reporting requirements for training providers in current law to be major obstacles to full participation by would-be WIA training providers. In many areas, qualified training providers have refused to make large numbers, or even any, of their programs eligible to receive WIA training referrals because of the burden imposed by these requirements—clearly an unfortunate and unintended development. The primary intent of the eligible training provider list is to ensure that WIA participants can make informed choices between training programs.

The General Accounting Office (GAO) presented testimony to the Subcommittee on Employment, Safety, and Training on July 18, 2003 regarding the impact of reporting requirements on the availability of training options for job seekers:

Training options for job seekers may be diminishing rather than improving, as training providers reduce the number of course offerings they make available to WIA job seekers. According to training providers, the data collection burden resulting from participation in WIA can be significant and may discourage them from participating. For example, the requirement that training providers collect outcome data on all students in a class may mean calling hundreds of students to obtain placement and wage information, even if there is only one WIA-funded student in that class.

The committee intends to promote consumer choice and provider accountability, while simplifying the process to increase the participation of qualified training providers. Eligibility requirements for the Eligible Training Provider List vary widely among local areas. As a result, many excellent training provider organizations cannot attain approval and thus are precluded from formal approval on the Eligible Training Provider List. The committee envisions more user-friendly protocols in order to enhance training provider access to the Provider List. This also would ensure that workers have access to a wider selection of approved training providers as well as greater choice of training programs.

S. 1627 eliminates the current eligibility requirements and authorizes Governors to establish new criteria in their stead. Governors are in the best position to devise eligibility criteria that will ensure that quality training options are available to WIA participants, while not imposing unduly burdensome reporting requirements on training providers. For this reason, S. 1627 invests final discretion with the Governors, but lists a number of factors that the Governors shall take into account when devising their criteria.

S. 1627 requires the Governor's criteria to take into account the performance of training providers on outcomes "for those individuals receiving training services under this subtitle." Training providers repeatedly cite the requirement to report outcomes data for all students in an eligible program, regardless of the number of WIA participants in that program, as the most burdensome of the current requirements. Although S. 1627 does not prohibit Governors from requiring such reporting, by specifically referring to outcomes for WIA participants, the training providers will be statutorily required by WIA to report outcomes data for WIA participants only.

To improve access to services in rural areas, S. 1627 requires the Governor's criteria to take into account the need to ensure access to training services throughout the State. The committee believes that the use of industry recognized standards should be encouraged where practicable, but should not be required. The committee also determined that the ability to provide training services to hard-to-serve populations, including individuals with disabilities must be a criterion.

S. 1627 requires Governors to take into account the information such providers are required to report to State agencies with respect to Federal and State programs, including partner programs, when devising eligibility criteria. The committee notes that, outside of WIA, most public institutions of higher education report substantial amounts of performance outcome data to the States. In such instances, the committee encourages governors to devise eligibility criteria derived from the information already reported to the State by training providers. This would represent a significant reduction of the burden placed on training providers, while still adequately safeguarding the interests of WIA participants.

The committee determined that States should continue to publish statewide lists, and be allowed to determine exactly what information should be reported. The committee expects that such information will be closely aligned with the performance measures established under this Act and be relevant to the vitally important underpinning of informed choice established in WIA. The committee

determined, however, that it was important that local workforce investment boards continue to have the ability to add performance criteria for training providers within their local areas, for use in determining eligibility and continued participation of such providers in the WIA system. However, the committee does not intend such additional local criteria to impede consumer choice.

S. 1627 further retains language exempting on-the-job training and customized training providers from the requirement that they must be listed on the statewide list in order to be eligible to provide services under WIA. Such services and service arrangements are so locally negotiated that they do not lend themselves to such statewide requirement.

The committee recognizes the need for a transition period for implementation of the new requirements. S. 1627 requires that the amendments to the eligible provider requirements be implemented not later than December 31, 2004. The committee encourages Governors to implement such changes prior to December 31, 2004. To avoid undue disruption to the system and facilitate early implementation, the Governor is authorized to establish procedures for allowing currently eligible training providers to continue to provide services until December 31, 2004.

Under current law, local areas are required to determine eligible providers of youth services using a competitive process. The committee has found that the competitive bidding requirement has been difficult to implement in areas with few providers, particularly rural providers. Therefore, the bill authorizes local boards to award grants or contracts on a sole-source basis if the local board determines that there are not a sufficient number of providers in the local area.

#### *Youth Activities*

The Secretary shall continue to make an allotment to provide services for eligible youth. For each fiscal year in which the amount appropriated exceeds \$1 billion, the Secretary shall reserve 1.5 percent of such amount to provide youth services to Native Americans, the greater of \$10 million or 4 percent of the total for migrant and seasonal farm work youth, and up to \$250 million for the new youth challenge grants. One-fourth of 1 percent will be appropriated to provide assistance to the outlying areas, and the Secretary shall use those funds to award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and the Freely Associated States through the Pacific Regional Educational Laboratory. The committee recognizes the importance of the migrant farm worker youth program, which serves the unique needs of this vulnerable youth population.

This bill eliminates the mandatory youth councils. This committee recognizes the important role that Youth Councils have played in the design and implementation of programs geared to the unique needs of young people. Local areas are encouraged to continue successful youth councils or develop advisory groups on or beyond the local board to adequately meet the educational and occupational needs of young people.

The committee addressed a very important issue plaguing the workforce investment system over the past several years—questions over workforce system expenditures—by requiring that states'

and local areas' total accrued expenditures must reach 70 percent each program year, or the unspent amounts shall be subject to reallotment or reallocation, respectively. To ensure that States and localities have adequate time to plan for such a major change in spending requirements, the Committee established the effective date for such new requirements as the latter of PY 2004, or the program year after the date of enactment of the WIA Amendments of 2003. With respect to the definition of "accrued expenditures", the annuities, insurance claims, and other benefits are not intended to be the exclusive list of other amounts becoming owed under programs for which no current services or performance are required. Other long-term training obligations would also fall within accrued expenditures.

Under youth activities, up to 60 percent of the funds will serve in-school youth, age 14–21, and not less than 40 percent will fund activities for out-of-school youth, age 16–21. States may supply information to say that the unique needs in their state require that they serve more in-school youth.

Out-of-school youth are defined as 16–21 year olds who have dropped out of school, or who are within the compulsory age of school attendance but have not attended for a calendar quarter, or who are a low-income individual who is deficient in basic skills or LEP and not attending any school but has received a diploma, subject to the juvenile justice system, a low-income youth who is pregnant or parenting, a homeless, runaway, or foster child who is not attending school, or a low-income individual who requires assistance in completing an education program or to secure or hold a job.

In-school youth are youth aged 14–21 who are low-income and deficient in basic skills or LEP, or homeless, a runaway, or a foster child, or pregnant or parenting, or an offender, or an individual who requires additional help to complete an education program or to secure a job. Up to 5 percent of the participants in each local area may be individuals who are not low-income with respect to the individuals for whom low-income is a requirement for eligibility under this section. The committee believes that students should be able to be served during school hours to provide drop out prevention counseling and programs, in addition to before and after school and in the summer.

Statewide activities may include conducting evaluations, research and demonstration projects; providing incentive grants to local areas for regional cooperation and for exemplary performance providing technical assistance and capacity building to local areas, one stop partners, and eligible providers; operating a fiscal and management accountability information system; carrying out monitoring and oversight activities; providing additional assistance to local areas that have high concentrations of eligible; supporting the development of alternative programs and other activities; and supporting the provision of core services.

Only 5 percent of the money can be used for administrative activities. The committee carefully considered the implications of any proposed changes to the definition of administrative cost. Members of the committee strongly urge the Department of Labor to work the States, localities, and other system stakeholders in consideration of any changes to the existing regulatory definition of administrative cost.

The purposes remain the same as current law. Local programs are to provide an assessment of the academic levels, skill levels, and service needs of each participant, basic skills, occupational skills, prior work experience, employability, interest and aptitudes. This bill adds activities leading to the attainment of a secondary school diploma or its equivalent, and effective connections to employers in the state, in sectors of the local and regional labor markets that are experiencing high growth in employment opportunities.

The program elements must include a priority on exposing youth to technology and nontraditional jobs, and may use techniques such as on-the-job training, or opportunities to acquire financial literacy skills.

#### *Adult and Dislocated Worker Employment and Training Activities*

Witnesses at the hearing held in June before the Subcommittee on Employment, Safety, and Training testified extensively about the challenges in providing appropriate levels of training under the new Act. The principal problem identified was the DOL interpretation of the sequencing of services language found in the current Act.

The committee recognizes that the number of adults and dislocated workers who received training in the initial year of full WIA implementation fell by 73 percent as compared to the number who received training during the final year of the Job Training Partnership Act (JTPA). While the number of individuals who received training in the second year of WIA increased slightly, the number was still far lower than under the final year of JTPA.

The committee has concluded that the sequential eligibility rules have caused confusion at the state and local level, and delays and denials of services to those who could benefit from them. Further, the committee believes the sequential eligibility rules have sent the wrong message that intensive and training services should be reserved for individuals who truly cannot find employment on their own.

This interpretation has often precluded the use of WIA training to help low-wage workers, whether between jobs or currently employed, advance to better jobs. The bill amends current law to provide that if an individual were unlikely or unable to obtain employment that leads to self-sufficiency or wages comparable to or higher than previous employment (with respect to unemployed individuals) through core services, and is in need of intensive services, the individual would be eligible for intensive services.

Eligibility for training services is also changed in the bill to require a determination that an individual is unlikely or unable to obtain or retain employment that leads to self-sufficiency wages comparable to or higher than previous employment through intensive services.

To allow greater flexibility to meet State workforce needs, the bill allows the Governor to redistribute rapid response funds that are unexpended at the end of the program year.

To avoid duplication of services and enhance coordination of services, the committee agreed to require the collocation of Wagner-Peyser employment services at the comprehensive one-stop centers.

S. 1627 allows local areas to spend up to 10 percent of their local funding for adults and dislocated workers to serve incumbent workers and is in keeping with one of the key themes of the bill—a workforce investment system that has the capacity to provide a broad range of workforce development products and services that businesses need to remain competitive.

The committee strongly believes that the system must be “user-friendly” for both job seekers and employers. The committee recognizes that small businesses face unique workforce needs and challenges. The workforce investment system must meet the needs of small employers, as well as larger employers. The committee the designated of a local business liaison in the local to make the workforce system more “user-friendly” to business and responsive to employer needs.

Since its initial implementation, the workforce investment system has progressed significantly to establish relevant initiatives and services to meet employers’ needs. Much of this work has occurred as a result of the private sector leadership on local workforce investment boards. Consequently, in considering changes to WIA that would make the system more relevant for employers, it was clear that the leadership role of business in the design and implementation of the workforce investment system should be strengthened, and that services for business should be significantly improved, to encourage employers to fully utilize the WIA system.

S. 1627 accomplishes this by building upon and strengthening the roles of State and local business-led boards over design of the comprehensive workforce system. The bill requires strong linkages between State and local economic and workforce development efforts. It encourages the identification, development, and implementation of innovative and successful services and strategies that are designed to meet the needs of business, which may include: incumbent worker training programs; sector and industry cluster strategies; brokering and business intermediary strategies; career ladder programs; and other business services and strategies that better engage employers in workforce activities and make the workforce investment system more relevant to the needs of State and local businesses.

The bill expands allowable Statewide and local employment and training activities to include activities that improve coordination between employment and training assistance and programs for individuals with disabilities. These include programs relating to mental retardation, development disabilities, and independent living.

#### *Performance Accountability Measures*

Congress passed WIA to better serve our Nation’s job seekers and employers. The committee strongly believes that States and localities must be held accountable for their performance. However, the committee is concerned that WIA’s performance measures do not provide a complete and accurate assessment of how well States and localities are serving the needs of workers and employers. The committee is also concerned that the performance measures are discouraging states and localities from serving job seekers who face greater difficulty in finding employment or increasing their earnings.

The General Accounting Office (GAO), in its June 18, 2003 report entitled “Exemplary One-Stops Devised Strategies to Strengthen Services, but Challenges Remain For Authorization,” found that:

The performance measurement system under WIA may be causing some clients to be denied services and does not allow for an accurate understanding of WIA’s effectiveness. First, the need to meet performance levels may be the driving factor in deciding who receives WIA-funded services at the local level. Officials in all five states we visited for one study told us that local areas are not registering many WIA participants, largely because local staff are reluctant to provide WIA-funded services to job seekers who may be less likely to find employment or experience earnings increases when they are placed in a job.

After extensive deliberation over the performance measures in WIA, the committee determined not to include an efficiency measures due to concerns that such a measure may lead to creaming (serving only those workers who are most job-ready) and to a lessening of more costly services, including training, for individuals with the most serious barriers to employment (i.e., individuals with disabilities, low education and skills levels, limited English proficient, etc.).

The committee also provides for the use of a regression model for further adjustment of performance measures to reflect the local economy and characteristics of population receiving services. Such a model ensures that local areas are not penalized for serving people with multiple barriers to employment and takes into account changes in local economic conditions when evaluating performance outcomes. Finally, to further capture the system’s success in meeting the needs of employers, the bill encourages States to work with State business and industry associations, employee representatives, and with local boards to identify additional indicators to measure the performance of the workforce system in meeting the needs of employers in the State and local areas.

The committee also decided to retain customer satisfaction and skills attainment as core indicators of performance. Customer satisfaction is essential in determining whether or not the system is meeting the needs of its customers. However, the committee recognizes the difficulty of measuring customer satisfaction in a uniform and comprehensive manner. Therefore, the committee determined that states and localities should not be subject to sanctions based on customer satisfaction. The committee believes that skills attainment is essential if the workforce investment system is to meet the skill requirements of American employers.

The committee was concerned by the lack of measures to gauge the performance of the one-stop system as a whole. In order to measure the system wide performance for the one-stop delivery systems, the bill requires the Secretary of Labor to establish national goals for the adjusted levels of performance for system wide performance.

The General Accounting Office (GAO), in its June 18, 2003 report entitled “Exemplary One-Stops Devised Strategies to Strengthen Services, but Challenges Remain For Authorization,” observed that:



[N]o program has a measure to track job seekers who only use self-service or informational activities offered through the one-stop, which may constitute a large proportion of job seekers. Not knowing how many job seekers use the one-stop's services limits the one-stop's ability to assess its impact.

The committee carefully considered removing the exclusion of those receiving self-service and information activities from the performance measures. In response to concerns raised by states and localities that removing the exemption is not practical, the committee decided to retain the exclusion. The committee strongly encourages local areas to utilize technology (such as swipe cards) to capture information about those that are using the system.

States are not currently required to report to the Department of Labor on the amount of WIA funds spent on training versus core and intensive services. As a result, stakeholders and taxpayers do not have access to national data on the amount of federal WIA funds spent on training; only three States included information on the share of funds spent on training in their 2001 WIA annual reports. In connection with the Committee's intent to increase access to training, the bill requires State annual reports to include information on the amount of adult and dislocated worker funds spent on core, intensive, and training services, respectively. The bill also requires the State report to include the amount and percentage of funds, if any, spent on business services.

Many stakeholders have raised concerns that the current system of negotiating performance levels, which was intended to allow the adjustment of expected levels, has not worked well. Therefore, the bill requires that both State and local performance measures be adjusted using objective statistical methods based on characteristics of hard-to-serve populations. The committee also wants to ensure that the negotiation of performance levels between the Department of Labor and the States is indeed occurring. The committee also believes that effective negotiation between the Governor, the local board and the chief elected official is essential to effective performance at the local level. This negotiation and agreement must take place in order for states and localities to meet desired performance.

When reconsidering both local areas' designation and the system's performance standards, the committee determined that it should continue to build upon the performance-base structure established under WIA. Members decided to base continued local area designation, largely upon the performance and fiscal integrity of local workforce investment areas. Such determination of whether or not a local area performed successfully would be determined by the same criteria used to determine whether or not states and local areas are sanctioned for poor performance under section 136 of WIA.

In order to address concerns that good, even exceptional programs may have problems meeting a specific standard due to economic or other circumstances in a local community, the committee decided to allow sanctions to be imposed only when the State's or local area respectively, performs at less than 80 percent of the local area's sum or cumulative adjusted level of performance for the core indicators of performance described in WIA, for two consecutive years. In other words, a state or local area that performs very well

on average—maybe even at an A– or B+ cumulative average, but fails to meet a single measure, such as the wage increase standard for two consecutive years (which may be due to economic circumstances in the local area beyond their control), will not be sanctioned or lose their local area designation as long as they retain an 80 percent cumulative average. The bill does not require performance of less than 80 percent on all the core indicators for two consecutive years in order for sanctions to be applied.

It is the committee's intent to provide additional funds to the local areas exceeding their performance measures. The Committee also aims to encourage local areas to serve hard-to-serve populations, coordinate employment services under the Wagner-Peyser Act and WIA core services, expand access to training, and implements innovative business and economic development strategies. It is the committee's intent to provide additional funding to local areas that do an exemplary job of serving hard-to-serve populations or effectively coordinating employment services under the Wagner-Peyser Act and WIA core services, expanding access to training, or implementing innovative business and economic development strategies.

#### *Appropriations*

While the 1998 law provided for an authorization of appropriations for a 5-year period, S. 1627 authorizes appropriations for a 6-year time period. In Section 123, the committee authorizes such sums as may be necessary for each of fiscal years 2004 through 2009 for youth activities, adult employment and training activities, and dislocated worker employment and training activities. Current law is retained and remains applicable as to the disbursement of these funds. For single local area States, the Governor could decide to do statewide activities with such incentive grant funds.

#### *Job Corps*

The committee made very few changes to the 1998 law regarding the Jobs Corps program. The bill expands Job Corps eligibility for individuals who qualify for the Chafee Foster Care Independence Program (which relates to youth aging out of the foster care system), as long as these individuals meet other criteria under WIA.

Current law requires that each Job Corps center establish an industry council responsible for such activities as reviewing labor market information to determine the employment opportunities in the local areas for Job Corps students. S. 1627 includes new language to ensure that council members who are employers from outside the local area should those who are likely to hire a significant number of Job Corps enrollees. The bill also requires that industry councils within single local area States must include a representative of the State Board.

S. 1627 amends significantly the performance indicators for Job Corps Centers by directing the Secretary to establish annually expected levels of performance for Centers that relate to each of the core indicators for youth activities, namely the entry into employment, education or advanced training, or military service, the attainment of secondary school diplomas or their recognized equivalents, and postsecondary certificates; or literacy or numeracy gains. The committee believes that using common performance measures

for all federal youth programs will assist in comparing the effectiveness of these programs with each other.

The committee commends Job Corps for its recent efforts to increase opportunities for participants to earn a high school diploma through the establishment of its High School Diploma Initiative (HSDI). The committee encourages the Department of Labor, in consultation with the Department of Education, to examine any potential barriers to Job Corps' participants ability to earn and receive high school diplomas.

#### *Native American Programs*

The committee recognizes the unique relationship between the American Indian, Alaska Native and Native Hawaiian populations and the Federal government. The programs authorized under Section 166 of WIA are to be implemented in a manner consistent with the overall Federal policy toward these groups.

The committee believes that, in order for these programs to be effective, the services of WIA Native American programs must be delivered in a way the meets the special characteristics of these groups and the economic circumstances of Native communities. The bill includes language providing for performance indicators and standards for such programs developed in consultation with the Native American Employment and Training Council and which are based on these special characteristics and circumstances.

The WIA Native American programs are an important component of the full array of Federal programs provided specifically for Native Americans. The committee urges the Native American programs authorized under WIA to work closely with other services provided for Native Americans. The committee recognizes that many tribes and off-reservation organizations have long provided workforce and other services within their own communities.

#### *Migrant and Seasonal Farmworker Programs*

The committee has retained authorization of the Migrant and Seasonal Farmworker Program. While the committee encourages one-stops to improve services to migrant and seasonal farm workers, the committee recognizes the unique needs of this population which necessitate retention of this program. S. 1627 adds a specific reference to the provision of permanent housing as an authorized activity.

#### *Youth Challenge Grants*

Not less than 80 percent of the funds over \$1 billion that are reserved by the Secretary shall be used to fund competitive Youth Challenge Grants; up to 20 percent of the money shall be used to fund discretionary youth programs.

A State or consortium of States, a local board or consortium of boards, an eligible Native American program, or a public or private entity with expertise in the provision of youth activities apply with a local board or consortium of boards may apply for the competitive grants.

The eligible entities shall apply to the Secretary and include a description of the activities and the collaboration with state and local workforce investment systems, a description of the programs of demonstrated effectiveness, a description of the State, local and

private resources that will be leveraged by the grant funds, the levels of performance the eligible entity expects to achieve, an assurance that the State board will endorse these activities, and any other information that the Secretary shall require.

In awarding grants under this program, the Secretary shall make 2-year grants that may be renewed for an additional 3 years if successful, that take into account the quality of the proposed activities, the goals of the project, the extent to which the proposed activities are based on proven strategies, the extent of collaboration with the State and local workforce investment systems, the extent of employer involvement, whether there are other federal funds available for such activities, and the quality of the proposed activities in meeting the needs of the youth to be served. The Secretary shall make sure that there is equitable distribution in awarding the grants.

An eligible entity that is awarded a grant shall use the grant funds to carry out activities that are designed to assist youth, 14–21, in acquiring the skill, credentials, and employment experience that are necessary to succeed in the labor market. Activities may include training and internships for out-of-school youth, dropout prevention activities, activities designed to assist special youth populations, activities that include work experience, paid internships, and entrepreneurial training in areas where there is a migration of youth out of the area.

Grantees shall provide a match of no less than 10 percent that the Secretary may require as cash or in-kind non-federal resource.

The Secretary shall reserve up to 3 percent of the funds for technical assistance and evaluation of program outcomes.

In the establishment of the National Youth Challenge Grants program, Members of the Committee urge the Secretary of Labor to give consideration for the continued funding of successful Youth Opportunity Grant programs. The Youth Opportunity Grants represented a billion dollar investment to increase the long-term employment of youth between the ages of 14 and 21 living in 36 high-poverty urban, rural, and Native American sites. To achieve this goal, the Youth Opportunity Grants concentrated resources in these areas to bring about community-wide impacts on employment rates, high school completion rates and college enrollment rates. Its successor, the Youth Challenge Grants, should draw on the lessons learned through this billion dollar investment and give priority in the award of Youth Challenge Grants to successfully performing Youth Opportunity Grants. Such an approach will ensure the continuation of Youth Opportunity Grant sites already improving the local employment rates for at risk youth, and avoid the unnecessary waste of limited youth funding by eliminating the need for the substantial start up costs that other new Youth Challenge Grants will require.

The Secretary's discretionary grants shall be made to a public or private entity, ensuring an equitable geographic distribution, to provide eligible youth, age 14–21, in economically distressed communities, to complete school and gain the skills necessary to qualify for employment. The Secretary will determine at least a 10-percent match, and may require an evaluation of all funded projects. The committee recognizes that rural areas are often disadvantaged in a competitive grant process. Therefore, the bill directs the Sec-

retary to ensure an equitable distribution to rural areas in awarding discretionary grants.

*Technical Assistance*

The committee recognizes the importance of guidance and technical assistance the Department of Labor provides to State and local boards around the country. The committee strongly encourages the Department to ensure adequate technical assistance and guidance to State and local areas in implementing the amendments to WIA. The General Accounting Office (GAO) has issued a series of reports recognizing the critical need for adequate levels of technical assistance.

The committee recognizes that a number of States and localities have been able to effectively implement that Act because of strong leadership exhibited by elected officials, the private sector, labor and other workforce stakeholders at the State and local levels.

The committee believes the best practices established by various State and local workforce boards can provide invaluable help to those areas still struggling to effectively fully implement the Act. The committee bill directs the Secretary of Labor to develop a system to help States and localities share information regarding their best practices with their counterparts from other States, regions and localities around the country.

Due to the additional complications of implementing the amendments to WIA, the committee strongly urges the Department of Labor to carefully consider the implications of reducing regional Employment and Training Administration (ETA) offices.

*Demonstrations, Pilot, Multiservice, Research, and Multistate Projects*

S. 1627 amends the provisions of section 171 of WIA relating to pilot, multiservice, research, and multistate projects to better reflect the revised purposes of the legislation. Projects that assist national employers in connecting with the workforce investment system are among the new list of projects authorized. The committee encourages the Secretary to enter into national partnerships that lead to the jobs providing self-sufficiency. Authorized projects also include: systems development to improve the maximum effectiveness of WIA programs, projects focused on high-growth industries and sectors and jobs with wages leading to self-sufficiency, integrated systems technology projects, projects that provide retention grants to certain qualified job training programs, innovative projects that improve access to and delivery of workforce services, projects that promote the use of distance learning, and projects that provide comprehensive education, training and support services in coordination with local boards for populations in targeted high poverty areas.

S. 1627 requires the Secretary to conduct a study concerning the role and benefits of industry-based certification and credentials to businesses and workers and the implications of certification to services provided through the system. The committee encourages, where practicable, industry-based certification to be used with respect to the criteria for selecting eligible training providers. However, the committee does not believe that such certification should be required. The effectiveness of the workforce investment system

is dependent upon the system's ability to meet business needs, including small businesses. Therefore, S. 1627 authorizes the Secretary, in coordination with the Secretary of Commerce and Small Business Administration, to conduct a study on the effectiveness of the workforce investment system in meeting business needs.

The committee recognizes that science and technology-based industries have been and will continue to be critical to the economic and national security of the United States, and that the workforce investment system should play an essential role in training individuals for these industries. The committee recognizes that the National Science Foundation's Advanced Technological Education Program has established a successful model that can be used by the Department of Labor for a science and technology and homeland security national skills certification program. In particular, this program has suggested that: (1) Effective skill certification curricula can be developed leading to employment in high-technology industries; (2) strong cooperative links can be created between the various stakeholders in the workforce area; and (3) innovative care pathways can be established for individuals that previously lacked economic opportunity. The committee encourages the Secretary of Labor to fund the national skills certification demonstration project established under this section so the purposes of the project can be effectively attained.

The committee recognizes that individuals of limited English proficiency (LEP) now form a substantial portion of the civilian workforce and are employed in a range of industries essential to the economic and national security of the United States. The committee recognizes that in order to serve the needs of these individuals and to maintain the competitive advantage of the United States, new approaches to workforce training must be identified and pursued. In particular, efforts must be made to develop innovative, flexible programs that: (1) Integrate occupational skills training with English language acquisition; (2) encourage cooperation between stakeholders in the workforce area; and (3) increase the career-ladder economic opportunities of workers. The committee encourages the Secretary of Labor to fund the integrated workforce training demonstration project established under this section so the purposes of the project can be effectively attained.

#### *National Dislocated Worker Grants*

The National Emergency Grants will now be known as National Dislocated Worker Grants. These grants will continue to assist State and local areas respond with job training and assistance when to significant numbers of workers suffer from dislocation due to mass layoffs or plant closings. This bill adds the ability of the secretary to respond in partnership with the Department of Defense Veterans' Affairs transition assistance programs. When an area faces a higher than average demand for employment and training for dislocated members of the Armed Forces and their spouses it is the opinion of this committee that the area can apply for a National Dislocated Worker Grant.

The committee recognizes that States may experience dislocations across multiple sectors or across multiple local workforce areas, in a manner that leads to significant overall reduction in employment opportunities and economic growth, especially in rural

areas. The committee authorizes the Secretary to provide assistance to a State for statewide or local use in order to address such dislocations.

Not more than \$20 million will be used to lessen the burden of formulas shifts in the Disadvantaged adult formula.

#### *Administration*

The 1998 law prohibits WIA funds from being used for economic development activities. The committee has removed this prohibition in S. 1627, as it believes it to be advantageous to encourage closer links between the job training system and economic development systems to prepare the 21st century workforce for career opportunities and skills in high-growth sectors.

In keeping with the committee's emphasis on tracking performance, S. 1627 includes a new provision requiring the Secretary of Labor's annual report to Congress to include the negotiated levels of performance of the States, the requests for adjustments of such levels from the States, and any adjustments of such levels that are made.

The bill makes clear that the Secretary cannot waive statutory or regulatory requirements relating to the funding of infrastructure costs for one-stop centers. Further, S. 1627 instructs the Secretary to expedite waiver requests that have been approved for a State.

Finally, the bill amends current law to provide that property purchased with Federal equity can be sold and the proceeds used for UI or Wagner-Peyser.

#### *Incentive Grants to States*

It is the committee's intent to provide additional funds to those States exceeding their performance measures for WIA, Adult Education, and vocational education. Beginning on July 1, 2005, it is also the committee's intent to provide additional funds to those States doing an exemplary job of serving hard-to-serve populations and those that are effectively coordinating employment services under the Wagner-Peyser Act and WIA core services, expanding access to training, or implementing innovative business and economic development strategies. Incentive grants awarded to States are to be used to carry out activities authorized under chapter 4 and 5 of WIA, Adult Education, and Carl D. Perkins Vocational and Technical Education Act, including demonstration projects and innovative programs for serving hard-to-serve populations.

### TITLE II—AMENDMENTS TO THE ADULT EDUCATION AND FAMILY LITERACY ACT

#### *Purpose*

The committee believes that attention to the nation's growing immigrant population is appropriately included in the purposes of this Act. The Amendments to the Adult and Family Literacy Act include a new paragraph specifying the need for adult education and literacy programs to give attention to immigrant and limited English proficiency populations, including a focus on American civics and history, in addition to reading, writing, speaking, and mathematics skills.

Additionally, the committee has added assisting adults in the transition to postsecondary education to the Act's stated purposes. In a 2001 survey by the GED Testing Service, over 65% of the GED examinees indicated that they were obtaining the credential in order to pursue further education, and yet research shows that only about one-third of GED holders obtain any postsecondary education. The committee recognizes that adult education and literacy programs are poised to provide the support, tools, and motivation to help pave the way for adults to complete a secondary school education and continue on to postsecondary education.

#### *Performance Accountability System*

The committee believes that eligible agencies should take appropriate steps to measure the impact of their services in adult education and literacy. In order to reach this objective, it is important to strengthen the current accountability provisions. Thus, new employment performance indicators are established for States, including entry into employment, retention in unsubsidized employment, and career advancement. Eligible agencies are also required to include in their State plans a description of how they will annually evaluate and measure their effectiveness on a grant-by-grant basis, and how they will hold eligible providers accountable regarding their progress in improving academic achievement and the core indicators of performance. Eligible agencies are authorized to use technical assistance, allocate grant funds based on performance, and terminate grant funds based on performance, in order to hold adult education providers accountable. The committee also believes it is important for programs that are not meeting performance indicators to work with the Secretary to develop and implement plans for improving outcomes. Further revisions of a State plan may be required as an eligible agency develops a plan to improve outcomes.

The committee also believes it is important to treat workplace literacy programs in a way that is consistent with their unique design. Workplace literacy programs address specific reading, writing and math skills in the context of work and are likely to be of shorter duration and have more specific, customized goals than other types of adult education programs. Adult educators work with employers to develop a curriculum that integrates basic skills instruction based on job-specific needs. Math instruction for manufacturing employees, for example, may include lessons in reading and interpreting statistical processing control charts, while reading and writing instruction may incorporate technical manuals and reporting forms that are used on the job. Student assessments must often be customized as well because learning gains made in using job-related materials may be only partially reflected in a standardized test that evaluates general literacy skills. Employers may also wish to use indicators of workplace productivity, such as error or accident rates, to evaluate the effectiveness of instruction in improving the performance of their employees. For these reasons, S. 1627 gives the Secretary the authority to work with individual States, on a voluntary basis, to agree upon alternative approaches to measuring the learning gains of adults who participate in workplace literacy programs.

The committee recognizes that not all States have access to unemployment insurance wage data, and that those States with such



access are better equipped to accurately comply with the Act's requirements regarding certain employment performance indicators. For that reason, the report made available to the Secretary by each State's eligible agency should reflect the State's status with respect to that issue.

#### *Workplace Literacy Performance Measures*

Workplace literacy programs address specific reading, writing and math skills in the context of work and are likely to be of shorter duration and have more specific, customized goals than other types of adult education programs. Adult educators work with employers to develop a curriculum that integrates basic skills instruction based on job-specific needs. Math instruction for manufacturing employees, for example, may include lessons in reading and interpreting statistical processing control charts, while reading and writing instruction may incorporate technical manuals and reporting forms that are used on the job. Student assessments must often be customized as well because learning gains made in using job-related materials may be only partially reflected in a standardized test that evaluates general literacy skills. Employers may also wish to use indicators of workplace productivity to evaluate the effectiveness of instruction in improving the performance of their employees. For these reasons, S. 1627 gives the Secretary the authority to work with individual States, on a voluntary basis, to agree upon alternative approaches to measuring the learning gains of adults who participate in workplace literacy programs.

Facilitating training sessions in a simulated work environment is an innovative and very effective way to bring about the best possible outcomes in a short period of time. The opportunity for students to perform specific writing tasks, tracking & logging different types of data, and various other simulated work activities in an environment that looks, feels, and functions like the real thing is invaluable. When actual workplace forms, documentation, and materials are used and standard workplace procedures followed, the experience for students is extremely relevant and completely authentic.

#### *State Plan*

The committee believes it is important to align the Workforce Investment programs with the Adult Education and Family Literacy programs. S. 1627 would replace the current five year State plan with four year plans in both the workforce and adult education portions of the bill.

Recognizing that collaboration between services is essential, S. 1627 revises the requirements of the State plans to emphasize greater collaboration between adult education programs and other federal, State or local efforts, including those authorized under Title I, to reach the same eligible population. The State must also demonstrate in its State plan how it will hold eligible providers accountable for improving the academic achievement of eligible participants in adult education programs according to the core indicators of performance and the requirements of the performance accountability system section. Underscoring the need to provide services to an ever-growing adult population, the State must also focus

on building the capacity of organizations that provide adult education and literacy activities.

The committee is interested in ensuring that States make the necessary effort to include professional development in their plans in order to improve teacher quality, as well as coordinate with the appropriate federal, State and local support services to permit the greatest number of eligible participants to receive adult education and literacy training. Support services, such as child care, transportation, mental health services, and case management, help adult learners get the assistance they need so they can focus on, and successfully complete, their studies. These coordination efforts should take into account the needs of individuals with disabilities, limited English proficiency or other special needs.

#### *Programs for Corrections Education*

The committee continues to support the provision of adult literacy activities in correctional institutions and for other institutionalized individuals. The provision of literacy skills instruction, instruction in the English language, special education instruction and secondary school credit programs assist offenders as they begin the difficult task of re-entry after serving their time. The committee continues the priority for those individuals who are within 5 years of completing their sentences.

#### *Maintenance of Effort*

This section upholds the committee's strong belief that adult literacy activities are a partnership between the State and Federal Government to maintain funding to address the growing needs of young and working adults in this country to improve their literacy skills in order to support themselves and their families.

Federal funding for adult education and family literacy activities historically has been provided to establish Federal and State partnerships to provide adult education and literacy services. It has been recognized that State and local governments should and would contribute funding that responds to their adult learning needs and supplements the base operating funds provided by the Congress.

The Maintenance of Effort provisions in Section 251(b) hold the States responsible for maintaining that commitment at not less than a 90 percent rate and limit the erosion of State and local funds that would cause instability in program services.

To that end, the technical language amendments to section 241 are not to be interpreted to mean that State maintenance of effort requirements should be reduced in any way.

#### *Integrated English Literacy and Civics Education*

The committee recognizes the need for integrated English literacy and civics education programs to help States and communities provide limited English proficient adults with expanded access to high quality English literacy programs linked to civics education. In recent years, appropriations legislation has mandated that a certain amount of the State adult education grants under the Act be provided according to the formula contained in section 218. The committee feels that this is a worthwhile funding mecha-

nism for serving a key population of adults, and for that reason has included this mechanism in S. 1627.

The committee notes that the formula is based on data that had previously been maintained by the Immigration and Naturalization Services (INS). The Homeland Security Act of 2002 (P.L. 107–296) consolidated the INS into the Department of Homeland Security and redesignated the Immigration and Naturalization Service as the United States Citizenship and Immigration Services (USCIS). The committee expects that the redesignation will not interrupt the availability of the appropriate data.

#### *Numeracy*

The committee feels that mathematical skill, or “numeracy,” is a key element of adult basic skills. It is vitally important that adults completing adult education programs funded under this act be able to effectively manage the mathematical demands of the workplace, the family and society generally.

#### *Adult Learners With Learning Disabilities*

The committee, through provisions such as those in the State Leadership Activities, State Plan, and Grants and Contracts for Eligible Providers sections of the Act, has placed an emphasis on serving adult education students with learning disabilities. Individuals with learning disabilities make up a large proportion of the population in need of adult education and literacy programs, and yet their disability often goes undiagnosed or there are no services available that are tailored to their specific needs. As such, the committee adds these provisions in order to ensure the evaluation of adult students for learning disabilities and the development of programs to meet the needs of such students.

### TITLE IV—REHABILITATION ACT AMENDMENTS

#### *Introduction*

The major goals of the Rehabilitation Act Amendments of 2003 provisions are to: strengthen individual choice and transition planning for individuals with disabilities; create a stronger link between the Rehabilitation Act, the President’s New Freedom Initiative and the Olmstead Executive Order (13217: Community-Based Alternatives for Individuals with Disabilities); increase the opportunity to expand Vocational Rehabilitation partnerships with business/employers; and improve coordination with other employment programs such as the Workforce Investment Act and the Ticket to Work Act.

The intent of the reauthorization is to create a seamless Federal job training system. Title I of the Workforce Investment Act (WIA) dramatically reforms the nation’s job training system in an attempt to better serve more people. Although the Rehabilitation Act is a disability program, its central function is to provide job training and employment supports for persons with disabilities. To properly develop a comprehensive national job training system, this program must be synchronized with the amended programs under WIA. Therefore, the committee desires to facilitate that goal by aligning the two systems. The Rehabilitation Act includes extensive links between State vocational rehabilitation agencies and State

workforce systems. Amendments fostering alignment are found throughout the bill in sections pertaining to the findings and purposes of the legislation, definitions, program administration, reports, information dissemination, and State plan requirements, including data reporting. WIA also includes complementary and parallel provisions to promote a link between vocational rehabilitation agencies and State workforce systems. The committee strongly intends that this partnership not violate the integrity of the vocational rehabilitation system.

The committee desires to build a stronger connection between the Rehabilitation Act, the President's New Freedom Initiative and the Olmstead Executive Order (13217: Community-Based Alternatives for Individuals with Disabilities). A major objective of both the New Freedom Initiative and the Olmstead Executive Order is to ensure that all Americans have the opportunity to engage in productive employment, to live close to their families and friends, to live more independently, and to participate in community life. The Rehabilitation Act supports this laudable objective and promotes the full participation of people with disabilities in all areas of society by increasing access to assistive technologies, expanding employment services and opportunities, and promoting increased access into daily community life.

The committee also believes that it is critical to coordinate the activities and objectives of the Rehabilitation Act with the Ticket to Work Act and the Individuals with Disabilities Education Act. State vocational rehabilitation agencies should proactively provide information to Social Security Title II and Title XVI disability beneficiaries who may or may not be eligible for the Ticket to Work program. This should include information on the availability of other federally funded employment and health services and information and referral services for individuals that are not eligible for vocational rehabilitation services due to an order of selection. The committee also intends to increase exposure to career options and vocational exploration for students with disabilities in high school in order to facilitate the student's transition to the vocational rehabilitation program. Additionally, S. 1627 requires transition planning for each student in order to link the individualized education plan (IEP) with the individualized plan for employment (IPE) to ensure that the IPE integrates planning, information, and assessments from the IEP for students age 14 or younger.

During the reauthorization process, the committee conducted panel discussions on the reauthorization with stakeholders and engaged in an open and lengthy negotiation process that included vocational rehabilitation consumers, consumer advocates, the U.S. Department of Education, and State vocational rehabilitation agencies representatives.

Through those processes, the committee learned that it needs to simplify the delivery of vocational rehabilitation services and increase the ability of State vocational rehabilitation agencies and job training agencies to work together to reach and assist individuals with disabilities. In this reauthorization, the committee creates new opportunities and expands existing ones to improve employment options for individuals with disabilities. S. 1627 includes a requirement that vocational rehabilitation agencies provide a list of community resources for vocational rehabilitation consumers, in-

cluding community organizations or individuals with disabilities that may be able to assist the individual in creating an individualized plan for employment (IPE). The committee strongly encourages agencies to allow individuals to develop their own IPEs and have the opportunity to work with an individual of their choice who has experience in developing such a plan. This enhances the consumers' ability to make informed, independent, and effective choices.

The committee permanently authorizes the Administration's Vocational Rehabilitation Incentive Grants, encouraging vocational rehabilitation agencies to adopt effective strategies to improve employment outcomes for individuals with disabilities under the vocational rehabilitation program. Finally, S. 1627 strengthens the Commissioner's authority to direct States to make revisions to their State plan to improve performance, which may include allocating a higher proportion of resources to services to individuals with disabilities.

#### Provisions Preceding Title I

##### *Purposes and Definitions*

The bill adds an additional purpose of the Rehabilitation Act: to give employers and rehabilitation service providers the opportunity to provide meaningful input at all levels of government to ensure successful employment of individuals with disabilities. The committee wants to ensure that business and employment providers play a critical role in helping individuals with disabilities obtain successful employment outcomes.

The committee added and revised a number of definitions in the Rehabilitation Act. S. 1627 adds the term "literary services" to the list of specifically authorized vocational rehabilitation services for individuals to ensure that individuals with significant disabilities have the necessary literacy skills to achieve high-quality, competitive employment outcomes. The committee used the same definition of "literacy" as used in the Adult Education and Family Literacy Act for the sake of consistency across Federal programs. The bill also adds a definition of "consumer organization" to help facilitate access to individuals and organizations that can assist consumers in making fully informed and effective choices in developing their individual plan for employment. The committee has also expanded the definition of "independent living core services" to include maintaining individuals with significant disabilities or transitioning individuals with significant disabilities to community-based living. This change is intended to help carry-out the goals and objectives of the President's New Freedom Initiative and the Olmstead Executive Order.

The committee has included the term "post-employment services," intending to make vocational rehabilitation services readily available to consumers who have already achieved an employment outcome. This provision authorizes programs and additional services necessary for an individual to retain his or her job or advance in his or her career.

Finally, the term "student with a disability" means an individual with a disability who attends elementary or secondary school and who: (1) Is between the ages of 14 and 21; (2) is eligible for VR

services; and (3) receives special education under IDEA or is considered an individual with a disability under section 504. The definition is consistent with the definition in Title II of S. 1248 “Individuals With Disabilities Education Improvement Act of 2003.”

The committee notes that the Commissioner of the Rehabilitation Services Administration has been appointed by the President to administer programs under the Rehabilitation Act and concurrently has been appointed to represent the Department of Education on the Committee for Purchase From People Who Are Blind or Severely Disabled, which administers the Javits-Wagner-O’Day (JWOD) Program. The committee recognizes confusion among designated State units under Title I of the Rehabilitation Act in implementing a regulation issued in 2001 which narrowed the definition of “employment outcome” to exclude placements in what RSA defined as “non-integrated settings.” The committee recommends that the RSA Commissioner review and clarify policies to include consideration of wages (when above minimum-wage), benefits and opportunities for upward mobility as well as the number of other individuals with disabilities in a workplace when approving a client’s choice of employment outcome goal under a proposed Individual Plan for Employment.

#### *Administration*

As stated earlier, the committee recognizes the importance of including local businesses as key players in the vocational rehabilitation system. In order to create additional employment opportunities for consumers of vocational rehabilitation services it is imperative that the business community be viewed as partners in the system. It is the business community that can bring success to the VR program by hiring individuals with disabilities as employees. To help accomplish this, section 405 of the bill authorizes the RSA to provide technical assistance to vocational rehabilitation agencies on developing successful partnerships with local employers, with the intent of enhancing choice and employment opportunities for people with disabilities. The committee notes one example of a successful partnership developed under the Projects with Industry program of the Rehabilitation Act. Over 2,500 businesses are represented on Business Advisory Councils that assist in developing and directing placement programs across the country. The committee encourages the RSA to continue to be innovative in building partnerships with business and to use readily available resources, such as the Business Advisory Councils, for support and guidance while developing technical assistance to vocational rehabilitation agencies.

#### *Carry Over*

Section 406 eliminates the carry over funds provision for centers for independent living and for independent living services for the older blind. The bill also adds a new separate provision relating to unobligated and expended funds for the Protection and Advocacy for Individual Rights (PAIR) program similar to use of unobligated and unexpended funds for other programs. Finally, section 406 authorizes the PAIR program to carry over appropriated funds for 1 year and program income until expended. The committee intends to give PAIR programs the ability to plan activities and have great-

er flexibility when using dollars paid to a PAIR program for a fiscal year that remain unobligated at the end of such year.

## TITLE I—VOCATIONAL REHABILITATION SERVICES

### Subtitle A—Vocational Rehabilitation Services

#### AMENDMENTS TO PART A—GENERAL PROVISIONS

##### *Declaration of Policy; Authorization of Appropriations*

Section 1627 authorizes appropriations for the Rehabilitation Act Amendments of 2003 for six years, from fiscal years 2004 through 2009.

##### *State Plans*

Section 412 of S. 1627 amends the State plan requirements to encourage the recruitment of qualified people with disabilities as VR counselors and other VR personnel. The committee believes that people with disabilities are uniquely qualified to provide assistance and guidance to consumers of vocational rehabilitation services. The bill also requires that continuing education for rehabilitation personnel coordinate with State programs carried out under the Assistive Technology Act.

Additionally, State plan requirements are changed by including training implemented in coordination with State programs carried out under section 101 of the Assistive Technology Act of 1998.

The committee recognizes that a number of policy issues arise as State vocational rehabilitation agencies implement the Ticket to Work and Self-Sufficiency Program, authorized under title I of the Ticket to Work and Work Incentives Improvement Act of 1999. Of particular concern is the impact of the Ticket to Work program on the requirement that vocational rehabilitation agencies determine whether comparable services and benefits exist under any other programs, and whether those services and benefits are available to the individuals seeking services from the vocational rehabilitation agency. This is currently required prior to the agency's agreeing to vocational rehabilitation services to the eligible individual. Under the Ticket to Work program, a private provider may be approved by the Social Security Administration (SSA) to function as an Employment Network (EN). The EN receives payments from SSA when the services provided to a beneficiary, whose ticket is assigned to that EN, goes to work and meets the requirements for milestone and outcome payments. In Section 412, the committee intends to clarify that a State vocational rehabilitation agency is expected to consider, as a comparable service or benefit, those services actually provided to a beneficiary under the individualized work plan (IWP) developed by the beneficiary and the EN to which the beneficiary's ticket is assigned. The committee also intends to clarify any misconception that all services and benefits listed on an EN's application to SSA may be considered as comparable services and benefits. The committee recognizes that State vocational rehabilitation agencies may experience difficulty in identifying the services and benefits that a particular beneficiary is receiving from an EN because of privacy rules. Notwithstanding these confidentiality concerns, the committee intends that, when a beneficiary is seeking assistance from both an EN and a vocational rehabilitation agency,

the information on the EN, the services, and benefits being provided under the beneficiary's IWP, be made available to the vocational rehabilitation agency for the purposes of identifying comparable services and benefits.

In section 412, the committee has streamlined the administration of the State vocational rehabilitation program by conforming the data reporting requirements of the Rehabilitation Act with the federal job training system in Title I of S. 1627. The specific data reporting requirements include: the cord indicators of performance; the number of individuals with significant disabilities who exited the program carried out under this title, including the number of such individuals who achieved employment outcomes after receiving vocational rehabilitation services; and the number of individuals who received vocational rehabilitation services who entered and retained employment and the increases in earnings of such individuals.

The committee expects State vocational rehabilitation programs to also include descriptions of interagency cooperation as a requirement in their State plan with State programs carried out under section 101 of the Assistive Technology Act of 1998.

The committee intends to coordinate the activities and objectives of the Rehabilitation Act with the Individuals with Disabilities Education Act. To this end, Section 412 requires transition planning for each student in order to align the individualized plan for employment (IPE) with the individualized education plan (IEP) to ensure that the IPE integrates planning, information and assessments from the IEP process for students age 14 or older.

The committee desires to increase coordination between the various employment training programs for people with disabilities, and sees the need for a stronger relationship between the vocational rehabilitation system and the Ticket to Work Act. Therefore, section 412 requires the State vocational rehabilitation agency to coordinate its activities with the State agency that administers the Ticket to Work and Self-Sufficiency Program. The State plan must also include descriptions of interagency cooperation with other agencies that carry out other programs, such as the Assistive Technology Act.

Section 412 of the bill also authorizes State vocational rehabilitation agencies to establish an expanded program of information and referral services for States with restrictive orders of selection. In addition, the bill authorizes a program of information and referral for Social Security disability beneficiaries eligible for the ticket to work program but who may not meet the eligibility criteria of the State vocational rehabilitation agency. This program will provide important information on the Benefits Planning, Assistance, and Outreach Program authorized under Section 1149(d) of the Social Security Act, the Protection and Advocacy for Beneficiaries of Social Security program authorized under Section 1150 of the Social Security Act, Medicaid, Medicare, and other federally-funded medical assistance programs. The committee encourages a reciprocal exchange of information by Employment Networks, Medicaid and Medicare agencies, as well as Social Security District Offices, to inform consumers about the vocational rehabilitation system if such services would benefit that person.



The committee also encourages State agencies to keep in mind the new definition of “post-employment services” as they conduct information and referral services, so that consumers may receive these services as they advance in employment.

The committee recognizes the administrative burden and cost to State vocational rehabilitation agencies to maintain a specific point of contact for referrals made. Of critical importance to the consumer, however, is access to up-to-date and accurate information as they attempt to navigate the often unfamiliar employment training process offered by recommended agency or organization. Therefore, section 412 revises the point of contact requirement so that the vocational rehabilitation agency will provide point of contact information to the maximum extent possible. It is not the intent of the committee, however, for vocational rehabilitation agencies to stop collecting and providing this information.

*Eligibility and Individualized Plan for Employment*

The committee believes that it is the responsibility of the vocational rehabilitation counselor to inform an eligible individual about available options, including consumer organizations, to assist in developing the individualized plan for employment (IPE) and for exercising informed choice, as well as making sure the individual understands these options. Based on the needs or expressed interests of the individual, the committee authorizes the State vocational rehabilitation agency to make available any information it routinely collects, requests, or receives from consumer organizations on the availability of such resources to assist the individual in developing the IPE. The committee realizes that it would take considerable time and resources for a State vocational rehabilitation agency to develop and maintain a list of such resources and organizations. Therefore, the committee is only requiring the State vocational rehabilitation agency provide such information to individuals that it serves to the extent that such information has been made available to the State vocational rehabilitation agency and is requested by the consumer. Additionally, the committee expects consumer organizations such as the State Independent Living Councils, Independent Living Centers, University Centers for Excellence in Developmental Disabilities, and grantees under subtitle C of this act, and other local disability related organizations, to submit information on such resources and organizations to the State vocational rehabilitation agency for dissemination to individuals interested in exercising the option of seeking outside assistance in developing their IPE.

As previously mentioned, there are several employment training programs for people with disabilities, and it is the intent of the committee to coordinate these programs. Therefore, the committee includes the benefits offered through the Ticket to Work Act as options for individuals developing the individualized plan for employment.

Section 413 also adds a new provision specifying that the IPE of an individual be amended, as necessary, to include post-employment services and service providers necessary for the individual to maintain or regain employment, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

In addition, section 413 requires that mentoring services be a mandatory component of an IPE if they are necessary to achieve an employment outcome.

The committee believes that it is both necessary and desirable to coordinate the activities of the Individuals with Disabilities Education Act with the new post-employment goal provision of the Rehabilitation Act. Therefore, section 413 of the bill clarifies that for a student with a disability, the description of the specific employment outcome in the student's IPE may also be a description of the student's post-school goals and projected/anticipated employment outcome. Additionally, the committee clarifies that the IPE must describe the specific transition services that the student needs to achieve the employment outcome, including work experience and mentoring activities as appropriate.

It is important to coordinate the various federal employment training programs for people with disabilities. Therefore, section 413 requires that the IPE of an individual who is receiving assistance under the Ticket to Work program must include a list of services that individual is receiving from an Employment Network other than the designated State unit.

The committee supports informed choice for consumers of vocational rehabilitation services. To further this goal, section 413 amends the due process requirements of the law to acknowledge the importance of a consumer's right of informed choice when engaged in due process with the State vocational rehabilitation agency.

#### *Vocational Rehabilitation Services*

Section 414 of the bill amends Section 103 of the Rehabilitation Act to add literacy services and mentoring services to the list of vocational rehabilitation services provided under the act.

#### *State Rehabilitation Council*

The committee recognizes that several States do not have an American Indian Vocational Rehabilitation Services (AIVRS) representative on the State rehabilitation council because the projects serving American Indians in those States are not physically located in that particular State. AIVRS projects are currently authorized to serve Native American/American Indian consumers that reside in other States. The committee addresses this issue in Section 415 of the bill by modifying language in Section 121 of the Rehabilitation Act. Under this new provision, in a State in which one or more AIVRS projects provide services under section 121, and the project does not physically reside in the State where it provides the services, at least one representative of the directors of the projects must serve on the State rehabilitation council.

Section 415 also gives the Council the authority to select a chairperson from among the voting membership of the Council.

#### *Evaluation Standards and Performance Indicators*

Current statutory authority to address poor performance as measured by the vocational rehabilitation program's standards and indicators is extremely limited. The committee believes that additional authority is needed to ensure that poor performing States reach acceptable levels of performance. Therefore, section 416 au-

thorizes the Commissioner to review the program improvement efforts of the State on a biannual basis and, if performance has not improved to acceptable levels, direct the State as necessary to make further revisions to the plan to improve performance, including allocating additional resources to services for individuals with disabilities.

#### AMENDMENTS TO PART B—BASIC VOCATIONAL REHABILITATION SERVICES

##### *State Allotments*

Each year, under current law, the appropriation for the vocational rehabilitation services program under Subtitle A of the Rehabilitation Act is automatically increased by a cost of living adjustment (COLA) based on the Consumer Price Index (CPI). While the entire appropriation for vocational rehabilitation programs receives an overall funding increase that, at a minimum, keeps pace with increases in the CPI, each State agency does not necessarily receive an increase that keeps pace with the CPI. The allocation that each vocational rehabilitation program receives is based on a funding formula, in which the State's overall population and per capita income determine the allocation that a State vocational rehabilitation program receives. The committee recognizes that in States where caseloads are constant or increasing, but the State is losing general population, the State typically does not receive a percentage increase in funding that equals the percentage increase for the amount appropriated for the entire vocational rehabilitation system. Additionally, the committee recognizes that the per capita income factors authorize significantly more funds, on a per capita basis, to States with lower per capita incomes. Yearly, States return millions of federally appropriated dollars to carry out vocational rehabilitation services program under Subtitle A to the Department of Education to redistribute, as they were unable to match the allotted funds with State dollars. The committee has addressed this issue in section 417 by giving States that did not receive a cost of living increase priority in applying for these returned appropriated dollars. However, committee intends that these States be eligible only for an amount that will give them an increase that equals the COLA for that particular fiscal year, taking into account the amount the State's initial allotment increase for that fiscal year. The committee does not intend that the reallocated funds be unavailable to States that did receive a COLA through the initial allotment. Rather, the committee intends to give the States that did not receive a full COLA increase a priority for applying for reallocation funds, and then open up the reallocation funding to all State vocational rehabilitation programs that can meet the necessary State match requirements.

The committee understands the need to strengthen the American Indian Vocational Rehabilitation Services (AIVRS) program by improving program stability. Therefore, section 417 authorizes a steady expansion of the AIVRS program by increasing the allotted amount for the programs 0.075 percent each year until it reaches the current maximum of 1.5 percent. The committee intends that RSA will not create/award new AIVRS programs until all existing AIVRS programs are funded at their required level.

### *Client Assistance Program*

Section 418 amends the Client Assistance Program (CAP) to allow the public or private agency designated by the Governor to operate the program to apply for CAP funding. Under current law, the agency that has been designated by the Governor to operate the CAP does not submit the application for funding. Additionally, under current law, the State is required to submit the application and is accountable to the Department of Education for the performance of the CAP. The committee believes that authorizing the designated agency to apply directly for CAP funding will improve and streamline the application process by having the entity responsible for the day-to-day operation of the CAP submit the application, including the necessary assurances, rather than the Governor, who is removed from the day-to-day operation of the CAP. The committee does not believe this change will affect the Department's ability to ensure program accountability.

The committee recognizes that the American Indian Consortium is a protection and advocacy system as defined in the Development Disabilities Assistance and Bill of Rights Act and was established and designated by the region's tribal council. The American Indian Consortium currently administers seven protection and advocacy programs; however Native Americans with disabilities that reside within the Consortium do not have access to the services of the Client Assistance Program. Therefore, section 418 authorizes funding for the Client Assistance Program to serve this group of Native Americans as soon as the annual appropriation for the CAPs reach \$13 million.

The committee understands the importance of training and technical assistance and how it would benefit the Client Assistance Program. To this end, section 418 authorizes training and technical assistance for the Client Assistance Programs as soon as the annual appropriation for the CAP program reaches \$14 million. The committee intends that these funds be coordinated with, but distinct from, the existing interagency contract providing training and technical assistance to the other protection and advocacy programs.

### *Incentive Grants*

Based on program data and other sources of information, it is apparent that there is wide variation in the performance of individual State vocational rehabilitation agencies. In section 419 of S. 1627, the committee permanently authorizes the Administration's Vocational Rehabilitation Incentive Grants Program as a method to encourage State vocational rehabilitation agencies to improve their performance. The committee intends that grant funds be used primarily to encourage State VR agencies to adopt effective strategies to improve employment outcomes for individuals with disabilities receiving assistance under the VR program. Grants are awarded to State VR agencies based on their performance on the vocational rehabilitation performance indicators established under the Rehabilitation Act and other appropriate performance indicators as determined by the Commissioner of RSA. The committee also intends that the criteria for applying for funds be developed in collaboration with State VR agencies and other vocational rehabilitation stakeholders, including vocational rehabilitation consumers and consumer organizations. Additionally, the committee believes that

an appropriate use of Incentive Grant funds includes supplementing the federal allotment for vocational rehabilitation services for those States that did not receive a full cost of living increase if the funds returned for reallocation are not sufficient to support such increases per the new reallocation priority established in section 417 of the bill.

#### AMENDMENTS TO PART C—AMERICAN INDIAN VOCATIONAL HABILITATION SERVICES

##### *Vocational Rehabilitation Services Grants*

In Section 420 of the bill, the committee better coordinates the American Indian Vocational Rehabilitation Services (AIVRS) program with the Vocational Rehabilitation State grants program by referencing vocational rehabilitation services that are consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

The committee is concerned with reports from the American Indian Vocational Rehabilitation Services (AIVRS) and the Consortia of Administrators for Native American Rehabilitation (CANAR) that tribal councils for other administering programs often try to utilize inappropriately vocational rehabilitation funding or make programmatic decisions. In response to this concern, section 420 protects AIVRS programs from having other entities make decisions concerning consumers so that all decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of these services will be made by a representative of the AIVRS program.

The committee also intends to strengthen the AIVRS program by improving program stability. A recent evaluation of the AIVRS program found that program stability continues to be a major concern of American Indian tribes operating these projects. The study also noted that better outcomes and greater cost-effectiveness were positively related to project staff with more vocational rehabilitation experience and projects with more years of federal funding. Under current law, AIVRS projects must re-compete for funding every 5 years. Therefore Section 420 provides that AIVRS programs must be renewed for additional 5-year periods if the Commissioner of RSA determines that the grantee has demonstrated acceptable past performance, and submits a plan to be approved by the Commissioner that identifies future performance criteria, goals, and objectives.

Finally, section 420 adds a new provision requiring the Secretary to give priority to paying the continuation costs of existing projects and authorizing the Secretary to provide for increases in funding for such projects as necessary.

##### *GAO Studies*

As discussed earlier, the goal of this reauthorization is to coordinate all employment-training programs available for individuals with disabilities. The committee wishes to track the interplay between the Ticket to Work and Work Incentives Improvement Act, the Ticket to Work program and the VR program in Subtitle A of the WIA. To that end, section 421 provides for an independent review of the interaction between the Title I Vocational Rehabilitation

tion Program and the Ticket to Work and Self Sufficiency Program, and the impact of this relationship on beneficiaries, community rehabilitation programs and State VR agencies. The bill requires the Comptroller General to issue a comprehensive report on these issues to enable Congress to determine what appropriate steps can be made to help resolve challenges that the two programs face as they attempt to serve a similar population of individuals.

Additionally, the committee calls for a study of the relationship between the Title I State allotment formula and the ability of States to provide vocational rehabilitation services in accordance with State plan requirements. The bill requires GAO to consult with the appropriate entities, and the Comptroller General to issue a report on its study to enable Congress to determine what appropriate steps can be made to help resolve funding inequities between State vocational rehabilitation agencies.

#### Subtitle B—Research and Training

##### AMENDMENTS TO TITLE II—RESEARCH AND TRAINING

##### *National Institute on Disability and Rehabilitation Research*

In section 432, the committee modified the requirements for the peer grant reviewers under this subtitle so that non-Department of Education staff are the reviewers. The committee recognizes that many of the national experts in the rehabilitation field are employed by the National Institutes of Health and other Federal agencies, and desires to tap the expertise of these individuals.

##### *Research and Other Covered Activities*

The committee understands the budgetary restrictions faced by the Department of Education. Section 433 amends the law to require that the Department must make a site visit to a potential award grantee if that award is over \$750,000. The current law amount is \$500,000.

##### *Rehabilitation Research Advisory Council*

To create additional employment options for people with disabilities in the vocational rehabilitation system, the business community must be a partner and supporter of that system. One way to accomplish this is to give the business community a role in developing research priorities. Therefore, section 434 requires that the Rehabilitation Research Advisory Council include a representative of the business community who has experience with the vocational rehabilitation system and hiring individuals with disabilities. The committee believes this will help ensure that research, training, and demonstration projects conducted under the Rehabilitation Act are relevant to the business world.

Subtitle C—Professional Development and Special Projects and Demonstrations

AMENDMENTS TO TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS

*Training*

Millions of Americans are affected by orthopedic impairments or neurological conditions, which are treated through the use of orthoses, or orthopedic braces, to straighten arms, legs or spine and prostheses, or artificial limbs. Without an increase in the number of orthotic and prosthetic students, by the year 2020, only 61 percent or less of the population using orthoses will be served—a population expected to increase by 31 percent by that year. The committee is therefore concerned that over the last few years, RSA has ceased to support orthotic and prosthetic training programs and the committee strongly encourages the RSA to honor its commitment to ensuring skilled personnel are available to serve the rehabilitation needs of individuals living with limb loss, paralysis and other conditions requiring the use of artificial limbs or braces.

Additionally, the committee recognizes that degree granting programs in rehabilitation training and mobility instruction is a small, specialized area that faces challenges in attracting potential students and attaining support from colleges and universities. To help meet these challenges, in section 441 the committee adds “prosthetics and orthotics, rehabilitation for the blind, or orientation and mobility instruction” to the types of academic training projects that may be supported in order to meet the shortage of orientation and mobility instructors.

Section 441 also authorizes such sums as necessary for the title III of the Rehabilitation Act for fiscal years 2004 through 2009.

*Demonstrations and Training Programs*

The committee intends for this reauthorization to focus on training for persons with disabilities who have been underserved by traditional vocational rehabilitation programs. To address these goals, in section 442, the committee expands upon language in current law that authorizes model demonstration projects. This expansion provides the framework for two separate, but related, model demonstration projects. Both projects are of critical importance to promoting employment opportunities for people often excluded from current federally funded employment training programs. The committee wants to encourage the development of training programs that will encourage permanent employment and increased self sufficiency.

The first project is intended to provide seamless a transition for students age 14 to 21 who have intellectual disabilities or mental illness. These students presently receive special education and related services under the Individual with Disabilities Education Act. Many of these students, however, require additional training to ensure successful employment outcomes. This model demonstration project will make available additional training, including important on-site job training, designed to maximize employment opportunities. It is the goal of this demonstration project to provide training programs that will promote specialized job skills along with the so-

cial skills necessary to effectively transition from secondary education on the job market.

The second project targets development of training programs for individuals who are deaf and low functioning. This project expands upon the successful results of three small model demonstration projects conducted during the early 1990s. This population faces unique, and significant, challenges to employment training. The combination of deafness and low literacy requires the development of very specialized programs of instruction. Few professionals have the expertise to train individuals who are both deaf and low functioning or those who are deaf and have secondary disabilities. The committee intends to encourage the development of a national training program that utilizes the expertise of these professionals, and provides hands on experience and employment supports necessary to ensure successful employment outcomes.

The committee authorizes \$5 million for each of these demonstration programs in fiscal year 2004, and such sums as necessary in the next succeeding years.

The committee acknowledges that lack of affordable assistive technology is a barrier to disabled individuals' maintaining and advancing in employment. In section 442, the committee permanently authorizes the Administration's Telework program, introduced as part of the New Freedom Initiative. The goal of this program is to increase access to assistive technologies by expanding educational opportunities, increasing the ability of individuals with disabilities to integrate into the workforce, and promoting increased access into daily community life. The committee intends that Telework program grantees coordinate services with entities providing services through the Assistive Technology Act of 1998.

#### *Recreational Programs*

Currently, Section 305 of the Rehabilitation Act allows the construction of swimming pools as an authorized use of funds under recreational programs. The committee finds that the construction authorization is inconsistent with the 3-year funding design. Therefore, Section 444 amends the law to prohibit funding for construction of facilities for aquatic rehabilitation therapy.

### Subtitle E—Rights and Advocacy

#### AMENDMENTS TO TITLE V—RIGHTS AND ADVOCACY

#### *Protection and Advocacy of Individual Rights*

The committee understands that in order for the Protection and Advocacy for Individual Rights (PAIR) program to plan for the future, the program must be authorized to carry over program income funds for five years. Therefore, section 462 allows the PAIR program to keep program income generated from the grant for use until expended, making the fiscal administration of the PAIR program consistent with other protection and advocacy programs.



Subtitle G—Independent Living Services and Centers for  
Independent Living

AMENDMENTS TO TITLE VII—INDEPENDENT LIVING SERVICES AND  
CENTER FOR INDEPENDENT LIVING

*State Plan*

Section 481 amends the State plan requirements for independent living services to require the State to conduct activities centered on maintaining and/or transitioning individuals with disabilities to community-based living. This is consistent with and will assist in carrying out the goals and objectives of the President's New Freedom Initiative and the Olmstead Executive Order.

*Statewide Independent Living Council*

Section 482 of the bill clarifies that the Statewide Independent Living Council (SILC) shall select a chairperson from among the voting membership of the Council. In the Rehabilitation Act Amendments of 1992, Congress recognized that it was vital for people with disabilities to have a voice in the services that they receive under the Act. The name of "State Independent Living Advisory Councils" was changed to State Independent Living Councils, giving the Councils and consumers more authority and responsibility. When Congress created SILCs, it was clear that these organizations were not to be a part of any State agency. Governors were given the power to make the appointments to the SILC. Under current law, a Governor's power over the SILC is confined to the appointment process with one exception. Section 705(b)(5)(B) of the Rehabilitation Act provides a protection for Governors that do not have veto power over State legislation. Governors that do not have veto power over legislation may elect the chairperson of the SILC. The committee has heard concerns regarding the interpretation of the term "veto power over legislation." RSA has interpreted this term to mean that the Governor must specifically have veto power over the selection of the SILC's chairperson, and that this authority must be identified in State law in order for the SILC to be able to select its own chairperson. The problem with this interpretation is that it only allows the Council to elect its own chair when there is a State law giving the governor "veto power" over the Council's selection. Currently, no States have such a law. At the time the exception was included, at least two Governors did not have the ability to veto State legislation. Since 1992, however, all Governors have gained veto power over legislation and this protection is no longer needed. The committee intends to give the SILC the authority to select a chairperson from its membership. The committee does not intend to diminish a Governor's authority. Governors still have the authority to make appointments to the SILC and can remove a member, including the chairperson, and appoint someone else.

The committee recognizes that several States do not have an American Indian Vocational Rehabilitation Services (AIVRS) representative on the State independent living council because the projects serving American Indians in those States are not physically located in that particular State. AIVRS projects are currently authorized to serve Native American/American Indian consumers

that reside in other States. The committee addresses this issue in Section 482 of the bill by modifying language in Section 705 of the Rehabilitation Act. Under this new provision, in a State in which one or more AIVRS projects provide services under section 121, and the project does not physically reside in the State where it provides the services, at least one representative of the directors of the projects must serve on the State rehabilitation council.

*Program Authorization*

Prior to this authorization, the State Independent Living Councils unanimously agreed upon a proposal to change SILCs allotments. The rationale for a formula change is to create a more equitable distribution of funds for States with smaller populations. The committee confirmed with several SILCs that they agreed upon the formula change. The SILCs understand that under this proposal some States will likely not receive as large of an increase as under the formula in current law. Therefore, the committee has obliged the request of the SILCs, and in Section 484, modifies the formula and the way in which allotments are disbursed to State and Territory Independent Living Councils.

Section 484 also allows Centers for Independent Living to carry-over Title VII, Part C funding for two years following the appropriation year. Centers for Independent Living are funded late in the fiscal year, which prevents them from planning, expending funds, and carrying over unexpended funds. The committee intends for this new provision to allow Centers to utilize their funding in a more efficient manner.

*Grants to Centers for Independent Living in States in Which Federal Funding Exceeds State Funding*

Section 485 of the bill requires the Commissioner to award grants to any eligible entity that has been awarded a grant during the preceding fiscal year. The committee intends for this provision to provide continuity in independent living services and enable grantees to focus on service provision, instead of grant competitions, as long as the Center meets the standards and assurances for program performance.

*Grants to Centers for Independent Living in States in Which State Funding Equals or Exceeds Federal Funding*

Similar to section 485, section 486 requires the director of a designated State unit to award grants to any eligible entity that has been awarded a grant during the preceding fiscal year.

*Standards and Assurances for Centers for Independent Living*

Section 487 adds to the standards and assurances for Centers for Independent Living reporting requirements centered on maintaining and/or transitioning individuals with disabilities to community-based living. This is consistent with and will assist in carrying out the goals and objectives of the President's New Freedom Initiative and the Olmstead Executive Order.

*Independent Living Services for Older Individuals Who Are Blind*

The committee acknowledges the need for training and technical assistance for the staff of Independent Living Services for Older In-

dividuals who are Blind programs. Therefore, section 489 adds a new provision requiring training and technical assistance to be authorized in a manner similar to that which is currently authorized for the Centers for Independent Living.

*Program of Grants*

Section 490 authorizes grantees under the Independent Living Services for Older Individuals who are Blind programs to expend funds either through grants or contracts to purchase needed authorized services. Extending this authorization to the Older Blind program grantees will enable grantees to use funds more efficiently and potentially enhance program performance.

The committee has also removed references to the State plan for independence living in Chapter 1, Subtitle G, for the Independent Living Services for Older Blind programs in Chapter 2, Subtitle G. The committee recognizes that such references cause confusion regarding the relationship between the broad Chapter 1 State plan requirements and the discrete, age- and disability-specific components of the Chapter 2 application.

Finally, the committee found it necessary to increase the minimum allotment for the Independent Living Services for Older Blind programs to reflect inflationary increases in the basic cost of administering this program.

V. COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 3, 2003.*

Hon. JUDD GREGG,  
*Chairman, Committee on Health, Education, Labor, and Pensions,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1627, the Workforce Investment Act Amendments of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Sadoti.

Sincerely,

ELIZABETH M. ROBINSON  
(For Douglas Holtz-Eakin, Director).

Enclosure.

*S. 1627—Workforce Investment Act Amendments of 2003*

Summary: S. 1627 would make numerous changes to the Workforce Investment Act of 1998 (WIA), amend the Wagner-Peyser Act, extend the authorization for programs under the Rehabilitation Act of 1973 (RA), and create one new program under the RA. These programs, which received discretionary funding of \$7.1 billion and mandatory funding of \$2.5 billion for fiscal year 2003, provide a framework for adult education, job training, and employment service assistance. Some of the affected programs are permanently authorized (most of Wagner-Peyser), but others are currently authorized through 2003, 2004, or 2005.

S. 1627 would extend, through 2009, the existing mandatory program of State grants for vocational rehabilitation services, which is

currently authorized through 2005 (including automatic extensions for 2 years provided by law). By law, that program is assumed to be extended indefinitely in CBO's baseline, so its extension would add no costs relative to the baseline. CBO estimates that outlays for that program over the 2006–2011 period would total about \$17.1 billion.

CBO estimates that enacting S. 1627 would increase discretionary authorizations by \$5.3 billion in 2004, and by \$32.5 billion over the 2004–2008 period. Assuming appropriation of the necessary amounts, implementing the bill would cost \$0.4 billion in 2004 and \$23.0 billion over the 2004–2008 period.

S. 1627 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs incurred by State, local, or tribal governments would result from complying with conditions of Federal aid.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1627 is shown in the following table. The costs of this legislation would fall within budget function 500 (education, employment, training, and social services).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION					
Discretionary Spending Under Current Law:					
Estimated Authorization Level <sup>1</sup> .....	4,387	840	859	879	901
Estimated Outlays .....	6,717	3,339	1,660	985	888
Proposed Changes:					
Title I: Amendments to the Workforce Investment Act of 1998:					
Estimated Authorization Level <sup>2</sup> .....	5,294	5,406	5,533	5,669	5,832
Estimated Outlays .....	358	3,340	4,694	5,317	5,608
Title II: Adult Education:					
Estimated Authorization Level .....	0	605	618	631	645
Estimated Outlays .....	0	30	455	585	628
Title III: Amendments to the Wagner-Peyser Act:					
Estimated Authorization Level .....	0	104	106	108	110
Estimated Outlays .....	0	10	42	95	107
Title IV: Amendments to the Rehabilitation Act of 1973:					
Estimated Authorization Level .....	38	446	456	466	475
Estimated Outlays .....	27	323	441	462	472
Total Changes:					
Estimated Authorization Level .....	5,332	6,562	6,713	6,874	7,063
Estimated Outlays .....	385	3,703	5,732	6,459	6,815
Discretionary Spending Under S. 1627:					
Estimated Authorization Level .....	9,718	7,402	7,572	7,753	7,964
Estimated Outlays .....	7,102	7,042	7,291	7,445	7,703

<sup>1</sup> The 2004 level includes advance appropriations of \$2.5 billion for job training for the program year beginning July 1, 2003.

<sup>2</sup> Authorization levels are for program years beginning July 1 and do not assume any advance appropriations.

Notes.—Components may not sum to totals because of rounding.

\*—Less than \$500,000.

The estimated costs shown above assume that “such sums” authorization increase each year for inflation. If, instead, costs were assumed to remain level over time, outlays over the 2004–2008 period would be about \$1.1 billion less. The 2005–2008 levels are permanently authorized Wagner-Peyser (Employment Services).

**Basis of estimate:** This estimate assumes that S. 1627 will be enacted by the end of 2003, and that the necessary sums will be appropriated for fiscal year 2004 and each subsequent fiscal year. The estimated outlays reflect historical spending patterns for the affected programs.

#### *Direct spending*

Grants to States for vocational rehabilitation services, authorized under title I of the RA, are currently authorized through fiscal year

2005, assuming both the automatic one-year extension in the RA and the automatic one-year extension under the General Education Provisions Act (GEPA), which provides an automatic extension for all programs in the Department of Education. S. 1627 would extend the authorization for the State grants through 2011, assuming the automatic extensions in law. Although the authorization for RA State grants expires, the Balanced Budget and Emergency Deficit Control Act requires that baseline spending projections assume extension of any mandatory program (created prior to 1997) with outlays in excess of \$50 million. Because S. 1627 makes no substantive changes to RA State grants, the bill would not affect direct spending relative to the CBO's baseline.

Funding for the mandatory State grants is determined by a formula. It is set at the previous year's funding level adjusted by the year-over-year change in the consumer price index as of October 15 of the second preceding year. In fiscal year 2003, RA State grants were funded at \$2.5 billion; by 2011 State grants would cost an estimated \$3.1 billion. CBO estimates that outlays over the 2006–2011 period would total about \$17.1 billion.

#### *Discretionary spending*

S. 1627 would reauthorize and amend the Workforce Investment Act of 1998, the Adult Education and Family Literacy Act, provisions of the Wagner-Peyser Act, and the Rehabilitation Act of 1973. The bill also would create a program of incentive grants under the RA. Under S. 1627, authorizations for these programs would be increased by \$5.3 billion in 2004, bringing the total authorized level to \$9.7 billion in that year.

Title I: Amendments to the Workforce Investment Act. S. 1627 would revise and reauthorize the Workforce Investment Act of 1998, which is currently authorized through 2003. These programs, which received appropriations totaling \$5.2 billion in fiscal year 2003, would be authorized for fiscal years 2004 through 2009. CBO estimates that authorizations under title I would total \$5.3 billion in fiscal year 2004 and about \$27.7 billion over the 2004–2008 period.

The bill would authorize the appropriation of such sums as may be necessary for youth activities, grants to provide job training activities to adults and dislocated workers, Job Corps, and other national activities such as grants to assist migrant and seasonal farm workers, technical assistance programs, demonstration and pilot programs. In addition, the bill specifies \$57 million to be authorized for 2004 for training programs that serve Native Americans. Furthermore, the bill would authorize pilot programs aimed at using new technologies and aiding adults with limited proficiency in English language skills at \$30 million and \$10 million, respectively, for fiscal year 2004. Based on the fiscal year 2003 appropriations for these programs (adjusted for inflation), or the amount stated in the bill (where applicable), CBO estimates that these programs would be authorized at \$5.3 billion for fiscal year 2004 and would grow to \$6 billion by 2009.

Title II: Adult Education and Literacy. Title II of S. 1627 would revise and reauthorize the Adult Education State Grant program and the National Institute for Literacy, both of which are currently authorized through 2004 by GEPA. S. 1627 would authorize such

sums as may be necessary for programs under title II. CBO estimates the total funding for title II for the 2004–2008 period would be about \$2.5 billion, assuming adjustments for inflation, with resulting outlays of \$1.7 billion. These programs were funded at \$587 million in 2003.

**Title III: Amendments to the Wagner-Peyser Act.** Title III of S. 1627 would reauthorize labor market information functions which currently are authorized through 2004. S. 1627 would authorize such sums as may be necessary for fiscal years 2004 through 2009. CBO estimates this authorization would amount to \$104 million in fiscal year 2005, and \$429 million over the 2005–2008 period. Assuming the appropriation of the estimated authorized amounts, outlays would increase by \$254 over the 2005–2008 period.

**Title IV: Amendments to the Rehabilitation Act.** S. 1627 would extend the current “such sums” authorizations for existing discretionary grant programs under the RA as well as for the Helen Keller National Center. Most of these programs are authorized through 2004 under GEPA and would be extended through 2010 under this bill. There are, however, a few exceptions—the authorizations for the National Council on Disability, funded in 2003 at \$3 million, and the Architectural and Transportation Barriers Compliance Board, funded in 2003 at \$5 million, expired at the end of 2003, but the bill would extend the programs through 2009. In addition, the bill would create a new program of incentive grants under the RA, and would require the General Accounting Office (GAO) to undertake two studies.

*Existing RA Programs.* Discretionary grant programs under the RA received total funding of \$393 million in 2003. The programs are currently operating under the GEPA extension. Based on the 2003 appropriation levels (adjusted for inflation), CBO estimates discretionary grant authorization levels for the existing RA programs are estimated to total \$407 million in 2005 and \$1.7 billion over the 2005–2008 period.

*Incentive Grants Program.* The incentive grant program created under S. 1627 would award funds to State vocational rehabilitation (VR) agencies to encourage the adoption of effective strategies to improve employment outcomes of the disabled individuals provided VR services. The awards would be based on performance standards specified under the RA or on other performance measures the Secretary of Education deems are appropriate. The program would be authorized to receive appropriations of such sums as may be necessary for the 2004–2009 period. Based on discussions with committee staff, CBO assesses that the program would be similar to that proposed by the Administration in its fiscal year 2003 budget. Consequently, CBO estimates the authorized program level to be \$30 million in 2004, with annual adjustments for inflation in subsequent years. Assuming the appropriation of the authorized amounts, CBO estimates outlays would total \$21 million in 2004 and \$146 million over the 2004–2008 period.

*GAO Studies and Reports.* Title IV also would require the GAO to conduct two new studies: one would analyze how well VR services are being coordinated with the requirements of the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act, while the other would assess how the VR State grant allocation formula relates to a State’s delivery of VR

services. Based on information from GAO, CBO estimates that the total cost of the studies would be less than \$500,000 over the 2004–2006 period.

*National Council on Disability.* The bill would extend the authorization for the National Council on Disability. The Council is responsible for reviewing Federal law and policies affecting individuals with disabilities. Based on its 2003 appropriation of \$3 million, CBO estimates that reauthorization would amount to \$3 million in 2004 and \$15 million over the 5-year period, with outlays of \$14 million through 2008.

*Architectural and Transportation Barriers Compliance Board.* Under S. 1627, the Architectural and Transportation Barriers Compliance Board would be reauthorized for the 2004–2009 period. The Board develops guidelines to ensure access for individuals with disabilities for buildings, transportation vehicles, and telecommunications equipment. Based on the 2003 funding level of \$5 million, CBO estimates the reauthorization would total \$28 million over the 2004–2008 period, and result in outlays of \$27 million over the same time frame.

*Helen Keller National Center.* S. 1627 would reauthorize the Helen Keller National Center over the 2004–2009 period, although GEPA has already established an authorization level for 2004. The authorization for the Helen Keller National Center is estimated to total \$9 million in 2005 and \$37 million over the 2005–2008 period. The resulting outlays would be \$6 million in 2005 and \$34 million for 2005 through 2008.

Intergovernmental and private-sector impact: S. 1627 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would reauthorize funding for adult and youth job training, literacy activities, and vocational rehabilitative services administered by State and local agencies. Along with the conditions of Federal aid, States' job training programs would be guaranteed minimum allotments for subsequent fiscal years that equal fiscal year 2003 funding, subject to the availability of appropriations. Any costs incurred by State, local, and tribal governments would result from complying with conditions of Federal aid, and would thus be voluntary.

Estimate prepared by: Federal Spending: Workforce Investment Act and Wagner-Peyser: Christina Hawley Sadoti; Adult Education and National Institute for Literacy: Donna Wong; Rehabilitation Act: Deborah Kalcevic and Paul Cullinan; Impact on State, Local, and Tribal Governments: Sarah Puro; Impact on the Private Sector: Ralph Smith and Nabeel Alsalam.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## VI. APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1, the Congressional Accountability Act (CAA), requires a description of the application of this bill to the legislative branch. S. 1627 does not amend any act that applies to the legislative branch.

## VII. REGULATORY IMPACT STATEMENT

The committee has determined that the bill may result in some additional paperwork, time, and costs to the Department of Labor and the Department of Education, which would be entrusted with implementation and enforcement of the act. It is difficult to estimate the volume of additional paperwork necessity by the bill, but the committee does not believe it will be significant.

## VIII. SECTION-BY-SECTION ANALYSIS

## TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT

Section 1 cites the bill as the Workforce Investment Act Amendments of 2003.

Section 2 sets forth the table of contents.

Section 3 specifies that except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the amendment or repeal shall be considered to be made to a section or other provision of the Workforce Investment Act of 1998.

*Section 101. Definitions*

Section 101 adds definitions for the following terms: accrued expenditures, business intermediary, hard-to-serve populations, integrated training program, institution of higher education, and self-sufficiency.

Section 101 amends the definitions of the following terms:

*Basic skills deficient.* Amends the term to include an individual who is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family, or in society.

*Community-based organization.* Amends the term to include a faith-based organization.

*Customized training.* Amends the term to require employer to pay for a significant cost of the training. (Under current law, the employer must pay less than 50 percent.)

*Dislocated worker.* Amends the term to include the spouse of a member of the Armed Forces on active duty for a period of more than 30 days who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of the member.

*Displaced homemaker.* Amends the term to include the dependent spouse of a member of the Armed Forces on active duty for a period of more than 30 days whose family income is significantly reduced because of a deployment, a call or order to active duty, a permanent change of station, death or disability of the member or is a spouse who is unemployed or underemployed and is experiencing difficulty obtaining or upgrading employment.

*Low-income individual.* Amends the term to include an individual who receives or is eligible to receive a free or reduced price lunch.

*Out-of-school youth.* Amends the terms to give it the meaning as defined in section 129(a)(1)(b) of WIA.



### *Section 111. Purpose*

Section 111 adds twelve purposes to the broad purpose to provide workforce investment activities that increase employment, retention, self-sufficiency, and earnings of participants and increase occupation skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity of and competitiveness of the Nation. Among other things, the new purposes include:

- To enhance the workforce investment system of the Nation by strengthening one-stop centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment and training and related services, establishing a targeted approach to serving youth, improving performance accountability, and promoting State and local flexibility;
- To provide workforce investment activities in a manner that promotes the informed choice of participants and actively involves participants in decisions affecting their participation in such activities; and
- To provide workforce investment systems that are demand-driven and responsive to the needs of all employers, including small employers.

### *Section 112. State Workforce Investment Boards*

*Membership.* Section 112 clarifies that in the case of the programs authorized under title I of the Rehabilitation Act of 1973, the representative to the State Workforce Investment Board shall be the head of the designated State unit, as defined in section 7 of the Rehabilitation Act.

Section 112 adds the requirement that the State agency officials responsible for economic development be a member of the State Board. This section also requires that representatives of businesses on the board include representatives of small business and that business representatives be appointed from among individuals nominated by local boards in addition to nominations by State business organizations and business trade organizations.

Section 112 eliminates the requirement that membership on the State Board include representatives of individuals and organizations that have experience with respect to youth activities. This section also eliminates the requirement that membership on the Board include representative of individuals and organizations that have experience and expertise in the delivery of workforce investment activities, including chief executive officers of community colleges and community-based organizations within the State.

*Functions.* Section 112 adds the following State board functions:

- Implement and revise the State plan (in addition to develop);
- Review and comment on the State plans of all one-stop partner programs;
- Develop and review statewide policies affecting the coordinated provision of services through the one-stop delivery systems;
- Develop statewide criteria to be used by chief elected officials for the appointment of local boards and for use in certification of local boards; and

- Increase the availability of skills training, employment opportunities, and career advancement for hard-to-serve populations.

*Alternative Entity.* Section 112 amends the provisions regarding the State board alternative entity to stipulate that if a State fails to have performed successfully, the Secretary of Labor may require the State to establish a State board.

*Sunshine Provision.* Section 112 amends the sunshine provisions to require that the State board include modifications to the State plan in the information it makes available to the public.

*Authority to Hire Staff.* Section 112 adds a provision allowing the State board to hire staff to assist in carrying out the functions of the board.

### *Section 113. State Plan*

*Planning Cycle.* Section 113 stipulates that the State plan outline a 4-year strategy (rather than the current law requirement of a 5-year strategy) for the statewide workforce investment system. This section further stipulates that at the end of the first 2-year period, the State board shall review and, as needed, amend the State plan to reflect labor market and economic conditions. This section also requires the State to submit a modification to the State plan at the end of the first 2-year period, which may include redesignation of local areas and levels of performance for the third and fourth years of the plan.

*Contents.* Section 113 expands the contents of the State plan to include, among other things, a description of:

- The procedures that will be taken to assure coordination and avoid duplication among programs, including certain programs authorized under the Social Security Act, programs authorized under title VII of the Rehabilitation Act of 1973, and programs carried out by State agencies relating to mental retardation and developmental disabilities;
- How a State will use WIA Title I, Subtitle B funds to leverage other resources in order to, among other things, expand resources for the provision of employment and training services, and of the incentive and technical assistance the State will provide to local areas regarding leveraging funds;
- How the State will serve the employment and training needs of persons with disabilities;
- How the State will utilize technology to facilitate access to services in remote areas;
- The State strategy for coordinating workforce investment activities and economic development activities;
- How the State will use WIA Title I, Subtitle B funds to implement innovative programs and strategies designed to meet the needs of all businesses in the State; and
- How the State will assist local areas in assuring physical and programmatic accessibility for individuals with disabilities at one-stop centers.

*Modifications to State Plan.* Section 113 adds the stipulation that the State submit modifications to the State plan required by statute, and under circumstances prescribed by the Secretary that are due to changes in Federal law that significantly affect elements of the State plan.

#### *Section 114. Local Investment Areas*

*Designation of Areas.* Section 114 adds as a consideration that the Governor take into account in designating local areas, the extent to which the local area will promote maximum effectiveness in the administration and provision of services. Section 114 also adds the requirement that in order to receive an automatic designation as a local area, the local area must have performed successfully and sustained fiscal integrity during a statutorily two-year period.

“Performed successfully” means that the local area performed at 80 percent or more of the adjusted level of performance for core indicators of performance. “Sustained fiscal integrity” means that the Secretary has not made a formal determination during the preceding 2-year period that either the grant recipient or the administrative entity of the local area “misexpended” WIA Title I funds due to willful disregard of the requirements of the Act involved, gross negligence, or failure to comply with accepted standards of administration.

Section 114 eliminates the authority of the Secretary to review the appeal of a unit of general local government or grant recipient to the State board when an area was not designated as a local workforce investment area.

*Single Local Area States.* Section 114 provides that the Governor of any State that was a single local area as of July 1, 2002, may continue to designate the State as a single local area if the Governor identifies the States as a local area in the State plan. If the State was not a single local area, the Governor may designate the State as one if no local area meeting the requirements for automatic designation requests designation as a separate local area. If a State is designated as a local area, the local plan shall be submitted to the Secretary for approval as part of the State plan.

*Regional Planning.* Section 114 provides, as does current law, that a State may require regional planning by local boards for a designated region in the State. Section 114 adds a provision permitting the State to require the local boards for the designated region to prepare, submit, and obtain approval of a single regional plan that incorporates local plans for each of the local areas in the region. If the State requires regional planning, the State shall provide technical assistance and labor market information to the local areas.

Section 114 adds to the types of information that States may require local boards for a designated area to share, information about the skill requirements of existing and emerging industries and industry clusters. This section also permits the State to require the local boards for a designated area to coordinate services with regional economic development services and strategies.

#### *Section 115. Local Workforce Investment Boards*

*Membership.* Section 115 clarifies that members of the board representing business shall include representatives who collectively, represent businesses with employment opportunities that reflect the employment opportunities of the local area, and include representatives of businesses that are in high-growth and emerging industries, and representatives of local businesses, including small businesses.

Section 115 adds the stipulation that membership of the local board include a superintendent representing the local school districts involved or another high-level official, the president or highest ranking official of an institution of higher education serving the local area, and an administrator of local entities providing adult education and literacy activities. If there are multiple school districts or institutions of higher education serving a local area, the representatives shall be appointed from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such agencies or institutions.

Section 115 clarifies that representatives of community-based organizations include organizations representing hard-to-serve populations. This section also eliminates the requirement that representatives of each of the one-stop partners serve on the local board. Section 115 adds the requirements that if the local board does not establish a youth council, representatives with experience serving out-of-school youth, particularly out-of-school youth facing barriers to employment shall be included on the board.

Section 115 adds the requirements that members of the board represent diverse geographic sections within the local area.

*Functions.* Section 115 adds the following local board functions:

- Work to ensure there are sufficient providers of intensive and training services serving the local area in a manner that maximizes consumer choice, including providers with expertise in assisting individuals with disabilities;
- Ensure the appropriate use and management of WIA Title I, Subtitle B funds; and
- Develop strategies for technology improvements to facilitate access to services, in remote areas, for services authorized under this subtitle and carried out in the local area.

Section 115 clarifies that the local board shall include promoting the participation of small employers in its function to promote the participation of private sector employers in the statewide workforce investment system. The board shall take into account the needs of small business when it works to ensure assistance to employers in meeting hiring needs.

*Youth Council.* Section 115 eliminates the requirement that the local board establish a youth council within each local board. Instead, this section allows the local board to establish or continue councils to provide information and advice to assist the local board in carrying out activities under this title. These councils may include a council composed of one-stop partners to advise the local board on the operation of the one-stop delivery system involved, a youth council composed of experts and stakeholders in youth programs to advise the local board on youth activities, and other councils as the local board determines are appropriate.

*Alternative Entity.* Section 115 revises the conditions under which an alternative entity may serve as a local board to, among other things, require that the alternative entity was in existence on August 7, 1889, pursuant to State law.

#### *Section 116. Local Plan*

*Planning Cycle.* Section 116 stipulates that the local board shall develop a 4-year local plan (rather than the current law requirement of a 5-year plan). This section further stipulates that at the

end of the first 2-year period, the local board shall review and, as needed, amend the local plan to reflect labor market and economic conditions.

*Contents.* Section 116 expands the contents of the local plan to include, among other things, a description of:

- How the local board will facilitate access to services provided through the one-stop delivery system in remote areas, including facilitating access through the use of technology.
- How the local board will ensure physical and programmatic accessibility for individuals with disabilities at one-stop centers;
- How the local board will coordinate workforce investment activities carried out in the local area with economic development activities carried out in the local area; and
- The strategies and services that will be initiated in the local area to more fully engage all employers, including small employers, in workforce development activities.

*Section 117. Establishment of One-Stop Partners*

*Roles and Responsibilities of Required One-Stop Partners.* Section 117 adds the following new roles and responsibilities:

- Provide access through the one-stop delivery system to the programs and activities carried out by the one-stop partner, including making the program's core services available at the comprehensive one-stop centers and any other appropriate locations;
- Use a portion of the funds available to the partner's program to maintain the one-stop delivery system, including payment of the infrastructure costs of one-stop centers;
- Enter into the local memorandum of understanding with the local board relating to the operation of the one-stop system; and
- Provide representation on the State board.

*Required One-Stop Partners.* Section 117 eliminates as a required one-stop partner the entity that administers the welfare-to-work program. (This program is being phased out; all expenditures have to be completed by end of fiscal year 2004.) Section 117 adds as a required one-stop partner the entity that administers the Temporary Assistance for Needy Families (TANF) program, unless the Governor provides written notification to the Secretaries of the Departments of Labor and Health and Human Services that the entity will not be included as a one-stop partner.

*Additional One-Stop Partners.* Section 117 adds as additional partners that may participate in the one-stop delivery system, entities that administer employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency program, and employment and training programs carried out by the Small Business Administration.

*Memorandum of Understanding.* Section 117 modifies the memorandum of understanding developed between the local board and each one-stop partner to include provisions describing:

- The services to be provided through the one-stop delivery system consistent with the requirements Section 121 of WIA, including the manner in which the services will be coordinated;

- How the costs of services and the operating costs of the system will be funded to provide a stable and equitable funding stream for ongoing one-stop system operations, including the funding of the infrastructure costs of one-stop centers;
- Methods of referral of individuals between the one-stop operator and the one-stop partners for appropriate services and activities;
- Methods to ensure the needs of hard-to-serve populations are addressed in accessing services through the one-stop system; and
- The duration of the memorandum of understanding and the procedures for amending the memorandum during the term of the memorandum, and assurances that such memorandum shall be reviewed not less than once every 2-year period to ensure appropriate funding and delivery of services.

*Established One-Stop Delivery System.* Section 117 eliminates the provision permitting the local board, the chief elected official, and the Governor to certify an entity as a one-stop partner if there has been a one-stop delivery system established in the local area prior to enactment of the Act.

*Establishment of One-Stop Delivery System.* Section 117 replaces reference to “individual training accounts” with reference to “career scholarship accounts.”

*Continuous Improvement of One-Stop Centers.* Section 117 adds the requirement that the State board, in consultation with chief local elected officials and local boards, to establish procedures and criteria for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and one-stop delivery systems. This new subsection stipulates that the procedures and criteria shall include minimum standards relating to the scope and degree of service coordination achieved by the one-stop delivery system with respect to the programs administered by the one-stop partners at the one-stop centers, consistent with the guidance provided by the Governor and by the State board, in consultation with the chief elected official and local boards. This new section further stipulates that consistent with the criteria developed by the State, the local board may develop additional criteria of higher standards to respond to local labor market and demographic conditions and trends.

*One-Stop Infrastructure Funding.* Section 117 defines “costs of infrastructure” as the nonpersonnel costs that are necessary for the general operation of the one-stop center.

*Local Option for One-Stop Infrastructure Funding.* Section 117 adds a provision allowing the local board, chief elected officials, and one-stop partners in a local area to choose to fund the costs of the infrastructure of one-stop centers through methods described in the local memorandum of understanding. If, as of July 1, 2004, the local board, chief elected official, and one-stop partners in a local area fail to reach agreement on methods of sufficient funding of the infrastructure costs of one-stop centers, as determined by the local area, the State infrastructure funding mechanism, described below, shall be used.

Section 117 adds the requirement that the Governor, after consultation with chief local elected official, local boards, and the State

board, provide guidelines for State administered one-stop partner programs in determining such program's contributions to and participation in the one-stop delivery system, including funding for infrastructure costs, and guidance to assist local areas in identifying equitable and stable alternative methods of funding of the costs of the infrastructure of one-stop centers in local areas.

*Partner Contributions to the State Infrastructure Funding Mechanism.* Section 117 adds the stipulation that if the infrastructure of one-stop centers is not funded under the local option, described above, then the Governor, after consultation with chief local elected officials, local boards, and the State board, shall determine the portion of funds to be provided by each one-stop partner. In making this determination, the Governor shall consider the proportionate use of the one-stop centers by each partner, and the costs of administration for purposes not related to one-stop centers for each partner.

Section 117 also stipulates that in a State in which the State constitution places policymaking authority that is independent of the authority of the Governor in an entity or official with respect to the funds provided for adult education and literacy activities authorized under WIA Title II and for postsecondary vocational and technical education activities authorized under the Carl D. Perkins Vocational and Technical Education Act of 1998, or vocational rehabilitation services offered under the Rehabilitation Act of 1973, the portion of funds to be provided by partners administering these programs shall be made by the chief officer of the entity with such authority in consultation with the Governor.

Section 117 adds the requirement that the Governor establish a procedure for one-stop partners to appeal a determination regarding the portion of funds to be contributed under this paragraph on the basis that such determination is inconsistent with the criteria described in the State plan or with statutory requirements.

Section 117 also stipulates that the funds provided by each one-stop partner be provided only from funds available for the costs of administration under the program administered by such partner.

Section 117 sets the following caps on required contributions:

- The portion of funds required to be contributed by WIA formula programs and the employment service authorized under the Wagner-Peyser Act shall not be in excess of 3 percent of the amount of Federal funds provided to carry out each program in the State for a fiscal year unless there is an agreement, including local memorandums of understanding entered into prior to the date of enactment of the Workforce Investment Act Amendments of 2003 by an entity that permits the percentages to be exceeded;
- The portion of funds required to be contributed by other required one-stop partners, except for partners administering the Vocational Rehabilitation program shall not be in excess of 1.5 percent of the amount of Federal funds provided to carry out each program in the State for a fiscal year unless there is an agreement, including local memorandums of understanding entered into prior to the date of enactment of the Workforce Investment Act Amendments of 2003 by an entity that permits the percentages to be exceeded;

- An entity administering a vocational rehabilitation program shall not be required to provide an amount in excess of 0.75 percent of the amount provided for the program in the State for the second program year that begins after the date of enactment of the Workforce Investment Act Amendments of 2003, 1.0 percent of the amount provided for the third program year, 1.25 percent of the amount provided for the fourth program year, and 1.5 percent of the amount provided for the fifth and each succeeding program year;
- An entity administering a Federal direct spending program shall not be required to provide an amount in excess of the amount determined to be equivalent to the cost of the proportionate use of the one-stop centers for the program; and
- The method for determining the appropriate portion of funds to be provided by WIA Native American programs to pay for the costs of infrastructure of a one-stop center shall be determined as part of the development of the memorandum of understanding for the one-stop center and shall be stated in the memorandum.

*Allocation by the Governor of Partner Contributions to the State Infrastructure Funding Mechanism.* Section 117 adds the requirement that the State board develop a formula to be used by the Governor to allocate the funds to local areas not funding infrastructure costs under the local option. The formula shall be based on factors including the number of one-stop centers in a local area, the population served by such centers, the services provided by such centers, and other factors relating to the performance of the centers that the State board determines are appropriate.

*Other Funds.* Section 117 stipulates that a portion of other Federal funds for one-stop partner programs or the noncash resources available to these programs shall be used to pay the additional costs relating to the operation of the one-stop delivery system, such as the costs of the provision of core services. The method for determining the appropriate portion of funds and noncash resources to be provided by each program for a one-stop center shall be determined as part of the development of the memorandum of understanding and shall be stated in the memorandum. The State board shall provide guidance to facilitate the determination of an appropriate allocation of the funds and noncash resources in local areas.

#### *Section 118. Eligible Providers of Training Services*

*Criteria.* Section 118 adds the requirement that the Governor, after consultation with the State board, establish criteria regarding the eligibility of providers of training services to receive WIA funds. Among other things, the criteria shall take into account the following:

- The performance of providers of training services with respect to the performance measures for those individuals receiving training services;
- The need to ensure access to training services throughout the State, including any rural areas;
- The information providers are required to report to State agencies with respect to Federal and State programs; and



- The requirements for State licensing of providers of training services, and the licensing status of each provider of training services if applicable.

Section 118 stipulates that the criteria established by the Governor shall require that a provider of training services submit appropriate, accurate, and timely information to the State to assist participants in choosing providers. The criteria shall also provide for annual review and renewal of eligibility for providers of training services.

Section 118 also allows local boards to establish criteria in addition to the criteria established by the Governor, or to require higher levels of performance than required under the criteria established by the Governor.

*Procedures.* Section 118 adds the requirement that the Governor, after consultation with the State board, establish criteria regarding the eligibility of providers of training services to receive WIA funds. Among other things, the procedures shall identify the application process for a provider of training services to become eligible to receive funds to provide training services, and identifying the respective roles of the State and local areas in receiving and reviewing the applications and in making determinations of eligibility.

*Information To Assist Participants in Choosing Providers.* Section 118 adds the requirement that the Governor ensure that a list of eligible providers is provided to the one-stop delivery system in the State. Section 118 also stipulates that an entity that carries out programs under the National Apprenticeship Act shall be included on the list of eligible providers as long as the entity remains certified by the Department of Labor.

*Agreements With Other States.* Section 118 adds a provision that allows States to enter into agreements, on a reciprocal basis, to permit eligible providers of training services to accept career scholarship accounts provided in another State.

*Opportunity To Submit Comments.* Section 118 adds the requirement that the Governor provide an opportunity for interested members of the public to make recommendations and submit comments regarding criteria, procedures, and information.

*Transition Period for Implementation.* Section 118 adds the stipulation that the requirements regarding eligible providers of training services shall be implemented not later than December 31, 2004. Section 118 also provides that in order to facilitate early implementation of the requirements, the Governor may establish transition procedures under which providers eligible to provide training services on the day before the date of enactment of the Workforce Investment Act Amendments of 2003 may continue to be eligible to provide such services until December 31, 2004, or until such earlier date as the Governor determines appropriate.

Section 118 contains provisions regarding “Enforcement” and “On-the-Job Training or Customized Training” that are similar to current-law provisions.

#### *Section 119. Eligible Providers of Youth Activities*

Section 119 adds an exception to the current law requirement that local boards award WIA youth grants or contracts on a competitive basis to providers of youth activities identified based on the criteria in the State plan. This exception allows a local board to

award grants or contracts on a sole-source basis if the board determines there is an insufficient number of eligible providers of youth activities in the local area for grants and contracts to be awarded on a competitive basis.

*Section 120. Youth Activities*

*State Allotments.* Section 120 provides that the portion of funds that is reserved for youth opportunity grants under current law instead be reserved for youth challenge grants under Section 169 of WIA. Section 120 adds the requirement that a minimum amount of \$10 million be reserved for youth activities for farm workers under section 167 of WIA Section 120. Section 120 deletes the requirement that the Secretary reserve funds for a role model academy project. (Current law provides that funds can be reserved only for fiscal year 1999.)

Section 120 stipulates that of the funds remaining after funds are reserved for youth challenge grants, youth activities for farmwives and Native Americans, and for the outlying areas, the Secretary shall allot to the States an amount that is less than or equal to the total amount that was allotted to States for fiscal year 2003 under section 127(b)(1)(C) of WIA (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2003), in accordance with the requirements of section 127(b)(1)(C). (The State formula under this section is based on one-third State relative share of total unemployed in areas of substantial unemployment, one-third State relative share of excess unemployed, and one-third State relative share of economically disadvantaged youth.) The amount of any funds in excess of the amount to be distributed according to current-law provisions is to be distributed on the basis of one-third State relative share of individuals in the civilian labor force who are ages 16 through 21, one-third State relative share of unemployed individuals, and one-third relative share of disadvantaged youth who are ages 16 through 21.

Section 120 deletes the allotment calculation for an area served by the rural concentrated employment program grant recipient. Section 120 also deletes the requirement that no State receive an allotment for a fiscal year that is less than the greater of an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year of 100 percent of the total allotment for the summer youth and year-round youth programs authorized under the Job Training Partnership Act for fiscal year 1998. Instead, section 120 requires the Secretary to ensure that no state shall receive an allotment percentage that is less than 90 percent of the allotment percentage of the State for the preceding fiscal year. Section 120 also deletes the requirement that for any fiscal year in which the amount available for allocation to States does not exceed \$1 billion, then the minimum State allotments shall be calculated by the methodology for calculating the corresponding allotments under parts B and C of title II of the Job Training Partnership Act, as in effect on July 1, 1998.

Section 120 also amends the provisions regarding the reallocation of State funds to require that the amount available for reallocation for a program year is equal to the amount by which the unexpended balance at the end of the previous program year exceeds 30 percent of the State's allotment for the previous program year. The

unexpended balance is the amount that is the difference between the total amount of funds available to the State during the previous program year and the accrued expenditures during the previous program year.

Section 120 stipulates that the State allotment provisions are effective for the program year that begins after the date of enactment of this Act.

*Within State Allocations.* Section 120 amends the provisions regarding the allocation of funds to local areas to require that the Governor allot not less than 80 percent of the funds available for local allocation in a State on the basis of one-third local relative share of individuals in the civilian labor force who are ages 16 through 21, one-third local relative share of unemployed individuals, and one-third local relative share of disadvantaged youth who are ages 16 through 21. The Governor can allot not more than 20 percent of the funds available for local allocation in a State to local areas where there are a significant number of eligible youth, after consultation with the State board and local board. Section 120 establishes a maximum percentage allotment of 130 percent of the allocation percentage of the local area for the preceding year for the allocation of the 80 percent portion of funds.

Section 120 also amends the provisions regarding the reallocation of local funds to require that the amount available for reallocation for a program year be equal to the amount by which the unexpended balance at the end of the previous program year exceeds 30 percent of the total amount of funds available to a local area for the previous program year. The unexpended balance is the amount that is the difference between the total amount of funds available to the local area during the previous program year and the accrued expenditures during the previous program year.

*Youth Participant Eligibility.* Section 120 clarifies that out-of-school youth and in-school youth are eligible for WIA services. Section 120 defines “out-of-school youth” as an individual who is not younger than age 16 or older than age 21, and is one of the following:

- A school dropout;
- A youth who is within the age for compulsory school attendance, but has not attended school for at least one school year calendar quarter;
- A recipient of a secondary school diploma or its equivalent who is deficient in basic skills, a low-income, and not attending any school;
- An individual subject to the juvenile justice system or ordered by court to attend an alternative school.
- An out-of school low-income individual who is pregnant or parenting;
- A youth who is not attending school or a youth attending an alternative school, who is homeless, a runaway, a foster child, an older foster youth or former foster youth, or a youth who is in an out-of-home placement; or
- A low-income individual who requires additional assistance to complete an educational program to secure or hold employment.

Section 120 defines “in-school-youth” as an individual who is not younger than age 14 or older than age 21, a low-income individual, and is one or more of the following:

- Deficient in basic literacy skills, including limited English proficiency;
- Homeless, a runaway, a foster child, an older foster youth or former foster youth, or a youth who is in an out-of-home placement;
- Pregnant or parenting;
- An offender; or
- An individual who requires additional assistance to complete an educational program, or to secure or hold employment.

Section 120 specifies that not more than 5 percent of youth in a local area (for whom being low-income is an eligibility requirement) may be individuals who are not low-income. (Under current law, all youth are required to be low-income, except for 5 percent of youth in a local area if they meet one or more specified criteria, such as being a school dropout.)

Section 120 adds the requirement that not more than 60 percent of funds may be used to provide activities for in-school youth. (Under current law, not more than 70 percent of funds may be used to provide activities for in-school youth.)

Section 120 also adds a requirement that in providing assistance to an individual who is required to attend school under applicable State compulsory school attendance laws, the priority in providing assistance shall be for the individual to attend school regularly.

*Statewide Activities.* Section 120 amends the list of permissible statewide activities to include, among other things:

- Conducting evaluations, research, and demonstration projects;
- Providing incentive grants to local areas for regional cooperation among local boards, for local coordination of activities, and for exemplary performance by local areas;
- Providing technical assistance and capacity building activities to local areas, one-stop operators, one-stop partners, and eligible providers;
- Operating a fiscal and management accountability information system;
- Carrying out monitoring and oversight of activities; and
- Providing additional assistance to local areas that have high concentrations of eligible youth.

*Local Elements and Requirements.* Section 120 adds the requirement that service strategies developed for each individual be directly linked to one or more performance measures. Section 120 also adds new requirements that programs provide activities leading to the attainment of a secondary school diploma or its equivalent, or another recognized credential; preparation for postsecondary educational advanced training opportunities; strong linkages between academic instruction based on State academic content and student academic achievement standards established under section 1111 of the Elementary and Secondary Education Act of 1965 and occupational learning that lead to the attainment of recognized credentials; and effective connections to all employers, including small employers, in sectors of the local and regional labor

markets that are experiencing high growth in employment opportunities.

Section 120 adds the following new program elements:

- On-the-job training opportunities;
- Opportunities to acquire financial literacy skills;
- Entrepreneurial skills training and micro enterprise services; and
- Information about average wages for a range of jobs available in the local area, including technology jobs.

Section 120 adds the requirement that local boards establish linkages with educational agencies responsible for services to participants. (Under current law, youth council are required to establish the linkages.)

*Section 121. Adult and Dislocated Worker Employment and Training Activities*

*State Allotments.* Section 121 amends the formula for determining the allotment among States for Adult Employment and Training Activities. Funds shall be allotted according to the following formula: 40 percent on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, 25 percent on the basis of the relative number of individuals in the civilian labor force in each State, 35 percent on the basis of the relative number of disadvantaged adults in each State. This section also amends the small state minimum allotment by eliminating the minimum funding calculated under the Job Training Partnership Act. This section also amends the provisions regarding the reallocation of funds to require that that amount available for reallocation for a program year exceeds 30 percent of the State's allotment for the previous program year. Unexpended balance is defined as the difference between the total amount of funds allotted to the State the previous program year and accrued expenditures.

*Within State Allocations.* Section 121 amends Section 133 of WIA regarding within State Allocations to be consistent with the changes to the State reallocation provisions.

*Required Statewide Employment and Training Activities.* Section 121 adds a provision authorizing Governors to use rapid response funds that remain unexpended after the end of the program year to be used for other required statewide employment and training activities and allowable employment and training activities. Section 121 amends required statewide employment and training activities to include: disseminating an eligible provider list and information identifying eligible providers of on-the-job and customized training; disseminating performance and cost information on providers; disseminating information on physical and programmatic accessibility; conducting evaluations, providing incentive grants; developing strategies to ensure that activities are placing men and women in jobs, education, and training that lead to comparable pay; providing technical assistance and capacity building; operating fiscal and management accountability; monitoring and oversight.

*Allowable Statewide Employment and Training Activities.* Section 121 amends allowable statewide employment and training activities to include: implementing innovative programs and strategies to meet business needs; developing strategies for effectively serving

hard-to-serve populations; implementing innovative programs for displaced homemakers; implementing programs to increase individuals trained for or placed in nontraditional employment; facilitating remote access to services; supporting the provision of core services; improving coordination with the child welfare system; improving coordination with economic development activities, child support services, Department of Agriculture cooperative extension programs, and programs carried out in the local area for individuals with disabilities; developing and disseminating workforce and labor market information; conducting research and demonstration projects; and adopting, calculating or commissioning a minimum self-sufficiency standard.

*Required Local Employment and Training Activities.* Section 121 amends Section 134 of WIA to add the requirement that local areas designate a dedicated business liaison in the local area and that Wagner-Peyser employment services co-locate at comprehensive one-stop centers. Section 121 expands core services to also include job search and placement assistance for exposure to high wage, high skill jobs and nontraditional employment, and recruitment and other business services. Section 121 also amends the eligibility requirements for intensive services. Unemployed individuals are eligible for intensive services if they have been determined to be unlikely or unable to obtain employment that leads to self-sufficiency or wages comparable or higher than previous employment through core services and in need of intensive services to obtain such employment. Employed individuals are eligible for intensive services if they have been determined to be in need of intensive services to obtain employment that leads to self-sufficiency. Section 121 expands intensive services to also include internships and work experience; literacy and financial literacy activities; out-of-area job search and relocation assistance; and English language acquisition and integrated training programs. Section 121 authorizes case management for intensive as well as training participants.

Section 121 also amends the eligibility requirements for training services. Adults and dislocated workers eligible for training services must have been determined to be unlikely or unable to obtain employment that leads to self-sufficiency or wages comparable or higher than previous employment through intensive services, in need of training services to obtain such employment, and have the skills and qualifications to participate in training. Section 121 adds English language acquisition and integrated training programs to the list of training services. Individual Training Accounts are renamed Career Scholarship Accounts. Local boards are authorized to coordinate career scholarship accounts with other job training programs or sources to assist the individual in obtaining training. Section 121 adds an exception that allows local boards to contract with an institute of higher education for training services in order to facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice.

*Permissible Local Activities.* The list of permissible local activities is amended to include: customized screening and referral of participants; customized fee-for-service employment services; customer support for hard-to-serve populations; technical assistance and capacity building for serving individuals with disabilities; coordinating with the child support enforcement activities; improving

coordination with child support services; improving coordination with Department of Agriculture cooperative extension programs, facilitating remote access to services; improving coordination with economic development activities; improving linkages with employers; training programs for displaced homemakers and individuals training for nontraditional occupations; activities to carry out business services and strategies; adjusting the self-sufficiency standard; and improving coordination with programs carried out in the local area for individuals with disabilities. Section 121 authorizes local areas to use funds to provide work support activities for low-wage workers through the one-stop delivery system. Section 121 authorizes local boards to use up to 10 percent of local funds to pay for the Federal share of incumbent worker training. Employers are required to share the cost of incumbent worker training, depending on the size of the employer.

#### *Section 122. Performance Accountability System*

*State Performance Measures.* Section 122 amends Section 136 of WIA to replace the adult performance indicator of earnings received in unsubsidized employment 6 months after entry into employment with increases in earning from unsubsidized employment. Core indicators for youth are amended to include entry into employment, education, advanced training or military service; attainment of secondary school diplomas or recognized equivalents, and post secondary certificates; and literacy and numeracy gains. Section 122 also requires that State performance levels be adjusted to reflect economic conditions and characteristics of the population to be served; Section 121 requires the Secretary of Labor to establish national goals for adjusted levels for systemwide performance.

*Local Performance Measure.* Section 122 requires that local performance measures be adjusted to reflect economic conditions and characteristics of the population to be served.

*Report.* Section 122 expands State reporting requirements to include information on the amount and percentage of funds, if any, spent on business services; the number of participants served and the cost per participant; and the amount of adult and dislocated worker funds spent on core, intensive and training services.

*Sanctions.* Section 122 amends Section 136 of WIA to stipulate that States and Local areas are subject to sanctions if the State or local area, respectively, performed at less than 80 percent of the adjusted level of performance for core indicators of performance for 2 consecutive years.

*Incentive Grants.* Section 122 expands the basis on which incentive grants to local areas can be awarded to include: exemplary performance in serving hard-to-serve populations; effectively coordinating multiple systems in a comprehensive workforce development system; expanding access to training; and implementing innovative business and economic development initiatives.

#### *Section 123. Authorization of Appropriations*

Section 123 authorizes such funds as may be necessary for fiscal years 2004 through 2009 for youth activities, adult activities, and dislocated worker activities.

### *Section 131. Job Corps*

Section 131 strikes the inclusion of local and distant employers on industry councils and instead includes language that would allow the Industry Council to include employers from outside the local area who are likely to hire a significant number of enrollees from Job Corps Centers. The bills add the requirement that industry councils within single local area States must include a representative of the State board. The bill strikes current law relating to the establishment of performance indicators and directs the Secretary to annually establish expected levels of performance for Job Corps centers and the Job Corps program relating to each of the core indicators for WIA youth activities.

The bill authorizes the appropriations of such sums as may be necessary for fiscal years 2004–2005.

### *Section 141. Native American Programs*

Sec. 141 amends Section 166 of WIA regarding Native American Programs. The Senate bill retains current law duty of the Native American Employment and Training Council to advise the Secretary on the selection of the individual appointed as head of the Division of the Indian and Native American Programs at the Department of Labor.

The bill amends Section 116(j) to provide assistance to unique populations in Alaska and Hawaii to improve job training and workforce investment activities and authorizes appropriations of such sums as may be necessary for fiscal year 2004.

The bill adds a requirement that the Secretary, in consultation with the Native American Employment and Training Council to develop performance indicators that are appropriate to the Native American program.

### *Section 142. Migrant and Seasonal Farmworkers*

No change is made to current law except the addition of “permanent housing” to allowable activities.

### *Section 143. Veterans*

No change to current law is made except a citation update.

### *Section 144. Youth Challenge Grants*

*In General.* Section 144 replaces youth opportunity grants with youth challenge grants. Under the amended section 169 of WIA, of the amounts reserved for Youth Challenge Grants, not less than 80 percent shall be used by the Secretary to award competitive grants and not more than 20 percent may be used by the Secretary to award discretionary grants.

*Competitive Grants.* Competitive grants may be awarded to States, local boards, recipients of Native American grants, and public or private entities with expertise in youth activities applying in partnership with local boards. The bill establishes the factors for awarding grants and requires the Secretary to ensure an equitable geographic distribution of grants across geographically diverse areas. Youth aged 14 to 21 may be eligible to participate in activities that are designed to assist youth in acquiring the skills, credentials, and employment experience necessary to succeed in the labor market. The Secretary shall require matching funds from



grant recipients of at least 10 percent. The bill stipulates that initial grants are for a period of 2 years, which may be renewed for up to 3 succeeding years if the recipient performed successfully.

*Discretionary Grants.* The bill stipulates that the Secretary may award discretionary grants to eligible entities to provide activities that assist youth in preparing for, entering, and retaining employment; assist in-school youth to stay in school and gain work experience; assist youth in economically distressed areas; and such other activities as the Secretary determines are appropriate to ensure that youth entering the workforce have needed skills. The bill directs the Secretary to ensure equitable distribution to rural areas in awarding grants. Youth aged 14 to 21 may be eligible to participate in activities. The Secretary shall require matching funds from grant recipients of at least 10 percent.

#### *Section 145. Technical Assistance*

Sec. 145 amends Section 170 of WIA relating to technical assistance. Funding for peer review activities and training of staff, and training of state and local boards, are specifically authorized as an allowable use of funds. The bill requires the Secretary to establish a system for States to share best practices, and evaluate and disseminate information on best-practices and commission research to address knowledge gaps.

#### *Section 146. Demonstration Pilot, Multiservice, Research, and Multistate Projects*

Section 146 amends the provisions of section 171 of WIA relating to demonstration, pilot, multiservice, research, and multistate projects. The list of projects contained in section 171(b)(1) of WIA is amended to include: projects that assist national employers to enhance facilitate the recruitment and employment of workers for career ladder jobs; systems development activities that improve the maximum effectiveness of programs; projects that focus on industries and sectors that experience, or are likely to experience, high-growth and job leading to self-sufficiency, integrated systems training projects; State and local projects to test innovative approaches to workforce delivering services; projects that provide retention grants to qualified job training programs; targeted innovation projects that improve access to and delivery of workforce services; projects that promote the use of distance learning; projects that provide comprehensive education and training services and support services, in coordination with local boards, for populations in high poverty areas.

The bill replaces existing formula studies to be carried out by the Secretary under Section 171(c)(2)(B) with the following: net impact studies on resources available to assist out-of-school youth; study on industry-based certification and credentials; study on the effectiveness of workforce investment system in meeting business needs.

The bill adds a new subsection 171(c) that directs the Secretary of Labor to carry out 10 pilot projects to establish a system of industry-validated certifications of skills, including 8 in high-technology industries and 2 in cross-disciplinary skills related to homeland security. Grants applications will be submitted to the Department of Labor, which will create criteria for the application con-

sistent with the goals of the subsection. Grants are competitive, and will be made to eligible entities for periods of 36–48 months. Graphic diversity, including rural areas, shall be considered in the award of grants. Eligible entities shall work with the local workforce investment board and shall include as a principal participant one of the following: (1) A community college; (2) an advanced technology education center; (3) a local workforce investment board; (4) a representative of a business in the target industry for the certification involved; and (5) a representative of an industry organization, labor organization, or community development organization. The eligible entity shall have a history of demonstrated capacity for effective collaboration with industry on workforce development activities. Authorized activities for funding are: (1) To establish certification requirements for an industry; (2) to develop and initiate certification programs including preparatory courses, course materials, procedures, and examinations; and (3) to collect and analyze data at the program's completion, including best practices that may be used by local and State workforce investment boards. Certification requirements shall be linked to those developed by the National Science Foundation Advanced Technological Education Program, requiring that an individual demonstrate an identifiable set of competencies related to an industry, including evidence of a transferable skill that allows flexibility and mobility for the individual. The Secretary of Labor shall consult with the Director of the National Science Foundation to ensure that the pilot projects are created consistent with the best practices obtained from the National Science Foundation Advanced Technological Education Program. After analyzing and collecting the data obtained from the programs, the Secretary shall: (1) Establish the core components of a model high-technology certification program; (2) establish guidelines to assure the development of a uniform set of standards and policies for such programs; (3) submit a report to the Senate Health, Education, Labor, and Pensions Committee and the House Committee on Education and Workforce; and (4) make the data and report available to the public. \$30 million is authorized in fiscal year 2004 for the purposes of this subsection.

The bill adds a new subsection 171(f) that directs the Secretary of Labor to award not less than 10 competitive grants to eligible entities designed to integrate English language proficiency and occupational training. Grants applications will be submitted to Department of Labor, which will create criteria for the application consistent with the goals of the subsection. To be eligible for a grant under this subsection, entities shall have experience: (1) Serving individuals with limited language proficiency, including individuals with lower levels of oral and written English; and (2) providing workforce programs with training and English language instruction. Included in this application shall be: (1) Capability statements; (2) assurances that the program shall establish: (a) a generalized adult bilingual workforce training and education model that integrates English language acquisition occupational training, including the unique linguistic and cultural factors of the participants; (b) a framework by which the employer, employee, and other relevant members of the eligible entity can create a career-development and training plan that assist the employer and employee to meet their long-term needs; (c) ensure that this framework takes

into consideration the knowledge, skills, and abilities of the employee with respect to both the current and economic conditions of the employer and the future labor market conditions relevant to the local area; (d) identifiable measures so the progress of the employer, employee, and program can be evaluated, including best practices. The Secretary shall select programs for awards to ensure that competitive data on multiple approaches to integrated workforce training and language instruction be obtained. Grants are competitive, and will be made to eligible entities for periods of 24–48 months. Geographic diversity, including rural areas, shall be considered. Eligible entities shall work with the local workforce investment board and shall include as a principal participant one or more of the following: (1) An employer or employer organization; (2) a non-profit provider of English instruction; (3) a provider of occupational or skills training; (4) a community based organization; (5) an educational institution, including a 2- or 4-year college, or a technical or vocational school; (6) a labor organization; and (7) a local workforce investment board. After analyzing and collecting the data obtained from the programs, the Secretary shall submit a report to the Senate Health, Education, Labor and Pensions Committee and the House Committee on Education and Workforce and make the data and the report available to the public. \$10 million is authorized in fiscal year 2004 for the purposes of this subsection.

*Section 147. National Dislocated Worker Grants*

The National Emergency Grants will now be known as National Dislocated Worker Grants (NDWG). These grants will continue to assist state and local areas to respond with job training and assistance when significant numbers of workers suffer from dislocation, due to mass layoffs or plant closings. This bill adds the ability of the secretary to respond in partnership with the Department of Defense Veterans' Affairs transition assistance programs. When an area faces a higher than average demand for employment and training for dislocated members of the Armed Forces and their spouses, it is the opinion of this Committee that the area can apply for a NDWG.

*Section 148. Authorization of Appropriations for National Activities*

The bill amends section 174 of WIA to authorize appropriations of such sums as may be necessary for 2004 through 2009. The bill strikes the current law reservations and authorizes appropriations of such sums as may be necessary to carry out section 170 through 172 of WIA for 2004 through 2009.

*Section 151. Administration*

Section 151 amends section 181(e) of WIA to strike economic development activities from the list of activities for which WIA Title I funds shall not be used.

*Section 152. Cost Principles*

The bill amends the citation.

### *Section 153. Reports*

Section 153 amends Section 185(e) of WIA to allow the use of electronic methods to submit information or disseminate information.

### *Section 154. Administrative Provisions*

Section 154 amends the annual report provisions of section 189(d) of WIA to require the Secretary of Labor to include information on the negotiated levels of performance of the States, the States' requests for adjustments of such levels, and the adjustments of such levels that are made. The bill provides that the Secretary shall not waive statutory or regulatory requirements relating to the funding of infrastructure costs for one-stop centers. The bill directs the Secretary to expedite requests for waivers for statutory or regulatory requirements that have been approved for a State, provided the requirements of section 189 have been satisfied.

### *Section 155. Use of Certain Real Property*

Section 155 amends section 193 of WIA to provide for the transfer of any Federal equity acquired in real property through grant to States awarded under title III of the Social Security Act or the Wagner-Peyser Act is transferred to the States that used the grants to acquire the equity. The portion of the proceeds from the sale of such real property attributable to transferred equity is to be used for Wagner-Peyser or UI activities under Title III of the Social Security Act.

### *Section 161*

Section 161 amends section 502 of WIA relating to incentive grants to States. Prior to July 1, 2005, incentive grants shall be awarded in accordance with existing law. Beginning on July 1, 2005, the Secretary shall award incentive grants to States that have exceeded their adjusted levels of performance for WIA Title I, Title II, and Carl D. Perkins Vocational and Technical Education Act. Incentive grants shall also be awarded to States on the basis of exemplary performance in serving hard-to-serve populations; effectively coordinating multiple systems into a more effective workforce development system; expanding access to training; implementing innovative business and economic development activities; and such other performance factors as the Secretary determines. The bill stipulates that funds awarded for incentive grants may be used for activities for WIA youth or adult activities, Title II, and Carl D. Perkins Vocational and Technical Education Act.

## TITLE II—AMENDMENTS TO THE ADULT EDUCATION AND FAMILY LITERACY ACT

### *Section 201. Short Title; Purpose*

Title II of S. 1627 may be cited as the Adult Education and Family Literacy Act Amendments of 2003.

This section amends Section 202 of the Adult Education and Family Literacy Act (20 U.S.C. 9201) to list the purposes of this act as follows: (1) assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency; (2) assist adults who are parents to obtain the educational skills

necessary to become full partners in the educational development of their children; (3) assist adults in the completion of a secondary school education and in the transition to postsecondary education; and (4) assist immigrants and other individuals with limited English proficiency in improving their reading, writing, speaking, and mathematics skills and acquiring an understanding of the American free enterprise system, individual freedom, and the responsibilities of citizenship.

#### *Section 202. Definitions*

Updates and defines the following terms.

**Adult Education**—S. 1627 adds the word academic to instruction and education to services to the current law definition and includes the ability to perform mathematics skills as an additional indicator of literacy.

**Adult Education and Literacy Activities**—is amended to provide a more expansive list of eligible activities, including programs which include mathematics skills and workplace literacy activities, along with reading, writing, speaking and family literacy activities leading to a secondary school diploma or its state recognized equivalent.

**Eligible Providers**—must now be an organization of demonstrated effectiveness; the bill does not change the types of eligible providers found in current law. The bill adds the word coalition to the current definition of consortium.

**English Literacy Program**—the bill strikes literacy program and inserts language acquisition program to better reflect the term of art in the field.

**Essential Components of Reading Instruction**—new definition: has the meaning given the term in section 1208 of the Elementary and Secondary Education Act of 1965.

**Workplace Literacy Program**—replaces the current law definition with: an educational program designed to improve the productivity of the workforce through the improvement of literacy skills that is offered by an eligible provider in collaboration with an employer or an employee organization at a workplace, at an off-site location or in a simulated workplace environment.

#### *Section 203. Authorization of Appropriations*

Changes the authorization to a 6-year period and continues the out years to 2009. This is a 6 year reauthorization so the appropriations are authorized as such sums until 2009.

#### *Section 204. Home Schools*

The section exempts home schools from the requirements of this Act, and applies regardless of whether a home school is treated as a home school or a private school under State law.

#### *Section 205. Reservation of Funds; Grants to Eligible Agencies; Allotments*

This section provides for the reservation of funds for the National Institute for Literacy, and the national leadership activities authorized in Section 243 of the Adult Education and Family Literacy Act. It also allows 1.72 percent of funds to be used for incentive grants and 12 percent of the sums appropriated to be used for dis-

tribution according to Section 244 of the Adult Education and Family Literacy Act (as credited by S. 1627).

*Section 206. Performance Accountability System*

This section establishes employment performance indicators, allows for special accountability measures for workplace literacy programs, revises the timetable for agreement on eligible agency adjusted levels of performance, and allows the use of assessment systems that are not commercially available standardized systems if certain standards are met. Furthermore, it revises the content and recipients of the eligible agencies' required annual report, and establishes a program improvement plan (to be accompanied by technical assistance from the Secretary) if eligible agencies do not meet their adjusted levels of performance for the core indicators of performance.

*Section 207. State Administration*

Adds monitoring to the list of state required activities. The eligible agency is still responsible for the development, submission, and implementation and this bill adds monitoring; consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities in adult literacy, and the coordination and non-duplication with other Federal and State programs.

*Section 208. State Distribution of Funds; Matching Requirement*

This section updates and amends the requirements governing State distribution of funds and the matching requirement. It permits the States to use up to 15 percent of their grants for State leadership activities, and increases the minimum administrative set aside to \$75,000.

*Section 209. State Leadership Activities*

This section revises and amends the current set of activities that can be undertaken by States, all of which now must be designed to develop or enhance their adult education systems. S. 1627 adds a new State leadership activity, which permits States to implement technology related applications, translation technology, or distance learning, including professional development to support the use of instructional technology.

In addition, this section further expands State leadership activities to include efforts to expand collaboration between agencies, including postsecondary institutions; coordination with mental health services activities to promote workplace literacy programs; creation of scientifically based curricula; development of assessments; in order to identify the needs and capture the gains of students, with particular emphasis on students at the lowest achievement level, students who have limited English proficiency, and adults with learning disabilities; and programs to meet the needs of individuals with disabilities, limited English proficiency, or other special needs.

This section also eliminates State incentive grant and bonus programs because S. 1627 provides for a much larger incentive grant system.

### *Section 210. State Plan*

This section establishes a four-year State plan along with a review of that plan after the first two years, and revises the list of entities the eligible agency is required to consult with concerning the State plan. Furthermore, it revises the required content of the State plan to include a description of: how the adult education and literacy needs in each workforce development area will be addressed; how the eligible agency will hold eligible providers accountable for performance; how the eligible agency will improve the quality of teaching and instruction; an assurance that the eligible agency will award not less than one grant to an eligible provider that offers flexible schedules and coordinates with necessary federal, state, and local support services (such as child care, transportation, mental health services, and case management); how the eligible agency shall include various stakeholders in the process of public participation and comment with respect to the State plan; how the unemployed and under-employed will be addressed by strategies in the State plan; how the State plan will be coordinated with the plan submitted under Title I; how the State will build the capacity of adult education and literacy providers and increase the participation of business and industry; how the eligible agency will consult with any State agencies responsible for postsecondary education to develop adult education programs and services (including academic skill development and support services), that prepare students to enter postsecondary education; how the eligible agency will consult with the State agency responsible for workforce development to develop adult education programs and services that prepare students to enter the workforce; and how the eligible agency will improve the professional development of eligible providers.

### *Section 211. Programs for Corrections Education and Other Institutionalized Individuals*

Changes the term basic education to adult education and literacy activities. Changes the heading from Definition of Criminal Offender to Definitions in this section.

### *Section 212. Grants and Contracts for Eligible Providers*

This section revises and amends the eligibility of providers to receive grants or contracts to provide adult education services. It emphasizes the need for the eligible provider to be responsive to local needs and to serve individuals identified in the assessment as having the greatest need for adult education services. It also requires eligible agencies, in awarding grants or contracts with eligible providers, to consider whether eligible providers are able to produce information on performance results, provide services based on the most rigorous research available, identify whether or not the provider's applications of technology and services will improve quality and learning, offer flexible schedules and coordinate with Federal, State, and local support services (such as child care, transportation, mental health services, and case management), and demonstrate that they have the capacity to serve adult learners with learning disabilities.

*Section 213. Local Application*

This section maintains requirements that local providers be able to demonstrate where the funding was used and adds a requirement that funds be spent consistent with the requirements of this subtitle.

*Section 214. Local Administrative Cost Limits*

This section allows local providers to spend their administrative cost allowance on professional development, and the development of measurable goals in reading, writing, speaking, and mathematical computation.

*Section 215. Administrative Provisions*

This section continues to have 90 percent maintenance of effort and continues to allow the Secretary to make proportionate reductions if a State fails to maintain that effort. The Secretary continues to have the authority to waive this provision for not more than 1 year.

*Section 216. National Institute for Literacy*

This section amends and revises the mission of the National Institute for Literacy. It includes a requirement that the Institute coordinate and participate in the Federal effort to identify and disseminate information on literacy that is derived from the most rigorous research available. In literacy areas where scientifically-based research is available, that research should be disseminated.

This section also requires that the Institute work with the United States Department of Education to provide training and technical assistance to State that are pursuing the implementation of standards based educational improvements for adults, and to identify rigorous research on the effectiveness of instructional practices related to literacy programs.

*Section 217. National Leadership Activities*

This section also provides authority for the Secretary to support the development of entity that would produce and distribute technology-based programs and materials for adult education and literacy programs using an interconnection system (as defined in section 397 of the Communications Act of 1934) and expands the effective outreach and use of such programs and materials to adult education eligible providers.

It also creates authority for the Secretary to pursue activities that would help determine how participation in adult education and literacy activities prepares individuals for entry into postsecondary education and employment, and in the case of prison-based services, has an effect on recidivism.

*Section 218. Integrated English Literacy and Civics Education*

This section adds a new section to the Adult Education and Family Literacy Act that would authorize the allocation of funds under Title II activities to be distributed based in part on the formula derived from the eligible participants described in Section 203, and to distribute 12 percent of the total allocation based on a formula that takes into account the immigrant population based on data ob-



tained from the United States Citizenship and Immigration Services.

*Section 219. Transition*

Adds a new provision that instructs the Secretary to make the necessary changes to ensure a smooth and orderly transition from current law to the new Act.

**TITLE III—AMENDMENTS TO OTHER PROVISIONS OF LAW**

Section 301 amends Section 2(3) of the Wagner-Peyser Act to employment services offices in each State be collocated with comprehensive one-stop centers.

Section 301 also amends Section 15 of the Wagner-Peyser Act relating to labor market information. The Secretary of Labor, in consultation with the States, is authorized to assist in the development of national electronic tools to provide services. The bill requires the Secretary of Labor to prepare a 2-year plan as the mechanism for achieving cooperative management of the nationwide workforce and labor market information system. The bill also requires the Secretary of Labor to consult at least annually with regional representatives of the State workforce and labor market information directors. The bill authorizes appropriation of such sums as may be necessary for fiscal years 2004 through 2005 to enable the Secretary to carry out activities in a timely manner through grants or cooperative agreements with the States, and requires the funds to be distributed in the same manner as under current law.

**TITLE IV—REHABILITATION ACT AMENDMENTS**

*Section 401. Short Title*

Section 401 provides the title of this Act, the “Rehabilitation Act Amendments of 2003”.

*Section 402. Technical Amendments to Table of Contents*

Section 402 amends the table of contents of the Rehabilitation Act to add section 112, Incentive Grants. It also adds a new section 752 and 753, under Title VII, Training and Technical Assistance, and renumbers other sections.

*Section 403. Purpose*

Section 403 adds a new purpose of the act: to provide opportunities for employers and rehabilitation service providers to provide meaningful input at all levels of government to ensure successful employment of individuals with disabilities.

*Section 404. Definitions*

*In General.* Section 404 amends section 7 of the Rehabilitation Act.

*Literacy Services and Skills.* References to a person’s need for literacy services and skills is added as part of the assessment of needs and eligibility for services. Also added is a definition of literacy-, defined as the meaning of the term in section 203 of the Adult Education and Family Literacy Act.

*Consumer Organizations.* A definition of consumer organization is added to describe a membership organization in which a major-

ity of the organization's members and a majority of the organization's officers are individuals with disabilities.

*Core Services.* Independent living core services are expanded to include maintaining individuals with significant disabilities in, or transitioning individuals with significant disabilities to, community-based living.

*Post-Employment Services.* A definition of post-employment services is added as meaning provided subsequent to the achievement of an employment outcome, and necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

*Student With a Disability.* A definition of student with a disability is added as meaning an individual with a disability who attends an elementary school or secondary school and who is age 14–21, and has been determined to be eligible for vocational rehabilitation services (under section 102(a) of the Rehabilitation Act). It also refers to an individual who is eligible for and receiving special education and related services under part B of the Individuals with Disabilities Education Act, or is an individual with a disability under section 504 of the Rehabilitation Act. It also defines students with disabilities to be more than one student with a disability.

#### *Section 405. Administration of the Act*

Section 405 amends section 12(a)(1) of the Rehabilitation Act by adding a provision authorizing the Commissioner of the Rehabilitation Service Administration to provide technical assistance to the designated State units on developing successful partnerships with employers.

#### *Section 406. Carryover*

*Centers for Independent Living and for Independent Living Services for the Older Blind.* Section 406 amends section 19(a) of the Rehabilitation Act by eliminating the carry over funds provision for centers for independent living and for independent living services for the older blind.

*Protection and Advocacy for Individual Rights.* Section 406 amends section 19 of the Rehabilitation Act by adding a new separate provision relating to unobligated funds for protection and advocacy for individual rights programs similar to the use of unobligated and unexpended funds for other protection and advocacy programs. It also specifies that program income attributed to the protection and advocacy program is to remain available until expended.

### Subtitle A—Vocational Rehabilitation Services

#### *Section 411. Declaration of Policy; Authorization of Appropriations*

Section 411 amends section 100(b)(1) of the Rehabilitation Act authorizing such sums as may be necessary for fiscal years 2004–2009.

#### *Section 412. State Plans*

*Employment of Qualified Individuals With Disabilities.* Section 412 adds a requirement to section 101(a)(6)(B) of the Rehabilitation

Act that the designated State agencies and the community rehabilitation programs also recruit individuals with disabilities.

*Comprehensive System of Personnel Development.* Section 101(a)(7)(v)(I) is amended by including training implemented in coordination with State programs carried out under section 101 of the Assistive Technology Act of 1998.

*Comparable Services and Benefits.* Section 101(a)(8)(A) of the Rehabilitation Act by stipulating that for purposes of determining comparable benefits of services for persons who receive services under the Ticket to Work and Self-Sufficiency Program, comparable benefits include only those benefits and services identified in the individual's individualized work plan developed by an employment network.

*Reporting Requirements.* Section 101(a)(10) of the Rehabilitation Act is amended by deleting specific data elements described in section 136(d)(2) of the Workforce Investment Act of 1998 and adding annual reporting of information on eligible individuals receiving services that is needed to assess performance on the core indicators of performance described in section 136(b)(2)(A)(I) of the Workforce Investment Act of 1998. This includes the number of applicants and eligible recipients, including the number of individuals with significant disabilities, who exited the program carried out under this title and the number of such individuals who achieved employment outcomes after receiving vocational rehabilitation services and the number of individuals who received vocational rehabilitation services who entered and retained employment and the increases in earnings of such individuals, consistent with State reporting responsibilities pursuant to section 136(b)(2)(A)(I) of the Workforce Investment Act of 1998. Additionally, subparagraph (E)(ii) is amended by striking "in meeting" and everything thereafter and replacing it with "in meeting the standards and indicators established pursuant to section 106."

*Cooperation, Collaboration and Coordination.* Subparagraph (C) of Section 101(a)(11) of the Rehabilitation Act is renamed Interagency Cooperation with other Agencies and includes the State programs carried out under section 101 of the Assistive Technology Act of 1998 in the requirement of the State plan to include descriptions of interagency cooperation with, Federal, State, and local agencies and programs.

*Coordination With Education Officials.* Amends Section 101(a)(11)(D)(ii) of the Rehabilitation Act to require that the State agency and the State education agency also plan for the development and completion of the individualized plan for employment under the vocational rehabilitation program, in order to achieve post-school employment outcomes of students with disabilities as appropriate.

*Coordination With Ticket To Work and Self-Sufficiency Program.* Subparagraph (G) is added to Section 101(a)(11) of the Rehabilitation Act requiring the designated State agency to coordinate activities with any other State agency that administers a Ticket to Work and Self-Sufficiency Program.

*Information and Referral Services.* Section 101(a)(20) of the Rehabilitation Act is amended to require the Secretary agency to provide to individuals entitled to social security or Supplemental Security Income (SSI) benefits on the basis of a disability or blindness,

information on the availability of benefits under Medicaid and Medicare, the work incentive planning and assistance grant program, and protection and advocacy programs under State grants for work incentives, and medical assistance under other federally-funded programs. Additionally, the State agency is required to provide to the individuals specified in this paragraph who are also eligible for assistance under the Ticket to Work and Self-Sufficiency program, specific information on how to contact the program manager of that program to obtain information on approved employment networks. Subclause (II) is amended to stipulate that the referral to a specific point of contact be made “to the maximum extent possible.” Subclause (III) is also amended to refer to information that will assist the individual to “advance in” employment.

*Section 413. Eligibility and Individual Plan for Employment*

*Options for Developing an Individualized Plan for Employment.* Amends section 102(b)(1) of the Rehabilitation Act to require the designated State unit to provide the individual with a listing of community resources (including resources from consumer organizations) that are available to assist in the development of the individualized plan for employment, to enable the individual to make informed choices in developing the individualized plan for employment.

*Mandatory Procedures.* Section 102(b)(1)(D) of the Rehabilitation Act is amended to require that the individual plan for employment include, for individuals entitled to Social Security or Supplemental Security Income (SSI) benefits on the basis of disability or blindness, information on the availability of benefits under Medicaid, Medicare, the work incentive planning and assistance grants program, and protection and advocacy programs under State grants for work incentives, and medical assistance under other federally-funded programs. Additionally, the State agency is required to provide to the individuals specified in this paragraph who are also eligible for assistance under the Ticket to Work and Self-Sufficiency program specific information on options under that program, how to contact the program manager of that program on approved employment networks, the benefits planning and assistance programs in the area, and the protection and advocacy programs in the area.

*Review and Amendment.* A provision is added to section 102(b)(2)(E) of the Rehabilitation Act specifying that the individualized plan for employment be amended, as necessary, to include the post-employment services and service providers that are necessary for the individual to maintain, regain, or advance in employment, consistent with the individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

*Mandatory Components of an Individualized Plan for Employment.* Mentoring is added to the list of vocational rehabilitation services in section 102(b)(3)(B)(I)(I) of the Rehabilitation Act. Subparagraph (H) is a new provision regarding the individualized plan for employment for students with disabilities. The individualized plan for employment must include a description of the student’s projected post-school employment outcome and the specific transition services (including, as appropriate, work experience and mentoring activities) needed to achieve the student’s employment outcome or projected employment outcome. Additionally, subparagraph

(1) is added to stipulate that for an individual who is receiving assistance under the Ticket to Work and Self-Sufficiency Program, the individualized plan for employment must include a list of services the individual receives from an employment network other than the vocational rehabilitation agency.

*Impact on Provision of Services.* A stipulation is added to section 102(c)(7) of the Rehabilitation Act that the procedures take into consideration an individual's informed choice.

#### *Section 414. Vocational Rehabilitation Services*

Section 414 amends section 103(a)(5) of the Rehabilitation Act by adding literacy services and mentoring services to the list of vocational rehabilitation services.

#### *Section 415. State Rehabilitation Council*

*Composition.* Section 105(b)(1)(A)(ix) of the Rehabilitation Act is amended by clarifying that at least one American Indian Vocational Rehabilitation Service director be on the Council in a State in which 1 or more projects provide services under section 121 of Title I of the Rehabilitation Act.

*Chairperson.* Section 105(b)(5) of the Rehabilitation Act is amended by giving the Council the authority to select a chairperson from among the voting membership of the Council.

#### *Section 416. Evaluation Standards and Performance Indicators*

Section 416 amends section 106(b)(2)(B)(I) of the Rehabilitation Act by requiring that if the State has not improved its performance to acceptable levels, as determined by the Commissioner, then the Commissioner must direct the State to make further revisions to the plan to improve performance. This may include allocating a higher proportion of the State's resources for services to individuals with disabilities if the State's spending on such services is low in comparison to spending by comparable agencies in other States.

#### *Section 417. State Allotments*

*Reallotment.* Section 417 adds a new provision for distribution of funds available for reallotment to other States and defines States eligible for reallotment funds to section 110(b) of the Rehabilitation Act. The formula for distribution of funds available for reallotment is as follows: such funds shall be allotted to each State whose allotment is less than its allotment for the immediately preceding fiscal year increased by the percentage change in the funds available for allotment for all States. The amount to be provided to States eligible for reallotment shall be equal to the difference between: the amount such State received for the fiscal year, and the amount the State received for the immediately preceding fiscal year adjusted by the percent change in the funds available for allotment for all States. If the amount available for reallotment is insufficient to provide each eligible State the amount specified in the bill, the amount related to each eligible State shall be determined by the Commissioner. If there are funds remaining after each State eligible receives the amount specified by the bill, the Commissioner shall reallot the remaining funds among the States requesting a reallotment.

*Increase in Allotment.* Section 417 changes the amount to be set aside for the American Indian Vocational Rehabilitation Services program in section 110(c)(2) of the Rehabilitation Act. Beginning in 2004, if the amount appropriated for services under Title I of the Rehabilitation Act exceeds the total appropriations for the preceding fiscal year plus 0.075 percent of that amount, then the amount to be set aside for American Indian Vocational Rehabilitation Services is to be (a) the total amount reserved for the preceding fiscal year 0.1 percent of the appropriated amount, or (b) 1.5 percent of the appropriated amount, whichever is less.

#### *Section 418. Client Assistance Program*

*Grants to States.* Section 418 requires the Secretary of the Department of Education to make grants to public or private agencies designated by the Governor of each State, pursuant to section 112(c) of the Rehabilitation Act. It also specifies that the recipient of funds in America Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands are to be designated agencies located in these territories.

*Grants to Protection and Advocacy Systems for the American Indian Consortium.* Section 418 creates a new subparagraph (E) in the Rehabilitation Act so that beginning on October 1, 2004, for any fiscal year for which the amount appropriated exceeds \$13,000,000, the Secretary is required to reserve funds under section 112 of the Rehabilitation Act for grants to the protection and advocacy system serving the American Indian Consortium for client assistance services. The amount to be reserved by the consortium is \$45,000. American Indian Consortium is defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000. Protection and advocacy system is defined as in Title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

*Reservation of Funds for Training and Technical Assistance.* Section 418 creates a new subparagraph (F) in section 112 of the Rehabilitation Act requiring that for any fiscal year for which the amount appropriated for the Client Assistance Program equals or exceeds \$14,000,000, the Secretary is required to reserve at least 1.8 percent and not more than 2.2 percent for training and technical assistance for client assistance programs. These activities are to be coordinated with protection and advocacy activities under Title V of the Rehabilitation Act.

*Authorization of Appropriations for the Client Assistance Program.* Section 418 amends section 112(g) of the Rehabilitation Act authorizing such sums as may be necessary for fiscal years 2004–2009.

#### *Section 419. Incentive Grants*

*In General.* Section 419 amends Part B of Title I of the Rehabilitation Act by authorizing the Commissioner to make incentive grants to States that demonstrate a high level of performance, and a significantly improved level of performance compared to the previous reporting period(s).

*Criteria.* No later than 180 days after the date of enactment of this provision, the Commissioner is required to establish criteria for making grant awards. The criteria are to be developed with input from State vocational rehabilitation agencies and other voca-

tional rehabilitation stakeholders, including consumers and consumer organizations, and be based upon the evaluation standards and performance indicators established under section 106 of the Rehabilitation Act and other performance related measures that the Commissioner determines to be appropriate.

*Use of Funds.* A State that receives incentive grant awards is required to use funds for approved State plan activities.

*Non-Federal Share.* There is no Federal share required for incentive grants.

*Authorization of Appropriations.* The bill authorizes such sums as may be necessary for fiscal years 2004–2009.

#### *Section 420. Vocational Rehabilitation Services Grants*

Section 420 amends Section 121 of the Rehabilitation Act by adding a reference that vocational rehabilitation services provided are required to be consistent with individuals' strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that they may prepare for, and engage in, gainful employment. 121(b)(1) is amended by adding subparagraph (d), which requires that an applicant must contain certain assurances that all decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of such services, will be made by a representative of the tribal vocational rehabilitation program, and that such decisions will not be delegated to another agency or individual. Paragraph 3 is amended by requiring that applications that comply with regulatory requirements are to be effective for 5 years and must be renewed for additional 5-year periods if the Commissioner of Rehabilitation Services Administration determines that the grantee demonstrated acceptable past performance, and submits a plan to be approved by the Commissioner that identifies future performance criteria, goals, and objectives. Paragraph 4 adds a new provision requiring the Secretary to give priority to paying the continuation costs of existing projects and authorizing the Secretary to provide for increases in funding for such projects as necessary.

#### *Section 421. GAO Studies*

Section 421 requires the Comptroller General of the United States to conduct a study on the interaction of Title I of the Rehabilitation Act with the Ticket to Work and Self-Sufficiency Program, including the impact on beneficiaries, community rehabilitation programs, and State vocational rehabilitation agencies. In conducting the study, GAO must consult with all participants in the Ticket to Work and Self-Sufficiency Program, including the Social Security Administration, the Rehabilitation Services Administration, ticket holders, State agencies, community rehabilitation programs (including employment networks and non-employment networks), protection and advocacy agencies, MAXIMUS, and organizations representing the interests of ticket holders. GAO is required to submit a report on its study to the appropriate committees of Congress, no later than 18 months after the date of enactment of this title of the bill. Additionally, section 421 requires the Comptroller General of the United States to conduct a study on the relationship between the Title I state allotment formula and the ability of States to provide vocational rehabilitation services in ac-

cordance with State plan requirements. In conducting the study GAO must consult with appropriate entities. GAO is required to submit a report on its study to the appropriate committees of Congress, no later than 12 months after the date of enactment of this title of the bill.

#### Subtitle B—Research and Training

##### *Section 431. Authorization of Appropriations*

*Authorization of Appropriations for the Client Assistance Program.* Section 418 amends section 201(a) of the Rehabilitation Act to authorize such sums as may be necessary for fiscal years 2004–2009.

##### *Section 432. National Institute on Disability and Rehabilitation Research*

Section 432 amends section 202(f)(1) of the Rehabilitation Act by specifying that scientific peer review shall be conducted by individuals who are not Department of Education employees.

##### *Section 433. Research and Covered Activities*

Section 433 amends section 204(c)(2) of the Rehabilitation Act by increasing the amount limitation to \$750,000.

##### *Section 434. Rehabilitation Research Advisory Council*

Section 434 amends section 205(c) of the Rehabilitation Act to require the Council to include a representative from the business community who has experience with the vocational rehabilitation system and hiring individuals with disabilities.

#### Subtitle C—Professional Development and Special Projects and Demonstrations

##### *Section 441. Training*

*Types of Projects.* Section 441 amends section 302(b)(1)(B)(i) of the Rehabilitation Act by adding to the list of academic training projects rehabilitation for the blind or orientation and mobility instruction.

*Authorization of Appropriations.* Section 302(i) of the Rehabilitation Act is amended to authorize such sums as may be necessary for fiscal years 2004–2009.

##### *Section 442. Demonstration and Training Programs*

*Priority for Demonstrations.* Section 303(b)(5)(A)(i) of the Rehabilitation Act stipulates that at least two special projects and demonstration programs for adults who are either low-functioning and deaf or low-functioning and hard of hearing.

*Demonstration Projects for Employment of Students With Intellectual Disabilities or Mental Illness.* Section 442 includes a new demonstration project for students with intellectual disabilities or mental illness under section 303(c) of the Rehabilitation Act. Authorizes the Secretary to make grants to organizations to support demonstration projects to provide supported and competitive employment experiences for students with intellectual disabilities or students with mental illness, and training for personnel that work



with these students to enable them to gain employment skills and experience that will promote effective transitions from school to employment and adult living. Requires that each organization applying for a grant, contract, or cooperative agreement must submit an application to the Secretary. Specifies that organizations that receive grants shall develop innovative and effective supported and competitive employment experiences that lead to competitive high-paying jobs, and the development and deployment of experts to work with transition programs (including personnel working with students on transition) so that personnel from the programs develop skills needed to train students in competitive employment in a range of settings, including office settings. Authorizes \$5,000,000 to be appropriated for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2008.

*Demonstration Project for Employment of Individuals Who Are Deaf and Low-Functioning.* Section 442 includes the following provision for a new demonstration project for adults who are low-functioning and deaf in section 303(d) of the Rehabilitation Act. Defines an “individual who is deaf and low-functioning” as an individual who has been deaf from birth or very early childhood, reads at or below the second grade level, has little or no intelligible speech, and lacks a high school diploma or GED, including an individual with a secondary disability. Requires that each organization applying for a grant, contract, or cooperative agreement must submit an application to the Secretary. Specifies that State agencies, other public agencies or organizations, or not-for-profit organizations that receive funds shall develop innovative, comprehensive program of instruction for deaf and low-functioning individuals that can be implemented at multiple training locations through such means as distance learning and use of advanced technology. Requires each State agency, other public agencies or organizations, or not-for-profit organizations that receive funds shall provide annual reports and a final report to the Commissioner within 2 years after the grant is awarded. The contents of annual reports must include the number of individuals who are participating in the demonstration project, the employment and other skills being taught in the project, and the number of individuals who have dropped out of the project and the reasons for their terminating participation. Contents of the final report must include the number of individuals who participated in the training program, a description of the job sites in which individuals were placed, and a written analysis of the model project, including both the strengths and weaknesses of the project, to assist other entities in replicating the training program developed. Authorizes \$5,000,000 to be appropriated for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

*Access to Telework.* Section 442 includes the following provisions under a new Access to Telework program in section 303(g) of the Rehabilitation Act. Defines telework as work from home and other telework sites with the assistance of a computer and with reasonable accommodations, including the necessary equipment to facilitate successful work from home and other telework sites. Authorizes the Commissioner to make grants to States and governing bodies of American Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay for the Fed-

eral share of the cost of establishing a telework program. States that desire to receive a grant fund must submit an application to the Commissioner. Requires States that receive grants under the Access to Telework fund shall establish and expand a telework program that shall provide loans to individuals with disabilities to enable them to purchase computers or other equipment. Requires States that receive grants under the Access to Telework fund to provide an annual report to the Commissioner. The contents shall include, among other things, characteristics of each individual with a disability that requires a loan or other alternative financing mechanism, employment status at the time of application, and whether the individual has repaid the loan or other alternative financing mechanism received under the program, is in repayment status, is delinquent on repayments, or has defaulted. The Federal share of the cost of establishing a telework program is established at 10 percent of the cost.

*Section 443. Migrant and Seasonal Farmworkers*

Section 443 amends section 304(b) of the Rehabilitation Act to authorize such sums as may be necessary for fiscal years 2004–2009.

*Section 444. Recreational Programs*

*Recreational Programs.* Section 444 amends section 305(a)(1)(B) of the Rehabilitation Act to prohibit funding for construction of facilities for aquatic rehabilitation therapy.

*Authorization of Appropriations for Recreational Programs.* Section 444 amends section 305(b) of the Rehabilitation Act to authorize such sums as may be necessary for fiscal years 2004–2009.

Subtitle D—National Council on Disability

*Section 451. Authorization of Appropriations*

Section 451 amends section 405 of the Rehabilitation Act to authorize such sums as may be necessary for fiscal years 2004–2009.

Subtitle E—Rights and Advocacy

*Section 461. Architectural and Transportation Barriers Compliance Board*

*Authorization of Appropriations.* Section 461 amends section 502(j) of the Rehabilitation Act to authorize such sums as may be necessary for fiscal years 2004–2009.

*Section 462. Protection and Advocacy of Individual Rights*

*Protection and Advocacy of Individual Rights.* Section 462 amends 509(g) by allowing the eligible system to keep program income generated from the grant for use until expended.

*Authorization of Appropriations.* Section 462 amends section 509(l) of the Rehabilitation Act to authorize such sums as may be necessary for fiscal years 2004–2009.

Subtitle F—Employment Opportunities for Individuals With Disabilities

*Section 471. Projects with Industry*

Section 471 amends section 612 of the Rehabilitation Act to authorize such sums as may be necessary for fiscal years 2004–2009.

*Section 472. Services for Individuals With Significant Disabilities Authorization of Appropriation*

Section 472 amends section 628 of the Rehabilitation Act to authorize such sums as may be necessary for fiscal years 2004–2009.

Subtitle G—Independent Living Services and Centers for Independent Living

*Section 481. State Plan*

Section 481 amends section 704(o) of the Rehabilitation Act by adding a new provision to the State plan, requiring the plan to describe how the State will provide independent living services that promote full access to community life for individuals with significant disabilities. The services the State shall provide include, as appropriate, facilitating transitions from nursing homes and other institutions, including institutions serving individuals with cognitive disabilities, to community-based residences, assisting individuals with significant disabilities at risk of entering institutions to remain in the community, and promoting home ownership among individuals with significant disabilities.

*Section 482. State Independent Living Council*

*Composition and Appointment.* Section 705(b)(2)(C) of the Rehabilitation Act is amended by clarifying that at least one American Indian Vocational Rehabilitation Service director be on the Council in a State in which 1 or more projects provide services under section 121 of Title I of the Rehabilitation Act.

*Chairperson.* Section 705(b)(5) of the Rehabilitation Act is amended by giving the Council the authority to select a chairperson from among the voting membership of the Council.

*Section 483. Independent Living Services Appropriations*

Section 483 amends section 714 of the Rehabilitation Act to authorize such sums as may be necessary for fiscal years 2004–2009.

*Section 484. Program Authorization*

Section 484 amends section 721(c) of the Rehabilitation Act current allotment method as follows: Defines additional appropriation as the amount (if any) by which the appropriation a fiscal year exceeds the total of (i) the amount reserved for training and technical assistance for FY2003 and (ii) the appropriation for fiscal year 2003. Appropriation is defined as the amount appropriated to carry out section 721 of the Rehabilitation Act. Base appropriation is defined as the portion of the appropriation for a fiscal year equal to the lesser of—the total appropriation minus the amount set aside for training and technical assistance for that or the appropriation for FY2003. Funds would be continued to be reserved for training and technical assistance (same proportion as current law). Any

amount in excess of the FY2003 amount and the training and technical assistance reservation would be distributed in the following manner: 50 percent of the excess would be allocated based on a State's relative share of the population of all States, and the other 50 percent of the excess would be allocated as an equal share among each of the States and territories. A new provision is added that allows for any amount paid to an agency to operate a center for independent living, and any amount of program income that remains unobligated at the end of a FY to be available to the agency for obligation during the next 2 fiscal years.

*Section 485. Grants to Centers for Independent Living in State in Which Federal Funding Exceeds State Funding*

Section 485 amends 722(c) of the Rehabilitation Act by requiring the Commissioner to award grants to any eligible agency that has been awarded a grant under this section during the preceding fiscal year.

*Section 486. Grants to Centers for Independent Living in State in Which State Funding Exceeds Federal Funding*

Section 486 amends 723(c) of the Rehabilitation Act by requiring the Director of a State designated unit to award grants to any eligible agency that has been awarded a grant under this section during the preceding fiscal year.

*Section 487. Standards and Assurances for Centers for Independent Living*

Section 487 amends 725(b)(8) of the Rehabilitation Act by adding a provision requiring independent living centers (ILCs) to provide independent living services that promote full access to community life for individuals with significant disabilities. The services that ILCs shall provide include, as appropriate, facilitating transitions from nursing homes and other institutions, including institutions serving individuals with cognitive disabilities, to community-based residences, assisting individuals with significant disabilities at risk of entering institutions to remain in the community, and promoting home ownership among individuals with significant disabilities.

*Section 488. Centers for Independent Living Authorization of Appropriations*

Section 488 amends section 727 of the Rehabilitation Act to authorize such sums as may be necessary for fiscal years 2004–2009.

*Section 489. Independent Living Services for Older Individuals Who Are Blind*

Section 489 amends 752(a) of the Rehabilitation Act by adding a new provision for training and technical assistance. The new provision requires the Commissioner to set aside an amount not less than 1.8 percent and not more than 2 percent, of the excess appropriation, in any fiscal year in which the funds appropriated exceed the funds appropriated in FY2003 to carry out training and other technical assistance programs under this section. Requires the Commissioner to make grants to, and enter into contracts and other arrangements with, entities that demonstrate expertise in the provision of services to older individuals who are blind and to

provide training and technical assistance with respect to planning, developing, conducting, administering, and evaluating independent living programs for older individuals who are blind. Requires the Commissioner to conduct a survey of designated State agencies that receive grants under section 753 regarding training and technical assistance needs in order to determine funding priorities for grants, contracts, and other arrangements under this section. Requires an eligible entity to submit an application to the Commissioner containing a proposal to provide training and technical assistance, and additional information as the Commissioner may require in order to be eligible to receive a grant or enter into a contract or other arrangement under this section. Prohibits funds reserved by the Commissioner under this section to be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

*Section 490. Program of Grants*

*Certain Expenditures of Grants.* Section 490 amends section 489(g) of the Rehabilitation Act by allowing States to expend funds either through grants or contracts.

*Requirements Regarding State Plan.* Section 752(h) is deleted, thereby removing references to the State plan for independent living in Chapter 1.

*Amount of Formula Grant.* Section 490 amends section 752(j)(2)(A) of the Rehabilitation Act by increasing the minimum allotment for a fiscal year for States from \$225,000 to \$350,000.

*Amount of Formula Grant.* Section 490 amends section 752(j)(2)(B) of the Rehabilitation Act by increasing the minimum allotment for a fiscal year for territories from \$40,000 to \$60,000.

*Section 491. Independent Living Services for Older Individuals Who Are Blind Authorization of Appropriations*

Section 491 amends section 753 of the Rehabilitation Act to authorize such sums as may be necessary for fiscal years 2004–2009.

Subtitle H—Miscellaneous

*Section 495. Helen Keller National Center Act*

*General Authorization of Appropriations.* Section 495 amends section 205(a) of the Helen Keller National Center Act to authorize such sums as may be necessary for fiscal years 2004–2009.

*Helen Keller National Center Federal Endowment Fund.* Section 495 amends section 208(h) of the Helen Keller National Center Act to authorize such sums as may be necessary for fiscal years 2004–2009.

IX. CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new mat-

ter is printed in italic, existing law in which no change is proposed is shown in roman):

## WORKFORCE INVESTMENT ACT OF 1998

\* \* \* \* \*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Workforce Investment Act of 1998”.

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

Sec. 1. Short title; table of contents.

#### TITLE I—WORKFORCE INVESTMENT SYSTEMS

##### Subtitle A—Workforce Investment Definitions

Sec. 101. Definitions.

##### Subtitle B—Statewide and Local Workforce Investment Systems

**[Sec. 106. Purpose.]**

*Sec. 106. Purposes.*

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#### CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES PROVIDERS

Sec. 121. Establishment of one-stop delivery systems.

Sec. 122. Identification of eligible providers of training services.

**[Sec. 123. Identification of eligible providers of youth activities.]**

*Sec. 123. Eligible providers of youth activities.*

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##### Subtitle D—National Programs

Sec. 166. Native American programs.

Sec. 167. Migrant and seasonal farmworker programs.

Sec. 168. Veterans’ workforce investment programs.

**[Sec. 169. Youth opportunity grants.]**

*Sec. 169. Youth challenge grants.*

Sec. 170. Technical assistance.

Sec. 171. Demonstration, pilot, multiservice, research, and multistate projects.

Sec. 172. Evaluations.

**[Sec. 173. National emergency grants.]**

*Sec. 173. National dislocated worker grants.*

Sec. 174. Authorization of appropriations.

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##### Subtitle E—Administration

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**[Sec. 193. Use of certain real property.]**

*Sec. 193. Transfer of Federal equity in State employment security agency real property to the States.*

Sec. 194. Continuation of State activities and policies.

Sec. 195. General program requirements.

#### TITLE II—ADULT EDUCATION AND LITERACY

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##### Subtitle A—Adult Education and Literacy Programs

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#### CHAPTER 4—GENERAL PROVISIONS

Sec. 241. Administrative provisions.

Sec. 242. National Institute for Literacy.

Sec. 243. National leadership activities.

## TITLE I—WORKFORCE INVESTMENT SYSTEMS

### Subtitle A—Workforce Investment Definitions

#### SEC. 101. DEFINITIONS.

In this title:

(1) *ACCRUED EXPENDITURES*.—The term “accrued expenditures” means charges incurred by recipients of funds under this title for a given period requiring the provision of funds for—

(A) goods or other tangible property received;

(B) services performed by employees, contractors, subgrantees, subcontractors, and other payees; and

(C) other amounts becoming owed under programs assisted under this title for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

[(1)] (2) *ADULT*.—[Except in sections 127 and 132,] *Except in section 132*, the term “adult” means an individual who is age 18 or older.

[(2)] (3) *ADULT EDUCATION; ADULT EDUCATION AND LITERACY ACTIVITIES*.—The terms “adult education” and “adult education and literacy activities” have the meanings given the terms in section 203.

[(3)] (4) *AREA VOCATIONAL EDUCATION SCHOOL*.—The term “area vocational education school” has the meaning given the term in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998.

[(4)] (5) *BASIC SKILLS DEFICIENT*.—The term “basic skills deficient” means, with respect to an individual, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test.]

(5) *BASIC SKILLS DEFICIENT*.—The term “basic skills deficient” means, with respect to an individual, that the individual—

(A) has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test; or

(B) is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual’s family, or in society.

(6) *BUSINESS INTERMEDIARY*.—The term “business intermediary” means an entity that brings together various stakeholders with an expertise in an industry or business sector.

[(5)] (7) *CASE MANAGEMENT*.—The term “case management” means the provision of a client-centered approach in the delivery of services, designed—

(A) to prepare and coordinate comprehensive employment plans, such as service strategies, for participants to ensure access to necessary workforce investment activities and supportive services, using, where feasible, computer-based technologies; and

(B) to provide job and career counseling during participation and after job placement.

[(6)] (8) CHIEF ELECTED OFFICIAL.—The term “chief elected official” means—

(A) the chief elected executive officer of a unit of general local government in a local area; and

(B) in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement described in section 117(c)(1)(B).

[(7)] (9) COMMUNITY-BASED ORGANIZATION.—The term “community-based organization” means a private nonprofit organization, *including a faith-based organization*, that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce investment.

[(8)] (10) CUSTOMIZED TRAINING.—The term “customized training” means training—

(A) that is designed to meet the special requirements of an employer (including a group of employers);

(B) that is conducted with a commitment by the employer to employ an individual on successful completion of the training; and

(C) for which the employer pays [for not less than 50 percent of the cost of the training.] *for—*

(i) *a significant portion of the cost of training as determined by the local board, taking into account the size of the employer and such other factors as the local board determines to be appropriate; and*

(ii) *for customized training (as defined in subparagraphs (A) and (B)) with an employer in multiple local areas in the State, a significant portion of the cost of the training, as determined by the Governor, taking into account the size of the employer and such other factors as the Governor determines to be appropriate.*

[(9)] (11) DISLOCATED WORKER.—The term “dislocated worker” means an individual who—

(A)(i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment;

(ii)(I) is eligible for or has exhausted entitlement to unemployment compensation; or

(II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in [section 134(c)] *section 121(e)*, attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

(iii) is unlikely to return to a previous industry or occupation;

(B)(i) \* \* \*

(ii) \* \* \*

(iii) \* \* \*

(C) was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a re-



sult of general economic conditions in the community in which the individual resides or because of natural disasters; [or]

(D) is a displaced homemaker[.]; or

(E)(i) is the spouse of a member of the Armed Forces on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code) who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or

(ii) is the spouse of a member of the Armed Forces on active duty who meets the criteria described in paragraph (12)(B).

[(10)] (12) DISPLACED HOMEMAKER.—The term “displaced homemaker” means an individual who has been providing unpaid services to family members in the home and who—

[(A)] (A)(i) has been dependent on the income of another family member but is no longer supported by that income; [and] or

(ii) is the dependent spouse of a member of the Armed Forces on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code) whose family income is significantly reduced because of a deployment (as defined in section 991(b) of title 10, United States Code, or pursuant to paragraph (4) of such section), a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, a permanent change of station, or the service-connected (as defined in section 101(16) of title 38, United States Code) death or disability of the member; and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

[(11)] (13) ECONOMIC DEVELOPMENT AGENCIES.—The term “economic development agencies” includes local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating, promoting, or assisting in local economic development.

[(12)] (14) ELIGIBLE PROVIDER.—The term “eligible provider”, used with respect to—

(A) training services, means a provider who is identified in accordance with [section 122(e)(3)] section 122;

(B) \* \* \*

(C) \* \* \*

(D) \* \* \*

[(13)] (15) ELIGIBLE YOUTH.—Except as provided in subtitles C and D, the term “eligible youth” means an individual who—

(A) \* \* \*

(B) \* \* \*

(C) \* \* \*

[(14)] (16) EMPLOYMENT AND TRAINING ACTIVITY.—The term “employment and training activity” means an activity described in section 134 that is carried out for an adult or displaced worker.

[(15)] (17) FAMILY.—The term “family” means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

- (A) A husband, wife, and dependent children.
- (B) A parent or guardian and dependent children.
- (C) A husband and wife.

[(16)] (18) GOVERNOR.—The term “Governor” means the chief executive of a State.

(19) *HARD-TO-SERVE POPULATIONS.*—*The term “hard-to-serve populations” means populations of individuals who are hard to serve, including displaced homemakers, low-income individuals, Native Americans, individuals with disabilities, older individuals, ex-offenders, homeless individuals, individuals with limited English proficiency, individuals who do not meet the definition of literacy in section 203, individuals facing substantial cultural barriers, migrant and seasonal farmworkers, individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and such other groups as the Governor determines to be hard to serve.*

[(17)] (20) INDIVIDUAL WITH A DISABILITY.—

- (A) \* \* \*
- (B) \* \* \*

(21) *INTEGRATED TRAINING PROGRAM.*—*The term “integrated training program” means a program that combines occupational skills training with English language acquisition.*

(22) *INSTITUTION OF HIGHER EDUCATION.*—*The term institution of higher education has the meaning given the term in section 101(a), and subparagraphs (A) and (B) of section 102(a)(1), of the Higher Education Act of 1965 (20 U.S.C. 1001(a), 1002(a)(1)).*

[(18)] (23) LABOR MARKET AREA.—The term “labor market area” means an economically integrated geographic area within which individuals can reside and find employment within reasonable distance or can readily change employment without changing their place of residence. Such an area shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by a Governor.

[(19)] (24) LITERACY.—The term “literacy” has the meaning given the term in section 203.

[(20)] (25) LOCAL AREA.—The term “local area” means a local workforce investment area designated under section 116.

[(21)] (26) LOCAL BOARD.—The term “local board” means a local workforce investment board established under section 117.

[(22)] (27) LOCAL PERFORMANCE MEASURE.—The term “local performance measure” means a performance measure established under section 136(c).

[(23)] (28) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

[(24)] (29) LOWER LIVING STANDARD INCOME LEVEL.—The term “lower living standard income level” means that income

level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based on the most recent lower living family budget issued by the Secretary.

[(25)] (30) LOW-INCOME INDIVIDUAL.—The term “low-income individual” means an individual who—

(A) \* \* \*

(B) \* \* \*

(C) \* \* \*

(D) *receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);*

[(D)] (E) qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homelessness Assistance Act (42 U.S.C. 11302);

[(E)] (F) is a foster child on behalf of whom State or local government payments are made; or

[(F)] (G) in cases permitted by regulations promulgated by the Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program described in subparagraph (A) or of subparagraph (B), but who is a member of a family whose income does not meet such requirements.

[(26)] (31) NONTRADITIONAL EMPLOYMENT.—The term “non-traditional employment” refers to occupations or fields of work for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

[(27)] (32) OFFENDER.—The term “offender” means any adult or juvenile—

(A) who is or has been subject to any stage of the criminal justice process, for whom services under this Act may be beneficial; or

(B) who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

[(28)] (33) OLDER INDIVIDUAL.—The term “older individual” means an individual age 55 or older.

[(29)] (34) ONE-STOP OPERATOR.—The term “one-stop operator” means 1 or more entities designated or certified under section 121(d).

[(30)] (35) ONE-STOP PARTNER.—The term “one-stop partner” means—

(A) an entity described in section 121(b)(1), *subject to section 121(b)(1)(C)*; and

(B) an entity described in section 121(b)(2) that is participating, with the approval of the local board and chief elected official, in the operation of a one stop delivery system.

[(31)] (36) ON-THE-JOB-TRAINING.—The term “on-the-job training” by an employer that is provided to a paid participant while engaged in productive work in a job that—

(A) \* \* \*

(B) \* \* \*

(C) \* \* \*

[(32)] (37) OUTLYING AREA.—The term “outlying area” means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

[(33)] (38) OUT-OF-SCHOOL YOUTH.—The term “out-of-school youth” means—

[(A)] an eligible youth who is a school dropout; or

[(B)] an eligible youth who has received a secondary school diploma or its equivalent but is basic skills deficient, unemployed, or underemployed.】

(38) OUT-OF-SCHOOL YOUTH.—*The term “out-of-school youth” means an out-of-school youth as defined in section 129(a)(1)(B).*

[(34)] (39) PARTICIPANT.—The term “participant” means an individual who has been determined to be eligible to participate in and who is receiving services (except followup services authorized under this title) under a program authorized by this title. Participation shall be deemed to commence on the first day, following determination of eligibility, on which the individual began receiving subsidized employment, training, or other services provided under this title.

[(35)] (40) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term “postsecondary educational institution” means an institution of higher education, as defined in section 102 of the Higher Education Act of 1965.

[(36)] (41) POVERTY LINE.—The term “poverty line” means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902)) applicable to a family of the size involved.

[(37)] (42) PUBLIC ASSISTANCE.—The term “public assistance” means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.

[(38)] (43) RAPID RESPONSE ACTIVITY.—\* \* \*

\* \* \* \* \*

[(39)] (44) SCHOOL DROPOUT.—The term “school dropout” means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

[(40)] (45) SECONDARY SCHOOL.—The term “secondary school” has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

[(41)] (46) SECRETARY.—The term “Secretary” means the Secretary of Labor【, and the term means such Secretary for purposes of section 503】.

(47) SELF-SUFFICIENCY.—*The term “self-sufficiency” means self-sufficiency within the meaning of subsections (a)(3)(A)(x) and (e)(1)(A)(xii) of section 134.*

[(42)] (48) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

[(43)] (49) STATE ADJUSTED LEVEL OF PERFORMANCE.—The term “State adjusted level of performance” means a level de-

scribed in **[(clause (iii) or (v) of section 136(b)(3)(A)]** *section 136(b)(3)(A)(iii)*.

**[(44)] (50) STATE BOARD.**—The term “State board” means a State workforce investment board established under section 111.

**[(45)] (51) STATE PERFORMANCE MEASURE.**—The term “State performance measure” means a performance measure established under section 136(b).

**[(46)] (52) SUPPORTIVE SERVICES.**—The term “supportive services” means services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under this title, consistent with the provisions of this title.

**[(47)] (53) UNEMPLOYED INDIVIDUAL.**—The term “unemployed individual” means an individual who is without a job and who wants and is available for work. The determination of whether an individual is without a job shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed.

**[(48)] (54) UNIT OF GENERAL LOCAL GOVERNMENT.**—The term “unit of general government” means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

**[(49)] (55) VETERAN; RELATED DEFINITION.**—

(A) **VETERAN.**—The term “veteran” means an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.

(B) **RECENTLY SEPARATED VETERAN.**—The term “recently separated veteran” means any veteran who applies for participation under this title within 48 months after the discharge or release from active military, naval, or air service.

**[(50)] (56) VOCATIONAL EDUCATION.**—The term “vocational education” has the meaning given the term in section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471).

**[(51)] (57) WORKFORCE INVESTMENT ACTIVITY.**—The term “workforce investment activity” means an employment and training activity and a youth activity.

**[(52)] (58) YOUTH ACTIVITY.**—The term “youth activity” means an activity described in section 129 that is carried out for eligible youth **[(or as described in section 129(c)(5)]** *(or as described in section 129(a)(2))*.

**[(53)] (59) YOUTH COUNCIL.**—The term “youth council” means a council **[(established under section 117(h)]** *that may be established under section 117(h)(2)*.

\* \* \* \* \*

## Subtitle B—Statewide and Local Workforce Investment Systems

### ISEC. 106. PURPOSE.

【The purpose of this subtitle is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness, of the Nation.】

### SEC. 106. PURPOSES.

*The purposes of this subtitle are the following:*

*(1)(A) Primarily, to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, self-sufficiency, and earnings of participants, and increase occupational skill attainment by participants.*

*(B) As a result of the provision of the activities, to improve the quality of the workforce, reduce welfare dependency, increase self-sufficiency, and enhance the productivity and competitiveness of the Nation.*

*(2) To enhance the workforce investment system of the Nation by strengthening one-stop centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment and training and related services, establishing a targeted approach to serving youth, improving performance accountability, and promoting State and local flexibility.*

*(3) To provide workforce investment activities in a manner that promotes the informed choice of participants and actively involves participants in decisions affecting their participation in such activities.*

*(4) To provide workforce investment systems that are demand-driven and responsive to the needs of all employers, including small employers.*

*(5) To provide workforce investment systems that work in all areas of the Nation, including urban and rural areas.*

*(6) To allow flexibility to meet State, local, regional, and individual workforce investment needs.*

*(7) To recognize and reinforce the vital link between economic development and workforce investment activities.*

*(8) To provide for accurate data collection, reporting, and performance measures that are not unduly burdensome.*

*(9) To address the ongoing shortage of essential skills in the United States workforce related to both manufacturing and knowledge-based economies to ensure that the United States remains competitive in the global economy.*

*(10) To equip workers with higher skills and contribute to lifelong education.*

*(11) To eliminate training disincentives for hard-to-serve populations and minority workers, including effectively utilizing community programs, services, and agencies.*

*(12) To educate limited English proficient individuals about skills and language so the individuals are employable.*

*(13) To increase the employment, retention and earnings of individuals with disabilities.*

\* \* \* \* \*

## CHAPTER 1—STATE PROVISIONS

### SEC. 111. STATE WORKFORCE INVESTMENT BOARDS.

(a) **IN GENERAL.**—The Governor of a State shall establish a State workforce investment board to assist in the development of the State plan described in section 112 and to carry out the other functions described in subsection (d).

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The State Board shall include—

(A) the Governor;

(B) 2 members of each chamber of the State legislature, appointed by the appropriate presiding officers of each such chamber; and

[(C) representatives appointed by the Governor, who are—

[(i) representatives of business in the State, who—

[(I) are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policy-making or hiring authority, including members of local boards described in section 117(b)(2)(A)(i);

[(II) represent businesses with employment opportunities that reflect the employment opportunities of the State; and

[(III) are appointed from among individuals nominated by State business organizations and business trade associations;

[(ii) chief elected officials (representing both cities and counties, where appropriate);

[(iii) representatives of labor organizations, who have been nominated by State labor federations;

[(iv) representatives of individuals and organizations that have experience with respect to youth activities;

[(v) representatives of individuals and organizations that have experience and expertise in the delivery of workforce investment activities, including chief executive officers of community colleges and community-based organizations within the State;

[(vi)(I) the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) and carried out by one-stop partners; and

[(II) in any case in which no lead State agency official has responsibility for such a program, service, or activity, a representative in the State with expertise relating to such program, service, or activity; and

[(vii) such other representatives and State agency officials as the Governor may designate, such as the

State agency officials responsible for economic development and juvenile justice programs in the State.】

(C) *representatives appointed by the Governor, who—*

*(i) are the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) and carried out by one-stop partners, except that—*

*(I) in any case in which no lead State agency official has responsibility for such a program or activity, the representative shall be a representative in the State with expertise relating to such program or activity; and*

*(II) in the case of the programs authorized under title I of the Rehabilitation Act of 1973, the representative shall be the director of the designated State unit, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705);*

*(ii) are the State agency officials responsible for economic development;*

*(iii) are representatives of business in the State, including small businesses, who—*

*(I) are owners of businesses, chief executive or operating officers of businesses, or other business executives or employers with optimum policy-making or hiring authority;*

*(II) represent businesses with employment opportunities that reflect employment opportunities in the State; and*

*(III) are appointed from among individuals nominated by State business organizations, business trade associations, and local boards;*

*(iv) are chief elected officials (representing cities and counties, where appropriate);*

*(v) are representatives of labor organizations, who have been nominated by State labor federations; and*

*(vi) are such other State agency officials and other representatives as the Governor may designate.*

(2) **AUTHORITY AND REGIONAL REPRESENTATION OF BOARD MEMBERS.**—Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities. The members of the board shall represent diverse regions of the State, including urban, rural, and suburban areas.

(3) **MAJORITY.**—A majority of the members of the State Board shall be representatives described in 【paragraph (1)(C)(i)】 *paragraph (1)(C)(iii).*

(c) **CHAIRPERSON.**—The Governor shall select a chairperson for the State Board from among the representatives described in 【subsection (b)(1)(C)(i)】 *subsection (b)(1)(C)(iii).*

(d) **FUNCTIONS.**—The State Board shall assist the Governor in—

(1) 【development】 *development, implementation, and revision of the State plan;*

(2) *development and continuous improvement of a statewide system of activities that are funded under this subtitle or carried out through a one-stop delivery system described in 【sec-*



tion 134(c)] *section 121(e)* that receives funds under this subtitle (referred to in this title as a “statewide workforce investment system”), including—

(A) development of linkages in order to assure coordination and nonduplication among the programs and activities described in section 121(b); and

(B) review of local plans;

[(3) commenting at least once annually on the measures taken pursuant to section 113(b)(14) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2323(b)(14));]

*(3) reviewing and providing comment on the State plans of all one-stop partner programs, where applicable, in order to provide effective strategic leadership in the development of a high quality, comprehensive statewide workforce investment system, including commenting at least once annually on the measures taken pursuant to section 113(b)(3) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2323(b)(3)) and title 11 of this Act;*

*(4) development and review of statewide policies affecting the coordinated provision of services through the one-stop delivery systems described in section 121(e) within the State, including—*

*(A) the development of objective criteria and procedures for use by local boards in assessing the effectiveness and continuous improvement of one-stop centers under section 121(g);*

*(B) the development of guidance for the allocation of one-stop center infrastructure funds under section 121(h)(1)(B);*

*(C) the development of—*

*(i) statewide policies relating to the appropriate roles and contributions of one-stop partner programs within the one-stop delivery system, including approaches to facilitating equitable and efficient cost allocation in the one-stop delivery system;*

*(ii) statewide strategies for providing effective outreach to individuals, including hard-to-serve populations, and employers who could benefit from services provided through the one-stop delivery system; and*

*(iii) strategies for technology improvements to facilitate access to services provided through the one-stop delivery system, in remote areas, and for individuals with disabilities, which may be utilized throughout the State;*

*(D) identification and dissemination of information on best practices for effective operation of one-stop centers, including use of innovative business outreach, partnerships, and service delivery strategies, including for hard-to-serve populations; and*

*(E) conduct of such other matters as may promote statewide objectives for, and enhance the performance of, the one-stop delivery systems;*

[(4)] *(5) designation of local areas as required in section 116 and the development of statewide criteria to be used by chief*

*elected officials for the appointment of local boards consistent with section 117;*

[(5)] (6) development of allocation formulas for the distribution of funds for adult employment and training activities and youth activities to local areas as permitted under [sections 128(b)(3)(B) and 133(b)(3)(B)] *sections 128(b)(3) and 133(b)(3)(B);*

[(6)] (7) development and continuous improvement of comprehensive State performance measures, including State adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the State as required under section 136(b);

[(7)] (8) preparation of the annual report to the Secretary described in section 136(d);

[(8)] (9) development of the statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act; [and]

[(9)] (10) development of an application for an incentive grant under [section 503.] *section 136(i)(1); and*

*(11) increasing the availability of skills training, employment opportunities, and career advancement, for hard-to-serve populations.*

(e) ALTERNATIVE ENTITY.—

(1) IN GENERAL.—[For] *Subject to paragraph (3), for purposes of complying with subsections (a), (b), and (c), a State may use any State entity (including a State council, State workforce development board, combination of regional workforce development boards, or similar entity) that—*

(A) \* \* \*

\* \* \* \* \*

(2) REFERENCES.—References in this Act to a State board shall be considered to include such an entity.

\* \* \* \* \*

[(10) information identifying how the State will use funds the State receives under this subtitle to leverage other Federal, State, local, and private resources, in order to maximize the effectiveness of such resources, and to expand the participation of business, employees, and individuals in the statewide workforce investment system;]

*(10) a description of how the State will use funds the State received under this subtitle to leverage other Federal, State, local, and private resources, in order to maximize the effectiveness of such resources, expand resources for the provision of education and training services, and expand the participation of businesses, employees, and individuals in the statewide workforce investment system, including a description of incentives and technical assistance the State will provide to local areas for such purposes;*

\* \* \* \* \*

(12)(A) a description of the methods and factors the State will use in distributing funds to local areas for youth activities and adult employment and training activities under [sections

128(b)(3)(B) and 133(b)(3)(B)] sections 128(b)(3) and 133(b)(3)(B), including—

\* \* \* \* \*

(8)(A) a description of the procedures that will be taken by the State to assure coordination of and avoid duplication among—

(i) workforce investment activities authorized under this title;

\* \* \* \* \*

(ix) employment and training activities carried out by the Department of Housing and Urban Development; [and]

(x) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law); and

(xi) *programs authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.) (relating to Federal old-age, survivors, and disability insurance benefits), title XVI of such Act (42 U.S.C. 1381 et seq.) (relating to supplemental security income), title XIX of such Act (42 U.S.C. 1396 et seq.) (relating to medicaid), and title XX of such Act (relating to block grants to States for social services), programs authorized under title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.), and programs carried out by State agencies relating to mental retardation and developmental disabilities; and*

\* \* \* \* \*

#### SEC. 112. STATE PLAN.

(a) IN GENERAL.—For a State to be eligible to receive an allotment under section 127 or 132, or to receive financial assistance under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), the Governor of the State shall submit to the Secretary for consideration by the Secretary, a single State plan (referred to in this title as the “State plan”) that outlines a [5-year strategy] *4-year strategy* for the statewide workforce investment system of the State and that meets the requirements of section 111 and this section.

*At the end of the first 2-year period of the 4-year State plan, the State board shall review and, as needed, amend the 4-year State plan to reflect labor market and economic conditions. In addition, the State shall submit a modification to the State plan at the end of the first 2-year period of the State plan, which may include redesignation of local areas pursuant to section 116(a) and specification of the levels of performance under sections 136 for the third and fourth years of the plan.*

(b) CONTENTS.—The State plan shall include—

(1) a description of the State board, including a description of the manner in which such board collaborated in the development of the State plan and a description of how the board will continue to collaborate in carrying out the functions described in section 111(d);

\* \* \* \* \*

(3) *FAILURE TO MEET PERFORMANCE MEASURES.—If a State fails to have performed successfully, as defined in section*

*116(a)(2), the Secretary may require the State to establish a State board in accordance with subsections (a), (b), and (c) in lieu of the alternative entity established under paragraph (1).*

\* \* \* \* \*

(f) CONFLICT OF INTEREST.—A member of a State board may not—

(1) vote on a matter under consideration by the State board—

(A) regarding the provision of services by such member (or by an entity that such member represents); or

(B) that would provide direct financial benefit to such member or the immediate family of such member; or

(2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

(g) SUNSHINE PROVISION.—The State board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the State board, including information regarding the State plan, *and modifications to the State plan*, prior to submission of the plan, *and modifications to the State plan*, information regarding membership, and, on request, minutes of formal meetings of the State board.

(h) *AUTHORITY TO HIRE STAFF.*—*The State board may hire staff to assist in carrying out the functions described in subsection (d) using funds allocated under sections 127(b)(1)(C) and 132(b).*

\* \* \* \* \*

(14) with respect to the one-stop delivery systems described, in **[section 134(c)]** *section 121(e)* (referred to individually in this title as a “one-shop delivery system”), a description of the strategy of the State for assisting local areas in development and implementation of fully operational one-stop delivery systems in the State;

(15) a description of the appeals process referred to in section 116(a)(5);

(16) a description of the competitive process to be used by the State to award grants and contracts in the State for activities carried out under this title;

(17) with respect to the employment and training activities authorized in section 134—

(A) a description of—

(i) the employment and training activities that will be carried out with the funds received by the State through the allotment made under section 132;

(ii) how the State will provide rapid response activities to dislocated workers from funds reserved under section 133(a)(2) for such purposes, including the designation of an identifiable State rapid response dislocated worker unit to carry out statewide rapid response activities;

(iii) the procedures the local boards in the State will use to identify eligible providers of training services described in section 134(d)(4) (other than on-the-job training or *local* customized training), as required under section 122; **[and]**

(iv) how the State will serve the employment and training needs of dislocated workers [(including displaced homemakers), low-income individuals (including recipients of public assistance), individuals training for nontraditional employment, and other individuals with multiple barriers to employment (including older individuals and individuals with disabilities)], *hard-to-serve populations and individuals training for nontraditional employment*; and

(v) *how the State will serve the employment and training needs of individuals with disabilities, consistent with section 188 and Executive Order 13217 (42 U.S.C. 12131 note; relating to community-based alternatives for individuals with disabilities), including the provision of outreach, intake, the conduct of assessments, service delivery, the development of adjustments to performance measures established under section 136, and the training of staff*; and

(B) an assurance that veterans will be afforded the employment and training activities by the State, to the extent practicable; [and]

(18) with respect to youth activities authorized in section 129, information—

(A) describing the State strategy for providing comprehensive services to eligible youth, particularly those eligible youth who are recognized as having significant barriers to employment;

\* \* \* \* \*

(D) describing how the State will coordinate youth activities described in subparagraph (C) with activities carried out through [youth opportunity grants] *youth challenge grants authorized under section 169 and other federally funded youth programs under section 169[.]*;

(19) *a description of how the State will utilize technology to facilitate access to services in remote areas, which may be utilized throughout the State*;

(20) *a description of the State strategy for coordinating workforce investment activities and economic development activities*;

(21) *a description of the State strategy and assistance to be provided for ensuring regional cooperation within the State and across State borders as appropriate*;

(22) *a description of how the State will use funds the State receives under this subtitle to—*

(A) *implement innovative programs and strategies designed to meet the needs of all businesses in the State, including small businesses, which may include incumbent worker training programs, sectoral and industry cluster strategies, regional skills alliances, career ladder programs, utilization of effective business intermediaries, and other business services and strategies that better engage employers in workforce investment activities and make the state-wide workforce investment system more relevant to the needs of State and local businesses, consistent with the objectives of this title*; and

*(B) provide incentives and technical assistance to assist local areas in more fully engaging all employers, including small employers, in local workforce investment activities, to make the workforce investment system more relevant to the needs of area businesses, and to better coordinate workforce investment and economic development efforts to contribute to the economic well-being of the local area, as determined appropriate by the local board;*

*(23) a description of the State strategy—*

*(A) for ensuring cooperation between transportation providers, including public transportation providers, and providers of workforce investment activities; and*

*(B) for ensuring coordination among appropriate State agencies and programs to make available skills training, employment services and opportunities, and career advancement activities, that will assist ex-offenders in reentering the workforce;*

*(24) a description of how the State will assist local areas in assuring physical and programmatic accessibility for individuals with disabilities at one-stop centers;*

*(25) a description of the process and methodology that will be used by the State board to—*

*(A) review statewide policies and provide guidance on the coordinated provision of services through the one-stop delivery system described in section 121;*

*(B) establish, in consultation with chief elected officials and local boards, objective criteria and procedures for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and one-stop delivery systems as described in section 121(g); and*

*(C) determine—*

*(i) one-stop partner program contributions for the costs of the infrastructure of one-stop centers under section 121(h)(2); and*

*(ii) the formula for allocating the funds described in section 121(h)(2) to local areas;*

*(26) a description of the State strategy for ensuring that activities carried out under this title are placing men and women in jobs, education, or training that lead to comparable pay; and*

*(27) a description of the technical assistance available to one-stop operators and providers of training services for strategies to serve hard-to-serve populations and promote placement in nontraditional employment.*

**(c) PLAN SUBMISSION AND APPROVAL.—\* \* \***

\* \* \* \* \*

**(d) MODIFICATIONS TO PLAN.—**A State may submit modifications to a State plan in accordance with the requirements of this section and section 111 as necessary during the **[5-year period]** 4-year period covered by the plan.

*In addition, the State shall submit the modifications to the State plan required under subsection (a), under circumstances prescribed*

*by the Secretary that are due to changes in Federal law that significantly affect elements of the State plan.*

\* \* \* \* \*

## CHAPTER 2—LOCAL PROVISIONS

### SEC. 116. LOCAL WORKFORCE INVESTMENT AREAS.

#### (a) DESIGNATION OF AREAS.—

##### (1) IN GENERAL.—

(A) PROCESS.—Except as provided in subsection (b), and consistent with paragraphs (2), (3), and (4), in order for a State to receive an allotment under section 127 or 132, the Governor of the State shall designate local workforce investment areas within the State—

- (i) through consultation with the State board; and
- (ii) after consultation with chief elected officials and after consideration of comments received through the public comment process as described in section 112(b)(9).

(B) CONSIDERATIONS.—In making the designation of local areas, the Governor shall take into consideration the following:

- (i) Geographic areas served by local educational agencies and intermediate educational agencies.
- (ii) Geographic areas served by postsecondary educational institutions and area vocational education schools.
- (iii) The extent to which such local areas are consistent with labor market areas.
- (iv) The distance that individuals will need to travel to receive services provided in such local areas.
- (v) The resources of such local areas that are available to effectively administer the activities carried out under this subtitle.
- (vi) *The extent to which such local areas will promote maximum effectiveness in the administration and provision of services.*

[(2) AUTOMATIC DESIGNATION.—The Governor shall approve any request for designation as a local area—

[(A) from any unit of general local government with a population of 500,000 or more;

[(B) of the area served by a rural concentrated employment program grant recipient of demonstrated effectiveness that served as a service delivery area or substate area under the Job Training Partnership Act, if the grant recipient has submitted the request; and

[(C) of an area that served as a service delivery area under section 101(a)(4)(A)(ii) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) in a State that has a population of not more than 1,100,000 and a population density greater than 900 persons per square mile.]

##### (2) AUTOMATIC DESIGNATION.—

(A) IN GENERAL.—*The Governor shall approve a request for designation as a local area that is submitted prior to*

*the submission of the State plan, or of a modification to the State plan relating to area designation, from any area that—*

*(i) is a unit of general local government with a population of 500,000 or more, except that after the initial 2-year period following such designation pursuant to this clause that occurs after the date of enactment of the Workforce Investment Act Amendments of 2003, the Governor shall only be required to approve a request for designation from such area if such area—*

*(I) performed successfully; and*

*(II) sustained fiscal integrity;*

*(ii) was a local area under this title for the preceding 2-year period, if such local area—*

*(I) performed successfully; and*

*(II) sustained fiscal integrity;*

*(iii) is served by a rural concentrated employment program grant recipient, except that after the initial 2-year period following any such designation under the initial State plan submitted after the date of enactment of the Workforce Investment Act Amendments of 2003, the Governor shall only be required to approve a request for designation under this clause for such area if such area—*

*(I) performed successfully; and*

*(II) sustained fiscal integrity; or*

*(iv) was a local area under section 116(a)(2)(C) (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2003), except that after the initial 2-year period following such designation pursuant to this clause that occurs after that date of enactment, the Governor shall only be required to approve a request for designation under this clause for such area if such area—*

*(I) performed successfully; and*

*(II) sustained fiscal integrity.*

**(B) DEFINITIONS.—***For purposes of this paragraph:*

*(i) PERFORMED SUCCESSFULLY.—The term “performed successfully”, when used with respect to a local area, means the local area performed at 80 percent or more of the adjusted level of performance for core indicators of performance described in section 136(b)(2)(A) for 2 consecutive years.*

*(ii) SUSTAINED FISCAL INTEGRITY.—The term “sustained fiscal integrity”, used with respect to an area, means that the Secretary has not made a formal determination during the preceding 2-year period that either the grant recipient or the administrative entity of the area misexpended funds provided under this title due to willful disregard of the requirements of the Act involved, gross negligence, or failure to comply with accepted standards of administration.*

**[(3) TEMPORARY AND SUBSEQUENT DESIGNATION.—**

**[(A) CRITERIA.—**Notwithstanding paragraph (2)(A), the Governor shall approve any request, made not later than



the date of submission of the initial State plan under this subtitle, for temporary designation as a local area from any unit of general local government (including a combination of such units) with a population of 200,000 or more that was a service delivery area under the Job Training Partnership Act on the day before the date of enactment of this Act if the Governor determines that the area—

[(i) performed successfully, in each of the last 2 years prior to the request for which data are available, in the delivery of services to participants under part A of title II and title III of the Job Training Partnership Act (as in effect on such day); and

[(ii) has sustained the fiscal integrity of the funds used by the area to carry out activities under such part and title.

[(B) DURATION AND SUBSEQUENT DESIGNATION.—A temporary designation under this paragraph shall be for a period of not more than 2 years, after which the designation shall be extended until the end of the period covered by the State plan if the Governor determines that, during the temporary designation period, the area substantially met (as defined by the State board) the local performance measures for the local area and sustained the fiscal integrity of the funds used by the area to carry out activities and under this subtitle.

[(C) TECHNICAL ASSISTANCE.—The Secretary shall provide the States with technical assistance in making the determinations required by this paragraph. The Secretary shall not issue regulations governing determinations to be made under this paragraph.

[(D) PERFORMED SUCCESSFULLY.—In this paragraph, the term “performed successfully” means that the area involved met or exceeded the performance standards for activities administered in the area that—

[(i) are established by the Secretary for each year and modified by the adjustment methodology of the State (used to account for differences in economic condition, participant characteristics, and combination of services provided from the combination assumed for purposes of the established standards of the Secretary); and

[(ii)(I) if the area was designated as both a service delivery area and a substate area under the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act)—

[(aa) relate to job retention and earnings, with respect to activities carried out under part A of title II of such Act (as in effect on such day); and

[(bb) relate to entry into employment, with respect to activities carried out under title III of such Act (as in effect on such day);

[(II) if the area was designated only as a service delivery area under such Act (as in effect on such day), relate to the standards described in subclause (I)(aa); or

[(III) if the area was only designated as a substate area under such Act (as in effect on such day), relate to the standards described in subclause (I)(bb).

[(E) SUSTAINED THE FISCAL INTEGRITY.—In this paragraph, the term “sustained the fiscal integrity”, used with respect to funds used by a service delivery area or local area, means that the Secretary has not made a final determination during any of the last 3 years for which data are available, prior to the date of the designation request involved, that either the grant recipient or the administrative entity of the area misexpended the funds due to willful disregard of the requirements of the Act involved, gross negligence, or failure to observe accepted standards of administration.]

[(4)] (3) DESIGNATION ON RECOMMENDATION OF STATE BOARD.—The Governor may approve a request from any unit of general local government (including a combination of such units) for designation [(including temporary designation)] as a local area if the State board determines, taking into account the factors described in clauses (i) through [(v)] (vi) of paragraph (1)(B), and recommends to the Governor, that such area should be so designated.

[(5)] (4) APPEALS.—A unit of general local government (including a combination of such units) or grant recipient that requests but is not granted designation of an area as a local area [under paragraph (2) or (3)] *under paragraph (2)* may submit an appeal to the State board under an appeal process established in the State plan. [If the appeal does not result in such a designation, the Secretary, after receiving a request for review from the unit or grant recipient and on determining that the unit or grant recipient was not accorded procedural rights under the appeal process established in the State plan or that the area meets the requirements of paragraph (2) or (3), as appropriate, may require that the area be designated as a local area under such paragraph.]

[(b) SMALL STATES.—The Governor of any State that was a single State service delivery area under the Job Training Partnership Act as of July 1, 1998, may designate the State as a single State local area for the purposes of this title. In the case of such a designation, the Governor shall identify the State as a local area under section 112(b)(5).]

(b) SINGLE LOCAL AREA STATES.—

(1) CONTINUATION OF PREVIOUS DESIGNATION.—*Notwithstanding subsection (a)(2), the Governor of any State that was a single local area for purposes of this title as of July 1, 2002, may continue to designate the State as a single local area for purposes of this title if the Governor identifies the State as a local area in the State plan under section 112(b)(5).*

(2) REDESIGNATION.—*The Governor of a State not described in paragraph (1) may designate the State as a single local area if, prior to the submission of the State plan or modification to such plan so designating the State, no local area meeting the requirements for automatic designation under subsection (a)(2) requests such designation as a separate local area.*

(3) *EFFECT ON LOCAL PLAN.*—*In any case in which a State is designated as a local area pursuant to this subsection, the local plan prepared under section 118 for the area shall be submitted to the Secretary for approval as part of the State plan under section 112.*

(c) REGIONAL PLANNING AND COOPERATION.—

[(1) PLANNING.—As part of the process for developing the State plan, a State may require regional planning by local boards for a designated region in the State. The State may require the local boards for a designated region to participate in a regional planning process that results in the establishment of regional performance measures for workforce investment activities authorized under this subtitle. The State may award regional incentive grants to the designated regions that meet or exceed the regional performance measures.]

(1) PLANNING.—

(A) *IN GENERAL.*—*As part of the process for developing the State plan, a State may require regional planning by local boards for a designated region in the State. The State may require the local boards for a designated region to participate in a regional planning process that results in the establishment of regional performance measures for workforce investment activities authorized under this subtitle. The State, after consultation with local boards and chief elected officials, may require the local boards for the designated region to prepare, submit, and obtain approval of a single regional plan that incorporates local plans for each of the local areas in the region, as required under section 118. The State may award regional incentive grants to the designated regions that meet or exceed the regional performance measures pursuant to section 134(a)(2)(B)(iii).*

(B) *TECHNICAL ASSISTANCE.*—*If the State requires regional planning as provided in subparagraph (A), the State shall provide technical assistance and labor market information to such local areas in the designated regions to assist with such regional planning and subsequent service delivery efforts.*

(2) *INFORMATION SHARING.*—*The State may require the local boards for a designated region to share, in feasible cases, employment statistics, [information about employment opportunities and trends,] information about the skill requirements of existing and emerging industries and industry clusters, and other types of information that would assist in improving the performance of all local areas in the designated region on local performance measures.*

(3) *COORDINATION OF SERVICES.*—*The State may require the local boards for a designated region to coordinate the provision of workforce investment activities authorized under this subtitle, including the provision of transportation and other supportive services, so that services provided through the activities may be provided across the boundaries of local areas within the designated region. Such services may be required to be coordinated with regional economic development services and strategies.*

\* \* \* \* \*

**SEC. 117. LOCAL WORKFORCE INVESTMENT BOARDS.**

(a) **ESTABLISHMENT.**—There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment board, to set policy for the portion of the statewide workforce investment system within the local area (referred to in this title as a “local workforce investment system”).

(b) **MEMBERSHIP.**—

(1) **STATE CRITERIA.**—The Governor of the State, in partnership with the State board, shall establish criteria for use by chief elected officials in the local areas for appointment of members of the local boards in such local areas in accordance with the requirements of paragraph (2).

(2) **COMPOSITION.**—Such criteria shall require, at a minimum, that the membership of each local board—

(A) shall include—

(i) representatives of business in the local area, who—

(I) are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policy-making or hiring authority;

[(II) represent businesses with employment opportunities that reflect the employment opportunities of the local area; and]

*(II) collectively, represent businesses with employment opportunities that reflect the employment opportunities of the local area, and include representatives of businesses that are in high-growth and emerging industries, and representatives of businesses, including small businesses, in the local area; and*

(III) are appointed from among individuals nominated by local business organizations and business trade associations;

[(ii) representatives of local educational entities, including representatives of local educational agencies, local school boards, entities providing adult education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist), selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities;]

*(i)(I) a superintendent representing the local school districts involved or another high-level official from such districts;*

*(II) the president or highest ranking official of an institution of higher education serving the local area; and*

*(III) an administrator of local entities providing adult education and literacy activities in the local area;*

(iii) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are rep-

resented by such organizations), other representatives of employees;

(iv) representatives of community-based organizations (including organizations representing individuals with disabilities, *hard-to-serve populations*, and veterans, for a local area in which such organizations are present);

(v) representatives of economic development agencies, including private sector economic development entities; and

[(vi) representatives of each of the one-stop partners; and]

*(vi) if the local board does not establish or continue a youth council, representatives with experience serving out-of-school youth, particularly out-of-school youth facing barriers to employment; and*

(B) may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

(3) **AUTHORITY AND REPRESENTATION OF BOARD MEMBERS.**—Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policy-making authority within the organizations, agencies, or entities. *The members of the board shall represent diverse geographic sections within the local area.*

(4) **MAJORITY.**—A majority of the members of the local board shall be representatives described in paragraph (2)(A)(i).

(5) **CHAIRPERSON.**—The local board shall elect a chairperson for the local board from among the representatives described in paragraph (2)(A)(i).

(6) **SPECIAL RULE.**—*In the case that there are multiple school districts or institutions of higher education serving a local area, the representatives described in subclause (I) or (II) of paragraph (2)(A)(ii), respectively, shall be appointed from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such agencies or institutions.*

(c) **APPOINTMENT AND CERTIFICATION OF BOARD.**—

(1) **APPOINTMENT OF BOARD MEMBERS AND ASSIGNMENT OF RESPONSIBILITIES.**—

(A) **IN GENERAL.**—\* \* \*

\* \* \* \* \*

(C) **CONCENTRATED EMPLOYMENT PROGRAMS.**—In the case of a local area designated in accordance with [section 116(a)(2)(B)] *section 116(a)(2)(A)(ii)*, the governing body of the concentrated employment program involved shall act in consultation with the chief official in the local area to appoint members of the local board, in accordance with the State criteria established under subsection (b), and to carry out any other responsibility relating to workforce investment activities assigned to such official under this Act.

\* \* \* \* \*

(d) **FUNCTIONS OF LOCAL BOARD.**—The functions of the local board shall include the following:

(1) LOCAL PLAN.—Consistent with section 118, each local board, in partnership with the chief elected official for the local area involved, shall develop and submit a local plan to the Governor.

(2) SELECTION OF OPERATORS AND PROVIDERS.—

(A) SELECTION OF ONE-STOP OPERATORS.—Consistent with section 121(d), the local board, with the agreement of the chief elected official—

(i) shall designate or certify one-stop operators as described in section 121(d)(2)(A); and

(ii) may terminate for cause the eligibility of such operators.

(B) SELECTION OF YOUTH PROVIDERS.—Consistent with section 123, the local board shall identify eligible providers of youth activities in the local area by awarding grants or contracts on a competitive basis *(except as provided in section 123(b))*, based on the recommendations of the youth council *(where appropriate)*.

(C) IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.—Consistent with section 122, the local board shall identify eligible providers of training services described in section 134(d)(4) in the local area.

(D) IDENTIFICATION OF ELIGIBLE PROVIDERS OF INTENSIVE SERVICES.—If the one-stop operator does not provide intensive services in a local area, the local board shall identify eligible providers of intensive services described in section 134(d)(3) in the local area by awarding contracts.

(E) CONSUMER CHOICE REQUIREMENTS.—*Consistent with sections 122 and paragraphs (3) and (4) of 134(d), the local board shall work to ensure there are sufficient providers of intensive services and training services serving the local area in a manner that maximizes consumer choice, including providers with expertise in assisting individuals with disabilities.*

\* \* \* \* \*

(4) PROGRAM OVERSIGHT.—The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities authorized under section 129, local employment and training activities authorized under section 134, and the one-stop delivery system in the local area, *and shall ensure the appropriate use and management of the funds provided under this subtitle for such programs, activities, and system.*

\* \* \* \* \*

(8) CONNECTING, BROKERING, AND COACHING.—The local board shall promote the participation of private sector employers, *including small employers*, in the statewide workforce investment system and ensure the effective provision, through the system, of connecting, brokering, and coaching activities, through intermediaries such as the one-stop operator in the local area or through other organizations, to assist such employers in meeting hiring needs[.], *taking into account the unique needs of small businesses.*

(9) *TECHNOLOGY IMPROVEMENTS.*—*The local board shall develop strategies for technology improvements to facilitate access to services, in remote areas, for services authorized under this subtitle and carried out in the local area.*

\* \* \* \* \*

(f) **LIMITATIONS.**—

(1) **TRAINING SERVICES.**—

(A) **IN GENERAL.**— \* \* \*

\* \* \* \* \*

(2) **CORE SERVICES; INTENSIVE SERVICES; DESIGNATION OR CERTIFICATION AS ONE-STOP OPERATORS.**—A local board may provide core services described in section 134(d)(2) or intensive services described in section 134(d)(3) through a one-stop delivery system **described in section 134(c)** or be designated or certified as a one-stop operator only with the agreement of the chief elected official and the Governor.

\* \* \* \* \*

**[(h) YOUTH COUNCIL.**—

**[(1) ESTABLISHMENT.**—There shall be established, as a subgroup within each local board, a youth council appointed by the local board, in cooperation with the chief elected official for the local area.

**[(2) MEMBERSHIP.**—The membership of each youth council—

**[(A) shall include—**

**[(i) members of the local board described in subparagraph (A) or (B) of subsection (b)(2) with special interest or expertise in youth policy;**

**[(ii) representatives of youth service agencies, including juvenile justice and local law enforcement agencies;**

**[(iii) representatives of local public housing authorities;**

**[(iv) parents of eligible youth seeking assistance under this subtitle;**

**[(v) individuals, including former participants, and representatives of organizations, that have experience relating to youth activities; and**

**[(vi) representatives of the Job Corps, as appropriate; and**

**[(B) may include such other individuals as the chairperson of the local board, in cooperation with the chief elected official, determines to be appropriate.**

**[(3) RELATIONSHIP TO LOCAL BOARD.**—Members of the youth council who are not members of the local board described in subparagraphs (A) and (B) of subsection (b)(2) shall be voting members of the youth council and nonvoting members of the board.

**[(4) DUTIES.**—The duties of the youth council include—

**[(A) developing the portions of the local plan relating to eligible youth, as determined by the chairperson of the local board;**

**[(B) subject to the approval of the local board and consistent with section 123—**

[(i) recommending eligible providers of youth activities, to be awarded grants or contracts on a competitive basis by the local board to carry out the youth activities; and

[(ii) conducting oversight with respect to the eligible providers of youth activities, in the local area;

[(C) coordinating youth activities authorized under section 129 in the local area; and

[(D) other duties determined to be appropriate by the chairperson of the local board.]

(h) *COUNCILS.*—*The local board may establish or continue councils to provide information and advice to assist the local board in carrying out activities under this title. Such councils may include—*

*(1) a council composed of one-stop partners to advise the local board on the operation of the one-stop delivery system involved;*

*(2) a youth council composed of experts and stakeholders in youth programs to advise the local board on youth activities; and*

*(3) such other councils as the local board determines are appropriate.*

(i) *ALTERNATIVE ENTITY.*—

(1) *IN GENERAL.*—For purposes of complying with subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h), a State may use any local entity (including a local council, regional workforce development board, or similar entity) that—

(A) is established to serve the local area (or the service delivery area that most closely corresponds to the local area);

[(B) is in existence on December 31, 1997;]

*(B) was in existence on August 7, 1998, pursuant to State law; and*

[(C)(i) is established pursuant to section 102 of the Job Training Partnership Act, as in effect on December 31, 1997 or

[(ii) is substantially similar to the local board described in subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h); and]

[(D)] *(C) includes—*

(i) representatives of business in the local area; and

(ii)(I) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations; or

(II) other representatives of employees in the local area (for a local area in which no employees are represented by such organizations).

(2) *REFERENCES.*—References in this Act to a local board or a youth council shall be considered to include such an entity or a subgroup of such an entity, respectively.

\* \* \* \* \*

#### SEC. 118. LOCAL PLAN.

(a) *IN GENERAL.*—Each local board shall develop and submit to the Governor a comprehensive [5-year] 4-year local plan (referred to in this title as the “local plan”), in partnership with the appro-



priate chief elected official. The plan shall be consistent with the State plan. *At the end of the first 2-year period of the 4-year plan, the local board shall review and, as needed, amend the 4-year plan to reflect labor market and economic conditions.*

(b) CONTENTS.—The local plan shall include—

(1) an identification of—

(A) the workforce investment needs of businesses, job-seekers, and workers in the local area;

(B) the current and projected employment opportunities in the local area; and

(C) the job skills necessary to obtain such employment opportunities;

(2) a description of the one-stop delivery system to be established or designated in the local area, including—

(A) a description of how the local board will ensure the continuous improvement of eligible providers of services through the system and ensure that such providers meet the employment needs of local employers and participants; **[and]**

**[(B) a copy of each memorandum of understanding described in section 121(c) (between the local board and each of the one-stop partners) concerning the operation of the one-stop delivery system in the local area;]**

*(B) a description of how the local board will facilitate access to services provided through the one-stop delivery system, in remote areas, including facilitating access through the use of technology; and*

*(C) a description of how the local board will ensure physical and programmatic accessibility for individuals with disabilities at one-stop centers;*

\* \* \* \* \*

(9) a description of the competitive process to be used to award the grants and contracts in the local area for activities carried out under this subtitle**[(; and)];**

*(10) a description of how the local board will coordinate workforce investment activities carried out in the local area with economic development activities carried out in the local area;*

*(11) a description of the strategies and services that will be initiated in the local area to more fully engage all employers, including small employers, in workforce investment activities, to make the workforce investment system more relevant to the needs of area businesses, and to better coordinate workforce investment and economic development efforts, which may include the implementation of innovative initiatives such as incumbent worker training programs, sectoral and industry cluster strategies, regional skills alliance initiatives, career ladder programs, utilization of effective business intermediaries, and other business services and strategies designed to meet the needs of area employers and contribute to the economic well-being of the local area, as determined appropriate by the local board, consistent with the objectives of this title;*

*(12) a description of how the local board will expand access to education and training services for eligible individuals who are in need of such services through—*

- (A) *the utilization of programs funded under this title;*  
*and*  
 (B) *the increased leveraging of resources other than those provided under this title, including tax credits, private sector-provided training, and other Federal, State, local, and private funds that are brokered through the one-stop centers for training services;*  
 (13) *a description of how the local board will coordinate workforce investment activities carried out in the local area with the provision of transportation, including public transportation, in the local area; and*  
 [(10)] (14) *such other information as the Governor may require.*

\* \* \* \* \*

### CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES PROVIDERS

#### SEC. 121. ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEMS.

(a) **IN GENERAL.**—Consistent with the State plan, the local board for a local area, with the agreement of the chief elected official for the local area, shall—

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*

(b) **ONE-STOP PARTNERS.**—

(1) **REQUIRED PARTNERS.**—

[(A) **IN GENERAL.**—Each entity that carries out a program or activities described in subparagraph (B) shall—

[(i) make available to participants, through a one-stop delivery system, the services described in section 134(d)(2) that are applicable to such program or activities;

[(ii) participate in the operation of such system consistent with the terms of the memorandum described in subsection (c), and with the requirements of the Federal law in which the program or activities are authorized.]]

(A) **ROLES AND RESPONSIBILITIES OF ONE-STOP PARTNERS.**—*Each entity that carries out a program or activities described in subparagraph (B) shall—*

*(i) provide access through the one-stop delivery system to the programs and activities carried out by the entity, including making the core services described in section 134(d)(2) that are applicable to the program of the entity available at the comprehensive one-stop centers (in addition to any other appropriate locations);*

*(ii) use a portion of the funds available to the program of the entity to maintain the one-stop delivery system, including payment of the infrastructure costs of one-stop centers in accordance with subsection (h);*

*(iii) enter into a local memorandum of understanding with the local board relating to the operation of the one-stop system that meets the requirements of subsection (c);*

(iv) *participate in the operation of the one-stop system consistent with the terms of the memorandum of understanding, the requirements of this title, and the requirements of the Federal laws authorizing the programs carried out by the entity; and*

(v) *provide representation on the State board to the extent provided under section 111.*

(B) PROGRAMS AND ACTIVITIES.—The programs and activities referred to in subparagraph (A) consist of—

(i) \* \* \*

\* \* \* \* \*

[(v)] programs authorized under section 403(a)(5) of the Social Security Act (42 U.S.C. 603(a)(5)) (as added by section 5001 of the Balanced Budget Act of 1997);

[(vi)] (v) activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

[(vii)] (vi) postsecondary vocational education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

[(viii)] (vii) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

[(ix)] (viii) activities authorized under chapter 41 of title 38, United States Code;

[(x)] (ix) employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.);

[(xi)] (x) employment and training activities carried out by the Department of Housing and Urban Development; [and]

[(xii)] (xi) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).]; and

(xii) *programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), subject to subparagraph (C).*

(C) DETERMINATION BY THE GOVERNOR.—

(i) IN GENERAL.—*An entity that carries out programs referred to in subparagraph (B)(xii) shall be included in the one-stop partners for the local area, as a required partner, for purposes of this title unless the Governor of the State provides the notification described in clause (ii).*

(ii) NOTIFICATION.—*The notification referred to in clause (i) is a notification that—*

*(I) is made in writing of a determination by the Governor not to include such entity in the one-stop partners described in clause (i); and*

*(II) is provided to the Secretary and the Secretary of Health and Human Services.*

(2) ADDITIONAL PARTNERS.—

[(A) IN GENERAL.—In addition to the entities described in paragraph (1), other entities that carry out a human resource program described in subparagraph (B) may—

[(i) make available to participants, through the one-stop delivery system, the services described in section 134(d)(2) that are applicable to such program; and

[(ii) participate in the operation of such system consistent with the terms of the memorandum described in subsection (c), and with the requirements of the Federal law in which the program is authorized; if the local board and chief elected official involved approve such participation.]

(A) *IN GENERAL.*—*With the approval of the local board and chief elected official, in addition to the entities described in paragraph (1), other entities that carry out human resource programs described in subparagraph (B) may be one-stop partners and carry out the responsibilities described in paragraph (1)(A).*

(B) PROGRAMS.—The programs referred to in subparagraph (A) may include—

[(i) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

[(ii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

[(iii) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));]

*(i) employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency program established under section 1148 of the Social Security Act (42 U.S.C. 1320b-19);*

*(ii) employment and training programs carried out by the Small Business Administration;*

*(iii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));*

\* \* \* \* \*

(c) MEMORANDUM OF UNDERSTANDING.—

(1) DEVELOPMENT.—The local board, with the agreement of the chief elected official, shall develop and enter into a memorandum of understanding (between the local board and the one-stop partners), consistent with paragraph (2), concerning the operation of the one-stop delivery system in the local area.

(2) CONTENTS.—Each memorandum of understanding shall contain—

[(A) Provisions describing—

[(i) the services to be provided through the one-stop delivery system;

[(ii) how the costs of such services and the operating costs of the system will be funded;

[(iii) methods for referral of individuals between the one-stop operator and the one-stop partners, for the appropriate services and activities; and

[(iv) the duration of the memorandum and the procedures for amending the memorandum during the term of the memorandum; and]

(A) *provisions describing—*

*(i) the services to be provided through the one-stop delivery system consistent with the requirements of this*

*section, including the manner in which the services will be coordinated through such system;*

*(ii) how the costs of such services and the operating costs of such system will be funded to provide a stable and equitable funding stream for ongoing one-stop system operations, including the funding of the infrastructure costs of one-stop centers in accordance with subsection (h);*

*(iii) methods of referral of individuals between the one-stop operator and the one-stop partners for appropriate services and activities;*

*(iv) methods to ensure the needs of hard-to-serve populations are addressed in providing access to services through the one-stop system; and*

*(v) the duration of the memorandum of understanding and the procedures for amending the memorandum during the term of the memorandum, and assurances that such memorandum shall be reviewed not less than once every 2-year period to ensure appropriate funding and delivery of services; and*

\* \* \* \* \*

**(d) ONE-STOP OPERATORS.—**

**(1) DESIGNATION AND CERTIFICATION.—**Consistent with paragraphs (2) and (3), the local board, with the agreement of the chief elected official, is authorized to designate or certify one-stop operators and to terminate for cause the eligibility of such operators.

**(2) ELIGIBILITY.—**To be eligible to receive funds made available under this subtitle to operate a one-stop center referred to in **[section 134(c)] section 121(e)**, an entity (which may be a consortium of entities)—

\* \* \* \* \*

**[(e) ESTABLISHED ONE-STOP DELIVERY SYSTEM.—**If a one-stop delivery system has been established in a local area prior to the date of enactment of this Act, the local board, the chief elected official, and the Governor involved may agree to certify an entity carrying out activities through the system as a one-stop operator for purposes of subsection (d), consistent with the requirements of subsection (b), of the memorandum of understanding, and of **section 134(c).**]

**[(c)] (e) ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEM.—**

**(1) IN GENERAL.—**There shall be established in a State that receives an allotment under section 132(b) a one-stop delivery system, which—

**(A)** shall provide the core services described in **[subsection (d)(2)] section 134(d)(2)**;

**(B)** shall provide access to intensive services and training services as described in paragraphs (3) and (4) of **[subsection (d)] section 134(d)**, including serving as the point of access to **[individual training accounts] career scholarship accounts** for training services to participants in accordance with **[subsection (d)(4)(G)] section 134(d)(4)(G)**;

**(C)** shall provide access to the activities carried out under **[subsection (e)] section 134(e)**, if any;

(D) shall provide access to programs and activities carried out by one-stop partners and described in [section 121(b)] *subsection (b)*; and

(E) shall provide access to the [information described in section 15] *data, information, and analysis described in section 15(a)* of the Wagner-Peyser Act and all job search, placement, recruitment, and other labor exchange services authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(2) ONE-STOP DELIVERY.—At a minimum, the one-stop delivery system—

(A) shall make each of the programs, services, and activities described in paragraph (1) accessible at not less than one physical center in each local area of the State; and

(B) may also make programs, services, and activities described in paragraph (1) available—

(i) through a network of affiliated sites that can provide one or more of the programs, services, and activities to individuals; and

(ii) through a network of eligible one-stop partners—

(I) in which each partner provides one or more of the programs, services, and activities to such individuals and is accessible at an affiliated site that consists of a physical location or an electronically or technologically linked access point; and

(II) that assures individuals that information on the availability of the core services will be available regardless of where the individuals initially enter the statewide workforce investment system, including information made available through an access point described in subclause (I).

(3) SPECIALIZED CENTERS.—The centers and sites described in paragraph (2) may have a specialization in addressing special needs, such as the needs of dislocated workers.

\* \* \* \* \*

(g) CONTINUOUS IMPROVEMENT OF ONE-STOP CENTERS.—

(1) IN GENERAL.—*The State board, in consultation with chief local elected officials and local boards, shall establish objective criteria and procedures for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and one-stop delivery systems.*

(2) CRITERIA.—*The procedures and criteria developed under this subsection shall include minimum standards relating to the scope and degree of service coordination achieved by the one-stop delivery system with respect to the programs administered by the one-stop partners at the one-stop centers, consistent with the guidelines and guidance provided by the Governor and by the State board, in consultation with the chief elected official and local boards, for such partners' participation under subsection (h)(1)(B) and subsection (i), respectively, and such other factors relating to the quality, accessibility, and effectiveness of the one-stop delivery system as the State board determines to be appropriate.*

(3) *LOCAL BOARDS.*—Consistent with the criteria developed by the State, the local board may develop additional criteria of higher standards to respond to local labor market and demographic conditions and trends.

(h) *FUNDING OF ONE-STOP INFRASTRUCTURE.*—

(1) *IN GENERAL.*—

(A) *OPTIONS FOR INFRASTRUCTURE FUNDING.*—

(i) *LOCAL OPTIONS.*—The local board, chief elected officials, and one-stop partners in a local area may choose to fund the costs of the infrastructure of one stop centers through—

(I) methods described in the local memorandum of understanding, if, the local board, chief elected officials, and one-stop partners agree to such methods; or

(II) the State infrastructure funding mechanism described in paragraph (2).

(ii) *FAILURE TO REACH AGREEMENT ON FUNDING METHODS.*—If, as of July 1, 2004, the local board, chief elected officials, and one-stop partners in a local area fail to reach agreement on methods of sufficient funding of the infrastructure costs of one-stop centers, as determined by the local area, the State infrastructure funding mechanism described in paragraph (2) shall be applicable to such local area.

(B) *GUIDANCE FOR INFRASTRUCTURE FUNDING.*—In addition to carrying out the requirements relating to the State mechanism for one-stop center infrastructure funding described in paragraph (2), the Governor, after consultation with chief local elected officials, local boards, and the State board, and consistent with the guidelines provided by the State board under subsection (i), shall provide—

(i) guidelines for State administered one-stop partner programs in determining such programs' contributions to and participation in the one-stop delivery system, including funding for the costs of infrastructure as defined in paragraph (2)(D), negotiated pursuant to the local memorandum of understanding under subsection (c); and

(ii) guidance to assist local areas in identifying equitable and stable alternative methods of funding of the costs of the infrastructure of one-stop centers in local areas.

(2) *STATE ONE-STOP INFRASTRUCTURE FUNDING.*—

(A) *PARTNER CONTRIBUTIONS.*—

(i) *IN GENERAL.*—Subject to clause (iii), a portion determined under clause (ii) of the Federal funds provided to the State and areas within the State under the Federal laws authorizing the programs described in subsection (b)(1) and administered by one-stop partners for a fiscal year shall be provided to the Governor from such programs to assist in paying the costs of infrastructure of one-stop centers in those local areas of the State not funded under the option described in paragraph (1)(A)(i)(I).

## (ii) DETERMINATION OF GOVERNOR.—

(I) *IN GENERAL.*—Subject to subclause (II) and clause (iii), the Governor, after consultation with chief local elected officials, local boards, and the State board, shall determine the portion of funds to be provided under clause (i) by each one-stop partner from each program described in clause (i). In making such determination, the Governor shall calculate the proportionate use of the one-stop centers for the purpose of determining funding contributions pursuant to clause (i)(II) or (ii) of paragraph (1)(A) by each partner, and the costs of administration for purposes not related to one-stop centers for each partner. The Governor shall exclude from such determination the portion of funds and use of one-stop centers attributable to the programs of one-stop partners for those local areas of the State where the infrastructure of one-stop centers is funded under the option described in paragraph (1)(A)(i)(I).

(II) *SPECIAL RULE.*—In a State in which the State constitution places policymaking authority that is independent of the authority of the Governor in an entity or official with respect to the funds provided for adult education and literacy activities authorized under title II and for postsecondary vocational and technical education activities authorized under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), or vocational rehabilitation services offered under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the determination described in subclause (I) with respect to the programs authorized under that title and those Acts shall be made by the chief officer of the entity with such authority in consultation with the Governor.

(III) *APPEAL BY ONE-STOP PARTNERS.*—The Governor shall establish a procedure for the one-stop partner administering a program described in subsection (b) to appeal a determination regarding the portion of funds to be contributed under this paragraph on the basis that such determination is inconsistent with the criteria described in the State plan or with the requirements of this paragraph. Such procedure shall ensure prompt resolution of the appeal.

## (iii) LIMITATIONS.—

(I) *PROVISION FROM ADMINISTRATIVE FUNDS.*—The funds provided under this paragraph by each one-stop partner shall be provided only from funds available for the costs of administration under the program administered by such partner, and shall be subject to the program limitations with respect to the portion of funds under such program that may be used for administration.



## (II) CAP ON REQUIRED CONTRIBUTIONS.—

(aa) WIA FORMULA PROGRAMS AND EMPLOYMENT SERVICE.—*The portion of funds required to be contributed under clause (i)(II) or (ii) of paragraph (1)(A) by the programs authorized under chapters 4 and 5 and under the Wagner-Peyser Act shall not be in excess of 3 percent of the amount of Federal funds provided to carry out each such program in the State for a fiscal year.*

(bb) OTHER ONE-STOP PARTNERS.—*The portion of funds required to be contributed under clause (i)(II) or (ii) of paragraph (1)(A) by a one-stop partner from a program described in subsection (b)(1) other than the programs described under item (aa) shall not be in excess of 1½ percent of the amount of Federal funds provided to carry out such program in the State for a fiscal year.*

(cc) SPECIAL RULE.—*Notwithstanding items (aa) and (bb), an agreement, including a local memorandum of understanding, entered into prior to the date of enactment of the Workforce Investment Act Amendments of 2003 by an entity regarding contributions under this title that permits the percentages described in such items to be exceeded, may continue to be in effect until terminated by the parties.*

(dd) VOCATIONAL REHABILITATION.—*Notwithstanding items (aa) and (bb), an entity administering a program under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) shall not be required to provide, for the purposes of this paragraph, an amount in excess of—*

*(AA) 0.75 percent of the amount provided for such program in the State for the second program year that begins after the date of enactment of the Workforce Investment Act Amendments of 2003;*

*(BB) 1.0 percent of the amount provided for such program in the State for the third program year that begins after such date;*

*(CC) 1.25 percent of the amount provided for such program in the State for the fourth program year that begins after such date; and*

*(DD) 1.5 percent of the amount provided for such program in the State for the fifth and each succeeding program year that begins after such date.*

(III) FEDERAL DIRECT SPENDING PROGRAMS.—*An entity administering a program funded with direct spending as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act*

of 1985 (2 U.S.C. 900(c)(8)) shall not be required to provide, for purposes of this paragraph, an amount in excess of the amount determined to be equivalent to the cost of the proportionate use of the one-stop centers for such program in the State.

(IV) *NATIVE AMERICAN PROGRAMS.*—Native American programs established under section 166 shall not be subject to the provisions of this subsection or subsection (i). The method for determining the appropriate portion of funds to be provided by such Native American programs to pay for the costs of infrastructure of a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum.

(B) *ALLOCATION BY GOVERNOR.*—From the funds provided under subparagraph (A), the Governor shall allocate the funds to local areas in accordance with the formula established under subparagraph (C) for the purposes of assisting in paying the costs of infrastructure of one-stop centers.

(C) *ALLOCATION FORMULA.*—The State board shall develop a formula to be used by the Governor to allocate the funds provided under subparagraph (A) to local areas not funding infrastructure costs under the option described in paragraph (1)(A)(i)(I). The formula shall be based on factors including the number of one-stop centers in a local area, the population served by such centers, the services provided by such centers, and other factors relating to the performance of such centers that the State board determines are appropriate.

(D) *COSTS OF INFRASTRUCTURE.*—In this subsection, the term “costs of infrastructure”, used with respect to a one-stop center, means the nonpersonnel costs that are necessary for the general operation of the one-stop center, including the rental costs of the facilities, the costs of utilities and maintenance, equipment (including adaptive technology for individuals with disabilities), and technology to facilitate remote access to the one-stop center’s strategic planning activities, and common outreach activities.

(i) *OTHER FUNDS.*—

(1) *IN GENERAL.*—Subject to the memorandum of understanding described in subsection (c) for the one-stop delivery system involved, in addition to the funds provided to carry out subsection (h), a portion of funds made available under Federal law authorizing the programs described in subsection (b) and administered by one-stop partners, or the noncash resources available under such programs, shall be used to pay the additional costs relating to the operation of the one-stop delivery system that are not paid from the funds provided under subsection (h), as determined in accordance with paragraph (2), to the extent not inconsistent with the Federal law involved. Such costs shall include the costs of the provision of core services described in section 134(d)(2) applicable to each program and may in-

*clude common costs that are not paid from the funds provided under subsection (h).*

*(2) DETERMINATION AND GUIDANCE.—The method for determining the appropriate portion of funds and noncash resources to be provided by each program under paragraph (1) for a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum. The State board shall provide guidance to facilitate the determination of an appropriate allocation of the funds and noncash resources in local areas.*

\* \* \* \* \*

## **SEC. 122. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.**

### **[(a) ELIGIBILITY REQUIREMENTS.—**

**[(1) IN GENERAL.—**Except as provided in subsection (h), to be identified as an eligible provider of training services described in section 134(d)(4) (referred to in this section as “training services”) in a local area and to be eligible to receive funds made available under section 133(b) for the provision of training services, a provider of such services shall meet the requirements of this section.

**[(2) PROVIDERS.—**Subject to the provisions of this section, to be eligible to receive the funds, the provider shall be—

**[(A) a postsecondary educational institution that—**

**[(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and**

**[(ii) provides a program that leads to an associate degree, baccalaureate degree, or certificate;**

**[(B) an entity that carries out programs under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); or**

**[(C) another public or private provider of a program of training services.**

### **[(b) INITIAL ELIGIBILITY DETERMINATION.—**

**[(1) POSTSECONDARY EDUCATIONAL INSTITUTIONS AND ENTITIES CARRYING OUT APPRENTICESHIP PROGRAMS.—**To be initially eligible to receive funds as described in subsection (a) to carry out a program described in subparagraph (A) or (B) of subsection (a)(2), a provider described in subparagraph (A) or (B), respectively, of subsection (a)(2) shall submit an application, to the local board for the local area in which the provider desires to provide training services, at such time, in such manner, and containing such information as the local board may require.

### **[(2) OTHER ELIGIBLE PROVIDERS.—**

**[(A) PROCEDURE.—**Each Governor of a State shall establish a procedure for use by local boards in the State in determining the initial eligibility of a provider described in subsection (a)(2)(C) to receive funds as described in subsection (a) for a program of training services, including the initial eligibility of—

[(i) a postsecondary educational institution to receive such funds for a program not described in subsection (a)(2)(A); and

[(ii) a provider described in subsection (a)(2)(B) to receive such funds for a program not described in subsection (a)(2)(B).

[(B) RECOMMENDATIONS.—In developing such procedure, the Governor shall solicit and take into consideration the recommendations of local boards and providers of training services within the State.

[(C) OPPORTUNITY TO SUBMIT COMMENTS.—The Governor shall provide an opportunity, during the development of the procedure, for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure.

[(D) REQUIREMENTS.—In establishing the procedure, the Governor shall require that, to be initially eligible to receive funds as described in subsection (a) for a program, a provider described in subsection (a)(2)(C)—

[(i) shall submit an application, to the local board for the local area in which the provider desires to provide training services, at such time and in such manner as may be required, and containing a description of the program;

[(ii) if the provider provides training services through a program on the date of application, shall include in the application an appropriate portion of the performance information and program cost information described in subsection (d) for the program, as specified in the procedure, and shall meet appropriate levels of performance for the program, as specified in the procedure; and

[(iii) if the provider does not provide training services on such date, shall meet appropriate requirements, as specified in the procedure.

[(c) SUBSEQUENT ELIGIBILITY DETERMINATION.—

[(1) PROCEDURE.—Each Governor of a State shall establish a procedure for use by local boards in the State in determining the eligibility of a provider described in subsection (a)(2) to continue to receive funds as described in subsection (a) for a program after an initial period of eligibility under subsection (b) referred to in this section as “subsequent eligibility”).

[(2) RECOMMENDATIONS.—In developing such procedure, the Governor shall solicit and take into consideration the recommendations of local boards and providers of training services within the State.

[(3) OPPORTUNITY TO SUBMIT COMMENTS.—The Governor shall provide an opportunity, during the development of the procedure, for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure.

[(4) CONSIDERATIONS.—In developing such procedure, the Governor shall ensure that the procedure requires the local boards to take into consideration, in making the determinations of Subsequent eligibility

[(A) the specific economic, geographic, and demographic factors in the local areas in which providers seeking eligibility are located; and

[(B) the characteristics of the populations served by providers seeking eligibility, including the demonstrated difficulties in serving such populations, where applicable.

[(5) REQUIREMENTS.—In establishing the procedure, the Governor shall require that, to be eligible to continue to receive funds as described in subsection (a) for a program after the initial period of eligibility, a provider described in subsection (a)(2) shall—

[(A) submit the performance information and program cost information described in subsection (d)(1) for the program and any additional information required to be submitted in accordance with subsection (d)(2) for the program annually to the appropriate local board at such time and in such manner as may be required; and

[(B) annually meet the performance levels described in paragraph (6) for the program, as demonstrated utilizing quarterly records described in section 136, in a manner consistent with section 136.

[(6) LEVELS OF PERFORMANCE.—

[(A) IN GENERAL.—At a minimum, the procedure described in paragraph (1) shall require the provider to meet minimum acceptable levels of performance based on the performance information referred to in paragraph (5)(A).

[(B) HIGHER LEVELS OF PERFORMANCE ELIGIBILITY.—The local board may require higher levels of performance than the levels referred to in subparagraph (A) for subsequent eligibility to receive funds as described in subsection (a).

[(d) PERFORMANCE AND COST INFORMATION.—

[(1) REQUIRED INFORMATION.—For a provider of training services to be determined to be subsequently eligible under subsection (c) to receive funds as described in subsection (a), such provider shall, under subsection (c), submit—

[(A) verifiable program-specific performance information consisting of—

[(i) program information, including—

[(I) the program completion rates for all individuals participating in the applicable program conducted by the provider;

[(II) the percentage of all individuals participating in the applicable program who obtain unsubsidized employment, which may also include information specifying the percentage of the individuals who obtain unsubsidized employment in and occupation related to the program conducted; and

[(III) the wages at placement in employment of all individuals participating in the applicable program; and

[(ii) training services information for all participants who received assistance under section 134 to participate in the applicable program, including—

[(I) the percentage of participants who have completed the applicable program and who are placed in unsubsidized employment;

[(II) the retention rates in unsubsidized employment of participants who have completed the applicable program, 6 months after the first day of the employment;

[(III) the wages received by participants who have completed the applicable program, 6 months after the first day of the employment involved; and

[(IV) where appropriate, the rates of licensure or certification, attainment of academic degrees or equivalents, or attainment of other measures of skills, of the graduates of the applicable program; and

[(B) information on program costs (such as tuition and fees) for participants in the applicable program.

[(2) ADDITIONAL INFORMATION.—Subject to paragraph (3), in addition to the performance information described in paragraph (1)—

[(A) the Governor may require that a provider submit, under subsection (c), such other verifiable program-specific performance information as the Governor determines to be appropriate to obtain such subsequent eligibility, which may include information relating to—

[(i) retention rates in employment and the subsequent wages of all individuals who complete the applicable program;

[(ii) where appropriate, the rates of licensure or certification of all individuals who complete the program; and

[(iii) the percentage of individuals who complete the program who attain industry-recognized occupational skills in the subject, occupation, or industry for which training is provided through the program, where applicable; and

[(B) the Governor, or the local board, may require a provider to submit, under subsection (c), other verifiable program-specific performance information to obtain such subsequent eligibility.

[(3) CONDITIONS.—

[(A) IN GENERAL.—If the Governor or a local board requests additional information under paragraph (2) that imposes extraordinary costs on providers, or if providers experience extraordinary costs in the collection of information required under paragraph (1)(A)(ii), the Governor or the local board shall provide access to cost-effective methods for the collection of the information involved, or the Governor shall provide additional resources to assist providers in the collection of such information from funds made available as described in sections 128(a) and 133(a)(1), as appropriate.

[(B) HIGHER EDUCATION ELIGIBILITY REQUIREMENTS.—The local board and the designated State agency described

in subsection (i) may accept program-specific performance information consistent with the requirements for eligibility under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) from a provider for purposes of enabling the provider to fulfill the applicable requirements of this subsection, if such information is substantially similar to the information otherwise required under this subsection.

**[(e) LOCAL IDENTIFICATION.—**

**[(1) IN GENERAL.—**The local board shall place on a list providers submitting an application under subsection (b)(1) and providers determined to be initially eligible under subsection (b)(2), and retain on the list providers determined to be subsequently eligible under subsection (c), to receive funds as described in subsection (a) for the provision of training services in the local area served by the local board. The list of providers shall be accompanied by any performance information and program cost information submitted under subsection (b) or (c) by the provider.

**[(2) SUBMISSION TO STATE AGENCY.—**On placing or retaining a provider on the list, the local board shall submit, to the designated State agency described in subsection (i), the list and the performance information and program cost information referred to in paragraph (1). If the agency determines, within 30 days after the date of the submission, that the provider does not meet the performance levels described in subsection (c)(6) for the program (where applicable), the agency may remove the provider from the list for the program. The agency may not remove from the list an agency submitting an application under subsection (b)(1).

**[(3) IDENTIFICATION OF ELIGIBLE PROVIDERS.—**A provider who is placed or retained on the list under paragraph (1), and is not removed by the designated State agency under paragraph (2), for a program, shall be considered to be identified as an eligible provider of training services for the program.

**[(4) AVAILABILITY.—**

**[(A) STATE LIST.—**The designated State agency shall compile a single list of the providers identified under paragraph (3) from all local areas in the State and disseminate such list, and the performance information and program cost information described in paragraph (1), to the one-stop delivery systems within the State. Such list and information shall be made widely available to participants in employment and training activities authorized under section 134 and others through the one-stop delivery system.

**[(B) SELECTION FROM STATE LIST.—**Individuals eligible to receive training services under section 134(d)(4) shall have the opportunity to select any of the eligible providers, from any of the local areas in the State, that are included on the list described in subparagraph (A) to provide the services, consistent with the requirements of section 134.

**[(5) ACCEPTANCE OF INDIVIDUAL TRAINING ACCOUNTS BY OTHER STATES.—**States may enter into agreements, on a reciprocal basis, to permit eligible providers of training services in

a State to accept individual training accounts provided in another State.

**[(f) ENFORCEMENT.—**

**[(1) ACCURACY OF INFORMATION.—**If the designated State agency, after consultation with the local board involved, determines that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information under this section, the agency shall terminate the eligibility of the provider to receive funds described in subsection (a) for any program for a period of time, but not less than years.

**[(2) NONCOMPLIANCE.—**If the designated State agency, or the local board working with the State agency, determines that an eligible provider described in subsection (a) substantially violates any requirement under this Act, the agency, or the local board working with the State agency, may terminate the eligibility of such provider to receive funds described in subsection (a) for the program involved or take such other action as the agency or local board determines to be appropriate.

**[(3) REPAYMENT.—**A provider whose eligibility is terminated under paragraph (1) or (2) for a program shall be liable for repayment of all funds described in subsection (a) received for the program during any period of noncompliance described in such paragraph.

**[(4) CONSTRUCTION.—**This subsection and subsection (g) shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

**[(g) APPEAL.—**The Governor shall establish procedures for providers of training services to appeal a denial of eligibility by the local board or the designated State agency under subsection (b), (c), or (e), a termination of eligibility or other action by the board or agency under subsection (f), or a denial of eligibility by a one-stop operator under subsection (h). Such procedures shall provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

**[(h) ON-THE-JOB TRAINING OR CUSTOMIZED TRAINING EXCEPTION.—**

**[(1) IN GENERAL.—**Providers of on-the-job training or customized training shall not be subject to the requirements of subsections (a) through (e).

**[(2) COLLECTION AND DISSEMINATION OF INFORMATION.—**A one-stop operator in a local area shall collect such performance information from on-the-job training and customized training providers as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers of training services.

**[(i) ADMINISTRATION.—**The Governor shall designate a State agency to make the determinations described in subsection (e)(2), take the enforcement actions described in subsection (f), and carry out other duties described in this section.】



(a) *IN GENERAL.*—The Governor, after consultation with the State board, shall establish criteria and procedures regarding the eligibility of providers of training services described in section 134(d)(4) (referred to in this section as training services) to receive funds provided under section 133(b) for the provision of training services.

(b) *CRITERIA.*—

(1) *IN GENERAL.*—The criteria established by the Governor pursuant to subsection (a) shall take into account—

(A) the performance of providers of training services with respect to the performance measures described in section 136 or other appropriate measures of performance outcomes for those individuals receiving training services under this subtitle (taking into consideration the characteristics of the population served and relevant economic conditions);

(B) the need to ensure access to training services throughout the State, including any rural areas;

(C) the information such providers are required to report to State agencies with respect to Federal and State programs (other than the program carried out under this subtitle), including one-stop partner programs;

(D) the requirements for State licensing of providers of training services, and the licensing status of each provider of training services if applicable;

(E) to the extent practicable, encouraging the use of industry-recognized standards and certification;

(F) the ability to provide training services to hard-to-serve populations, including individuals with disabilities; and

(G) such other factors as the Governor determines are appropriate to ensure—

(i) the quality of services provided;

(ii) the accountability of the providers;

(iii) that the one-stop centers in the State will ensure that such providers meet the needs of local employers and participants;

(iv) the informed choice of participants under chapter 5; and

(v) that the collection of information required is not unduly burdensome or costly to providers.

(2) *INFORMATION AND RENEWAL.*—The criteria established by the Governor shall require that a provider of training services submit appropriate, accurate, and timely information to the State for purposes of carrying out subsection (d). The criteria shall also provide for annual review and renewal of eligibility under this section for providers of training services.

(3) *LOCAL CRITERIA.*—A local board in the State may establish criteria in addition to the criteria established by the Governor, or may require higher levels of performance than required under the criteria established by the Governor, for purposes of determining the eligibility of providers of training services to receive funds described in subsection (a) to provide the services in the local area involved.

(c) *PROCEDURES.*—The procedures established under subsection (a) shall identify the application process for a provider of training services to become eligible to receive funds provided under section

133(b) for the provision of training services, and identify the respective roles of the State and local areas in receiving and reviewing the applications and in making determinations of such eligibility based on the criteria established under this section. The procedures shall also establish a process for a provider of training services to appeal a denial or termination of eligibility under this section, that includes an opportunity for a hearing and prescribes appropriate time limits to ensure prompt resolution of the appeal.

(d) *INFORMATION TO ASSIST PARTICIPANTS IN CHOOSING PROVIDERS.*—

(1) *IN GENERAL.*—In order to facilitate and assist participants in choosing employment and training activities under chapter 5 and in choosing providers of training services, the Governor shall ensure that an appropriate list of providers determined to be eligible under this section in the State, accompanied by appropriate information provided by providers of training services in the State in accordance with subsection (b) and such other information as the Governor determines is appropriate, including information on program costs for participants in applicable programs, is provided to the one-stop delivery system in the State. The list and the information shall be made available to such participants and to members of the public through the one-stop delivery system in the State.

(2) *SPECIAL RULE.*—An entity that carries out programs under the Act of August 16, 1937 (commonly known as the National Apprenticeship Act, 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) shall be included on the list of eligible providers described in paragraph (1) for so long as such entity remains certified by the Department of Labor.

(e) *ENFORCEMENT.*—

(1) *IN GENERAL.*—The criteria and procedures established under this section shall provide the following:

(A) *INTENTIONALLY SUPPLYING INACCURATE INFORMATION.*—Upon a determination, by an individual or entity specified in the criteria or procedures, that a provider of training services, or individual providing information on behalf of the provider, intentionally supplied inaccurate information under this section, the eligibility of such provider to receive funds under chapter 5 shall be terminated for a period of time that is not less than 2 years.

(B) *SUBSTANTIAL VIOLATIONS.*—Upon a determination, by an individual or entity specified in the criteria or procedures, that a provider of training services substantially violated any requirement under this title, the eligibility of such provider to receive funds under the program involved may be terminated, or other appropriate action may be taken.

(C) *REPAYMENT.*—A provider of training services whose eligibility is terminated under subparagraph (A) or (B) shall be liable for the repayment of funds received under chapter 5 during a period of noncompliance described in such subparagraph.

(2) *CONSTRUCTION.*—Paragraph (1) shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

(f) *AGREEMENTS WITH OTHER STATES.*—States may enter into agreements, on a reciprocal basis, to permit eligible providers of training services to accept career scholarship accounts provided in another State.

(g) *OPPORTUNITY TO SUBMIT COMMENTS.*—In establishing criteria, procedures, and information required under this section, the Governor shall provide an opportunity for interested members of the public to make recommendations and submit comments regarding such criteria, procedures, and information.

(h) *TRANSITION PERIOD FOR IMPLEMENTATION.*—The requirements of this section shall be implemented not later than December 31, 2004. In order to facilitate early implementation of this section, the Governor may establish transition procedures under which providers eligible to provide training services under chapter 5 as such chapter was in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2003 may continue to be eligible to provide such services until December 31, 2004, or until such earlier date as the Governor determines to be appropriate.

(i) *ON-THE-JOB TRAINING OR CUSTOMIZED TRAINING EXCEPTION.*—

(1) *IN GENERAL.*—Providers of on-the-job training or customized training shall not be subject to the requirements of subsections (a) through (h).

(2) *COLLECTION AND DISSEMINATION OF INFORMATION.*—A one-stop operator in a local area shall collect such performance information from on-the-job training and customized training providers as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers of training services.

\* \* \* \* \*

#### **[SEC. 123. IDENTIFICATION OF ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.**

**[**From funds allocated under paragraph (2)(A) or (3) of section 128(b) to a local area, the local board for such area shall identify eligible providers of youth activities by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council and on the criteria contained in the State plan, to the providers to carry out the activities, and shall conduct oversight with respect to the providers, in the local area.**]**

#### **SEC. 123. ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.**

(a) *IN GENERAL.*—From the funds allocated under section 128(b) to a local area, the local board for such area shall award grants or contracts on a competitive basis to providers of youth activities identified based on the criteria in the State plan described in section 112 and shall conduct oversight with respect to such providers.

(b) *EXCEPTIONS.*—A local board may award grants or contracts on a sole-source basis if such board determines there is an insufficient number of eligible providers of youth activities in the local

*area involved (such as a rural area) for grants and contracts to be awarded on a competitive basis under subsection (a).*

\* \* \* \* \*

**SEC. 127. STATE ALLOTMENTS.**

(a) IN GENERAL.—The Secretary shall—

(1) for each fiscal year in which the amount appropriated under section 137(a) exceeds \$1,000,000,000, reserve a portion determined under subsection (b)(1)(A) of the amount appropriated under section 137(a) for use under sections 167 (relating to migrant and seasonal farmworker programs) and 169 (relating to youth) **[opportunity]** *challenge* grants; and

\* \* \* \* \*

**[(b) ALLOTMENT AMONG STATES.—**

**[(1) YOUTH ACTIVITIES.—**

**[(A) YOUTH OPPORTUNITY GRANTS.—**

**[(i) IN GENERAL.—**For each fiscal year in which the amount appropriated under section 137(a) exceeds \$1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth opportunity grants and other activities under section 169 (relating to youth opportunity grants) and provide youth activities under section 167 (relating to migrant and seasonal farmworker programs).

**[(ii) PORTION.—**The portion referred to in clause (i) shall equal, for a fiscal year—

**[(I) except as provided in subclause (II), the difference obtained by subtracting \$1,000,000,000 from the amount appropriated under section 137(a) for the fiscal year; or**

**[(II) for any fiscal year in which the amount is \$1,250,000,000 or greater, \$250,000,000.**

**[(iii) YOUTH ACTIVITIES FOR FARMWORKERS.—**From the portion described in clause (i) for a fiscal year, the Secretary shall make available 4 percent of such portion to provide youth activities under section 167.

**[(iv) ROLE MODEL ACADEMY PROJECT.—**From the portion described in clause (i) for fiscal year 1999, the Secretary shall make available such sums as the Secretary determines to be appropriate to carry out section 169(g).

**[(B) OUTLYING AREAS.—**

**[(i) IN GENERAL.—**From the amount made available under subsection (a)(2) for a fiscal year, the Secretary shall reserve not more than  $\frac{1}{4}$  of 1 percent of the amount appropriated under section 137(a) for the fiscal year—

**[(I) to provide assistance to the outlying areas to carry out youth activities and statewide workforce investment activities; and**

**[(II) for each of fiscal years 1999, 2000, and 2001, to carry out the competition described in clause (ii), except that the funds reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associ-**

ated States for fiscal year 1997, from amounts reserved under sections 252(a) and 262(a)(1) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act).

[(ii) LIMITATION FOR FREELY ASSOCIATED STATES.—

[(I) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States to carry out youth activities and statewide workforce investment activities.

[(II) AWARD BASIS.—The Secretary shall award grants pursuant to subclause (I) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

[(III) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive assistance under this subparagraph shall submit an application to the Secretary and shall include in the application for assistance—

[(aa) information demonstrating that the Freely Associated State will meet all conditions that apply to States under this title;

[(bb) an assurance that, notwithstanding any other provision of this title, the Freely Associated State will use such assistance only for the direct provision of services; and

[(cc) such other information and assurances as the Secretary may require.

[(IV) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any assistance under this subparagraph for any program year that begins after September 30, 2001.

[(V) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under subclause (I) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this clause.

[(iii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to assistance provided to those areas, including the Freely Associated States, under this subparagraph.

[(C) STATES.—

[(i) IN GENERAL.—After determining the amounts to be reserved under subparagraph (A) (if any) and subparagraph (B), the Secretary shall—

[(I) from the amount referred to in subsection (a)(2) for a fiscal year, make available not more than 1.5 percent to provide youth activities under section 166 (relating to Native Americans); and

[(II) allot the remainder of the amount referred to in subsection (a)(2) for a fiscal year to the States pursuant to clause (ii) for youth activities and statewide workforce investment activities.

[(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

[(I) 33 $\frac{1}{3}$  percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

[(II) 33 $\frac{1}{3}$  percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

[(III) 33 $\frac{1}{3}$  percent shall be allotted on the basis of the relative number of disadvantaged youth in each State, compared to the total number of disadvantaged youth in all States, except as described in clause (iii).

[(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 116(a)(2)(B) (relating to the area served by a rural concentrated employment program grant recipient), the allotment shall be based on the higher of—

[(I) the number of individuals who are age 16 through 21 in families with an income below the low-income level in such area; or

[(II) the number of disadvantaged youth in such area.

[(iv) MINIMUM AND MAXIMUM PERCENTAGES AND MINIMUM ALLOTMENTS.—In making allotments under this subparagraph, the Secretary shall ensure the following:

[(I) MINIMUM PERCENTAGE AND ALLOTMENT.—Subject to subclause (IV), the Secretary shall ensure that no State shall receive an allotment for a fiscal year that is less than the greater of—

[(aa) an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year; or

[(bb) 100 percent of the total of the allotments of the State under sections 252 and 262 of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) for fiscal year 1998.

[(II) SMALL STATE MINIMUM ALLOTMENT.—Subject to subclauses (I), (III), and (IV), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

[(aa)  $\frac{3}{10}$  of 1 percent of \$1,000,000,000 of the remainder described in clause (i)(II) for the fiscal year; and

[(bb) if the remainder described in clause (i)(II) for the fiscal year exceeds \$1,000,000,000,  $\frac{2}{5}$  of 1 percent of the excess.

[(III) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

[(IV) MINIMUM FUNDING.—In any fiscal year in which the remainder described in clause (i)(II) does not exceed \$1,000,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology for calculating the corresponding allotments under parts B and C of title II of the Job Training Partnership Act, as in effect on July 1, 1998.

[(2) DEFINITIONS.—For the purpose of the formula specified in paragraph (1)(C):

[(A) ALLOTMENT PERCENTAGE.—The term “allotment percentage”, used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i)(II) that is received through an allotment made under paragraph (1)(C) for the fiscal year. The term, used with respect to fiscal year 1998 or 1999, means the percentage of the amounts allotted to States under sections 252(b) and 262(a) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) that is received under such section by the State involved for fiscal year 1998 or 1999.

[(B) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term “area of substantial unemployment” means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this subtitle and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subparagraph, determinations of areas of substantial unemployment shall be made once each fiscal year.

[(C) DISADVANTAGED YOUTH.—Subject to paragraph (3), the term “disadvantaged youth” means an individual who is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

[(i) the poverty line; or

[(ii) 70 percent of the lower living standard income level.

[(D) EXCESS NUMBER.—The term “excess number” means, used with respect to the excess number of unemployed individuals within a State, the higher of—

[(i) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

[(ii) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

[(E) LOW-INCOME LEVEL.—The term “low-income level” means \$7,000 with respect to income in 1969, and for any later year means that amount that bears the same relationship to \$7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest \$1,000.

[(3) SPECIAL RULE.—For the purpose of the formula specified in paragraph (1)(C), the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged youth.

[(4) DEFINITION.—In this subsection, the term “Freely Associated State” means the Republic of the Marshall Island the Federated States of Micronesia, and the Republic of Palau.】

(b) ALLOTMENT AMONG STATES.—

(1) YOUTH ACTIVITIES.—

(A) YOUTH CHALLENGE GRANTS.—

(i) *IN GENERAL.*—For each fiscal year in which the amount appropriated under section 137(a) exceeds \$1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth challenge grants and other activities under section 169 (relating to youth challenge grants) and provide youth activities under section 167 (relating to migrant and seasonal farm-worker programs).

(ii) *PORION.*—The portion referred to in clause (i) shall equal, for a fiscal year—

(I) except as provided in subclause (II), the difference obtained by subtracting \$1,000,000,000 from the amount appropriated under section 137(a) for the fiscal year; or

(II) for any fiscal year in which the amount is \$1,250,000,000 or greater, \$250,000,000.

(iii) *YOUTH ACTIVITIES FOR FARMWORKERS.*—The Secretary shall reserve the greater of \$10,000,000 or 4 percent of the portion described in clause (i) for a fiscal year to provide youth activities under section 167.

(iv) *NATIVE AMERICANS.*—From the remainder of the amount appropriated under section 137(a) for each fiscal year the Secretary shall reserve not more than 1½ percent of such amount to provide youth activities under section 166 (relating to Native Americans).

(B) OUTLYING AREAS.—

(i) *IN GENERAL.*—From the amount made available under subsection (a)(2) for each fiscal year the Secretary shall reserve not more than ¼ of 1 percent of the amount appropriated under section 137(a) for the fiscal year to provide assistance to the outlying areas to carry



out youth activities and statewide workforce investment activities.

(ii) *LIMITATION FOR FREELY ASSOCIATED STATES.*—

(I) *COMPETITIVE GRANTS.*—The Secretary shall use funds described in clause (i) to award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States to carry out youth activities and statewide workforce investment activities.

(II) *AWARD BASIS.*—The Secretary shall award grants pursuant to subclause (I) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(III) *ASSISTANCE REQUIREMENTS.*—Any Freely Associated State that desires to receive assistance under this subparagraph shall submit an application to the Secretary and shall include in the application for assistance—

(aa) information demonstrating that the Freely Associated State will meet all conditions that apply to States under this title;

(bb) an assurance that, notwithstanding any other provision of this title, the Freely Associated State will use such assistance only for the direct provision of services; and

(cc) such other information and assurances as the Secretary may require.

(IV) *ADMINISTRATIVE COSTS.*—The Secretary may provide not more than 5 percent of the funds made available for grants under subclause (I) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this clause.

(iii) *ADDITIONAL REQUIREMENT.*—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to assistance provided to those areas, including the Freely Associated States, under this subparagraph.

(C) *STATES.*—

(i) *IN GENERAL.*—From the remainder of the amount appropriated under section 137(a) for a fiscal year that exists after the Secretary determines that amounts to be reserved under subparagraphs (A) and (B), the Secretary shall allot to the States—

(I) an amount of the remainder that is less than or equal to the total amount that was allotted to States for fiscal year 2003 under section 127(b)(1)(C) of this Act (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2003), in accordance with the requirements of such section 127(b)(1)(C); and

(II) the amount of the remainder, if any, in excess of the amount referred to in subclause (I), in accordance with clause (ii).

(ii) *FORMULA.*—Subject to clauses (iii) and (iv), of the amount described in clause (i)(II)—

(I)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative number of individuals in the civilian labor force who are ages 16 through 21 in each State, compared to the total number of individuals in the civilian labor force who are ages 16 through 21 in all States;

(II)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States; and

(III)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each State, compared to the total number of disadvantaged youth who are ages 16 through 21 in all States.

(iii) *MINIMUM AND MAXIMUM PERCENTAGES.*—

(I) *MINIMUM PERCENTAGE.*—The Secretary shall ensure that no State shall receive an allotment percentage under this subparagraph for a fiscal year that is less than 90 percent of the allotment percentage of the State for the preceding fiscal year.

(II) *MAXIMUM PERCENTAGE.*—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage under this subparagraph for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(iv) *SMALL STATE MINIMUM ALLOTMENT.*—Subject to clause (iii), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

(I)  $\frac{3}{10}$  of 1 percent of \$1,000,000,000 of the remainder described in clause (i) for the fiscal year; and

(II) if the remainder described in clause (i) for the fiscal year exceeds \$1,000,000,000,  $\frac{2}{5}$  of 1 percent of the excess.

(2) *DEFINITIONS.*—For the purposes of paragraph (1):

(A) *ALLOTMENT PERCENTAGE.*—The term “allotment percentage”, used with respect to fiscal year 2004 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i) that is received by the State involved through an allotment made under this subsection for the fiscal year. The term, used with respect to fiscal year 2003, means the percentage of the amounts allotted to States under this chapter (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2003) that is received by the State involved for fiscal year 2003.

(B) *DISADVANTAGED YOUTH*.—Subject to paragraph (3), the term “disadvantaged youth” means an individual who is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

- (i) the poverty line; or
- (ii) 70 percent of the lower living standard income level.

(C) *FREELY ASSOCIATED STATE*.—The term “Freely Associated State” means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(3) *SPECIAL RULE*.—For purposes of the formula specified in paragraph (1)(C), the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged youth.

\* \* \* \* \*

(c) *REALLOTMENT*.—

\* \* \* \* \*

[(2) *AMOUNT*.—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the State allotment under this section for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made, exceeds 20 percent of such allotment for the prior program year.]

(2) *AMOUNT*.—The amount available for reallocation for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the State under this section during such prior program year (including amounts allotted to the State in all prior program years that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

(A) the total amount of funds available to the State under this section during the program year prior to the program year for which the determination is made (including amounts allotted to the State in all prior program years that remained available); and

(B) the accrued expenditures during such prior program year.

(3) *REALLOTMENT*.—In making reallocations to eligible States of amounts available pursuant to paragraph (2) for a program year, the Secretary shall allot to each eligible State an amount based on the relative amount allotted to such State under this section for such activities [for the prior program year] for the program year for which the determination is made, as compared to the total amount allotted to all eligible States under this section for such activities for [such prior program year] such program year.

[(4) *ELIGIBILITY*.—For purposes of this subsection, an eligible State means a State that has obligated at least 80 percent of the State allotment under this section for such activities for

the program year prior to the program year for which the determination under paragraph (2) is made.】

(4) *ELIGIBILITY.*—*For purposes of this subsection, an eligible State means a State that does not have an amount available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.*

(5) *PROCEDURES.*—The Governor of each State shall prescribe uniform procedures for the 【obligation】 *accrued expenditure* of funds by local areas within the State in order to avoid the requirement that funds be made available for reallocation under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and local areas in the event that a State is required to make funds available for reallocation under this subsection.

\* \* \* \* \*

#### **SEC. 128. WITHIN STATE ALLOCATIONS.**

【(a) *RESERVATIONS FOR STATE ACTIVITIES.*—

【(1) *IN GENERAL.*—The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under section 127(b)(1)(C) and paragraphs (1)(B) and (2)(B) of section 132(b) for a fiscal year for statewide workforce investment activities.

【(2) *USE OF FUNDS.*—Regardless of whether the reserved amounts were allotted under section 127(b)(1)(C), or under paragraph (1)(B) or (2)(B) of section 132(b), the Governor may use the reserved amounts to carry out statewide youth activities described in section 129(b) or statewide employment and training activities, for adults or for dislocated workers, described in paragraph (2)(B) or (3) of section 134(a).】

(a) *RESERVATIONS FOR STATEWIDE ACTIVITIES.*—

(1) *IN GENERAL.*—*The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under section 127(b)(1)(C) and paragraphs (1)(B) and (2)(B) of section 132(b) for a fiscal year for statewide workforce investment activities.*

(2) *USE OF FUNDS.*—*Regardless of whether the reserved amounts were allotted under section 127(b)(1)(C), or under paragraph (1)(B) or (2)(B) of section 132(b), the Governor may use the reserved amounts to carry out statewide activities under section 129(b) or statewide employment and training activities, for adults or dislocated workers, under section 134(a).*

【(b) *WITHIN STATE ALLOCATION.*—

【(1) *METHODS.*—The Governor, acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate the funds that are allotted to the State for youth activities and statewide workforce investment activities under section 127(b)(1)(C) and are not reserved under subsection (a), in accordance with paragraph (2) or (3).

【(2) *FORMULA ALLOCATION.*—

【(A) *YOUTH ACTIVITIES.*—

【(i) *ALLOCATION.*—In allocating the funds described in paragraph (1) to local areas, a State may allocate—

【(I) 33⅓ percent of the funds on the basis described in section 127(b)(1)(C)(ii)(I);

[(II) 33 $\frac{1}{3}$  percent of the funds on the basis described in section 127(b)(1)(C)(ii)(II); and

[(III) 33 $\frac{1}{3}$  percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 127(b)(1)(C).

[(ii) MINIMUM PERCENTAGE.—Effective at the end of the second full fiscal year after the date on which a local area is designated under section 116, the local area shall not receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

[(iii) DEFINITION.—The term “allocation percentage”, used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year.

[(B) APPLICATION.—For purposes of carrying out subparagraph (A)—

[(i) references in section 127(b) to a State shall be deemed to be references to a local area;

[(ii) references in section 127(b) to all States shall be deemed to be references to all local areas in the State involved; and

[(iii) except as described in clause (i), references in section 127(b)(1) to the term “excess number” shall be considered to be references to the term as defined in section 127(b)(2).

[(3) YOUTH DISCRETIONARY ALLOCATION.—In lieu of making the allocation described in paragraph (2)(A), in allocating the funds described in paragraph (1) to local areas, a State may distribute—

[(A) a portion equal to not less than 70 percent of the funds in accordance with paragraph (2)(A); and

[(B) the remaining portion of the funds on the basis of a formula that—

[(i) incorporates additional factors (other than the factors described in paragraph (2)(A)) relating to—

[(I) excess youth poverty in urban, rural, and suburban local areas; and

[(II) excess unemployment above the State average in urban, rural, and suburban local areas; and

[(ii) was developed by the State board and approved by the Secretary as part of the State plan.

[(4) LIMITATION.—

[(A) IN GENERAL.—Of the amount allocated to a local area under this subsection and section 133(b) for a fiscal year, not more than 10 percent of the amount may be used by the local board for the administrative cost of carrying

out local workforce investment activities described in subsection (d) or (e) of section 134 or in section 129(c).

[(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the local workforce investment activities described in subsection (d) or (e) of section 134 or in section 129(c), regardless of whether the funds were allocated under this subsection or section 133(b).

[(C) REGULATIONS.—The Secretary, after consulting with the Governors, shall develop and issue regulations that define the term “administrative cost” for purposes of this title. Such definition shall be consistent with generally accepted accounting principles.]

(b) *WITHIN STATE ALLOCATIONS.*—

(1) *IN GENERAL.*—*Of the amount allotted to the State under section 127(b)(1)(C) and not reserved under subsection (a)(1)—*

*(A) a portion equal to not less than 80 percent of such amount shall be allocated by the Governor to local areas in accordance with paragraph (2); and*

*(B) a portion equal to not more than 20 percent of such amount may be allocated by the Governor to local areas in accordance with paragraph (3).*

(2) *ESTABLISHED FORMULA.*—

*(A) IN GENERAL.*—*Of the portion described in paragraph (1)(A), the Governor shall allocate—*

*(i) 33 $\frac{1}{3}$  percent on the basis of the relative number of individuals in the civilian labor force who are ages 16 through 21 in each local area, compared to the total number of individuals in the civilian labor force who are ages 16 through 21 in all local areas in the State;*

*(ii) 33 $\frac{1}{3}$  percent on the basis of the relative number of unemployed individuals in each local area, compared to the total number of unemployed individuals in all local areas in the State; and*

*(iii) 33 $\frac{1}{3}$  percent on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each local area, compared to the total number of disadvantaged youth who are ages 16 through 21 in all local areas in the State.*

*(B) MINIMUM AND MAXIMUM PERCENTAGES.*—

*(i) MINIMUM PERCENTAGE.*—*The Governor shall ensure that no local area shall receive an allocation percentage under this paragraph for a fiscal year that is less than 90 percent of the allocation percentage of the local area for the preceding fiscal year.*

*(ii) MAXIMUM PERCENTAGE.*—*Subject to clause (i), the Governor shall ensure that no local area shall receive an allocation percentage under this paragraph for a fiscal year that is more than 130 percent of the allocation percentage of the local area for the preceding fiscal year.*

*(C) DEFINITIONS.*—*In this paragraph:*

*(i) ALLOCATION PERCENTAGE.*—*The term “allocation percentage”, used with respect to fiscal year 2004 or a subsequent fiscal year, means a percentage of the por-*

tion described in paragraph (1)(A) that is received by the local area involved through an allocation made under this paragraph for the fiscal year. The term, used with respect to fiscal year 2003, means the percentage of the amounts allocated to local areas under this chapter (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2003) that is received by the local area involved for fiscal year 2003.

(ii) *DISADVANTAGED YOUTH.*—The term “disadvantaged youth” means an individual who—

(I) is age 16 through 21;

(II) is not a college student or member of the Armed Forces; and

(III) received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(3) *YOUTH DISCRETIONARY ALLOCATION.*—The Governor may allocate the portion described in paragraph (1)(B) to local areas where there are a significant number of eligible youth, after consultation with the State board and local boards.

(4) *LOCAL ADMINISTRATIVE COST LIMIT.*—

(A) *IN GENERAL.*—Of the amount allocated to a local area under this subsection and section 133(b) for a fiscal year, not more than 10 percent of the amount may be used by the local board involved for the administrative costs of carrying out local workforce investment activities under this chapter or chapter 5.

(B) *USE OF FUNDS.*—Funds made available for administrative costs under subparagraph (A) may be used for the administrative costs of any of the local workforce investment activities described in this chapter or chapter 5, regardless of whether the funds were allocated under this subsection or section 133(b).

(c) *REALLOCATION AMONG LOCAL AREAS.*—

(1) *IN GENERAL.*—The Governor may, in accordance with this subsection, reallocate to eligible local areas within the State amounts that are allocated under [paragraph (2)(A) or (3) of] subsection (b) for youth activities and that are available for reallocation.

[(2) *AMOUNT.*—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made exceeds 20 percent of such allocation for the prior program year.]

(2) *AMOUNT.*—The amount available for reallocation for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of

*the total amount of funds available to the local area under this section during such prior program year (including amounts allocated to the local area in all prior program years that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—*

*(A) the total amount of funds available to the local area under this section during the program year prior to the program year for which the determination is made (including amounts allocated to the local area in all prior program years that remained available); and*

*(B) the accrued expenditures during such prior program year.*

(3) REALLOCATION.—In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State an amount based on the relative amount allocated to such local area under [subsection (b)(3)] *subsection (b) for such activities [for the prior program year] for the program year for which the determination is made*, as compared to the total amount allocated to all eligible local areas in the State under [subsection (b)(3)] *subsection (b) for such activities for [such prior program year] such program year. [For purposes of this paragraph, local areas that received allocations under subsection (b)(2)(A) for the prior program year shall be treated as if the local areas received allocations under subsection (b)(3) for such year.]*

[(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area that has obligated at least 80 percent of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, for the program year prior to the program year for which the determination under paragraph (2) is made.]

*(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area that does not have an amount available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.*

\* \* \* \* \*

#### **SEC. 129. USE OF FUNDS FOR YOUTH ACTIVITIES.**

[(a) PURPOSES.—The purposes of this section are—

[(1) to provide, to eligible youth seeking assistance in achieving academic and employment success, effective and comprehensive activities, which shall include a variety of options for improving educational and skill competencies and provide effective connections to employers;

[(2) to ensure on-going mentoring opportunities for eligible youth with adults committed to providing such opportunities;

[(3) to provide opportunities for training to eligible youth;

[(4) to provide continued supportive services for eligible youth;

[(5) to provide incentives for recognition and achievement to eligible youth; and

[(6) to provide opportunities for eligible youth in activities related to leadership, development, decisionmaking, citizenship, and community service.]



(a) *YOUTH PARTICIPANT ELIGIBILITY.*—(1) *ELIGIBILITY.*—

(A) *IN GENERAL.*—To be eligible to participate in activities carried out under this chapter during any program year an individual shall, at the time the eligibility determination is made, be an out-of-school youth or an in-school youth.

(B) *OUT-OF-SCHOOL YOUTH.*—In this title the term “out-of-school youth” means an individual who is—

(i) not younger than age 16 (subject to paragraph (3)) nor older than age 21; and

(ii) one of the following:

(I) A school dropout.

(II) A youth who is within the age for compulsory school attendance, but has not attended school for at least 1 school year calendar quarter.

(III) A recipient of a secondary school diploma or its equivalent who is—

(aa) deficient in basic skills, including limited English proficiency;

(bb) a low-income individual; and

(cc) not attending any school.

(IV) Subject to the juvenile justice system or ordered by a court to an alternative school.

(V) A low-income individual who is pregnant or parenting and not attending any school.

(VI) A youth who is not attending school or a youth attending an alternative school, who is homeless, a runaway, a foster child, a child eligible for assistance under section 477 of the Social Security Act, or in an out-of-home placement.

(VII) A low-income individual who requires additional assistance to complete an educational program or to secure or hold employment.

(C) *IN-SCHOOL YOUTH.*—In this section the term “in-school youth” means an individual who is—

(i) not younger than age 14 nor older than age 21;

(ii) a low-income individual; and

(iii) one or more of the following:

(I) Deficient in basic literacy skills, including limited English proficiency.

(II) Homeless, a runaway, a foster child, a child eligible for assistance under section 477 of the Social Security Act, or in an out-of-home placement.

(III) Pregnant or parenting.

(IV) An offender (other than an individual described in subparagraph (B)(ii)(IV)).

(V) An individual who requires additional assistance to complete an educational program or to secure or hold employment.

(2) *EXCEPTION.*—Not more than 5 percent of the individuals assisted under this section in each local area, in the case of individuals for whom low income is a requirement for eligibility under this section, may be individuals who are not low income.

(3) *LIMITATIONS ON ACTIVITIES FOR IN-SCHOOL YOUTH.*—

(A) *IN GENERAL.*—For any program year, not more than 60 percent of the funds available for statewide activities under subsection (b), and not more than 60 percent of funds available to local areas under subsection (c), may be used to provide activities for in-school youth meeting the requirements of paragraph (1)(B).

(B) *EXCEPTION.*—A State that receives a minimum allotment under section 127(b)(1) in accordance with section 127(b)(1)(C)(iv) or under section 132(b)(1) in accordance with section 132(b)(1)(B)(iv)(II) may increase the percentage described in subparagraph (A) for a local area in the State, if—

(i) after an analysis of the eligible youth population in the local area, the State determines that the local area will be unable to use at least 40 percent of the funds available for activities under subsection (b) or (c) to serve out-of-school youth due to a low number of out-of-school youth; and

(ii)(I) the State submits to the Secretary, for the local area, a request including a proposed increased percentage for purposes of subparagraph (A), and the summary of the eligible youth population analysis; and  
(II) the request is approved by the Secretary.

(4) *CONSISTENCY WITH COMPULSORY SCHOOL ATTENDANCE LAWS.*—In providing assistance under this section to an individual who is required to attend school under applicable State compulsory school attendance laws, the priority in providing such assistance shall be for the individual to attend school regularly.

**[(b) STATEWIDE YOUTH ACTIVITIES.—**

**[(1) IN GENERAL.**—Funds reserved by a Governor for a State as described in sections 128(a) and 133(a)(1)—

**[(A)** shall be used to carry out the statewide youth activities described in paragraph (2); and

**[(B)** may be used to carry out any of the statewide youth activities described in paragraph (3), regardless of whether the funds were allotted to the State under section 127(b)(1) or under paragraph (1) or (2) of section 132(b).

**[(2) REQUIRED STATEWIDE YOUTH ACTIVITIES.**—A State shall use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out statewide youth activities, which shall include—

**[(A)** disseminating a list of eligible providers of youth activities described in section 123;

**[(B)** carrying out activities described in clauses (ii) through (vi) of section 134(a)(2)(B), except that references in such clauses to activities authorized under section 134 shall be considered to be references to activities authorized under this section; and

**[(C)** providing additional assistance to local areas that have high concentrations of eligible youth to carry out the activities described in subsection (c).

[(3) ALLOWABLE STATEWIDE YOUTH ACTIVITIES.—A State may use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out additional statewide youth activities, which may include—

[(A) carrying out activities described in clauses (i), (ii), (iii), (iv)(II), and (vi)(XII) of section 134(a)(3)(A), except that references in such clauses to activities authorized under section 134 shall be considered to be references to activities authorized under this section; and

[(B) carrying out, on a statewide basis, activities described in subsection (c).

[(4) PROHIBITION.—No funds described in this subsection or section 134(a) shall be used to develop or implement education curricula for school systems in the State.]

(b) STATEWIDE ACTIVITIES.—

(1) *IN GENERAL.*—Funds reserved by a Governor for a State as described in sections 128(a) and 133(a)(1) shall be used, regardless of whether the funds were allotted to the State under section 127(b)(1)(C) or under paragraph (1)(B) or (2)(B) of section 132(b) for statewide activities, which may include—

(A) conducting—

(i) evaluations under section 136(e) of activities authorized under this chapter and chapter 5 in coordination with evaluations carried out by the Secretary under section 172;

(ii) research; and

(iii) demonstration projects;

(B) providing incentive grants to local areas for regional cooperation among local boards (including local boards in a designated region as described in section 116(c)), for local coordination of activities carried out under this title, and for performance by local areas as described in section 136(i)(2);

(C) providing technical assistance and capacity building activities to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the development of exemplary program activities, the provision of technical assistance to local areas that fail to meet local performance measures described in section 136(c), and the provision of technology to facilitate remote access to services provided through one-stop delivery systems;

(D) operating a fiscal and management accountability information system under section 136(f);

(E) carrying out monitoring and oversight of activities carried out under this chapter and chapter 5, which may include a review comparing the services provided to male and female youth;

(F) providing additional assistance to local areas that have high concentrations of eligible youth;

(G) supporting the development of alternative programs and other activities that enhance the choices available to eligible youth and encourage such youth to reenter secondary

*education, enroll in postsecondary education and advanced training, and obtain career path employment; and*

*(H) supporting the provision of core services described in section 134(d)(2) in the one-stop delivery system in the State.*

(2) *LIMITATION.—Not more than 5 percent of the funds allotted to a State under section 127(b)(1)(C) shall be used by the State for administrative activities carried out under this subsection or section 134(a).*

(3) *PROHIBITION.—No funds described in this subsection may be used to develop or implement education curricula for school systems in the State.*

(c) **LOCAL ELEMENTS AND REQUIREMENTS.—**

(1) **PROGRAM DESIGN.**—Funds allocated to a local area for eligible youth under **¶**paragraph (2)(A) or (3), as appropriate, of **¶**section 128(b) shall be used to carry out, for eligible youth, programs that—

(A) provide an objective assessment of the academic levels, skill levels, and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), supportive service needs, and developmental needs of such participant, except that a new assessment of a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program;

(B) develop service strategies for each participant that *are directly linked to 1 or more of the performance measures relating to this chapter under section 136, and that shall identify an employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for the participant taking into account the assessment conducted pursuant to subparagraph (A), except that a new service strategy for a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program; and*

(C) provide—

*(i) activities leading to the attainment of a secondary school diploma or its equivalent, or another recognized credential;*

**[(i)]** *(ii) preparation for postsecondary educational opportunities and advanced training, in appropriate cases;*

**[(ii)]** *(iii) strong linkages between academics that lead to the attainment of recognized credentials and occupational learning instruction based on State academic content and student academic achievement standards established under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311);*

[(iii)] (iv) preparation for unsubsidized employment opportunities, in appropriate cases;

[(iv)] effective connections to intermediaries with strong links to—

[(I)] the job market; and

[(II)] local and regional employers.】

(v) *effective connections to all employers, including small employers, in sectors of the local and regional labor markets that are experiencing high growth in employment opportunities.*

(2) PROGRAM ELEMENTS.—The programs described in paragraph (1) shall provide elements consisting of—

(A) tutoring, study skills training, and instruction, leading to completion of [secondary school, including dropout prevention strategies] *the requirements for a secondary school diploma or its recognized equivalent (including recognized alternative standards for individuals with disabilities) or for another recognized credential, including dropout prevention strategies;*

(B) alternative secondary school services, as appropriate, *with a priority on exposing youth to technology and non-traditional jobs;*

\* \* \* \* \*

(F) leadership development opportunities, which may include community service and peer-centered activities encouraging responsibility and other positive social behaviors [during non-school hours], as appropriate;

\* \* \* \* \*

(I) followup services for not less than 12 months after the completion of participation, as appropriate; [and]

(J) comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral, as appropriate【.】;

(K) *on-the-job training opportunities;*

(L) *opportunities to acquire financial literacy skills;*

(M) *entrepreneurial skills training and microenterprise services; and*

(N) *information about average wages for a range of jobs available in the local area, including technology jobs.*

\* \* \* \* \*

[(4) PRIORITY.—

[(A) IN GENERAL.—At a minimum, 30 percent of the funds described in paragraph (1) shall be used to provide youth activities to out-of-school youth.

[(B) EXCEPTION.—A State that receives a minimum allotment under section 127(b)(1) in accordance with section 127(b)(1)(C)(iv)(II) or under section 132(b)(1) in accordance with section 132(b)(1)(B)(iv)(II) may reduce the percentage described in subparagraph (A) for a local area in the State, if—

[(i)] after an analysis of the eligible youth population in the local area, the State determines that the local area will be unable to meet the percentage described

in subparagraph (A) due to a low number of out-of-school youth; and

[(ii)(I) the State submits to the Secretary, for the local area, a request including a proposed reduced percentage for purposes of subparagraph (A), and the summary of the eligible youth population analysis; and

[(II) the request is approved by the Secretary.

[(5) EXCEPTIONS.—Not more than 5 percent of participants assisted under this section in each local area may be individuals who do not meet the minimum income criteria to be considered eligible youth, if such individuals are within one or more of the following categories:

[(A) Individuals who are school dropouts.

[(B) Individuals who are basic skills deficient.

[(C) Individuals with educational attainment that is one or more grade levels below the grade level appropriate to the age of the individuals.

[(D) Individuals who are pregnant or parenting.

[(E) Individuals with disabilities, including learning disabilities.

[(F) Individuals who are homeless or runaway youth.

[(G) Individuals who are offenders.

[(H) Other eligible youth who face serious barriers to employment as identified by the local board.]

[(6)] (4) PROHIBITIONS.—

(A) PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION.—No provision of this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution, school, or school system.

[(B) NONDUPLICATION.—All of the funds made available under this Act shall be used in accordance with the requirements of this Act. None of the funds made available under this Act may be used to provide funding under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.) or to carry out, through programs funded under this Act, activities that were funded under the School-to-Work Opportunities Act of 1994, unless the programs funded under this Act serve only those participants eligible to participate in the programs under this Act.]

[(C)] (B) NONINTERFERENCE AND NONREPLACEMENT OF REGULAR ACADEMIC REQUIREMENTS.—No funds described in paragraph (1) shall be used to provide an activity for eligible youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.

[(7)] (5) LINKAGES.—In coordinating the programs authorized under this section, [youth councils] *local boards* shall es-

establish linkages with educational agencies responsible for services to participants as appropriate.

[(8)] (6) VOLUNTEERS.—The local board shall make opportunities available for individuals who have successfully participated in programs carried out under this section to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

\* \* \* \* \*

## CHAPTER 5—ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES

### SEC. 131. \* \* \*

\* \* \* \* \*

### SEC. 132. STATE ALLOTMENTS.

(a) IN GENERAL.—The Secretary shall—

(1) make allotments and grants from the total amount appropriated under section 137(b) for a fiscal year in accordance with subsection (b)(1); and

(2)(A) reserve 20 percent of the amount appropriated under section 137(c) for a fiscal year for use under subsection (b)(2)(A), and under sections 170(b) (relating to dislocated worker technical assistance), 171(d) (relating to dislocated worker projects), and 173 (relating to [national emergency grants] *national dislocated worker grants*, other than under subsection (a)(4), (f), and (g)); and

(B) make allotments from 80 percent of the amount appropriated under section 137(c) for a fiscal year in accordance with subsection (b)(2)(B).

(b) ALLOTMENT AMONG STATES.—

(1) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) RESERVATION FOR OUTLYING AREAS.—

(i) IN GENERAL.—\* \* \*

(ii) APPLICABILITY OF ADDITIONAL REQUIREMENTS.—From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for adult employment and training activities and Statewide workforce investment activities in accordance with the requirements of section [127(b)(1)(B), except that the reference in section 127(b)(1)(B)(i)(II) to sections 252(d) and 262(a)(1) of the Job Training Partnership Act shall be deemed to be a reference to section 202(a)(1) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act),] *127(b)(1)(B)*.

(B) STATES.—

(i) IN GENERAL.—\* \* \*

[(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

[(I) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unem-

employed individuals in areas of substantial unemployment in all States;

[(II) 33 $\frac{1}{3}$  percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

[(III) 33 $\frac{1}{3}$  percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).]

(ii) *FORMULA.*—Subject to clauses (iii) and (iv), of the remainder—

(I) 40 percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II) 25 percent shall be allotted on the basis of the relative number of individuals in the civilian labor force in each State, compared to the total number of such individuals in all States; and

(III) 35 percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).

(iii) *CALCULATION.*—In determining an allotment under clause (ii)(111) for any State in which there is a local area designated under [section 116(a)(2)(B)] section 116(a)(2)(A)(iii), the allotment shall be based on the higher of—

\* \* \* \* \*

(II) *SMALL STATE MINIMUM ALLOTMENT.*—Subject to [subclauses (I), (III), and (IV)] *subclauses (I) and (III)*, the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

\* \* \* \* \*

[(IV) *MINIMUM FUNDING.*—In any fiscal year in which the remainder described in clause (i) does not exceed \$960,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology for calculating the corresponding allotments under part A of title II of the Job Training Partnership Act, as in effect on July 1, 1998.]

\* \* \* \* \*

(2) *DISLOCATED WORKER EMPLOYMENT AND TRAINING.*—

(A) *RESERVATION FOR OUTLYING AREAS.*—

(i) *IN GENERAL.*—\* \* \*



(ii) APPLICABILITY OF ADDITIONAL REQUIREMENTS.—From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for dislocated worker employment and training activities and statewide workforce investment activities in accordance with the requirements of [section 127(b)(1)(B), except that the reference in section 127(b)(1)(B)(i)(II) to sections 252(a) and 262(a)(1) of the Job Training Partnership Act shall be deemed to be a reference to section 302(e) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act).] *section 127(b)(1)(B).*

\* \* \* \* \*

(c) REALLOTMENT.—

(1) IN GENERAL.—\* \* \*

[(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the State allotments under this section for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made, exceeds 20 percent of such allotments for the prior program year.]

*(2) AMOUNT.—The amount available for reallocation for a program year for programs funded under subsection (b)(1)(B) (relating to adult employment and training) and subsection (b)(2)(B) (relating to dislocated worker employment and training), respectively, is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the State under subsection (b)(1)(B) or (b)(2)(B), respectively, during such prior program year (including amounts allotted to the State in all prior program years under such provisions that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—*

*(A) the total amount of funds available to the State under subsection (b)(1)(B) or (b)(2)(B), respectively, during the program year prior to the program year for which the determination is made (including amounts allotted to the State in all prior program years under such provisions that remained available); and*

*(B) the accrued expenditures from such total amount of funds available under subsection (b)(1)(B) or (b)(2)(B), respectively, during such prior program year.*

(3) REALLOTMENT.—In making reallocations to eligible States of amounts available pursuant to paragraph (2) for a program year, the Secretary shall allot to each eligible State an amount based on the relative amount allotted to such State [under this section for such activities for the prior program year] *under subsection (b)(1)(B) or (b)(2)(B), as appropriate, for the program year for which the determination is made, as compared to the total amount allotted to all eligible States [under this section for such activities for such prior program year] under subsection (b)(1)(B) or (B)(2)(B), as appropriate, for such program year.*

[(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State that has obligated at least 80 percent of the State allotment under this section for such activities for the program year prior to the program year for which the determination under paragraph (2) is made.]

(4) *ELIGIBILITY.—For purposes of this subsection, an eligible State means—*

(A) *with respect to funds allotted under subsection (b)(1)(B), a State that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made; and*

(B) *with respect to funds allotted under subsection (b)(2)(B), a State that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made*

(5) PROCEDURES.—The Governor of each State shall prescribe uniform procedures for the [obligation] *accrued expenditure* of funds by local areas within the State in order to avoid the requirement that funds be made available for reallocation under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and local areas in the event that a State is required to make funds available for reallocation under this subsection.

\* \* \* \* \*

#### SEC. 133. WITHIN STATE ALLOCATIONS.

(a) RESERVATIONS FOR STATE ACTIVITIES.—

(1) STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—\* \* \*

\* \* \* \*

(5) \* \* \*

\* \* \* \*

(B) \* \* \*

(ii) DISLOCATED WORKERS.—Funds allocated under paragraph (2)(B) shall be used by a local area to contribute proportionately to the costs of the one-stop delivery system described in [section 134(c)] *section 121(e)* in the local area, and to pay for employment and training activities provided to dislocated workers in the local area, consistent with section 134.

\* \* \* \* \*

(c) REALLOCATION AMONG LOCAL AREAS.—

(1) IN GENERAL.—The Governor may, in accordance with this subsection, reallocate to eligible local areas within the State amounts that are allocated under paragraph (2)(A) or (3) of subsection (b) for adult employment and training activities, *and under subsection (b)(2)(B) for dislocated worker employment and training activities*, and that are available for reallocation.

[(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, at the end of the pro-

gram year prior to the program year for which the determination under this paragraph is made exceeds 20 percent of such allocation for the prior program year.】

(2) *AMOUNT.*—*The amount available for reallocation for a program year for programs funded under paragraphs (2)(A) and (3) of subsection (b) (relating to adult employment and training) and subsection (b)(2)(B) (relating to dislocated worker employment and training), respectively, is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the local area under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during such prior program year (including amounts allocated to the local area in all prior program years under such provisions that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—*

*(A) the total amount of funds available to the local area under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during the program year prior to the program year for which the determination is made (including amounts allotted to the local area in all prior program years under such provisions that remained available); and*

*(B) the accrued expenditures from such total amount of funds available under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during such prior program year.*

【(3) *REALLOCATION.*—*In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State an amount based on the relative amount allocated to such local area under subsection (b)(3) for such activities for the prior program year, as compared to the total amount allocated to all eligible local areas in the State under subsection (b)(3) for such activities for such prior program year. For purposes of this paragraph, local areas that received allocations under subsection (b)(2)(A) for the prior program year shall be treated as if the local areas received allocations under subsection (b)(3) for such year.*】

(3) *REALLOCATION.*—*In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State—*

*(A) with respect to amounts that are available for reallocation under paragraph (2) that were allocated under paragraphs (2)(A) or (3) of subsection (b), an amount based on the relative amount allocated to such local area under paragraphs (2)(A) or (3) of subsection (b), as appropriate, for the program year for which the determination is made, as compared to the total amount allocated to all eligible local areas under paragraphs (2)(A) or (3) of subsection (b), as appropriate, of such program year; and*

*(B) with respect to amounts that are available for reallocation under paragraph (2) that were allocated under*

*subsection (b)(2)(B), an amount based on the relative amount allocated to such local area under subsection (b)(2)(B) for the program year for which the determination is made, as compared to the total amount allocated to all eligible local areas under subsection (b)(2)(B) for such program year.*

[(4) **ELIGIBILITY.**—For purposes of this subsection, an eligible local area means a local area that has obligated at least 80 percent of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, for the program year prior to the program year for which the determination under paragraph (2) is made.]

*(4) **ELIGIBILITY.**—For purposes of this subsection, an eligible local area means—*

*(A) with respect to funds allocated under paragraphs (2)(A) or (3) of subsection (b), a local area that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made; and*

*(B) with respect to funds allocated under subsection (b)(2)(B), a local area that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.*

\* \* \* \* \*

#### **SEC. 134. USE OF FUNDS FOR EMPLOYMENT AND TRAINING ACTIVITIES.**

(a) **STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.**—

(1) **IN GENERAL.**—\* \* \*

\* \* \* \* \*

(2) **REQUIRED STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.**—

[(A) **STATEWIDE RAPID RESPONSE ACTIVITIES.**—A State shall use funds reserved as described in section 133(a)(2) to carry out statewide rapid response activities, which shall include—

[(i) provision of rapid response activities, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials in the local areas; and

[(ii) provision of additional assistance to local areas that experience disasters, mass layoffs or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials in the local areas.]

(A) **STATEWIDE RAPID RESPONSE ACTIVITIES.**—

*(i) **IN GENERAL.**—A State shall carry out statewide rapid response activities using funds reserved by a Governor for a State under section 133(a)(2). Such activities shall include—*

*(I) provision of rapid response activities, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials for the local areas; and*

*(II) provision of additional assistance to local areas that experience disasters, mass layoffs, or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in local areas by the State, working in conjunction with the local boards and the chief elected officials for the local areas.*

*(ii) USE OF UNEXPENDED FUNDS.—Funds reserved under section 133(a)(2) to carry out this subparagraph that remain unexpended after the first program year for which such funds were allotted may be used by the Governor to carry out statewide activities authorized under subparagraph (B) and paragraph (3)(A) in addition to activities under this subparagraph.*

**[(B) OTHER REQUIRED STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—A State shall use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out other statewide employment and training activities, which shall include—**

**[(i) disseminating the State list of eligible providers of training services, including eligible providers of non-traditional training services, information identifying eligible providers of on-the-job training and customized training, and performance information and program cost information, as described in subsections (e) and (h) of section 122;**

**[(ii) conducting evaluations, under section 136(e), of activities authorized in this section, in coordination with the activities carried out under section 172;**

**[(iii) providing incentive grants to local areas for regional cooperation among local boards (including local boards for a designated region as described in section 116(c)), for local coordination of activities carried out under this Act, and for exemplary performance by local areas on the local performance measures;**

**[(iv) providing technical assistance to local areas that fail to meet local performance measures;**

**[(v) assisting in the establishment and operation of one-stop delivery systems described in subsection (c); and**

**[(vi) operating a fiscal and management accountability information system under section 136(f).]**

**(B) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Funds reserved by a Governor for a State under sections 128(a)(1) and 133(a)(1) and not used under paragraph (1)(A) (regardless of whether the funds were allotted to the States under section 127(b)(1)(C) or paragraph (1)(B) or**

(2)(B) of section 132(b)) shall be used for statewide employment and training activities, including—

(i) disseminating—

(I) the State list of eligible providers of training services, including eligible providers of nontraditional training services;

(II) information identifying eligible providers of on-the-job training and customized training;

(III) performance information and program cost information, as described in subsections (d) and (i) of section 122; and

(IV) information on physical and programmatic accessibility for individuals with disabilities;

(ii) conducting evaluations under section 136(e) of activities authorized under this chapter and chapter 5 in coordination with evaluations carried out by the Secretary under section 172;

(iii) providing incentive grants to local areas in recognition of exceptional achievement relating to—

(I) regional cooperation among local boards (including local boards in a designated region as described in section 116(c));

(II) expanded local coordination of programs and activities carried out as part of a comprehensive workforce investment system, including—

(aa) employment services under the Wagner-Peyser Act and core activities under this title; and

(bb) one-stop partner programs described in section 121;

(III) performance by local areas as described in section 136(1)(2); and

(IV) providing expanded access to education and training services, especially through increased leveraging of resources other than those provided through programs under this title;

(iv) developing strategies for ensuring that activities carried out under this section are placing men and women in jobs, education, and training that lead to comparable pay;

(v) providing technical assistance and capacity building to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the development of exemplary program activities, and the provision of technical assistance to local areas that fail to meet local performance measures described in section 136(c), which may include the development and training of staff to provide opportunities for hard-to-serve populations to enter high-wage, high-skilled, and nontraditional occupations;

(vi) operating a fiscal and management accountability system under section 136(f); and

(vii) carrying out monitoring and oversight of activities carried out under this chapter and chapter 4.

(3) ALLOWABLE STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

[(A) IN GENERAL.—A State may use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out additional statewide employment and training activities, which may include—

[(i) subject to subparagraph (B), administration by the State of the activities authorized under this section;

[(ii) provision of capacity building and technical assistance to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff and the development of exemplary program activities;

[(iii) conduct of research and demonstrations;

[(iv)(I) implementation of innovative incumbent worker training programs, which may include the establishment and implementation of an employer loan program to assist in skills upgrading; and

[(II) the establishment and implementation of programs targeted to empowerment zones and enterprise communities;

[(v) support for the identification of eligible providers of training services as required under section 122;

[(vi)(I) implementation of innovative programs for displaced homemakers, which for purposes of this subclause may include an individual who is receiving public assistance and is within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

[(II) implementation of programs to increase the number of individuals training for and placed in non-traditional employment; and

[(vii) carrying out other activities authorized in this section that the State determines to be necessary to assist local areas in carrying out activities described in subsection (d) or (e) through the statewide workforce investment system.]

(A) *IN GENERAL.—Funds reserved by a Governor for a State under sections 128(a)(1) and 133(a)(1) and not used under paragraph (1)(A) or (2)(B) (regardless of whether the funds were allotted to the State under section 127(b)(1)(C) or paragraph (1)(B) or (2)(B) of section 132(b)) may be used to carry out additional statewide employment and training activities, which may include—*

*(i) implementing innovative programs and strategies designed to meet the needs of all businesses in the State, including small businesses, which may include incumbent worker training programs, sectoral and industry cluster strategies and partnerships, including regional skills alliances, career ladder programs, micro-enterprise and entrepreneurial training and sup-*

port programs, utilization of effective business intermediaries, activities to improve linkages between the one-stop delivery systems in the State and all employers (including small employers) in the State, and other business services and strategies that better engage employers in workforce investment activities and make the workforce investment system more relevant to the needs of State and local businesses, consistent with the objectives of this title;

(ii) developing strategies for effectively serving hard-to-serve populations and for coordinating programs and services among one-stop partners;

(iii) implementing innovative programs for displaced homemakers, which for purposes of this clause may include an individual who is receiving public assistance and is within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(iv) implementing programs to increase the number of individuals training for and placed in nontraditional employment;

(v) carrying out activities to facilitate remote access to services, including training services described in subsection (d)(4), provided through a one-stop delivery system, including facilitating access through the use of technology;

(vi) supporting the provision of core services described in subsection (d)(2) in the one-stop delivery system in the State;

(vii) coordinating with the child welfare system to facilitate services for children in foster care and those who are eligible for assistance under section 477 of the Social Security Act;

(viii) activities—

(I) to improve coordination between workforce investment activities carried out within the State involved and economic development activities;

(II) to improve coordination between employment and training assistance, child support services, and assistance provided by State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

(III) to improve coordination between employment and training assistance and cooperative extension programs carried out by the Department of Agriculture;

(IV) to improve coordination between employment and training assistance and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to mental retardation and developmental disabilities, Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), and centers for independent living defined in section



702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a);

(V) to develop and disseminate workforce and labor market information; and

(VI) to improve coordination with the corrections system to facilitate provision of training services and employment opportunities that will assist ex-offenders in reentering the workforce;

(ix) conducting—

(I) research; and

(II) demonstration projects; and

(x) adopting, calculating, or commissioning a minimum self-sufficiency standard that specifies the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations.

\* \* \* \* \*

(d) REQUIRED LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) IN GENERAL.—

(A) ALLOCATED FUNDS.—\* \* \*

(i) to establish a one-stop delivery system [described in subsection (c)];

(ii) to provide the core services described in paragraph (2) to adults and dislocated workers, respectively, through the one-stop delivery system in accordance with such paragraph;

(iii) to provide the intensive services described in paragraph (3) to adults and dislocated workers, respectively, described in such paragraph; [and]

(iv) to provide training services described in paragraph (4) to adults and dislocated workers, respectively, described in such paragraph[.];

(v) to designate a dedicated business liaison in the local area who may be funded with funds provided under this title or from other sources to establish and develop relationships and networks with large and small employers and their intermediaries; and

(vi) in order to avoid duplication of services and enhance coordination of services, to require the collocation of employment services provided under the Wagner-Peyser Act at the comprehensive one-stop centers.

\* \* \* \* \*

(2) CORE SERVICES.—Funds described in [paragraph (1)(A)] paragraph (1) shall be used to provide core services, which shall be available to individuals who are adults or dislocated workers through the one-stop delivery system and shall, at a minimum, include—

(A) \* \* \*

\* \* \* \* \*

[(D) job search and placement assistance, and where appropriate, career counseling;]

(D) labor exchange services, including—

(i) *job search and placement assistance and, in appropriate cases, career counseling, including—*

(I) *exposure to high wage, high skill jobs; and*

(II) *nontraditional employment; and*

(ii) *appropriate recruitment and other business services for all employers, including small employers, in the local area, which may include services described in this subsection, including information and referral to specialized business services not traditionally offered through the onestop delivery system;*

(E) provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—

(i) \* \* \*

\* \* \* \* \*

(iii) *information relating to local occupations in demand and the earnings, career ladders, and skill requirements for such occupations; [and]*

(F) provision of performance information [and program cost information] on eligible providers of training services as described in section 122, provided by program, and eligible providers of youth activities [described in section 123], providers of adult education described in title II, providers of postsecondary vocational education activities and vocational education activities available to school dropouts under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and providers of vocational rehabilitation program activities described in title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

\* \* \* \* \*

[(H) provision of accurate information relating to the availability of supportive services, including child care and transportation, available in the local area, and referral to such services, as appropriate;]

(H) *provision of accurate information, in formats that are usable and understandable to all one-stop center customers, relating to the availability of supportive services or assistance, including child care, child support, medical or child health assistance under title XIX or XXI of the Social Security Act, benefits under the Food Stamp Act of 1977, the earned income tax credit under section 32 of the Internal Revenue Code of 1986, and assistance under a State program funded under part A of title IV of the Social Security Act and other supportive services and transportation provided through funds made available under such part, available in the local area, and referral to such services or assistance as appropriate;*

\* \* \* \* \*

(J) assistance in establishing eligibility [for—

[(i) welfare-to-work activities authorized under section 403(a)(5) of the Social Security Act (as added by

section 5001 of the Balanced Budget Act of 1997) available in the local area; and

[(ii) programs] *for programs* of financial aid assistance for training and education programs that are not funded under this Act and are available in the local area; and

\* \* \* \* \*

(3) INTENSIVE SERVICES.—

[(A) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide intensive services to adults and dislocated workers, respectively—

[(i)(I) who are unemployed and are unable to obtain employment through core services provided under paragraph (2); and

[(II) who have been determined by a one-stop operator to be in need of more intensive services in order to obtain employment; or

[(ii) who are employed, but who are determined by a one-stop operator to be in need of such intensive services in order to obtain or retain employment that allows for self-sufficiency.]

(A) *IN GENERAL.*—

(i) *ELIGIBILITY.*—*Except as provided in clause (ii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide intensive services to adults and dislocated workers, respectively—*

*(I) who are unemployed and who, after an interview, evaluation, or assessment, have been determined by a one-stop operator or one-stop partner to be—*

*(aa) unlikely or unable to obtain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through core services described in paragraph (2); and*

*(bb) in need of intensive services to obtain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; or*

*(II) who are employed, but who, after an interview, evaluation, or assessment are determined by a one-stop operator or one-stop partner to be in need of intensive services to obtain or retain employment that leads to self-sufficiency.*

(ii) *SPECIAL RULE.*—*A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assess-*

*ment of the participant conducted pursuant to another education or training program.*

\* \* \* \* \*

(C) TYPES OF SERVICES.—Such intensive services may include the following:

(i) \* \* \*

\* \* \* \* \*

(v) Case management **for participants seeking training services under paragraph (4).**

\* \* \* \* \*

*(vii) Internships and work experience.*

*(viii) Literacy activities relating to basic work readiness, and financial literacy activities.*

*(ix) Out-of-area job search assistance and relocation assistance.*

*(x) English language acquisition and integrated training programs.*

\* \* \* \* \*

(4) TRAINING SERVICES.—

**[(A) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to a local area for dislocated workers under section 133(b)(2)(B) shall be used to provide training services to adults and dislocated workers, respectively—**

**[(i) who have met the eligibility requirements for intensive services under paragraph (3)(A) and who are unable to obtain or retain employment through such services;**

**[(ii) who after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to be in need of training services and to have the skills and qualifications to successfully participate in the selected program of training services;**

**[(iii) who select programs of training services that are directly linked to the employment opportunities in the local area involved or in another area in which the adults or dislocated workers receiving such services are willing to relocate;**

**[(iv) who meet the requirements of subparagraph (B); and**

**[(v) who are determined to be eligible in accordance with the priority system, if any, in effect under subparagraph (E).]**

(A) *IN GENERAL.*—

*(i) ELIGIBILITY.—Except as provided in clause (ii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide training services to adults and dislocated workers, respectively—*

(I) who, after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to—

(aa) be unlikely or unable to obtain or retain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through the intensive services described in paragraph (3);

(bb) be in need of training services to obtain or retain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; and

(cc) have the skills and qualifications to successfully participate in the selected program of training services;

(II) who select programs of training services that are directly linked to the employment opportunities in the local area or region involved or in another area to which the adults or dislocated workers are willing to commute or relocate;

(III) who meet the requirements of subparagraph (B); and

(IV) who are determined to be eligible in accordance with the priority system in effect under subparagraph (E).

(ii) *SPECIAL RULE.*—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.

(B) *QUALIFICATION.*—

(i) *REQUIREMENT.*—**[Except]** Notwithstanding section 479B of the Higher Education Act of 1965 (20 U.S.C. 1087uu) and except as provided in clause (ii), provision of such training services shall be limited to individuals who—

\* \* \* \* \*

(D) *TRAINING SERVICES.*—Training services may include—

(i) \* \* \*

\* \* \* \* \*

(viii) adult education and literacy activities provided in combination with services described in any of clauses (i) through (vii); **[and]**

(ix) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training~~].~~ ; and

(x) *English language acquisition and integrated training programs.*

\* \* \* \* \*

## (F) CONSUMER CHOICE REQUIREMENTS.—

(i) IN GENERAL.—\* \* \*

(ii) ELIGIBLE PROVIDERS.—Each local board, through one-stop centers *shall make available a list of eligible providers of training services, and accompanying information, in accordance with section 122(d).* [referred to in subsection (c), shall make available—

[(I) the State list of eligible providers of training services required under section 122(e), with a description of the programs through which the providers may offer the training services, and the information identifying eligible providers of on-the-job training and customized training required under section 122(h); and

[(II) the performance information and performance cost information relating to eligible providers of training services described in subsections (e) and (h) of section 122.]]

(iii) [INDIVIDUAL TRAINING ACCOUNTS] CAREER SCHOLARSHIP ACCOUNTS.—An individual who seeks training services and who is eligible pursuant to subparagraph (A), may, in consultation with a case manager, select an eligible provider of training services from the list or [identifying information] *accompanying information* for providers described in [clause (ii)(I)] *clause (ii)*. Upon such selection, the one-stop operator involved shall, to the extent practicable, refer such individual to the eligible provider of training services, and arrange for payment for such services through an [individual training account] *career scholarship account*.

(iv) COORDINATION.—*Each local board may, through one-stop centers, coordinate career scholarship accounts with other Federal, State, local, or private job training programs or sources to assist the individual in obtaining training services.*

## (G) USE OF [INDIVIDUAL TRAINING ACCOUNTS] CAREER SCHOLARSHIP ACCOUNTS.—

(i) IN GENERAL.—Except as provided in clause (ii), training services provided under this paragraph shall be provided through the use of [individual training accounts] *career scholarship accounts* in accordance with this paragraph, and shall be provided to eligible individuals through the one-stop delivery system.

(ii) EXCEPTIONS.—Training services authorized under this paragraph may be provided pursuant to a contract for services in lieu of a [an individual training account] *career scholarship account* if the requirements of subparagraph (F) are met and if—

(I) such services are on-the-job training provided by an employer or customized training;

(II) the local board determines there are an insufficient number of eligible providers of training services in the local area involved (such as in a rural area) to accomplish the purposes of a system

of **[individual training accounts]** *career scholarship accounts*; **[or]**

(III) the local board determines that there is a training services program of demonstrated effectiveness offered in the local area by a community-based organization or another private organization to serve **[special participant populations that face multiple barriers to employment]** *hard-to-serve populations***[.]; or**

(IV) *the local board determines that it would be most appropriate to award a contract to an institution of higher education in order to facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice.*

\* \* \* \* \*

(iv) DEFINITION.—\* \* \*

(I) \* \* \*

\* \* \* \* \*

*(IV) Individuals with disabilities.*

**[(IV)]** (V) Other hard-to-serve populations as defined by the Governor involved.

**[(e) PERMISSIBLE LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—**

**[DISCRETIONARY ONE-STOP DELIVERY ACTIVITIES.—**Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through one-stop delivery described in subsection (c)(2)—

**[(A)** customized screening and referral of qualified participants in training services described in subsection (d)(4) to employment; and

**[(B)** customized employment-related services to employers on a fee-for-service basis.**]**

**(e) PERMISSIBLE LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—**

**(1) IN GENERAL.—**

**(A) ACTIVITIES.—***Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through the one-stop delivery system involved—*

*(i) customized screening and referral of qualified participants in training services described in subsection (d)(4) to employment;*

*(ii) customized employment-related services to employers on a fee-for-service basis;*

*(iii) customer support to enable members of hard-to-serve populations, including individuals with disabilities, to navigate among multiple services and activities for such populations;*

*(iv) technical assistance and capacity building for serving individuals with disabilities in local areas, for*

*one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, and the development of performance measures;*

*(v) employment and training assistance provided in coordination with child support enforcement activities of the State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 601 et seq.);*

*(vi) activities to improve coordination between employment and training assistance, child support services, and assistance provided by State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);*

*(vii) activities to improve coordination between employment and training assistance and cooperative extension programs carried out by the Department of Agriculture;*

*(viii) activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access through the use of technology;*

*(ix) activities—*

*(I) to improve coordination between workforce investment activities carried out within the local area involved and economic development activities; and*

*(II) to improve services and linkages between the local workforce investment system including the local one-stop delivery system, and all employers, including small employers in the local area, through services described in this section, including subparagraph (B);*

*(x) training programs for displaced homemakers and for individuals training for nontraditional occupations, in conjunction with programs operated in the local area;*

*(xi) using a portion of the funds allocated under section 133(b), activities to carry out business services and strategies that meet the workforce investment needs of local area employers, as determined by the local board, consistent with the local plan under section 118, which services—*

*(I) may be provided through effective business intermediaries working in conjunction with the local board, and may also be provided on a fee-for-service basis or through the leveraging of economic development and other resources as determined appropriate by the local board; and*

*(II) may include—*

*(aa) identifying and disseminating to business, educators, and job seekers, information related to the workforce, economic and community development needs, and opportunities of the local economy;*



(bb) development and delivery of innovative workforce investment services and strategies for area businesses, which may include sectoral, industry cluster, regional skills alliances, career ladder, skills upgrading, skill standard development and certification, apprenticeship, and other effective initiatives for meeting the workforce investment needs of area employers and workers;

(cc) participation in seminars and classes offered in partnership with relevant organizations focusing on the workforce-related needs of area employers and job seekers;

(dd) training consulting, needs analysis, and brokering services for area businesses, including the organization and aggregation of training (which may be paid for with funds other than those provided under this title), for individual employers and coalitions of employers with similar interests, products, or workforce needs;

(ee) assistance to area employers in the aversion of layoffs and in managing reductions in force in coordination with rapid response activities;

(ff) the marketing of business services offered under this title, to appropriate area employers, including small and mid-sized employers;

(gg) information referral on concerns affecting local employers; and

(hh) other business services and strategies designed to better engage employers in workforce investment activities and to make the workforce investment system more relevant to the workforce investment needs of area businesses, as determined by the local board to be consistent with the objectives of this title;

(xii) activities to adjust the self-sufficiency standards for local factors, or activities to adopt, calculate, or commission a self-sufficiency standard that specifies the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations; and

(xiii) improved coordination between employment and training assistance and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to mental retardation and developmental disabilities, Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), and centers for independent living defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a).

(B) WORK SUPPORT ACTIVITIES FOR LOW-WAGE WORKERS.—

(i) *IN GENERAL.*—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through the one-stop delivery system involved, work support activities designed to assist low-wage workers in retaining and enhancing employment. The one-stop partners shall coordinate the appropriate programs and resources of the partners with the activities and resources provided under this subparagraph.

(ii) *ACTIVITIES.*—The activities described in clause (i) may include the provision of activities described in this section through the one-stop delivery system in a manner that enhances the opportunities of such workers to participate in the activities, such as the provision of activities described in this section during nontraditional hours and the provision of onsite child care while such activities are being provided.

[(2) *SUPPORTIVE SERVICES.*—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide supportive services to adults and dislocated workers, respectively—]

(2) *SUPPORTIVE SERVICES.*—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide supportive services to adults and dislocated workers, respectively—

\* \* \* \* \*

(4) *INCUMBENT WORKER TRAINING PROGRAMS.*—

(A) *IN GENERAL.*—The local board may use up to 10 percent of the funds allocated to the local area involved under section 133(b) to pay for the Federal share of the cost of providing training through an incumbent worker training program carried out in accordance with this paragraph. The Governor or State board may make recommendations to the local board regarding incumbent worker training with statewide impact.

(B) *TRAINING ACTIVITIES.*—The training program for incumbent workers carried out under this paragraph shall be carried out by the local board in conjunction with the employers or groups of employers of such workers for the purpose of assisting such workers in obtaining the skills necessary to retain employment or avert layoffs.

(C) *EMPLOYER SHARE REQUIRED.*—

(i) *IN GENERAL.*—Employers participating in the program carried out under this paragraph shall be required to pay the non-Federal share of the costs of providing the training to incumbent workers of the employers. The local board shall establish the non-Federal share of such costs, which may include in-kind contributions. The non-Federal share shall not be less than—

(I) 10 percent of the costs, for employers with 50 or fewer employees;

(II) 25 percent of the costs, for employers with more than 50 employees but fewer than 100 employees; and

(III) 50 percent of the costs, for employers with 100 or more employees.

(ii) *CALCULATION OF EMPLOYER SHARE.*—The non-Federal share paid by such an employer may include the amount of the wages paid by the employer to a worker while the worker is attending a training program under this paragraph.

\* \* \* \* \*

## CHAPTER 6—GENERAL PROVISIONS

### SEC. 136. PERFORMANCE ACCOUNTABILITY SYSTEM.

(a) *PURPOSE.*—\* \* \*

\* \* \* \* \*

(2) *INDICATORS OF PERFORMANCE.*—

(A) *CORE INDICATORS OF PERFORMANCE.*—

(i) *IN GENERAL.*—The core indicators of performance for employment and training activities authorized under section 134 (except for self-service and informational activities) [and (for participants who are eligible youth age 19 through 21) for youth activities authorized under section 129] shall consist of—

(I) \* \* \*

\* \* \* \* \*

[(III) earnings received in unsubsidized employment 6 months after entry into the employment; and]

(III) *increases in earnings from unsubsidized employment; and*

(IV) attainment of a recognized credential relating to achievement of educational skills, which may include attainment of a secondary school diploma or its recognized equivalent, or occupational skills, by participants who enter unsubsidized employment[, or by participants who are eligible youth age 19 through 21 who enter postsecondary education, advanced training, or unsubsidized employment].

[(ii) *CORE INDICATORS FOR ELIGIBLE YOUTH.*—The core indicators of performance (for participants who are eligible youth age 14 through 18) for youth activities authorized under section 129, shall include—

[(I) attainment of basic skills and, as appropriate, work readiness or occupational skills;

[(II) attainment of secondary school diplomas their recognized equivalents; and

[(III) placement and retention in postsecondary education or advanced training, or placement and

retention in military service, employment, or qualified apprenticeships.】

(ii) *CORE INDICATORS FOR ELIGIBLE YOUTH.*—*The core indicators of performance for youth activities authorized under section 129 shall consist of—*

(I) *entry into employment, education or advanced training, or military service;*

(II) *attainment of secondary school diplomas or their recognized equivalents, and postsecondary certificates; and*

(III) *literacy or numeracy gains.*

\* \* \* \* \*

【(C) *ADDITIONAL INDICATORS.*—A State may identify in the State plan additional indicators for workforce investment activities authorized under this subtitle.】

(C) *ADDITIONAL INDICATORS.*—*A State may identify in the State plan additional indicators for workforce investment activities under this subtitle, including indicators identified in collaboration with State business and industry associations, with employee representatives where applicable, and with local boards, to measure the performance of the workforce investment system in serving the workforce needs of business and industry in the State.*

(3) *LEVELS OF PERFORMANCE.*—

(A) *STATE ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS AND CUSTOMER SATISFACTION INDICATOR.*—

(i) *IN GENERAL.*—\* \* \*

\* \* \* \* \*

(iii) *AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE [FOR FIRST 3 YEARS].*—In order to ensure an optimal return on the investment of Federal funds in workforce investment activities authorized under this subtitle, the Secretary and each Governor shall reach agreement on levels of performance for each of the core indicators of performance, [and the customer satisfaction indicator of performance, for the first 3] *described in clauses (i) and (ii) of paragraph (2)(A) and the customer satisfaction indicator of performance, for the first 2 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan prior to the approval of such plan. Agreements on levels of performance for each of the core indicators of performance for the third and fourth program years covered by the State plan shall be reached prior to the beginning of the third program year covered by the State plan, and incorporated as a modification to the State plan.*

(iv) *FACTORS.*—The agreement described in clause (iii) or (v) shall take into account—

(I) the extent to which the levels involved will assist the State in attaining a high level of customer satisfaction;

(II) how the levels involved compare with the State adjusted levels of performance established for other States, **【taking into account】** *and shall ensure that the levels involved are adjusted, using objective statistical methods, based on factors including differences in economic conditions (such as differences in unemployment rates and job losses or gains in particular industries), the characteristics of participants when the participants entered the program (such as indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, homelessness, and welfare dependency), and the services to be provided; 【and】*

(III) the extent to which such levels involved promote continuous improvement in performance on the performance measures by such State and ensure optimal return on the investment of Federal funds**【.】**; *and*

(IV) *the extent to which the levels involved will assist the State in meeting the national goals described in clause (v).*

**【(v) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR 4TH AND 5TH YEARS.—**Prior to the 4th program year covered by the State plan, the Secretary and each Governor shall reach agreement on levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the 4th and 5th program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan.**】**

*(v) ESTABLISHMENT OF NATIONAL GOALS.—In order to promote enhanced performance outcomes on the performance measures and to facilitate the process of reaching agreements with the States under clause (iii) and to measure systemwide performance for the one-stop delivery systems of the States, the Secretary shall establish long-term national goals for the adjusted levels of performance for that systemwide performance to be achieved by the programs assisted under chapters 4 and 5 on the core indicators of performance described in subparagraphs (A) and (B) of subsection (b)(2). Such goals shall be established in accordance with the Government Performance and Results Act of 1993 in consultation with the States and other appropriate parties.*

(vi) **REVISIONS.**—If unanticipated circumstances arise in a State resulting in a significant change in the

factors described in clause (iv)(II), the Governor may request that the State adjusted levels of performance agreed to under clause (iii) **【or (v)】** be revised. The Secretary, after collaboration **【with the representatives described in subsection (i)】** *with the States and other interested parties*, shall issue objective criteria and methods for making such revisions.

\* \* \* \* \*

(c) LOCAL PERFORMANCE MEASURES.—

(1) IN GENERAL.—For each local area in a State, the local performance measures shall consist of—

\* \* \* \* \*

(3) DETERMINATIONS.—In determining such local levels of performance, the local board, the chief elected official, and the Governor **【shall take into account】** *shall ensure that the levels involved are adjusted, using objective statistical methods, based on the specific economic (characteristics such as unemployment rates and job losses or gains in particular industries), demographic (characteristics such as indicators of poor work history, lack of work experience, lack of educational and occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, homelessness, and welfare dependency), and other characteristics of the populations to be served in the local area.*

\* \* \* \* \*

(d) REPORT.—

(1) IN GENERAL.—\* \* \* *In the case of a State or local area that chooses to expend funds for activities under subsection (a)(3)(A)(i) or (e)(1)(A)(xi), respectively, of section 134, the report also shall include the amount of such funds so expended and the percentage that such funds are of the funds available for activities under section 134.*

(2) ADDITIONAL INFORMATION.—\* \* \*

\* \* \* \* \*

(E) performance with respect to the indicators of performance specified in subsection (b)(2)(A) of participants in workforce investment activities who received the training services compared with the performance of participants in workforce investment activities who received only services other than the training services **【excluding participants who received only self-service and informational activities】**; **【and】**

(F) performance with respect to the indicators of performance specified in subsection (b)(2)(A) of recipients of public assistance, out-of-school youth, veterans, individuals with disabilities, displaced homemakers, *noncustodial parents with child support obligations, homeless individuals,* and older individuals**【.】**;

(G) *the number of participants served and the cost per participant; and*

(H) *the amount of adult and dislocated worker funds spent on—*

- (i) core, intensive, and training services, respectively;  
and
- (ii) services provided under subsection (a)(3)(A)(i) or (e)(1)(A)(xi) of section 134, if applicable.

\* \* \* \* \*

(4) DATA VALIDATION.—*In preparing the reports described in this subsection, the States shall establish procedures, consistent with guidelines issued by the Secretary, to ensure that the information contained in the reports is valid and reliable.*

(e) EVALUATION OF STATE PROGRAMS.—

(1) IN GENERAL.—\* \* \*

\* \* \* \* \*

(3) RESULTS.—The State shall periodically prepare and submit to the State board, and local boards in the State, reports containing the results of evaluation studies conducted under this subsection, to promote the efficiency and effectiveness of the statewide workforce investment system in improving employability for jobseekers and competitiveness for employers, including information on promoting self-sufficiency and comparable pay between men and women.

\* \* \* \* \*

(g) SANCTIONS FOR STATE FAILURE TO MEET STATE PERFORMANCE MEASURES.—

(1) STATES.—

(A) TECHNICAL ASSISTANCE.—\* \* \*

(B) REDUCTION IN AMOUNT OF GRANT.—**[If such failure continues for a second consecutive year]** *If a State performs at less than 80 percent of the adjusted level of performance for core indicators of performance described in subsection (b)(2)(A) for 2 consecutive years, or if a State fails to submit a report under subsection (d) for any program year, the Secretary may reduce by not more than 5 percent, the amount of the grant that would (in the absence of this paragraph) be payable to the State under such program for the immediately succeeding program year. Such penalty shall be based on the degree of failure to meet State adjusted levels of performance.*

(2) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The Secretary shall use an amount retained, as a result of a reduction in an allotment to a State made under paragraph (1)(B), to provide incentive grants under **[section 503]** subsection (i)(1).

(h) SANCTIONS FOR LOCAL AREA FAILURE TO MEET LOCAL PERFORMANCE MEASURES.—

(1) TECHNICAL ASSISTANCE.—\* \* \*

(2) CORRECTIVE ACTIONS.—

(A) IN GENERAL.—**[If such failure continues for a second consecutive year]** *If a local area performs at less than 80 percent of the adjusted level of performance for core indicators of performance described in subsection (b)(2)(A) for 2 consecutive years, the Governor shall take corrective actions, which may include development of a reorganization plan through which the Governor may—*

\* \* \* \* \*

(ii) prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; **[or]**

(iii) *redesignate the local area in accordance with section 116(b)(2); or*

**[(iii)]** (iv) take such other actions as the Governor determines are appropriate.

\* \* \* \* \*

**[(i) OTHER MEASURES AND TERMINOLOGY.—**

**[(1) RESPONSIBILITIES.—**In order to ensure nationwide comparability of performance data, the Secretary, after collaboration with representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities, educators, and participants, with expertise regarding workforce investment policies and workforce investment activities, shall issue—

**[(A)** definitions for information required to be reported under subsection (d)(2);

**[(B)** terms for a menu of additional indicators of performance described in subsection (b)(2)(C) to assist States in assessing their progress toward State workforce investment goals; and

**[(C)** objective criteria and methods described in subsection (b)(3)(A)(vi) for making revisions to levels of performance.

**[(2) DEFINITIONS FOR CORE INDICATORS.—**The Secretary and the representatives described in paragraph (1) shall participate in the activities described in section 502 concerning the issuance of definitions for indicators of performance described subsection (b)(2)(A).

**[(3) ASSISTANCE.—**The Secretary shall make the services of staff available to the representatives to assist the representatives in participating in the collaboration described in paragraph (1) and in the activities described in section 502.]

**(i) INCENTIVE GRANTS FOR LOCAL AREAS.—**

*(1) IN GENERAL.—From funds reserved under sections 128(a) and 133(a)(1), the Governor involved shall award incentive grants to local areas for performance described in paragraph (2) in carrying out programs under chapters 4 and 5.*

*(2) BASIS.—The Governor shall award the grants on the basis—*

*(A) that the local areas met or exceeded the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii);*

*(B) of exemplary performance of the local areas in serving hard-to-serve populations; or*

*(C) that the local areas are effectively—*

*(i) coordinating multiple systems into a comprehensive workforce investment system, including coordination of employment services under the Wagner-Peyser Act and core activities under this title as well as one-stop partner programs described in section 121;*



(ii) *expanding access to training, including through increased leveraging of resources other than those funded through programs under this title; or*

(iii) *implementing innovative business and economic development initiatives.*

(3) *USE OF FUNDS.—The funds awarded to a local area under this paragraph may be used to carry out activities authorized for local areas under chapters 4 and 5, and such demonstration projects or innovative programs for hard-to-serve populations as may be approved by the Governor.*

(j) *USE OF CORE INDICATORS FOR OTHER PROGRAMS.—In addition to the programs carried out under chapters 4 and 5, and consistent with the requirements of the applicable authorizing laws, the Secretary shall use the indicators of performance described in subparagraphs (A) and (B) of subsection (b)(2) to assess the effectiveness of the programs described in clauses (i), (ii), and (vi) of section 121(b)(1)(B) that are carried out by the Secretary.*

\* \* \* \* \*

#### **SEC. 137. AUTHORIZATION OF APPROPRIATIONS.**

(a) **YOUTH ACTIVITIES.**—There are authorized to be appropriated to carry out the activities described in section 127(a), **[such sums as may be necessary for each of fiscal years 1999 through 2003]** *such sums as may be necessary for each of fiscal years 2004 through 2009.*

(b) **ADULT EMPLOYMENT AND TRAINING ACTIVITIES.**—There are authorized to be appropriated to carry out the activities described in section 132(a)(1), **[such sums as may be necessary for each of fiscal years 1999 through 2003]** *such sums as may be necessary for each of fiscal years 2004 through 2009.*

(c) **DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.**—There are authorized to be appropriated to carry out the activities described in section 132(a)(2), **[such sums as may be necessary for each of fiscal years 1999 through 2003]** *such sums as may be necessary for each of fiscal years 2004 through 2009.*

\* \* \* \* \*

### **Subtitle C—Job Corps**

\* \* \* \* \*

#### **SEC. 144. INDIVIDUALS ELIGIBLE FOR THE JOB CORPS.**

\* \* \* \* \*

(3) an individual who is one or more of the following:

(A) Basic skills deficient.

(B) A school dropout.

(C) Homeless, a runaway, or a foster child.

(D) A parent.

(E) An individual who requires additional education, vocational training, or intensive counseling and related assistance, in order to participate successfully in regular schoolwork or to secure and hold employment.

(F) *A child eligible for assistance under section 477 of the Social Security Act.*

\* \* \* \* \*

**SEC. 145. RECRUITMENT, SCREENING, SELECTION, AND ASSIGNMENT OF ENROLLEES.**

(a) STANDARDS AND PROCEDURES.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(3) IMPLEMENTATION.—To the extent practicable, the standards and procedures shall be implemented through arrangements with—

(A) applicable one-stop centers;

(B) community action agencies, business organizations, and labor organizations; [and]

(C) agencies and individuals that have contact with youth over substantial periods of time and are able to offer reliable information about the needs and problems of youth[.]; and

(D) *child welfare agencies that are responsible for children in foster care and children eligible for assistance under section 477 of the Social Security Act.*

\* \* \* \* \*

**SEC. 154. INDUSTRY COUNCILS.**

(a) IN GENERAL.— \* \* \*

(b) INDUSTRY COUNCIL COMPOSITION.—

(1) IN GENERAL.—An industry council shall be comprised of—

(A) a majority of members who shall be [local and distant] owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector employers, who—

\* \* \* \* \*

(3) *EMPLOYERS OUTSIDE OF LOCAL AREA.*—*The industry council may include, or otherwise provide for consultation with, employers from outside the local area who are likely to hire a significant number of enrollees from the Job Corps center.*

(4) *SPECIAL RULE FOR SINGLE LOCAL AREA STATES.*—*In the case of a single local area State designated under section 116(b), the industry council shall include a representative of the State Board.*

\* \* \* \* \*

**SEC. 159. MANAGEMENT INFORMATION.**

(a) FINANCIAL MANAGEMENT INFORMATION SYSTEM.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(c) INFORMATION ON INDICATORS OF PERFORMANCE.—

[(1) ESTABLISHMENT.—The Secretary shall, with continuity and consistency from year to year, establish indicators of performance, and expected levels of performance for Job Corps centers and the Job Corps program, relating to—

[(A) the number of graduates and the rate of such graduation, analyzed by type of vocational training received

through the Job Corps program and by whether the vocational training was provided by a local or national service provider;

[(B) the number of graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received, analyzed by whether the vocational training was provided by a local or national service provider and by whether the placement in the employment was conducted by a local or national service provider;

[(C) the average wage received by graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the average wage received by graduates who entered unsubsidized employment unrelated to the vocational training received;

[(D) the average wage received by graduates placed in unsubsidized employment after completion of the Job Corps program—

[(i) on the first day of the employment;

[(ii) 6 months after the first day of the employment;

and

[(iii) 12 months after the first day of the employment,

[analyzed by type of vocational training received through the Job Corps program;

[(E) the number of graduates who entered unsubsidized employment and were retained in the unsubsidized employment—

[(i) 6 months after the first day of the employment;

and

[(ii) 12 months after the first day of the employment;

[(F) the number of graduates who entered unsubsidized employment—

[(i) for 32 hours per week or more;

[(ii) for not less than 20 but less than 32 hours per week; and

[(iii) for less than 20 hours per week;

[(G) the number of graduates who entered postsecondary education or advanced training programs, including apprenticeship programs, as appropriate; and

[(H) the number of graduates who attained job readiness and employment skills.]

(1) *PERFORMANCE INDICATORS.*—*The Secretary shall annually establish expected levels of performance for Job Corps centers and the Job Corps program relating to each of the core indicators of performance of youth activities identified in section 136(b)(2)(A)(ii).*

(2) *PERFORMANCE OF RECRUITERS.*—*The Secretary shall also establish performance [measures] indicators, and expected performance levels on the performance [measures] indicators, for local and national recruitment service providers serving the Job Corps program. The performance [measures] indicators*

shall relate to the number of enrollees retained in the Job Corps program for 30 days and for 60 days after initial placement in the program.

(3) REPORT.—The Secretary shall collect, and annually submit a report to the appropriate committees of Congress containing, information on the performance of each Job Corps center, and the Job Corps program, on the [core performance measures, as compared to the expected performance level for each performance measure] *performance indicators described in paragraph (1), as compared to the expected level of performance established under paragraph (1) for each performance measure*. The report shall also contain information on the performance of the service providers described in paragraph (2) on the performance [measures] *indicators* established under such paragraph, as compared to the expected performance levels for the performance [measures] *indicators*.

(f) PERFORMANCE ASSESSMENTS AND IMPROVEMENTS.—

(1) ASSESSMENTS.— \* \* \*

(2) PERFORMANCE IMPROVEMENT PLANS.—With respect to a Job Corps center that fails to meet the expected levels of performance relating to the [core performance measures] *indicators of performance* specified in subsection (c), the Secretary shall develop and implement a performance improvement plan. Such a plan shall require action including—

\* \* \* \* \*

**SEC. 161. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the fiscal years [1999 through 2003] *2004 through 2009*.

\* \* \* \* \*

## Subtitle D—National Programs

**SEC. 166. NATIVE AMERICAN PROGRAMS.**

(a) PURPOSE.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(h) ADMINISTRATIVE PROVISIONS.—

(1) ORGANIZATIONAL UNIT ESTABLISHED.— \* \* \*

\* \* \* \* \*

(4) ADVISORY COUNCIL.—

(A) IN GENERAL.— \* \* \*

\* \* \* \* \*

[(C) DUTIES.—The Council shall advise the Secretary on aspects of the operation and administration of the programs assisted under this section, including the selection of the individual appointed as the head of the unit established under paragraph (1).]

*(C) DUTIES.—The Council shall advise the Secretary on the operation and administration of the programs assisted under this section, including the selection of the individual*

*appointed as head of the unit established under paragraph (1).*

\* \* \* \* \*

[(j) ASSISTANCE TO AMERICAN SAMOANS IN HAWAII.—

[(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to provide assistance to American Samoans who reside in Hawaii for the co-location of federally funded and State-funded workforce investment activities.

[(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1999 such sums as may be necessary to carry out this subsection.]

(j) ASSISTANCE TO UNIQUE POPULATIONS IN ALASKA AND HAWAII.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to provide assistance to unique populations who reside in Alaska or Hawaii to improve job training and workforce investment activities.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2004.

(k) PERFORMANCE INDICATORS.—

(1) DEVELOPMENT OF INDICATORS.—The Secretary, in consultation with the Native American Employment and Training Council, shall develop a set of performance indicators and standards which shall be applicable to programs under this section.

(2) SPECIAL CONSIDERATIONS.—Such performance indicators and standards shall take into account—

(A) the purposes of the programs under this section as described in paragraph (a)(1);

(B) the needs of the groups served by this section, including the differences in needs among such groups in various geographic service areas; and

(C) the economic circumstances of the communities served, including differences in circumstances among various geographic service areas.

\* \* \* \* \*

**SEC. 167. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.**

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

(d) AUTHORIZED ACTIVITIES.—Funds made available under this section and section 127(b)(1)(A)(iii) shall be used to carry out workforce investment activities (including youth activities) and provide related assistance for eligible migrant and seasonal farmworkers, which may include employment, training, educational assistance, literacy assistance, an English language program, worker safety training, housing (*including permanent housing*), supportive services, dropout prevention activities, followup services for those individuals placed in employment, self-employment and related business enterprise development education as needed by eligible migrant and seasonal farmworkers and identified pursuant to the plan required by subsection (c), and technical assistance relating to

capacity enhancement in such areas as management information technology.

\* \* \* \* \*

**SEC. 168. VETERANS' WORKFORCE INVESTMENT PROGRAMS.**

(a) AUTHORIZATION.—

(1) IN GENERAL.— \* \* \*

\* \* \* \* \*

(3) REQUIRED ACTIVITIES.—Programs supported under this section shall include—

(A) \* \* \*

(B) \* \* \*

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job training, on-the-job training and educational opportunities under this title, under title 38, United States Code, and under other provisions of law, which activities shall be coordinated with activities provided through the one-stop centers described in [section 134(c)] *section 121(e)*.

\* \* \* \* \*

**[SEC. 169. YOUTH OPPORTUNITY GRANTS.**

[(a) GRANTS.—

[(1) IN GENERAL.—Using funds made available under section 127(b)(1)(A), the Secretary shall make grants to eligible local boards and eligible entities described in subsection (d) to provide activities described in subsection (b) for youth to increase the long-term employment of youth who live in empowerment zones, enterprise communities, and high poverty area and who seek assistance.

[(2) DEFINITION.—In this section, the term “youth” means an individual who is not less than age 14 and not more than age 21.

[(3) GRANT PERIOD.—The Secretary may make a grant under this section for a 1-year period, and may renew the grant for each of the 4 succeeding years.

[(4) GRANT AWARDS.—In making grants under this section, the Secretary shall ensure that grants are distributed equitably among local boards and entities serving urban areas and local boards and entities serving rural areas, taking into consideration the poverty rate in such urban and rural areas, as described in subsection (c)(3)(B).

[(b) USE OF FUNDS.—

[(1) IN GENERAL.—A local board or entity that receives a grant under this section shall use the funds made available through the grant to provide activities that meet the requirements of section 129, except as provided in paragraph (2), as well as youth development activities such as activities relating to leadership development, citizenship, and community service, and recreation activities.

[(2) INTENSIVE PLACEMENT AND FOLLOWUP SERVICES.—In providing activities under this section, a local board or entity shall provide—

[(A) intensive placement services; and

[(B) followup services for not less than 24 months after the completion of participation in the other activities described in this subsection, as appropriate.

【(c) ELIGIBLE LOCAL BOARDS.—To be eligible to receive a grant under the section, a local board shall serve a community that—

[(1) has been designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986;

【(2)(A) is a State without a zone or community described in paragraph (1); and

[(B) has been designated as a high poverty area by the Governor of the State; or

[(3) is 1 of 2 areas in a State that—

[(A) have been designated by the Governor as areas for which a local board may apply for a grant under this section and

[(B) meet the poverty rate criteria set forth in sub-sections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986.

**[(d) ELIGIBLE ENTITIES.]—**To be eligible to receive a grant under this section, an entity (other than a local board) shall—

[(1) be a recipient of financial assistance under section 166; and

[(2) serve a community that—

【(A) meets the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986; and

[(B) is located on an Indian reservation or serves Oklahoma Indians or Alaska Natives.

[(e) APPLICATION.—To be eligible to receive a grant under this section, a local board or entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

[(1) a description of the activities that the local board or entity will provide under this section to youth in the community described in subsection (c);

【(2) a description of the performance measures negotiated under subsection (f), and the manner in which the local boards or entities will carry out the activities to meet the performance measures;

【(3) a description of the manner in which the activities will be linked to activities described in section 129; and

[(4) a description of the community support, including financial support through leveraging additional public and private resources, for the activities.

[(f) PERFORMANCE MEASURES.—

[(1) IN GENERAL.—The Secretary shall negotiate and reach agreement with the local board or entity on performance measures for the indicators of performance referred to in subparagraphs (A) and (B) of section 136(b)(2) that will be used to evaluate the performance of the local board or entity in carrying out the activities described in subsection (b). Each local performance measure shall consist of such an indicator of performance, and a performance level referred to in paragraph (2).

[(2) PERFORMANCE LEVELS.—The Secretary shall negotiate and reach agreement with the local board or entity regarding the levels of performance expected to be achieved by the local board or entity on the indicators of performance.]

[(g) ROLE MODEL ACADEMY PROJECT.—

[(1) IN GENERAL.—Using the funds made available pursuant to section 127(b)(1)(A)(iv) for fiscal year 1999, the Secretary shall provide assistance to an entity to carry out a project establishing a role model academy for out-of-school youth.]

[(2) RESIDENTIAL CENTER.—The entity shall use the assistance to establish an academy that consists of a residential center located on the site of a military installation closed or realigned pursuant to a law providing for closures and realignment of such installations.]

[(3) SERVICES.—The academy established pursuant to this subsection shall provide services that—

[(A) utilize a military style model that emphasizes leadership skills and discipline, or another model of demonstrated effectiveness; and

[(B) include vocational training, secondary school course work leading to a secondary school diploma or recognized equivalent, and the use of mentors who serve as role models and who provide academic training and career counseling to the youth.]]

**SEC. 169. YOUTH CHALLENGE GRANTS.**

(a) *IN GENERAL.*—Of the amounts reserved by the Secretary under section 127(b)(1)(A) for a fiscal year—

(1) the Secretary shall use not less than 80 percent to award competitive grants under subsection (b); and

(2) the Secretary may use not more than 20 percent to award discretionary grants under subsection (c).

(b) *COMPETITIVE GRANTS TO STATES AND LOCAL AREAS.*—

(1) *ESTABLISHMENT.*—From the funds described in subsection (a)(1), the Secretary shall award competitive grants to eligible entities to carry out activities authorized under this subsection to assist eligible youth in acquiring the skills, credentials, and employment experience necessary to achieve the performance outcomes for youth described in section 136.

(2) *ELIGIBLE ENTITY.*—In this subsection, the term “eligible entity” means—

(A) a State or consortium of States;

(B) a local board or consortium of local boards;

(C) a recipient of a grant under section 166 (relating to Native American programs); or

(D) a public or private entity (including a consortium of such entities) with expertise in the provision of youth activities, applying in partnership with a local board or consortium of local boards.

(3) *APPLICATIONS.*—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a description of the activities the eligible entity will provide to eligible youth under this subsection, and how the eligible entity will collaborate with State and local work-



force investment systems established under this title in the provision of such activities;

(B) a description of the programs of demonstrated effectiveness on which the provision of the activities under subparagraph (A) are based, and a description of how such activities will expand the base of knowledge relating to the provision of activities for youth;

(C) a description of the State, local, and private resources that will be leveraged to provide the activities described under subparagraph (A) in addition to funds provided under this subsection, and a description of the extent of the involvement of employers in the activities;

(D) the levels of performance the eligible entity expects to achieve with respect to the indicators of performance for youth specified in section 136(b)(2)(A)(ii); and

(E) an assurance that the State board of each State in which the proposed activities are to be carried out had the opportunity to review the application, and including the comments, if any, of the affected State boards on the application, except that this subparagraph shall not apply to an eligible entity described in paragraph (2)(C).

(4) **FACTORS FOR AWARD.**—

(A) **IN GENERAL.**—In awarding grants under this subsection the Secretary shall consider—

- (i) the quality of the proposed activities;
- (ii) the goals to be achieved;
- (iii) the likelihood of successful implementation;
- (iv) the extent to which the proposed activities are based on proven strategies or the extent to which the proposed activities will expand the base of knowledge relating to the provision of activities for youth;
- (v) the extent of collaboration with the State and local workforce investment systems in carrying out the proposed activities;
- (vi) the extent of employer involvement in the proposed activities;
- (vii) whether there are other Federal and non-Federal funds available for similar activities to the proposed activities, and the additional State, local, and private resources that will be provided to carry out the proposed activities; and
- (viii) the quality of proposed activities in meeting the needs of the youth to be served.

(B) **EQUITABLE GEOGRAPHIC DISTRIBUTION.**—In awarding grants under this subsection the Secretary shall ensure an equitable distribution of such grants across geographically diverse areas.

(5) **USE OF FUNDS.**—

(A) **IN GENERAL.**—An eligible entity that receives a grant under this subsection shall use the grant funds to carry out activities that are designed to assist youth in acquiring the skills, credentials, and employment experience that are necessary to succeed in the labor market, including the activities identified in section 129.

(B) *ACTIVITIES.*—The activities carried out pursuant to subparagraph (A) may include the following:

(i) Training and internships for out-of-school youth in sectors of the economy experiencing, or projected to experience, high growth.

(ii) Dropout prevention activities for in-school youth.

(iii) Activities designed to assist special youth populations, such as court-involved youth and youth with disabilities.

(iv) Activities combining remediation of academic skills, work readiness training, and work experience, and including linkages to postsecondary education, apprenticeships, and career-ladder employment.

(v) Activities, including work experience, paid internships, and entrepreneurial training, in areas where there is a migration of youth out of the areas.

(C) *PARTICIPANT ELIGIBILITY.*—Youth who are 14 years of age through 21 years of age, as of the time the eligibility determination is made, may be eligible to participate in activities carried out under this subsection.

(6) *GRANT PERIOD.*—The Secretary shall make a grant under this subsection for a period of 2 years and may renew the grant, if the eligible entity has performed successfully, for a period of not more than 3 succeeding years.

(7) *MATCHING FUNDS REQUIRED.*—The Secretary shall require that an eligible entity that receives a grant under this subsection provide non-Federal matching funds in an amount to be determined by the Secretary that is not less than 10 percent of the cost of activities carried out under the grant. The Secretary may require that such non-Federal matching funds be provided in cash resources, noncash resources, or a combination of cash and noncash resources.

(8) *EVALUATION.*—The Secretary shall reserve not more than 3 percent of the funds described in subsection (a)(1) to provide technical assistance to, and conduct evaluations of (using appropriate techniques as described in section 172(c)), the projects funded under this subsection.

(c) *DISCRETIONARY GRANTS FOR YOUTH ACTIVITIES.*—

(1) *IN GENERAL.*—From the funds described in subsection (a)(2), the Secretary may award grants to eligible entities to provide activities that will assist youth in preparing for, and entering and retaining, employment.

(2) *ELIGIBLE ENTITY.*—In this subsection, the term “eligible entity” means a public or private entity that the Secretary determines would effectively carry out activities relating to youth under this subsection.

(3) *EQUITABLE DISTRIBUTION TO RURAL AREAS.*—In awarding grants under this subsection the Secretary shall ensure an equitable distribution of such grants to rural areas.

(4) *APPLICATIONS.*—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(5) *USE OF FUNDS.*—

(A) *IN GENERAL.*—An eligible entity that receives a grant under this subsection shall use the grant funds to carry out—

(i) activities that will assist youth in preparing for, and entering and retaining, employment, including the activities described in section 129 for out-of-school youth;

(ii) activities designed to assist in-school youth to stay in school and gain work experience;

(iii) activities designed to assist youth in economically distressed areas; and

(iv) such other activities that the Secretary determines are appropriate to ensure that youth entering the workforce have the skills needed by employers.

(B) *PARTICIPANT ELIGIBILITY.*—Youth who are 14 years of age through 21 years of age, as of the time the eligibility determination is made, may be eligible to participate in activities carried out under this subsection.

(6) *MATCHING FUNDS REQUIRED.*—The Secretary shall require that an eligible entity that receives a grant under this subsection provide non-Federal matching funds in an amount to be determined by the Secretary that is not less than 10 percent of the cost activities carried out under the grant. The Secretary may require that such non-Federal matching funds be provided in cash resources, noncash resources, or a combination of cash and noncash resources.

(7) *EVALUATIONS.*—The Secretary may require that an eligible entity that receives a grant under this subsection participate in an evaluation of activities carried out under this subsection, including an evaluation using the techniques described in section 172(c).

\* \* \* \* \*

#### **SEC. 170. TECHNICAL ASSISTANCE.**

(a) *GENERAL TECHNICAL ASSISTANCE.*—

(1) *IN GENERAL.*—The Secretary shall provide, coordinate, and support the development of, appropriate training, technical assistance, staff development, and other activities, including assistance in replicating programs of demonstrated effectiveness, to States and localities, *the training of staff providing rapid response services, the training of other staff of recipients of funds under this title, the training of members of State boards and local boards, peer review activities under this title,* and, in particular, to assist States in making transitions [from carrying out activities under the provisions of law repeated under section 199 to carrying out activities under this title.] *to implement the amendments made by the Workforce Investment Act Amendments of 2003.*

(2) *FORM OF ASSISTANCE.*—In carrying out paragraph (1) on behalf of a State, or recipient of financial assistance under any of sections 166 through 169, the Secretary, after consultation with the State or grant recipient, may award grants and enter into contracts and cooperative agreements. *The Secretary shall*

*also hire staff qualified to provide the assistance described in paragraph (1).*

\* \* \* \* \*

(b) **DISLOCATED WORKER TECHNICAL ASSISTANCE.**—

(1) **AUTHORITY.**—\* \* \*

(2) **TRAINING.**—Amounts reserved under this subsection may be used to provide for the training of staff, including specialists, who provide rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees. **[Such projects shall be administered through the dislocated worker office described in section 173(b)]** *Such projects shall be administered by the Employment and Training Administration.*

(c) **BEST PRACTICES COORDINATION.**—*The Secretary shall—*

*(1) establish a system through which States may share information regarding best practices with regard to the operation of workforce investment activities under this Act;*

*(2) evaluate and disseminate information regarding best practices and identify knowledge gaps; and*

*(3) commission research under section 172 to address knowledge gaps identified under paragraph (2).*

\* \* \* \* \*

**SEC. 171. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH, AND MULTISTATE PROJECTS.**

(a) **STRATEGIC PLAN.**—

(1) **IN GENERAL.**—\* \* \*

\* \* \* \* \*

(b) **DEMONSTRATION AND PILOT PROJECTS.**—

(1) **IN GENERAL.**—**[Under a]** *Consistent with the priorities specified in the plan published under subsection (a), the Secretary shall, through grants or contracts, carry out demonstration and pilot projects for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of specialized methods, in addressing employment and training needs. Such projects shall include the provision of direct services to individuals to enhance employment opportunities and an evaluation component and may include—*

**[(A)** the establishment of advanced manufacturing technology skill centers developed through local partnerships of industry, labor, education, community-based organizations, and economic development organizations to meet unmet, high-tech skill needs of local communities;

**[(B)** projects that provide training to upgrade the skills of employed workers who reside and are employed in enterprise communities or empowerment zones;

**[(C)** programs conducted jointly with the Department of Defense to develop training programs utilizing computerbased and other innovative learning technologies;

**[(D)** projects that promote the use of distance learning, enabling students to take courses through the use of media technology such as videos, teleconferencing computers, and the Internet;

[(E) projects that assist in providing comprehensive services to increase the employment rates of out-of-school youth residing in targeted high poverty areas within empowerment zones and enterprise communities;]

*(A) projects that assist national employers in connecting with the workforce investment system established under this title in order to facilitate the recruitment and employment of needed workers for career ladder jobs and to provide information to such system on skills and occupations in demand;*

*(B) projects that promote the development of systems that will improve the maximum effectiveness of programs carried out under this title;*

*(C) projects that focus on opportunities for employment in industries and sectors of industries that are experiencing, or are likely to experience, high rates of growth and jobs with wages leading to self-sufficiency;*

*(D) computerized, individualized, self-paced training projects targeted to dislocated, disadvantaged, or incumbent workers utilizing equipment and curriculum designed in partnership with industries for employment in the operations, repair, and maintenance of high-tech equipment that is used in integrated systems technology;*

*(E) projects carried out by States and local areas to test innovative approaches to delivering employment-related services;*

\* \* \* \* \*

*(G) projects to assist public housing authorities that provide, to public housing residents, job training programs that demonstrate success in upgrading the job skills and promoting employment of the residents; [and]*

[(H) projects that assist local areas to develop and implement local self-sufficiency standards to evaluate the degree to which participants in programs under this title are achieving self-sufficiency.]

*(H) projects that provide retention grants, which shall—*

*(i) be made to qualified job training programs offering instruction, assessment, or professional coaching, upon placement of a low-income individual trained by the program involved in employment with an employer and retention of the low-income individual in that employment with that employer for a period of 1 year, if that employment provides the low-income individual with an annual salary—*

*(I) that is at least \$10,000 more than the individual's federally adjusted income for the previous year; and*

*(II) that is not less than twice the poverty line applicable to the individual; and*

*(ii) be made taking into account the economic benefit received by the Federal Government from the employment and retention of the individual, including the economic benefit from tax revenue and decreased public subsidies;*

(I) *targeted innovation projects that improve access to and delivery of employment and training services, with emphasis given to projects that incorporate advanced technologies to facilitate the connection of individuals to the information and tools they need to upgrade skills;*

(J) *projects that promote the use of distance learning, enabling students to take courses through the use of media technology such as videos, teleconferencing computers, and the Internet; and*

(K) *projects that provide comprehensive education and training services, and support services, in coordination with local boards, for populations in targeted high poverty areas where the greatest barriers to employment exist, including ex-offenders, out-of-school youth, and public assistance recipient populations.*

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out demonstration and pilot projects under this subsection shall be awarded in accordance with generally applicable Federal requirements.

[(B) ELIGIBLE ENTITIES.—Grants or contracts may be awarded under this subsection only to—

[(i) entities with recognized expertise in—

[(I) conducting national demonstration projects;

[(II) utilizing state-of-the-art demonstration methods; or

[(III) conducting evaluations of workforce investment projects; or

[(ii) State and local entities with expertise in operating or overseeing workforce investment programs.]]

[(C)] (B) TIME LIMITS.—The Secretary shall establish appropriate time limits for carrying out demonstration and pilot projects under this subsection.

(c) MULTISERVICE PROJECTS, RESEARCH PROJECTS, AND MULTISTATE PROJECTS.—

(1) MULTISERVICE PROJECTS.— \* \* \*

\* \* \* \* \*

(2) RESEARCH PROJECTS.—

(A) IN GENERAL.—\* \* \*

[(B) FORMULA IMPROVEMENT STUDY AND REPORT.—

[(i) STUDY.—The Secretary shall conduct a 2-year study concerning improvements in the formulas described in section 132(b)(1)(B) and paragraphs (2)(A) and (3) of section 133(b) (regarding distributing funds under subtitle B to States and local areas for adult employment and training activities). In conducting the study, the Secretary shall examine means of improving the formulas by—

[(I) developing formulas based on statistically reliable data;

[(II) developing formulas that are consistent with the goals and objectives of this title; and

[(III) developing formulas based on organizational and financial stability of State boards and local boards.

[(ii) REPORT.—The Secretary shall prepare and submit to Congress a report containing the results of the study, including recommendations for improved formulas.]

(B) STUDIES AND REPORTS.—

(i) NET IMPACT STUDIES AND REPORTS.—

(I) IN GENERAL.—*The Secretary, in coordination with the Secretary of Education, shall conduct studies to determine the net impacts of programs, services, and activities carried out under this title.*

(II) REPORTS.—*The Secretary shall prepare and disseminate to the public reports containing the results of the studies conducted under subclause (I).*

(ii) STUDY ON RESOURCES AVAILABLE TO ASSIST OUT-OF-SCHOOL YOUTH.—*The Secretary, in coordination with the Secretary of Education, may conduct a study examining the resources available at the Federal, State, and local levels to assist out-of-school youth in obtaining the skills, credentials, and work experience necessary to become successfully employed, including the availability of funds provided through average daily attendance and other methodologies used by States and local areas to distribute funds.*

(iii) STUDY OF INDUSTRY-BASED CERTIFICATION AND CREDENTIALS.—

(I) IN GENERAL.—*The Secretary shall conduct a study concerning the role and benefits of credentialing and certification to businesses and workers in the economy and the implications of certification to the services provided through the workforce investment system. The study may examine issues such as—*

(aa) *the characteristics of successful credentialing and certification systems that serve business and individual needs;*

(bb) *the relative proportions of certificates and credentials attained with assistance from the public sector, with private-sector training of new hires or incumbent workers, and by individuals on their own initiative without other assistance, respectively;*

(cc) *the return on human capital investments from occupational credentials and industry-based skill certifications, including the extent to which acquisition of such credentials or certificates enhances outcomes such as entry into employment, retention, earnings (including the number and amount of wage increases), career advancement, and layoff aversion;*

(dd) *the implications of the effects of skill certifications and credentials to the types and delivery of services provided through the workforce investment system;*

(ee) the role that Federal and State governments play in fostering the development of and disseminating credentials and skill standards; and

(ff) the use of credentials by businesses to achieve goals for workforce skill upgrading and greater operating efficiency.

(II) *REPORT TO CONGRESS.*—The Secretary shall prepare and submit to Congress a report containing the results of the study conducted pursuant to subclause (I). Such report may include any recommendations that the Secretary determines are appropriate to include in such report relating to promoting the acquisition of industry-based certification and credentials, and the appropriate role of the Department of Labor and the workforce investment system in supporting the needs of business and individuals with respect to such certification and credentials.

(iv) *STUDY OF EFFECTIVENESS OF WORKFORCE INVESTMENT SYSTEM IN MEETING BUSINESS NEEDS.*—

(I) *IN GENERAL.*—Using funds available to carry out this section jointly with funds available to the Secretary of Commerce and Administrator of the Small Business Administration, the Secretary, in coordination with the Secretary of Commerce and the Administrator of the Small Business Administration, may conduct a study of the effectiveness of the workforce investment system in meeting the needs of business, with particular attention to the needs of small business, including in assisting workers to obtain the skills needed to utilize emerging technologies. In conducting the study, the Secretary, in coordination with the Secretary of Commerce and the Administrator of the Small Business Administration, may examine issues such as—

(aa) methods for identifying the workforce needs of businesses and how the requirements of small businesses may differ from larger establishments;

(bb) business satisfaction with the workforce investment system, with particular emphasis on the satisfaction of small businesses;

(cc) the extent to which business is engaged as a collaborative partner in the workforce investment system, including the extent of business involvement as members of State boards and local boards, and the extent to which such boards and one-stop centers effectively collaborate with business and industry leaders in developing workforce investment strategies, including strategies to identify high growth opportunities;



(dd) ways in which the workforce investment system addresses changing skill needs of business that result from changes in technology and work processes;

(ee) promising practices for serving small businesses;

(ff) the extent and manner in which the workforce investment system uses technology to serve business and individual needs, and how uses of technology could enhance efficiency and effectiveness in providing services; and

(gg) the extent to which various segments of the labor force have access to and utilize technology to locate job openings and apply for jobs, and characteristics of individuals utilizing such technology (such as age, gender, race or ethnicity, industry sector, and occupational groups).

(II) *REPORT TO CONGRESS.*—The Secretary shall prepare and submit to Congress a report containing the results of the study described in clause (I). Such report may include any recommendations the Secretary determines are appropriate to include in such report, including ways to enhance the effectiveness of the workforce investment system in meeting the needs of business for skilled workers.

\* \* \* \* \*

(e) *SKILL CERTIFICATION PILOT PROJECTS.*—

(1) *PILOT PROJECTS.*—In accordance with subsection (b) and from funds appropriated pursuant to paragraph (10), the Secretary shall establish and carry out not more than 10 pilot projects to establish a system of industry-validated national certifications of skills, including—

(A) not more than 8 national certifications of skills in high-technology industries, including biotechnology, telecommunications, highly automated manufacturing (including semiconductors), nanotechnology, and energy technology; and

(B) not more than 2 cross-disciplinary national certifications of skills in homeland security technology.

(2) *GRANTS TO ELIGIBLE ENTITIES.*—In carrying out the pilot projects, the Secretary shall make grants to eligible entities, for periods of not less than 36 months and not more than 48 months, to carry out the authorized activities described in paragraph (7) with respect to the certifications described in paragraph (1). In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.

(3) *ELIGIBLE ENTITIES.*—

(A) *DEFINITION OF ELIGIBLE ENTITY.*—In this subsection the term “eligible entity” means an entity that shall work in conjunction with a local board and shall include as a principal participant one or more of the following:

(i) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

- (ii) *An advanced technology education center.*
- (iii) *A local board.*
- (iv) *A representative of a business in a target industry for the certification involved.*

(v) *A representative of an industry association, labor organization, or community development organization.*

**(B) HISTORY OF DEMONSTRATED CAPABILITY REQUIRED.—**

*To be eligible to receive a grant under this subsection, an eligible entity shall have a history of demonstrated capability for effective collaboration with industry on workforce investment activities that is consistent with the objectives of this title.*

**(4) APPLICATIONS.—***To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.*

**(5) CRITERIA.—***The Secretary shall establish criteria, consistent with paragraph (6), for awarding grants under this subsection.*

**(6) PRIORITY.—***In selecting eligible entities to receive grants under this subsection, the Secretary shall give priority to eligible entities that demonstrate the availability of and ability to provide matching funds from industry or nonprofit sources. Such matching funds may be provided in cash or in kind.*

**(7) AUTHORIZED ACTIVITIES.—**

**(A) IN GENERAL.—***An eligible entity that receives a grant under this subsection shall use the funds made available through the grant—*

*(i) to facilitate the establishment of certification requirements for a certification described in paragraph (1) for an industry;*

*(ii) to develop and initiate a certification program that includes preparatory courses, course materials, procedures, and examinations, for the certification; and*

*(iii) to collect and analyze data related to the program at the program's completion, and to identify best practices (consistent with paragraph (8)) that may be used by local and State workforce investment boards in the future.*

**(B) BASIS FOR REQUIREMENTS.—***The certification requirements established under the grant shall be based on applicable skill standards for the industry involved that have been developed by or linked to national centers of excellence under the National Science Foundation's Advanced Technological Education Program. The requirements shall require an individual to demonstrate an identifiable set of competencies relevant to the industry in order to receive certification. The requirements shall be designed to provide evidence of a transferable skill set that allows flexibility and mobility of workers within a high technology industry.*

**(C) RELATIONSHIP TO TRAINING AND EDUCATION PROGRAMS.—***The eligible entity shall ensure that—*

*(i) a training and education program related to competencies for the industry involved, that is flexible in*

mode and time frame for delivery and that meets the needs of those seeking the certification, is offered; and  
 (ii) the certification program is offered at the completion of the training and education program.

(D) *RELATIONSHIP TO THE ASSOCIATE DEGREE.*—The eligible entity shall ensure that the certification program is consistent with the requirements for a 2-year associate degree.

(E) *AVAILABILITY.*—The eligible entity shall ensure that the certification program is open to students pursuing associate degrees, employed workers, and displaced workers.

(8) *CONSULTATION.*—The Secretary shall consult with the Director of the National Science Foundation to ensure that the pilot projects build on the expertise and information about best practices gained through the implementation of the National Science Foundation's Advanced Technological Education Program.

(9) *CORE COMPONENTS; GUIDELINES; REPORTS.*—After collecting and analyzing the data obtained from the pilot programs, the Secretary shall—

(A) establish the core components of a model high-technology certification program;

(B) establish guidelines to assure development of a uniform set of standards and policies for such programs;

(C) prepare and submit a report on the pilot projects to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives; and

(D) make available to the public both the data and the report.

(10) *AUTHORIZATION OF APPROPRIATIONS.*—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated \$30,000,000 for fiscal year 2004 to carry out this subsection.

(f) *INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.*—

(1) *DEFINITIONS.*—In this subsection:

(A) *INTEGRATED WORKFORCE TRAINING.*—The term “integrated workforce training” means training that integrates occupational skills training with language acquisition.

(B) *SECRETARY.*—The term “Secretary” means the Secretary of Labor in consultation with the Secretary of Education.

(2) *DEMONSTRATION PROJECT.*—In accordance with subsection (b) and from funds appropriated pursuant to paragraph (11), the Secretary shall establish and implement a national demonstration project designed to both analyze and provide data on workforce training programs that integrate English language acquisition and occupational training.

(3) *GRANTS.*—

(A) *IN GENERAL.*—In carrying out the demonstration project, the Secretary shall make not less than 10 grants, on a competitive basis, to eligible entities to provide the integrated workforce training programs. In awarding grants under this subsection the Secretary shall take into consider-

ation awarding grants to eligible entities from diverse geographic areas, including rural areas.

(B) *PERIODS.*—The Secretary shall make the grants for periods of not less than 24 months and not more than 48 months.

(4) *ELIGIBLE ENTITIES.*—

(A) *IN GENERAL.*—To be eligible to receive a grant under this subsection, an eligible entity shall work in conjunction with a local board and shall include as a principal participant one or more of the following:

- (i) An employer or employer association.
- (ii) A nonprofit provider of English language instruction.
- (iii) A provider of occupational or skills training.
- (iv) A community-based organization.
- (v) An educational institution, including a 2- or 4-year college, or a technical or vocational school.
- (vi) A labor organization.
- (vii) A local board.

(B) *EXPERTISE.*—To be eligible to receive a grant under this subsection, an eligible entity shall have proven expertise in—

- (i) serving individuals with limited English proficiency, including individuals with lower levels of oral and written English; and
- (ii) providing workforce programs with training and English language instruction.

(5) *APPLICATIONS.*—

(A) *IN GENERAL.*—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) *CONTENTS.*—Each application submitted under subparagraph (A) shall—

- (i) contain information, including capability statements, that demonstrates that the eligible entity has the expertise described in paragraph (4)(B); and
- (ii) include an assurance that the program to be assisted shall—

(I) establish a generalized adult bilingual workforce training and education model that integrates English language acquisition and occupational training, and incorporates the unique linguistic and cultural factors of the participants;

(II) establish a framework by which the employer, employee, and other relevant members of the eligible entity can create a career development and training plan that assists both the employer and the employee to meet their long-term needs;

(III) ensure that the framework established under subclause (II) takes into consideration the knowledge, skills, and abilities of the employee with respect to both the current and economic conditions of the employer and future labor market conditions relevant to the local area; and

(IV) establish identifiable measures so that the progress of the employee and employer and the relative efficacy of the program can be evaluated and best practices identified.

(6) *CRITERIA.*—The Secretary shall establish criteria for awarding grants under this subsection.

(7) *INTEGRATED WORKFORCE TRAINING PROGRAMS.*—

(A) *PROGRAM COMPONENTS.*—

(i) *REQUIRED COMPONENTS.*—Each program that receives funding under this subsection shall—

(I) test an individual's English language proficiency levels to assess oral and literacy gains from the beginning and throughout program enrollment;

(II) combine training specific to a particular occupation or occupational cluster, with—

(aa) English language instruction, such as instruction through an English as a Second Language program, or an English for Speakers of Other Languages program;

(bb) basic skills instruction; and

(cc) supportive services;

(III) effectively integrate public and private sector entities, including the local workforce investment system and its functions, to achieve the goals of the program; and

(IV) require matching or inkind resources from private and nonprofit entities.

(ii) *PERMISSIBLE COMPONENTS.*—The program may offer other services, as necessary to promote successful participation and completion, including work-based learning, substance abuse treatment, and mental health services.

(B) *GOAL.*—Each program that receives funding under this subsection shall be designed to prepare limited English proficient adults for, and place such adults in employment in, growing industries with identifiable career ladder paths.

(C) *PROGRAM TYPES.*—In selecting programs to receive funding under this subsection, the Secretary shall select programs that meet 1 or more of the following criteria:

(i) A program that—

(I) serves unemployed, limited English proficient individuals with significant work experience or substantial education but persistently low wages; and

(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, defined for purposes of this subparagraph as employment that provides at least 75 percent of the median wage in the local area.

(ii) A program that—

(I) serves limited English proficient individuals with lower levels of oral and written fluency, who are working but at persistently low wages; and

(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, through services provided at the worksite, or at a location central to several work sites, during work hours.

(iii) A program that—

(I) serves unemployed, limited English proficient individuals with lower levels of oral and written fluency, who have little or no work experience; and

(II) aims to prepare such individuals for, and place such individuals in, employment through services that include subsidized employment, in addition to the components required in subparagraph (A)(i).

(iv) A program that includes funds from private and nonprofit entities.

(D) PROGRAM APPROACHES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs with different approaches to integrated workforce training, in different contexts, in order to obtain comparative data on multiple approaches to integrated workforce training and English language instruction, to ensure programs are tailored to characteristics of individuals with varying skill levels and to assess how different curricula work for limited English proficient populations. Such approaches may include—

(i) bilingual programs in which the workplace language component and the training are conducted in a combination of an individual's native language and English;

(ii) integrated workforce training programs that combine basic skills, language instruction, and job specific skills training; or

(iii) sequential programs that provide a progression of skills, language, and training to ensure success upon an individual's completion of the program.

(8) EVALUATION BY ELIGIBLE ENTITY.—Each eligible entity that receives a grant under this subsection for a program shall carry out a continuous program evaluation and an evaluation specific to the last phase of the program operations.

(9) EVALUATION BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall conduct an evaluation of program impacts of the programs funded under the demonstration project, with a random assignment, experimental design impact study done at each worksite at which such a program is carried out.

(B) DATA COLLECTION AND ANALYSIS.—The Secretary shall collect and analyze the data from the demonstration project to determine program effectiveness, including gains in language proficiency, acquisition of skills, and job advancement for program participants.

(C) REPORT.—The Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives, and make avail-

*able to the public, a report on the demonstration project, including the results of the evaluation.*

(10) *TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to recipients of grants under this subsection throughout the grant periods.*

(11) *AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated \$10,000,000 for fiscal year 2004 to carry out this subsection.*

\* \* \* \* \*

**[SEC. 173. NATIONAL EMERGENCY GRANTS.]**

**SEC. 173. NATIONAL DISLOCATED WORKER GRANTS.**

**[(a) IN GENERAL.—The Secretary is authorized to award national emergency grants in a timely manner—]**

*(a) IN GENERAL.—The Secretary is authorized to award national dislocated worker grants—*

*(1) to an entity described in [subsection (c)] subsection (b) to provide employment and training assistance to workers affected by major economic dislocations, such as plant closures, mass layoffs, or closures and realignments of military installations;*

\* \* \* \* \*

*(3) to provide additional assistance to a State or local board for eligible dislocated workers in a case in which the State or local board has expended the funds provided under this section to carry out activities described in paragraphs (1) and (2) and can demonstrate the need for additional funds to provide appropriate services for such workers, in accordance with requirements prescribed by the Secretary; [and]*

**[(4) from funds appropriated under section 174(c)—**

**[(A) to a State or entity (as defined in section 173(c)(1)(B) to carry out subsection (f), including providing assistance to eligible individuals; and**

**[(B) to a State or entity (as so defined) to carry out subsection (g), including providing assistance to eligible individuals.]**

*(4) to a State or entity (as defined in subsection (b)(1)(B) to carry out subsection (e), including providing assistance to eligible individuals;*

*(5) to a State or entity (as defined in subsection (b)(1)(B)) to carry out subsection (f), including providing assistance to eligible individuals;*

*(6) to provide additional assistance to a State board or local board where a higher than average demand for employment and training services for dislocated members of the Armed Forces, or spouses, as defined in section 101(9)(E), of members of the Armed Forces as described in subsection (b)(2)(A)(iv), exceeds State and local resources for providing such services, and where such programs are to be carried out in partnership with the Department of Defense and Department of Veterans Affairs transition assistance programs; and*

*(7) to provide assistance to a State for statewide or local use in order to—*

(A) address cases in which there have been worker dislocations across multiple sectors or across multiple local areas and such workers remain dislocated;

(B) coordinate the State plan described in section 112 with emerging economic development needs; and

(C) train eligible individuals who are dislocated workers described in subparagraph (A).

The Secretary shall issue a final decision on an application for a national dislocated worker grant under this subsection not later than 60 calendar days after receipt of the application. The Secretary shall issue a notice of obligation for such a grant not later than 10 days after the award of the grant.

[(b) ADMINISTRATION.—The Secretary shall designate a dislocated worker office to coordinate the functions of the Secretary under this title relating to employment and training activities for dislocated workers, including activities carried out under the national emergency grants.]

[(c)] (b) EMPLOYMENT AND TRAINING ASSISTANCE REQUIREMENTS.—

(1) GRANT RECIPIENT ELIGIBILITY.—

\* \* \* \* \*

[(d)] (c) DISASTER RELIEF EMPLOYMENT ASSISTANCE REQUIREMENTS.—

(1) IN GENERAL.—Funds made available under subsection (a)(2)—

\* \* \* \* \*

[(e)] (d) ADDITIONAL ASSISTANCE.—

[(1) IN GENERAL.—From the amount appropriated and made available to carry out this section for any program year, the Secretary shall use not more than \$15,000,000 to make grants to not more than 8 States to provide employment and training activities under section 134, in accordance with subtitle B.

[(2) ELIGIBLE STATES.—The Secretary shall make a grant under paragraph (1) to a State for a program year if—

[(A)(i) the amount of the allotment that would be made to the State for the program year under the formula specified in section 202(a) of the Job Training Partnership Act, as in effect on July 1, 1998; is greater than

[(ii) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B); and

[(B) the State is 1 of the 8 States with the greatest quotient obtained by dividing—

[(i) the amount described in subparagraph (A)(i); by

[(ii) the amount described in subparagraph (A)(ii).

[(3) AMOUNT OF GRANTS.—Subject to paragraph (1), the amount of the grant made under paragraph (1) to a State for a program year shall be based on the difference between—

[(A) the amount of the allotment that would be made to the State for the program year under the formula specified in section 202(a) of the Job Training Partnership Act, as in effect on July 1, 1998; and



[(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).]

[(4) ALLOCATION OF FUNDS.—A State that receives a grant under paragraph (1) for a program year—

[(A) shall allocate funds made available through the grant on the basis of the formula used by the State to allocate funds within the State for that program year under—

[(i) paragraph (2)(A) or (3) of section 133(b); or

[(ii) paragraph (2)(B) of section 133(b); and

[(B) shall use the funds in the same manner as the State uses other funds allocated under the appropriate paragraph of section 133(b).]

(d) *ADDITIONAL ASSISTANCE.*—

(1) *IN GENERAL.*—*From the amount appropriated and made available to carry out this section for any program year, the Secretary shall use not more than \$20,000,000 to make grants to States to provide employment and training activities under section 134, in accordance with subtitle B.*

(2) *ELIGIBLE STATES.*—*The Secretary shall make a grant under paragraph (1) to a State for a program year if—*

*(A) the amount of the allotment that was made to the State for the program year 2003 under the formula specified in section 132(b)(1)(B) as such section was in effect on July 1, 2003, is greater than*

*(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).*

(3) *AMOUNT OF GRANTS.*—*Subject to paragraph (1), the amount of the grant made under paragraph (1) to a State for a program year shall be based on the difference between—*

*(A) the amount of the allotment that was made to the State for the program year 2003 under the formula specified in section 132(b)(1)(B) as such section was in effect on July 1, 2003; and*

*(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).*

[(f)] (e) *HEALTH INSURANCE COVERAGE ASSISTANCE FOR ELIGIBLE INDIVIDUALS.*—

(1) *IN GENERAL.*—*Funds made available to a State or entity under [paragraph (4)(A)] paragraph (4) of subsection (a) may be used by the State or entity for the following:*

*(A) HEALTH INSURANCE COVERAGE.*—*To assist an eligible individual and such individual's qualifying family members in enrolling in qualified health insurance.*

*(B) ADMINISTRATIVE AND START-UP EXPENSES.*—*To pay the administrative expenses related to the enrollment of eligible individuals and such individuals' qualifying family members in qualified health insurance, including—*

*(i) eligibility verification activities;*

\* \* \* \* \*

(2) QUALIFIED HEALTH INSURANCE.—For purposes of this subsection and [subsection (g)] *subsection (f)*—

\* \* \* \* \*

(4) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this subsection and [subsection (g)] *subsection (f)*, the term “eligible individual” means—

\* \* \* \* \*

(5) QUALIFYING FAMILY MEMBER DEFINED.—For purposes of this subsection and [subsection (g)] *subsection (f)*—

\* \* \* \* \*

(6) STATE.—For purposes of this subsection and [subsection (g)] *subsection (f)*, the term “State” includes an entity as defined in [subsection (c)(1)(B)] *subsection (b)(1)(B)*.

[(g)] *(f)* INTERIM HEALTH INSURANCE COVERAGE AND OTHER ASSISTANCE.—

(1) IN GENERAL.—Funds made available to a State or entity under [paragraph (4)(B)] *paragraph (4)* of subsection (a) may be used by the State or entity to provide assistance an support services to eligible individuals, including health care coverage to the extent provided under [subsection (f)(1)(A)] *subsection (e)(1)(A)*, transportation, child care, dependent care, and income assistance.

\* \* \* \* \*

#### SEC. 174. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIVE AMERICAN PROGRAMS; MIGRANT AND SEASONAL FARMWORKER PROGRAMS; VETERANS’ WORKFORCE INVESTMENT PROGRAMS.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 166 through 168 such sums as may be necessary for each of the fiscal years [1999 through 2003] *2004 through 2009*.

\* \* \* \* \*

[(b) TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS; EVALUATIONS; INCENTIVE GRANTS.—

[(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 170 through 172 and section 503 such sums as may be necessary for each of the fiscal years 1999 through 2003.

[(2) RESERVATIONS.—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall—

[(A)(i) for fiscal year 1999, reserve up to 40 percent for carrying out section 170 (other than subsection (b) of such section);

[(ii) for fiscal year 2000, reserve up to 25 percent for carrying out section 170 (other than subsection (b) of such section); and

[(iii) for each of the fiscal years 2001 through 2003, reserve up to 20 percent for carrying out section 170 (other than subsection (b) of such section);

[(B)(i) for fiscal year 1999, reserve not less than 50 percent for carrying out section 171; and

[(ii) for each of the fiscal years 2000 through 2003, reserve not less than 45 percent for carrying out section 171;

[(C)(i) for fiscal year 1999, reserve not less than 10 percent for carrying out section 172; and

[(ii) for each of the fiscal years 2000 through 2003, reserve not less than 10 percent for carrying out section 172; and

[(D)(i) for fiscal year 1999, reserve no funds for carrying out section 503;

[(ii) for fiscal year 2000, reserve up to 20 percent for carrying out section 503; and

[(iii) for each of the fiscal years 2001 through 2003, reserve up to 25 percent for carrying out section 503.]

(b) *TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS, EVALUATIONS, INCENTIVE GRANTS.*—*There are authorized to be appropriated to carry out sections 170 through 172 and section 136(i) such sums as may be necessary for each of fiscal years 2004 through 2009.*

\* \* \* \* \*

## Subtitle E—Administration

### SEC. 181. REQUIREMENTS AND RESTRICTIONS.

(a) BENEFITS.—

(1) WAGES.—

(A) IN GENERAL.—\* \* \*

\* \* \* \* \*

(e) LIMITATION ON USE OF FUNDS.—No funds available under this title shall be used for employment generating activities, [economic development activities,] investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities that are not directly related to training for eligible individuals under this title. No funds available under subtitle B shall be used for foreign travel.

\* \* \* \* \*

### SEC. 185. REPORTS; RECORDKEEPING; INVESTIGATIONS.

(a) REPORTS.—

(1) IN GENERAL.—\* \* \*

\* \* \* \* \*

(c) ACCESSIBILITY OF REPORTS.—Each State, each local board, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this title—

(1) shall make readily accessible such reports concerning its operations and expenditures as shall be prescribed by the Secretary;

(2) shall prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide, local area, and other appropriate bases, necessary for reporting, monitoring,

and evaluating purposes, including data necessary to comply with section 188; **[and]**

(3) shall monitor the performance of providers in complying with the terms of grants, contracts, or other agreements made pursuant to this title **[.]**; and

(4) *shall have the option to submit or disseminate electronically any reports, records, plans, or any other data that are required to be collected or disseminated under this title.*

#### SEC. 189. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.— \* \* \*

\* \* \* \* \*

(d) ANNUAL REPORT.—The Secretary shall prepare and submit to Congress an annual report regarding the programs and activities carried out under this title. The Secretary shall include in such report—

\* \* \* \* \*

(3) recommendations for modifications in the programs and activities based on analysis of such findings; **[and]**

(4) *the negotiated levels of performance of the States, the States' requests for adjustments of such levels, and the adjustments of such levels that are made; and*

**[(4)]** (5) such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.

\* \* \* \* \*

(g) PROGRAM YEAR.—

(1) IN GENERAL.—

(A) PROGRAM YEAR.—\* \* \*

\* \* \* \* \*

(2) AVAILABILITY.—**[Funds]** *Except as otherwise provided in this paragraph, funds obligated for any program year for a program or activity carried out under this title may be expended by [each State receiving] each recipient of such funds during that program year and the 2 succeeding program years. Funds obligated for any program year for a program or activity carried out under section 171 or 172 shall remain available until expended. Funds received by local areas from States under this title during a program year may be expended during that program year and the succeeding program year. No amount of the funds described in this paragraph shall be deobligated on account of a rate of expenditure that is consistent with a State plan, an operating plan described in section 151, or a plan, grant agreement, contract, application, or other agreement described in subtitle D, as appropriate.*

\* \* \* \* \*

(i) WAIVERS AND SPECIAL RULES.—

(1) EXISTING WAIVERS.—\* \* \*

\* \* \* \* \*

(4) GENERAL WAIVERS OF STATUTORY OR REGULATORY REQUIREMENTS.—

(A) GENERAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary may waive for a State, or a local area in a State, pursuant to a request submitted by the Governor of the State (in consultation with appropriate local elected officials) that meets the requirements of subparagraph (B)—

(i) any of the statutory or regulatory requirements of subtitle B or this subtitle (except for requirements relating to wage and labor standards, including non-displacement protections, worker rights, participation and protection of workers and participants, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility of providers or participants, the establishment and functions of local areas and local boards, *the funding of infrastructure costs for one-stop centers*, and procedures for review and approval of plans); and

\* \* \* \* \*

(D) EXPEDITED REQUESTS.—*The Secretary shall expedite requests for waivers of statutory or regulatory requirements that have been approved for a State pursuant to subparagraph (B), if the requirements of this paragraph have been satisfied.*

\* \* \* \* \*

**[SEC. 193. USE OF CERTAIN REAL PROPERTY.**

[(a) IN GENERAL.—Notwithstanding any other provision of law, the Governor may authorize a public agency to make available, for the use of a one-stop service delivery system within the State which is carried out by a consortium of entities that includes the public agency, real property in which, as of the date of the enactment of the Workforce Investment Act of 1998, the Federal Government has acquired equity through the use of funds provided under title III of the Social Security Act (42 U.S.C. 501 et seq.), section 903(c) of such Act (42 U.S.C. 1103(c)), or the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

[(b) USE OF FUNDS.—Subsequent to the commencement of the use of the property described in subsection (a) for the functions of a one-stop service delivery system, funds provided under the provisions of law described in subsection (a) may only be used to acquire further equity in such property, or to pay operating and maintenance expenses relating to such property in proportion to the extent of the use of such property attributable to the activities authorized under such provisions of law.]

\* \* \* \* \*

**SEC. 193. TRANSFER OF FEDERAL EQUITY IN STATE EMPLOYMENT SECURITY AGENCY REAL PROPERTY TO THE STATES.**

(a) TRANSFER OF FEDERAL EQUITY.—*Notwithstanding any other provision of law, any Federal equity acquired in real property through grants to States awarded under title III of the Social Security Act (42 U.S.C. 501 et seq.) or under the Wagner-Peyser Act is transferred to the States that used the grants for the acquisition of such equity. The portion of any real property that is attributable to the Federal equity transferred under this section shall be used to*

*carry out activities authorized under title III of the Social Security Act or the Wagner-Peyser Act. Any disposition of such real property shall be carried out in accordance with the procedures prescribed by the Secretary and the portion of the proceeds from the disposition of such real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under title III of the Social Security Act or the Wagner-Peyser Act.*

*(b) LIMITATION ON USE.—A State shall not use funds awarded under title III of the Social Security Act or the Wagner-Peyser Act to amortize the costs of real property that is purchased by any State on or after the effective date of this provision.*

\* \* \* \* \*

#### **SEC. 503. INCENTIVE GRANTS.**

**[(a) IN GENERAL.—Beginning on July 1, 2000, the Secretary shall award a grant to each State that exceeds the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance for programs under Public Law 105–332 (20 U.S.C. 2301 et seq.), for the purpose of carrying out an innovative program consistent with the requirements of any one or more of the programs within title I, title II, or such Public Law, respectively.]**

**(a) IN GENERAL.—**

**(1) PRIOR TO JULY 1, 2005.—***Prior to July 1, 2005, the Secretary shall award a grant to each State in accordance with the provisions of this section as this section was in effect on July 1, 2003.*

**(2) BEGINNING ON JULY 1, 2005.—***Beginning on July 1, 2005, the Secretary shall award a grant to each State on the basis—*

*(A) of the State's exceeding the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance for programs under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), for the purpose of carrying out an innovative program consistent with the requirements of any one or more of the programs within title I, title II, or such Act, respectively;*

*(B) of exemplary performance of the States in serving hard-to-serve populations (as defined in section 101) (including performance relating to the levels of service provided and the performance outcomes on such performance measures with respect to the populations);*

*(C) of States that are effectively—*

*(i) coordinating multiple systems into a more effective workforce investment system, including coordination of employment services under the Wagner-Peyser Act and core activities under title I as well as partner programs described in section 121;*

*(ii) expanding access to training, including through increased leveraging of resources other than those funded through programs under title I; or*

*(iii) implementing innovative business and economic development initiatives; or*

*(D) of such other factors relating to the performance of the States under title I as the Secretary determines are appropriate.*

(b) APPLICATION.—

(1) IN GENERAL.—The Secretary may provide a grant to a State under subsection (a) only if the State submits an application to the Secretary for the grant that meets the requirements of paragraph (2).

(2) REQUIREMENTS.—\* \* \*

\* \* \* \* \*

*(D) USE OF FUNDS.—The funds awarded to a State under this section may be used to carry out any activities authorized for States under chapters 4 and 5 of subtitle B of title I, title II, and the Carl D. Perkins Vocational and Technical Education Act of 1998, including demonstration projects and innovative programs for hard-to-serve populations (as defined in section 101).*

\* \* \* \* \*

## ADULT EDUCATION AND FAMILY LITERACY ACT

\* \* \* \* \*

### SEC. 202. PURPOSE.

It is the purpose of this title to create a partnership among the Federal Government, States, and localities to provide, on a voluntary basis, adult education and literacy services, in order to—

(1) assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency;

(2) assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children; [and]

(3) assist adults in the completion of a secondary school [education.] *education and in the transition to postsecondary education; and*

(4) *assist immigrants and other individuals with limited English proficiency in improving their reading, writing, speaking, and mathematics skills and acquiring an understanding of the American free enterprise system, individual freedom, and the responsibilities of citizenship.*

### SEC. 203. DEFINITIONS.

In this title:

(1) ADULT EDUCATION.—The term “adult education” means [services or instruction below the postsecondary level] *academic instruction and education services below the postsecondary level that increase an individual’s ability to read, write, and speak in English and perform mathematics* for individuals—

\* \* \* \* \*

(C) who—

[(i) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;]

(i) *are basic skills deficient as defined in section 101;*

\* \* \* \* \*

(2) ADULT EDUCATION AND LITERACY ACTIVITIES.—The term “adult education and literacy activities” means [activities described in section 231(b)] *programs and services which include reading, writing, speaking, or mathematics skills, workplace literacy activities, family literacy activities, English language acquisition activities, or other activities necessary for the attainment of a secondary school diploma or its State recognized equivalent.*

\* \* \* \* \*

(5) ELIGIBLE PROVIDER.—The term “eligible provider” means *an organization that has demonstrated effectiveness in providing adult education, that may include—*

(A) \* \* \*

(B) a community-based organization [of demonstrated effectiveness];

(C) a volunteer literacy organization [of demonstrated effectiveness];

\* \* \* \* \*

(I) a consortium or coalition of the agencies, organizations, institutions, libraries, or authorities described in any of subparagraphs (A) through (H).

(6) ENGLISH [LITERACY PROGRAM] LANGUAGE ACQUISITION PROGRAM.—The term “English [literacy program] *language acquisition program*” means a program of instruction designed to help individuals of limited English proficiency achieve competence in *reading, writing, and speaking* the English language.

(7) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—*The term “essential components of reading instruction” has the meaning given the term in section 1208 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6368).*

[(7)] (8) FAMILY LITERACY SERVICES.—The term “family literacy services” means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

[(8)] (9) GOVERNOR.—The term “Governor” means the chief executive officer of a State or outlying area.

[(9)] (10) INDIVIDUAL WITH A DISABILITY.—

(A) IN GENERAL.—The term “individual with a disability” means an individual with any disability (as defined in sec-



tion 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(B) INDIVIDUALS WITH DISABILITIES.—The term “individuals with disabilities” means more than one individual with a disability.

[(10)] (11) INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.—The term “individual of limited English proficiency” means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

(A) whose native language is a language other than English; or

(B) who lives in a family or community environment where a language other than English is the dominant language.

[(11)] (12) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965.

[(12)] (13) LITERACY.—The term “literacy” means an individual’s ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job, in the family of the individual, and in society.

[(13)] (14) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

[(14)] (15) OUTLYING AREA.—The term “outlying area” has the meaning given the term in section 101.

[(15)] (16) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term “postsecondary educational institution” means—

(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor’s degree;

(B) a tribally controlled community college; or

(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

[(16)] (17) SECRETARY.—The term “Secretary” means the Secretary of Education.

[(17)] (18) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

[(18)] (19) WORKPLACE LITERACY SERVICES.—The term “workplace literacy services” means literacy services that are offered for the purpose of improving the productivity of the workforce through the improvement of literacy skills.】

(19) WORKPLACE LITERACY PROGRAM.—*The term “workplace literacy program” means an educational program designed to improve the productivity of the workforce through the improvement of literacy skills that is offered by an eligible provider in collaboration with an employer or an employee organization at a workplace, at an off-site location, or in a simulated workplace environment.*

#### [SEC. 204. HOME SCHOOLS.

【Nothing in this title shall be construed to affect home schools, or to compel a parent engaged in home schooling to participate in

an English literacy program, family literacy services, or adult education.】

**SEC. 204. HOME SCHOOLS.**

*Nothing in this title shall be construed to affect home schools, whether a home school is treated as a home school or a private school under State law, or to compel a parent engaged in home schooling to participate in an English literacy program, family literacy services, or adult education.*

**SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 【1999】 2004 through 【2003】 2009.

## Subtitle A—Adult Education and Literacy Programs

### CHAPTER 1—FEDERAL PROVISIONS

**SEC. 211. RESERVATION OF FUNDS; GRANTS TO ELIGIBLE AGENCIES; ALLOTMENTS.**

【(a) RESERVATION OF FUNDS.—From the sum appropriated under section 205 for a fiscal year, the Secretary—

    【(1) shall reserve 1.5 percent to carry out section 242, except that the amount so reserved shall not exceed \$8,000,000;

    【(2) shall reserve 1.5 percent to carry out section 243, except that the amount so reserved shall not exceed \$8,000,000; and

    【(3) shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 503.】

(a) *RESERVATION OF FUNDS.—From the sum appropriated under section 205 for a fiscal year, the Secretary—*

    (1) *shall reserve 1.5 percent to carry out section 242, except that the amount so reserved shall not exceed \$10,000,000;*

    (2) *shall reserve 1.5 percent to carry out section 243 and subsection (f)(4), except that the amount so reserved shall not exceed \$8,000,000;*

    (3) *shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 136(i); and*

    (4) *shall reserve 12 percent of the amount that remains after reserving funds under paragraphs (1), (2) and (3) to carry out section 244.*

\* \* \* \* \*

(c) **ALLOTMENTS.—**

    (1) **INITIAL ALLOTMENTS.—**From the sum appropriated under section 205 and not reserved under subsection (a) for a fiscal year, the Secretary shall allot to each eligible agency having a State plan approved under section 224(f)—

        (A) \$100,000, in the case of an eligible agency serving an outlying area; and

        (B) 【\$250,000】 \$350,000 in the case of any other eligible agency.

\* \* \* \* \*

【(d) **QUALIFYING ADULT.—**For the purpose of subsection (c)(2), the term “qualifying adult” means an adult who—

- [(1) is at least 16 years of age;  
 [(2) is beyond the age of compulsory school attendance under the law of the State or outlying area;  
 [(3) does not have a secondary school diploma or its recognized equivalent; and  
 [(4) is not enrolled in secondary school.]]
- (d) *QUALIFYING ADULT.*—For the purpose of subsection (c)(2), the term “qualifying adult” means an adult who—
- (1) is not less than 16 years of age;  
 (2) is beyond the age of compulsory school attendance under the law of the State or outlying area;  
 (3) does not have a secondary school diploma or its recognized equivalent; and  
 (4) is not enrolled in secondary school.
- (e) SPECIAL RULE.—
- (1) IN GENERAL.—\* \* \*
- [(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.]]
- (2) AWARD BASIS.—*The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.*
- (3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau [shall not receive any funds under this subtitle for any fiscal year that begins after September 30, 2001] *shall be eligible to receive a grant under this title until the date when an agreement for the extension of the United States education assistance under the Compact of Free Association for each of the Freely Associated States becomes effective.*
- \* \* \* \* \*
- [(f) HOLD-HARMLESS.—
- [(1) IN GENERAL.—Notwithstanding subsection (c)—
- [(A) for fiscal year 1999, no eligible agency shall receive an allotment under this subtitle that is less than 90 percent of the payments made to the State or outlying area of the eligible agency for fiscal year 1998 for programs for which funds were authorized to be appropriated under section 313 of the Adult Education Act (as such Act was in effect on the day before the date of the enactment of the Workforce Investment Act of 1998); and
- [(B) for fiscal year 2000 and each succeeding fiscal year, no eligible agency shall receive an allotment under this subtitle that is less than 90 percent of the allotment the eligible agency received for the preceding fiscal year under this subtitle.
- [(2) RATABLE REDUCTION.—If for any fiscal year the amount available for allotment under this subtitle is insufficient to satisfy the provisions of paragraph (1), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.
- (f) *HOLD-HARMLESS PROVISIONS.*—

(1) *IN GENERAL.*—Notwithstanding subsection (c) and subject to paragraph (2), for fiscal year 2004 and each succeeding fiscal year, no eligible agency shall receive an allotment under this section that is less than 90 percent of the allotment the eligible agency received for the preceding fiscal year under this section.

(2) *100 PERCENT ALLOTMENT.*—Notwithstanding paragraphs (1) and (2) of subsection (e), an eligible agency that receives only an initial allotment under subsection (c)(1) (and no additional allotment under subsection (c)(2)) shall receive an allotment under this section that is equal to 100 percent of the initial allotment under subsection (c)(1).

(3) *RATABLE REDUCTION.*—If for any fiscal year the amount available for allotment under this subtitle is insufficient to satisfy the provisions of paragraphs (1) and (2), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.

(4) *ADDITIONAL ASSISTANCE.*—

(A) *IN GENERAL.*—From amounts reserved under subsection (a)(2), the Secretary shall make grants to eligible agencies described in subparagraph (B) to enable such agencies to provide activities authorized under chapter 2.

(B) *ELIGIBILITY.*—An eligible agency is eligible to receive a grant under this paragraph for a fiscal year if the amount of the allotment such agency receives under this section for the fiscal year is less than the amount such agency would have received for the fiscal year if the allotment formula under this section as in effect on September 30, 2003, were in effect for such year.

(C) *AMOUNT OF GRANT.*—The amount of a grant made to an eligible agency under this paragraph for a fiscal year shall be the difference between—

(i) the amount of the allotment such agency would have received for the fiscal year if the allotment formula under this section as in effect on September 30, 2003, were in effect for such year; and

(ii) the amount of the allotment such agency receives under this section for the fiscal year.

\* \* \* \* \*

## **SEC. 212. PERFORMANCE ACCOUNTABILITY SYSTEM.**

(a) *PURPOSE.*—\* \* \*

(b) \* \* \*

(1) \* \* \*

(A)(i) \* \* \*

(ii) **【additional indicators of performance (if any)】** *employment performance indicators* identified by the eligible agency under paragraph (2)(B); and

\* \* \* \* \*

(2) *INDICATORS OF PERFORMANCE.*—

(A) *CORE INDICATORS OF PERFORMANCE.*—The core indicators of performance shall include the following:

(i) **【Demonstrated】** *Measurable* improvements in literacy skill levels in reading, writing, and speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills.

[(ii) Placement in, retention in, or completion of, postsecondary education, training, unsubsidized employment or career advancement.]

(ii) *Placement in, retention in, or completion of, postsecondary education or other training programs.*

(iii) Receipt of a secondary school diploma or its recognized equivalent (*including recognized alternative standards for individuals with disabilities*).

(B) *EMPLOYMENT PERFORMANCE INDICATORS.*—An eligible agency shall identify in the State plan individual participant employment performance indicators, including entry into unsubsidized employment, retention in unsubsidized employment, and career advancement. The State workforce investment board shall assist the eligible agency in obtaining and using quarterly wage records to collect data for such indicators, consistent with applicable Federal and State privacy laws.

[(B)] (C) *ADDITIONAL RELEVANT INDICATORS.*—An eligible agency may identify in the State plan additional relevant indicators for adult education and literacy activities authorized under this subtitle.

(D) *INDICATORS FOR WORKPLACE LITERACY PROGRAMS.*—Special accountability measures may be negotiated for workplace literacy programs.

(3) *LEVELS OF PERFORMANCE.*—

(A) *ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS.*—

(i) *IN GENERAL.*—\* \* \*

\* \* \* \* \*

(II) show the progress of the eligible agency toward continuously improving [(in performance)] *the agency's performance outcomes in an objective, quantifiable, and measurable form.*

(ii) *IDENTIFICATION IN STATE PLAN.*—Each eligible agency shall identify, in the State plan submitted under section 224, expected levels of performance for each of the core indicators of performance for the first [3 program years] *2 program years* covered by the State plan.

(iii) *AGREEMENT ON ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR [FIRST 3 YEARS] FIRST 2 YEARS.*—In order to ensure an optimal return on the investment of Federal funds in adult education and literacy activities authorized under this subtitle, the Secretary and each eligible agency shall reach agreement on levels of performance for each of the core indicators of performance, for the [first 3 program years] *first 2 program years* covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be

incorporated into the State plan prior to the approval of such plan.

\* \* \* \* \*

(v) AGREEMENT ON ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR ~~4TH AND 5TH~~ 3RD AND 4TH YEARS.—Prior ~~to the fourth~~ *to the third* program year covered by the State plan, the Secretary and each eligible agency shall reach agreement on levels of performance for each of the core indicators of performance for the ~~fourth and fifth~~ *third and fourth* program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan.

(vi) REVISIONS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (iv) ~~III~~ (I) the eligible agency may request that the eligible agency adjusted levels of performance agreed to under clause (iii) or (v) be revised. The Secretary, after collaboration with the representatives described in section 136(i)(1), shall issue objective criteria and methods for making such revisions.

(B) ~~LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS~~ *LEVELS OF EMPLOYMENT PERFORMANCE*.—The eligible agency ~~may~~ *shall* identify, in the State plan, eligible agency levels of performance for each of the ~~additional~~ *employment* indicators described in paragraph (2)(B). Such levels shall be considered to be eligible agency adjusted levels of performance for purposes of this subtitle.

(C) *ALTERNATIVE ASSESSMENT SYSTEMS*.—*Eligible agencies may approve the use of assessment systems that are not commercially available standardized systems if such systems meet the Standards for Educational and Psychological Testing issued by the Joint Committee on Standards for Educational and Psychological Testing of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.*

(c) REPORT.—

(1) IN GENERAL.—Each eligible agency that receives a grant under section 211(b) shall annually prepare and submit to the Secretary *the Governor, the State legislature, and the State workforce investment board* a report on the progress of the eligible agency in achieving eligible agency performance measures, ~~including information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance.~~ *including the following:*

(A) *Information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance, and employment performance indicators.*

(B) *The number and type of each eligible provider that receives funding under such grant.*

(C) *The number of enrollees 16 to 18 years of age who enrolled in adult education not later than 1 year after participating in secondary school education.*

(2) INFORMATION DISSEMINATION.—The Secretary—

(A) shall make the information contained in such reports [available to] *eligible providers and the general public* through publication and other appropriate methods;

\* \* \* \* \*

(3) DATA ACCESS.—*The report made available under paragraph (2) shall indicate which eligible agencies did not have access to State unemployment insurance wage data in measuring employment performance indicators.*

(d) PROGRAM IMPROVEMENT.—

(1) IN GENERAL.—*If the Secretary determines that an eligible agency did not meet its adjusted levels of performance for the core indicators of performance described in subsection (b)(2)(A) for any program year, the eligible agency shall—*

(A) *work with the Secretary to develop and implement a program improvement plan for the 2 program years succeeding the program year in which the eligible agency did not meet its adjusted levels of performance; and*

(B) *revise its State plan under section 224, if necessary, to reflect the changes agreed to in the program improvement plan.*

(2) FURTHER ASSISTANCE.—*If, after the period described in paragraph (1)(A), the Secretary has provided technical assistance to the eligible agency but determines that the eligible agency did not meet its adjusted levels of performance for the core indicators of performance described in subsection (b)(2)(A), the Secretary may require the eligible agency to make further revisions to the program improvement plan described in paragraph (1). Such further revisions shall be accompanied by further technical assistance from the Secretary.*

\* \* \* \* \*

## CHAPTER 2—STATE PROVISIONS

### SEC. 221. STATE ADMINISTRATION.

Each eligible agency shall be responsible for the State or outlying area administration of activities under this subtitle, including—

(1) the development, submission, [and implementation] *implementation, and monitoring* of the State plan;

\* \* \* \* \*

### SEC. 222. STATE DISTRIBUTION OF FUNDS; MATCHING REQUIREMENT.

(a) STATE DISTRIBUTION OF FUNDS.—Each eligible agency receiving a grant under this subtitle for a fiscal year—

(1) shall use not less than [82.5] 80 percent of the grant funds to award grants and contracts under section 231 and to carry out section 225, of which not more than 10 percent of [the 82.5 percent] *such amount* shall be available to carry out section 225;

(2) shall use **【not more than 12.5 percent】** *not more than 15 percent* of the grant funds to carry out State leadership activities under section 223; and

(3) shall use not more than 5 percent of the grant funds, or **【\$65,000】** *\$75,000*, whichever is greater, for the administrative expenses of the eligible agency.

(b) MATCHING REQUIREMENT.—

(1) IN GENERAL.—In order to receive a grant from the Secretary under section 211(b) each eligible agency shall provide, for the costs to be incurred by the eligible agency in carrying out the adult education and literacy activities for which the grant is awarded, a non-Federal contribution in an amount **【equal to】** *that is not less than—*

\* \* \* \* \*

#### SEC. 223. STATE LEADERSHIP ACTIVITIES.

(a) IN GENERAL.—Each eligible agency shall use funds made available under section 222(a)(2) for one or more of the following adult education and literacy activities *to develop or enhance the adult education system of the State:*

(1) The establishment or operation of professional development programs to improve the quality of instruction provided pursuant to local activities required under section 231(b), including **【instruction incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension, and instruction provided by volunteers or by personnel of a State or outlying area.】** *instruction incorporating the essential components of reading instruction and instruction provided by volunteers or by personnel of a State or outlying area.*

(2) The provision of technical assistance to eligible providers of adult education and literacy activities, *including development and dissemination of instructional and programmatic practices based on the most rigorous research available in reading, writing, speaking, mathematics, English language acquisition programs, distance learning and staff training.*

\* \* \* \* \*

(5) The **【monitoring and】** evaluation of the quality of, and the improvement in, adult education and literacy activities.

**【(6) Incentives for—**

**【(A) program coordination and integration; and**

**【(B) performance awards.】**

(6) *The development and implementation of technology applications, translation technology, or distance learning, including professional development to support the use of instructional technology.*

**【(7) Developing and disseminating curricula, including curricula incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension.**

**【(8) Other activities of statewide significance that promote the purpose of this title.**

**【(9) Coordination with existing support services, such as transportation, child care, and other assistance designed to increase rates of enrollment in, and successful completion of, adult education and literacy activities, to adults enrolled in such activities.**



[(10) Integration of literacy instruction and occupational skill training, and promoting linkages with employers.

[(11) Linkages with postsecondary educational institutions.

(7) *Coordination with—*

(A) *other partners carrying out activities authorized under this Act;*

(B) *existing support services, such as transportation, child care, mental health services, and other assistance designed to increase rates of enrollment in, and successful completion of adult education and literacy activities, for adults enrolled in such activities.*

(8) *Developing and disseminating curricula, including curricula incorporating the essential components of reading instruction as they relate to adults.*

(9) *The provision of assistance to eligible providers in developing, implementing, and reporting measurable progress in achieving the objectives of this subtitle.*

(10) *The development and implementation of a system to assist in the transition from adult basic education to postsecondary education, including linkages with postsecondary educational institutions.*

(11) *Integration of literacy and English language instruction with occupational skill training, and promoting linkages with employers.*

(12) *Activities to promote workplace literacy programs.*

(13) *Activities to promote and complement local outreach initiatives described in section 243(b)(3)(F).*

(14) *In cooperation with efforts funded under sections 242 and 243, the development of curriculum frameworks and rigorous content standards that—*

(A) *specify what adult learners should know and be able to do in the areas of reading and language arts, mathematics, and English language acquisition; and*

(B) *take into consideration the following:*

(i) *State academic standards established under section 1111(b) of the Elementary and Secondary Education Act of 1965.*

(ii) *The current adult skills and literacy assessments used in the State.*

(iii) *The core indicators of performance established under section 212(b)(2)(A).*

(iv) *Standards and academic requirements for enrollment in non-remedial, for-credit, courses in State supported postsecondary education institutions.*

(v) *Where appropriate, the basic and literacy skill content of occupational and industry skill standards widely used by business and industry in the State.*

(15) *In cooperation with efforts funded under sections 242 and 243, development and piloting of—*

(A) *new assessment tools and strategies that identify the needs and capture the gains of students at all levels, with particular emphasis on—*

(i) *students at the lowest achievement level;*

(ii) *students who have limited English proficiency;*  
and

- (iii) *adults with learning disabilities;*
- (B) *options for improving teacher quality and retention;*
- and
- (C) *assistance in converting research into practice.*
- (16) *The development and implementation of programs and services to meet the needs of adult learners with learning disabilities or limited English proficiency.*
- (17) *Other activities of statewide significance that promote the purpose of this title.*

\* \* \* \* \*

(c) **STATE-IMPOSED REQUIREMENTS.**—Whenever a State or outlying area implements any rule or policy relating to the administration or operation of a program authorized under this subtitle that has the effect of imposing a requirement that is not imposed under Federal law (including any rule or policy based on a State or outlying area interpretation of a Federal statute, regulation, or guideline), the State or outlying area shall identify, to eligible providers, the rule or policy as **being State- or outlying area-imposed** *being imposed by the State or outlying area.*

**SEC. 224. STATE PLAN.**

(a) **5-YEAR PLANS** 4-YEAR PLANS.—

(1) **IN GENERAL.**—Each eligible agency desiring a grant under this subtitle for any fiscal year shall submit to, or have on file with, the Secretary a **5** 4-year State plan.

\* \* \* \* \*

(b) **PLAN CONTENTS.**—In developing the State plan, and any revisions to the State plan, the eligible agency shall include in the State plan or revisions—

(1) an objective assessment of the needs of individuals in the State or outlying area for adult education and literacy activities, including individuals most in need or hardest to serve *and the role of provider and cooperating agencies in preparing the assessment;*

**[(2) a description of the adult education and literacy activities that will be carried out with any funds received under this subtitle;]**

(2) *a description of how the eligible agency will address the adult education and literacy needs identified under paragraph (1) in each workforce development area of the State, using funds received under this subtitle, as well as other Federal, State, or local funds received in partnership with other agencies for the purpose of adult literacy as applicable;*

(3) a description of how the eligible agency will evaluate and measure annually the effectiveness *improvement* of the adult education and literacy activities based on the performance measures described in section **212;** 212, *including—*

(A) *how the eligible agency will evaluate and measure annually such effectiveness on a grant-by-grant basis; and*

(B) *how the eligible agency—*

(i) *will hold eligible providers accountable regarding the progress of such providers in improving the academic achievement of participants in adult education programs under this subtitle and regarding the core in-*

dicators of performance described in section 212(b)(2)(A); and

(ii) *will use technical assistance, sanctions, and rewards (including allocation of grant funds based on performance and termination of grant funds based on performance)*

(4) a description of the performance measures described in section 212 and how such performance measures **will ensure the improvement of** *improved* adult education and literacy activities in the State or outlying area;

(5) *a description of how the eligible agency will improve teacher quality, the professional development of eligible providers, and instruction;*

**[(5)]** (6) an assurance that the eligible agency will award not less than one grant under this subtitle to an eligible provider **who offers flexible schedules and necessary support services (such as child care and transportation) to enable individuals, including individuals with disabilities, or individuals with other special needs, to participate in adult education and literacy activities, which eligible provider shall attempt to coordinate with support services that are not provided under this subtitle prior to using funds for adult education and literacy activities provided under this subtitle for support services;** **that—**

(A) *offers flexible schedules and coordinates with necessary Federal, State, and local support services (such as child care, transportation, mental health services, and case management) to enable individuals, including individuals with disabilities or individuals with other special needs, to participate in adult education and literacy activities; and*

(B) *attempts to coordinate with support services that are not provided under this subtitle prior to using funds for adult education and literacy activities provided under this subtitle for support services;*

**[(6)]** (7) an assurance that the funds received under this subtitle will not be expended for any purpose other than for activities under this subtitle;

**[(7)]** (8) a description of how the eligible agency will fund local activities in accordance with the considerations described in section 231(e);

**[(8)]** (9) an assurance that the eligible agency will expend the funds under this subtitle only in a manner consistent with fiscal requirements in section 241;

**[(9)]** (10) a description of the process that will be used for public participation and comment with respect to the State **plan;** *plan, which process—*

(A) *shall include the State Workforce Investment Board, the Governor, State officials representing public schools, community colleges, welfare agencies, agencies that provide services to individuals with disabilities, other State agencies that promote or operate adult education and literacy activities, and direct providers of such adult literacy services;*

(B) *may include consultation with the State agency for higher education, institutions responsible for professional*

*development of adult education and literacy education program instructors, institutions of higher education, representatives of business and industry, refugee assistance programs, and community-based organizations, as defined in section 101;*

[(10)] (11) a description of how the eligible agency [will] *assess potential population needs and develop program strategies for populations that include, at a minimum—*

(A) low-income [students] *individuals;*

(B) individuals with disabilities;

(C) single parents and displaced homemakers; [and]

(D) individuals with multiple barriers to educational enhancement, including individuals with limited English proficiency;

(E) *the unemployed; and*

(F) *those who are employed, but at levels below self-sufficiency, as defined in section 101.*

[(11)] (12) a description of how the adult education and literacy activities that will be carried out with any funds received under this subtitle will be integrated with other adult education, career development, and employment and training activities in the State or outlying area served by the eligible agency *and how the plan submitted under this subtitle is coordinated with the plan submitted by the State under title I;* [and]

[(12)] (13) a description of the steps the eligible agency will take to ensure direct and equitable access, as required in section [231(c)(1).] *231(c)(1), including—*

(A) *how the State will build the capacity of organizations that provide adult education and literacy activities; and*

(B) *how the State will increase the participation of business and industry in adult education and literacy activities;*

(14) *a description of how the eligible agency will consult with any State agency responsible for postsecondary education to develop adult education programs and services (including academic skill development and support services) that prepare students to enter postsecondary education upon completion of secondary school programs or their recognized equivalent;*

(15) *a description of how the eligible agency will consult with the State agency responsible for workforce development to develop adult education programs and services that are designed to prepare students to enter the workforce; and*

(16) *a description of how the eligible agency will improve the professional development of eligible providers of adult education and literacy activities.*

(c) PLAN REVISIONS.—When changes in conditions or other factors require substantial revisions to an approved State plan, the eligible agency shall submit the revisions to the State plan to the Secretary. *At the end of the first 2-year period of the 4-year State plan, the eligible agency shall review and, as needed, revise the 4-year State plan.*

(d) CONSULTATION.—The eligible agency shall—

(1) submit the State plan, and any revisions to the State plan, to the Governor, *the chief State school officer, the State*

*officer responsible for administering community and technical colleges, and the State Workforce Investment Board of the State or outlying area for review and comment; and*

(2) ensure that any **【**comments by the Governor regarding the State plan, and any revision to the State plan, are submitted to the Secretary.**】** *comments regarding the State plan by the Governor, the chief State school officer, the State officer responsible for administering community and technical colleges, and the State Workforce Investment Board, and any revision to the State plan, are submitted to the Secretary.*

\* \* \* \* \*

#### SEC. 225. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

(a) PROGRAM AUTHORIZED.—\* \* \*

(b) USES OF FUNDS.—The funds described in subsection (a) shall be used for the cost of educational programs for criminal offenders in correctional institutions and for other institutionalized individuals, including academic programs for—

(1) **【**basic education**】** *adult education and literacy activities;*

(2) special education programs as determined by the eligible agency; and

**【**(3) English literacy programs; and**】**

**【**(4) secondary school credit programs.**】**

(c) PRIORITY.—Each eligible agency that is using assistance provided under this section to carry out a program for criminal offenders within a correctional institution shall give priority to serving individuals who are likely to leave the correctional institution within 5 years of participation in the program.

(d) **【**DEFINITION OF CRIMINAL OFFENDER.—**】** *DEFINITIONS.—In this section:*

\* \* \* \* \*

### CHAPTER 3—LOCAL PROVISIONS

#### SEC. 231. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

(a) GRANTS AND CONTRACTS.—\* \* \*

(b) \* \* \*

(1) Adult education and literacy services, including **【**workplace literacy services**】** *workplace literacy programs.*

(2) Family literacy services.

(3) English **【**literacy**】** *language acquisition* programs.

\* \* \* \* \*

(e) CONSIDERATIONS.—In awarding grants or contracts under this section, the eligible agency shall consider—

(1) the degree to which the eligible provider will establish measurable goals for participant **【**outcomes**】** *to be achieved annually on the core indicators of performance and employment performance indicators described in section 212(b)(2);*

\* \* \* \* \*

**【**(3) the commitment of the eligible provider to serve individuals in the community who are most in need of literacy services, including individuals who are low-income or have minimal literacy skills;**】**

(3) *the commitment of the eligible provider to be responsive to local needs and to serve individuals in the community who were identified by the assessment as most in need of adult literacy services, including individuals who are low-income, have minimal literacy skills, have learning disabilities, or have limited English proficiency;*

(4) *whether or not the program—*

(A) *is of sufficient intensity and duration for participants to achieve substantial learning gains; and*

(B) *uses instructional practices[, such as phonemic awareness, systematic phonics, fluency, and reading comprehension that research has proven to be effective in teaching individuals to read;], such as” and all that follows through the semicolon and inserting “that include the essential components of reading instruction;*

(5) *whether the activities are built on a strong foundation of [research] the most rigorous research available and effective educational practice;*

\* \* \* \* \*

(7) *whether the activities provide learning in real life contexts, when appropriate and based on the most rigorous research available, to ensure that an individual has the skills needed to compete in the workplace and exercise the rights and responsibilities of citizenship;*

\* \* \* \* \*

(9) *whether the activities coordinate with other available education, job-training, and social service resources in the community, such as by establishing strong links with elementary schools and secondary schools, postsecondary educational institutions, one-stop centers, job training programs, and social service agencies;*

(10) *whether the activities offer flexible schedules and coordination with Federal, State, and local support services (such as child care [and transportation] transportation, mental health services, and case management) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs;*

(11) *whether the activities maintain a high-quality information management system that has the capacity to report measurable participant outcomes and to monitor program performance against the [eligible agency] performance measures established by the eligible agency; [and]*

(12) *whether the local communities have a demonstrated need for additional English [literacy programs.] language acquisition programs and civics education programs;*

(13) *the capacity of the eligible provider to produce information on performance results, including enrollments and measurable participant outcomes;*

(14) *whether reading, writing, speaking, mathematics, and English language acquisition instruction provided by the eligible provider are based on the best practices derived from the most rigorous research available;*

(15) *whether the eligible provider’s applications of technology and services to be provided are sufficient to increase the amount*

*and quality of learning and lead to measurable learning gains within specified time periods; and*

*(16) the capacity of the eligible provider to serve adult learners with learning disabilities.*

**SEC. 232. LOCAL APPLICATION.**

Each eligible provider desiring a grant or contract under this subtitle shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—

(1) a description of how funds awarded under this subtitle will be spent *consistent with the requirements of this subtitle*; **[and]**

(2) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy activities**[.]**; *and*

(3) *information that addresses each of the considerations required under section 231(e).*

**SEC. 233. LOCAL ADMINISTRATIVE COST LIMITS.**

(a) **IN GENERAL.**—Subject to subsection (b), of the amount that is made available under this subtitle to an eligible provider—

(1) not less than 95 percent shall be expended for carrying out adult education and literacy activities; and

(2) the remaining amount, not to exceed 5 percent, shall be used for planning, administration, personnel *and professional* development, *development of measurable goals in reading, writing, and speaking the English language, and in mathematical computation*, and interagency coordination.

(b) **SPECIAL RULE.**—In cases where the cost limits described in subsection (a) are too restrictive to allow for adequate planning, administration, personal *and professional* development, *development of measurable goals in reading, writing, and speaking the English language, and in mathematical computation*, and interagency coordination, eligible provider shall negotiate with the eligible agency in order to determine an adequate level of funds to be used for non-instructional purposes.

## **CHAPTER 4—GENERAL PROVISIONS**

**SEC. 241. ADMINISTRATIVE PROVISIONS.**

(a) **SUPPLEMENT NOT SUPPLANT.**—Funds made available for adult education and literacy activities under this subtitle shall supplement and not supplant other State or local public funds expended for adult education and literacy activities.

(b) **MAINTENANCE OF EFFORT.**—

(1) **IN GENERAL.**—

(A) **DETERMINATION.**—An eligible agency may receive funds under this subtitle for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for **[adult education and literacy activities]** *activities under this subtitle*, in the second preceding fiscal year, **[was]** *were* not less than 90 percent of the fiscal effort per student of the aggregate expenditures of such eligible agency for **[adult**

education and literacy activities] *activities under this subtitle*, in the third preceding fiscal year.

\* \* \* \* \*

(4) **WAIVER.**—The Secretary may waive the requirements of this subsection for *not more than* 1 fiscal year [only], if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State or outlying area of the eligible agency. If the Secretary grants a waiver under the preceding sentence for a fiscal year, the level of effort required under paragraph (1) shall not be reduced in the subsequent fiscal year because of the waiver.

**SEC. 242. NATIONAL INSTITUTE FOR LITERACY.**

(a) **PURPOSE.**—The purpose of this section is to establish a National Institute for Literacy that—

(1) provides national leadership regarding [literacy] *effective literacy programs for children, youth, adults, and families*;

(2) coordinates and disseminates information on literacy services and policy; and

(3) serves as a national resource for adult education and literacy programs by—

[(A) providing the best and most current information available, including the work of the National Institute of Child Health and Human Development in the area of phonemic awareness, systematic phonics, fluency, and reading comprehension, to all recipients of Federal assistance that focuses on reading, including programs under titles I and VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq. and 7401 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and this Act; and]

(A) *coordinating and participating in the Federal effort to identify and disseminate information on literacy that is derived from scientifically based research, or the most rigorous research available and effective programs that serve children, youth, adults, and families*;

(B) supporting the creation of new ways to offer services of proven effectiveness.

(b) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—\* \* \*

\* \* \* \* \*

[(3) **RECOMMENDATIONS.**—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the Board) established under subsection (e) in planning the goals of the Institute and in the implementation of any programs to achieve the goals. If the Board's recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group takes that are inconsistent with the Board's recommendations, including the reasons for not following the Board's recommendations with respect to the actions. The Board may also



request a meeting of the Interagency Group to discuss the Board's recommendations.】

(3) *RECOMMENDATIONS.*—*The Interagency Group, in consultation with the National Institute for Literacy Advisory Board (in this section referred to as the 'Board') established under subsection (e), shall plan the goals of the Institute and the implementation of any programs to achieve the goals. The Board may also request a meeting of the Interagency Group to discuss any recommendations the Board may make.*

\* \* \* \* \*

(4) *DAILY OPERATIONS.*—The daily operations of the Institute shall be administered by the Director of the Institute.

(c) *DUTIES.*—

(1) *IN GENERAL.*—In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized—

(A) 【to establish】 *to maintain* a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

(i) effective practices in the provision of literacy and basic skills instruction, including instruction in 【phonemic awareness, systematic phonics, fluency, and reading comprehension】 *the essential components of reading instruction*, and the integration of literacy and basic skills instruction with occupational skills training;

\* \* \* \* \*

(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; 【and】

(iv) a communication network for literacy programs, providers, social service agencies, and students; and

(v) *a list of local adult education and literacy programs;*

\* \* \* \* \*

(C) to coordinate the support of 【reliable and replicable research】 *reliable and replicable research as defined by the Institute of Education Sciences* and development on literacy and basic skills in families and adults across Federal agencies, 【especially with the Office of Educational Research and Improvement in the Department of Education,】 and to carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies, such as the special literacy needs of individuals with learning disabilities;

(D) to collect and disseminate information on methods of advancing literacy that show great promise, including 【phonemic awareness, systematic phonics, fluency, and reading comprehension based on】 *the essential components*

*of reading instruction and the work of the National Institute of Child Health and Human Development;*

\* \* \* \* \*

(H) to advise Congress and Federal departments and agencies regarding the development of policy with respect to literacy and basic skills; **[and]**

(I) to undertake other activities that lead to the improvement of the Nation's literacy delivery system and that complement other such efforts being undertaken by public and private agencies and organizations**[.]**;

*(J) to work cooperatively with the Department of Education to assist States that are pursuing the implementation of standards-based educational improvements for adults through the dissemination of training, technical assistance, and related support and through the development and dissemination of related standards-based assessment instruments; and*

*(K) to identify rigorous research on the effectiveness of instructional practices and organizational strategies relating to literacy programs on the acquisition of skills in reading, writing, English acquisition, and mathematics.*

\* \* \* \* \*

(3) *COORDINATION.—In identifying the reliable and replicable research the Institute will support, the Institute shall use standards for research quality that are consistent with those of the Institute of Education Sciences.*

(e) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—\* \* \*

(B) \* \* \*

(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English **[literacy programs]** *language acquisition programs* and services, social service organizations, and eligible providers receiving assistance under this subtitle;

(ii) businesses that have demonstrated interest in **[literacy programs]** *or have participated in or partnered with workplace literacy programs;*

\* \* \* \* \*

(iv) experts in the area of literacy research *including adult literacy research;*

\* \* \* \* \*

(vi) State Directors of adult education; **[and]**

(vii) representatives of employees, including representatives of labor organizations**[.]**; *and*

*(viii) institutions of higher education.*

(2) DUTIES.—The Board shall—

(A) make recommendations concerning the appointment of the Director and staff of the Institute;

(B) provide independent advice on the operation of the Institute; **[and]**

(C) receive reports from the Interagency Group and the Director【.】; and

(D) review the biennial report submitted to Congress pursuant to subsection (k).

\* \* \* \* \*

(5) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. 【Any recommendation of the Board may be passed only by a majority of the Board’s members present.】 *A recommendation of the Board may be passed only by a majority of the Board’s members present at a meeting for which there is a quorum.*

\* \* \* \* \*

(k) REPORT.—【The Institute shall submit a report biennially to】 *Not later than 1 year after the date of enactment of the Adult Education and Family Literacy Act Amendments of 2003, and biennially thereafter, the Institute shall submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on 【Labor and Human Resources】 Health, Education, Labor, and Pensions of the Senate. Each report submitted under this subsection shall include—*

\* \* \* \* \*

#### 【SEC. 243. NATIONAL LEADERSHIP ACTIVITIES.

【The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide. Such activities may include the following:

【(1) Technical assistance, including

【(A) assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy activities, including family literacy services;

【(B) assistance related to professional development activities, and assistance for the purposes of developing, improving, identifying, and disseminating the most successful methods and techniques for providing adult education and literacy activities, including family literacy services, based on scientific evidence where available; and

【(C) assistance in distance learning and promoting and improving the use of technology in the classroom.

【(2) Funding national leadership activities that are not described in paragraph (1), either directly or through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, public or private organizations or agencies, or consortia of such institutions, organizations, or agencies, such as

【(A) developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults, including instructional practices using phonemic awareness, systematic phonics, fluency, and reading comprehension, based on the work of the National Institute of Child Health and Human Development;

[(B) increasing the effectiveness of, and improving the quality of, adult education and literacy activities, including family literacy services;

[(C) carrying out research, such as estimating the number of adults functioning at the lowest levels of literacy proficiency;

[(D)(i) carrying out demonstration programs;

[(ii) developing and replicating model and innovative programs, such as the development of models for basic skill certificates, identification of effective strategies for working with adults with learning disabilities and with individuals with limited English proficiency who are adults, and workplace literacy programs; and

[(iii) disseminating best practices information, including information regarding promising practices resulting from federally funded demonstration programs;

[(E) providing for the conduct of an independent evaluation and assessment of adult education and literacy activities through studies and analyses conducted independently through grants and contracts awarded on a competitive basis, which evaluation and assessment shall include descriptions of—

[(i) the effect of performance measures and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

[(ii) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy activities;

[(iii) the extent to which the provision of support services to adults enrolled in adult education and family literacy programs increase the rate of enrollment in, and successful completion of, such programs; and

[(iv) the extent to which eligible agencies have distributed funds under section 231 to meet the needs of adults through community-based organizations;

[(F) supporting efforts aimed at capacity building at State and local levels, such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this subtitle;

[(G) collecting data, such as data regarding the improvement of both local and State data systems, through technical assistance and development of model performance data collection systems; and

[(H) other activities designed to enhance the quality of adult education and literacy activities nationwide.]

**SEC. 243. NATIONAL LEADERSHIP ACTIVITIES.**

(a) *IN GENERAL.*—The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide.

(b) *PERMISSIVE ACTIVITIES.*—The national leadership activities described in subsection (a) may include the following:

(1) *Technical assistance, including—*

(A) *assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy activities, including family literacy services;*

(B) *assistance related to professional development activities, and assistance for the purposes of developing, improving, identifying, and disseminating the most successful methods and techniques for providing adult education and literacy activities, including family literacy services, based on scientific evidence where available;*

(C) *assistance in distance learning and promoting and improving the use of technology in the classroom;*

(D) *assistance in developing valid, measurable, and reliable performance data, including data around employment and employment outcome, and using performance information for the improvement of adult education and literacy programs; and*

(E) *assistance to help States, particularly low-performing States, meet the requirements of section 212.*

(2) *A program of grants, contracts, or cooperative agreements awarded on a competitive basis to national, regional, or local networks of private nonprofit organizations, public libraries, or institutions of higher education to build the capacity of such networks' members to meet the performance requirements of eligible providers under this title and involve adult learners in program improvement.*

(3) *Funding national leadership activities that are not described in paragraph (1), either directly or through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, public or private organizations or agencies, or consortia of such institutions, organizations, or agencies, such as—*

(A) *developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults, including instructional practices using the essential components of reading instruction based on the work of the National Institute of Child Health and Human Development;*

(B) *increasing the effectiveness of, and improving the quality of, adult education and literacy activities, including family literacy services;*

(C) *carrying out research on national literacy basic skill acquisition for adult learning, including estimating the number of adults functioning at the lowest levels of literacy proficiency;*

(D)(i) *carrying out demonstration programs;*

(ii) disseminating best practices information, including information regarding promising practices resulting from federally funded demonstration programs; and

(iii) developing and replicating best practices and innovative programs; including—

(I) the development of models for basic skill certificates;

(II) the identification of effective strategies for working with adults with learning disabilities and with adults with limited English proficiency;

(III) integrated basic and workplace skills education programs;

(IV) coordinated literacy and employment services; and

(V) postsecondary education transition programs;

(E) providing for the conduct of an independent evaluation and assessment of adult education and literacy activities through studies and analyses conducted independently through grants and contracts awarded on a competitive basis, which evaluation and assessment shall include descriptions of—

(i) the effect of performance measures and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

(ii) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy activities;

(iii) the extent to which the provision of support services to adults enrolled in adult education and family literacy programs increase the rate of enrollment in, and successful completion of, such programs; and

(iv) the extent to which different types of providers measurably improve the skills of participants in adult education and literacy programs;

(F) supporting efforts aimed at capacity building of programs at the State and local levels such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this subtitle;

(G) collecting data, such as data regarding the improvement of both local and State data systems, through technical assistance and development of model performance data collection systems;

(H) supporting the development of an entity that would produce and distribute technology-based programs and materials for adult education and literacy programs using an interconnection system (as defined in section 397 of the Communications Act of 1934 (47 U.S.C. 397)) and expand

*the effective outreach and use of such programs and materials to adult education eligible providers;*

*(I) determining how participation in adult education and literacy activities prepares individuals for entry into post-secondary education and employment and, in the case of prison-based services, has an effect on recidivism; and*

*(J) other activities designed to enhance the quality of adult education and literacy activities nationwide.*

**SEC. 244. INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION.**

*(a) IN GENERAL.—From funds made available under section 211(a)(4) for each fiscal year the Secretary shall award grants to States, from allotments under subsection (b), for integrated English literacy and civics education.*

*(b) ALLOTMENT.—*

*(1) IN GENERAL.—Subject to paragraph (2), from amounts made available under section 211(a)(4) for a fiscal year the Secretary shall allocate—*

*(A) 65 percent to the States on the basis of a State's need for integrated English literacy and civics education as determined by calculating each State's share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years; and*

*(B) 35 percent to the States on the basis of whether the State experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available.*

*(2) MINIMUM.—No State shall receive an allotment under paragraph (1) in an amount that is less than \$60,000.*

\* \* \* \* \*

**WAGNER-PEYSER ACT**

**Subpart B—Related Programs**

\* \* \* \* \*

**SEC. 2. For purposes of this Act—**

**(1) \* \* \***

\* \* \* \* \*

**(3) the term “one-stop delivery system means a one-stop delivery system described in [section 134(c)] section 121(e) of the Workforce Investment Act of 1998;**

\* \* \* \* \*

**SEC. 3. (a) \* \* \***

\* \* \* \* \*

*(d) In order to avoid duplication of services and enhance integration of services, employment services offices in each State shall be colocated with comprehensive one-stop centers established under title I of the Workforce Investment Act of 1998.*

**[SEC. 14.]**

**SEC. 14. COOPERATIVE STATISTICAL PROGRAM.**

There are authorized to be appropriated such sums as may be necessary to enable the Secretary to provide funds through reimbursable agreements with the States to operate statistical programs which are essential for development of estimates of the gross national product and other national statistical series, including those related to employment and unemployment.

**[SEC. 15. EMPLOYMENT STATISTICS.]****SEC. 15. WORKFORCE AND LABOR MARKET INFORMATION SYSTEM.****(a) SYSTEM CONTENT.—**

(1) IN GENERAL.—The Secretary, in accordance with the provisions of this section, shall oversee the development, maintenance, and continuous improvement of a nationwide [employment statistics system] *workforce and labor market information system* [of employment statistics] that includes—

(A) \* \* \*

\* \* \* \* \*

**(b) SYSTEM RESPONSIBILITIES.—**

(1) IN GENERAL.—The [employment statistics system] *workforce and labor market information system* described in subsection (a) shall be planned, administered, overseen, and evaluated through a cooperative governance structure involving the Federal Government and States.

(2) DUTIES.—The Secretary, with respect to data collection, analysis, and dissemination of labor employment statistics for the system, shall carry out the following duties:

(A) Assign responsibilities within the Department of Labor for elements of the [employment statistics system] *workforce and labor market information system* described in subsection (a) to ensure that all statistical and administrative data collected is consistent with appropriate Bureau of Labor Statistics standards and definitions.

\* \* \* \* \*

(D) In collaboration with the Bureau of Labor Statistics and States, develop and maintain the elements of the [employment statistics system] *workforce and labor market information system* described in subsection (a), including the development of consistent procedures and definitions for use by the States in collecting the data and information described in subparagraphs (A) and (B) of subsection (a)(1).

(E) Establish procedures for the system to ensure that—

(i) such data and information are timely; *and*  
(ii) paperwork and reporting for the system are reduced to a minimum[; and].

[(iii) States and localities are fully involved in the development and continuous improvement of the system at all levels, including ensuring the provision, to such States and localities, of budget information necessary for carrying out their responsibilities under subsection (e).]

[(c) ANNUAL PLAN.—The Secretary, working through the Bureau of Labor Statistics, and in cooperation with the States, and with



the assistance of other appropriate Federal agencies, shall prepare an annual plan which shall be the mechanism for achieving cooperative management of the nationwide [employment statistics system] *workforce and labor market information system* described in subsection (a) and the statewide [employment statistics system] *workforce and labor market information system* that comprise the nationwide system. The plan shall—

[(1) describe the steps the Secretary has taken in the preceding year and will take in the following 5 years to carry out the duties described in subsection (b)(2);

[(2) include a report on the results of an annual consumer satisfaction review concerning the performance of the system, including the performance of the system in addressing the needs of Congress, States, localities, employers, jobseekers, and other-consumers;

[(3) evaluate the performance of the system and recommend needed improvements, taking into consideration the results of the consumer satisfaction review, with particular attention to the improvements needed at the State and local levels;

[(4) justify the budget request for annual appropriations by describing priorities for the fiscal year succeeding the fiscal year in which the plan is developed and priorities for the 5 subsequent fiscal years for the system;

[(5) describe current (as of the date of the submission of the plan) spending and spending needs to carry out activities under this section, including the costs to States and localities of meeting the requirements of subsection (e)(2); and

[(6) describe the involvement of States in the development of the plan, through formal consultations conducted by the Secretary in cooperation with representatives of the Governors of every State, and with representatives of local workforce investment boards, pursuant to a process established by the Secretary in cooperation with the States.

[(d) COORDINATION WITH THE STATES.—The Secretary, working through the Bureau of Labor Statistics, and in cooperation with the States, shall—

[(1) develop the annual plan described in subsection (c) and address other employment statistics issues by holding formal consultations, at least once each quarter (beginning with the calendar quarter in which the Workforce Investment Act of 1998 is enacted) on the products and administration of the nationwide [employment statistics system] *workforce and labor market information system*; and

[(2) hold the consultations with representatives from each of the 10 Federal regions of the Department of Labor, elected (pursuant to a process established by the Secretary) by and from the State employment statistics directors affiliate with the State agencies that perform the duties described in subsection (e)(2).]

(c) *NATIONAL ELECTRONIC TOOLS TO PROVIDE SERVICES.—The Secretary, in consultation with States, is authorized to assist in the development of national electronic tools that may be used to improve access to workforce information for individuals through—*

*(1) the one-stop delivery systems established under section 121(e); and*

(2) *such other delivery systems as the Secretary determines to be appropriate.*

(d) **TWO-YEAR PLAN.**—*The Secretary, working through the Bureau of Labor Statistics, and in cooperation with the States and with the assistance of the Employment and Training Administration and other appropriate Federal agencies, shall prepare a 2-year plan which shall be the mechanism for achieving cooperative management of the nationwide workforce and labor market information system described in subsection (a) and the statewide workforce and labor market information systems that comprise the nationwide system. The plan shall—*

(1) *describe the steps to be taken in the following 2 years to carry out the duties described in subsection (b)(2);*

(2) *evaluate the performance of the system and recommend needed improvements, with particular attention to the improvements needed at the State and local levels; and*

(3) *describe the involvement of States in the development of the plan, pursuant to a process established by the Secretary in cooperation with the States in accordance with subsection (i).*

(e) **STATE RESPONSIBILITIES.**—

(1) **DESIGNATION OF STATE AGENCY.**—*In order to receive Federal financial assistance under this section, the Governor of a State shall—*

(A) *designate a single State agency to be responsible for the management of the portions of the [employment statistics system] workforce and labor market information system described in subsection (a) that comprise a statewide [employment statistics system] workforce and labor market information system and for the State's participation in the development of the annual plan; and*

\* \* \* \* \*

(A) *consult with State and local employers, participants, and local workforce investment boards about the labor market relevance of the data to be collected and disseminated through the statewide [employment statistics system] workforce and labor market information system;*

\* \* \* \* \*

(D) *maintain and continuously improve the statewide [employment statistics system] workforce and labor market information system in accordance with this section;*

\* \* \* \* \*

(F) *conduct such other data collection, analysis, and dissemination activities as will ensure an effective statewide [employment statistics system] workforce and labor market information system;*

(G) *actively seek the participation of other State and local agencies in data collection, analysis, and dissemination activities in order to ensure complementarity, compatibility, and usefulness of data; and*

[(H)] *participate in the development of the annual plan described in subsection (c); and*

[(I)] *(H) utilize the quarterly records described in section 136(f)(2) of the Workforce Investment Act of 1998 to*

assist the State and other States in measuring State progress on State performance measures.

\* \* \* \* \*

(g) **AUTHORIZATION OF APPROPRIATIONS.—**[There are]

(1) *IN GENERAL.*—*There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years [1999 through 2004] 2004 through 2009 to enable the Secretary to carry out the provisions of this section in a timely manner through grants or cooperative agreements with the States.*

(2) *DISTRIBUTION OF FUNDS.*—*With regard to distributing funds appropriated under paragraph (1) (relating to workforce and labor market information funding) for fiscal years 2004 through 2009, the Secretary shall continue to distribute the funds to the States in the manner in which the Secretary distributed funds to the States under this section for fiscal years 1999 through 2003.*

\* \* \* \* \*

(i) *COORDINATION WITH THE STATES.*—*The Secretary, working through the Bureau of Labor Statistics and in coordination with the Employment and Training Administration, shall consult at least annually with representatives of each of the 10 Federal regions of the Department of Labor, elected (pursuant to a process established by the Secretary) by and from the State workforce and labor market information directors affiliated with the State agencies that perform the duties described in subsection (e)(2).*

\* \* \* \* \*

## **REHABILITATION ACT OF 1973**

\* \* \* \* \*

### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—\* \* \*

\* \* \* \* \*

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

Sec. 1. \* \* \*

\* \* \* \* \*

Sec. 113. *Incentive grants.*

\* \* \* \* \*

### **CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND**

Sec. 751. Definition.

[Sec. 752. Program of grants.

[Sec. 753. Authorization of appropriations.]

Sec. 752. *Training and technical assistance.*

Sec. 753. *Program of grants.*

Sec. 754. *Authorization of appropriations.*

### **SEC. 2. FINDINGS; PURPOSE; POLICY.**

(a) **FINDINGS.**—\* \* \*

\* \* \* \* \*

(b) **PURPOSE.**—The purposes of this Act are—

(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

(A) \* \* \*

\* \* \* \* \*

(F) the guarantee of equal opportunity; **[and]**

(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living**[.]**; *and*

(3) *to provide opportunities for employers and, rehabilitation service providers to provide meaningful input at all levels of government to ensure successful employment of individuals with disabilities.*

\* \* \* \* \*

#### SEC. 7. DEFINITIONS.

For the purposes of this Act:

(1) ADMINISTRATIVE COSTS.—\* \* \*

\* \* \* \* \*

(B) to the extent additional data is necessary to make a determination of the employment outcomes, and the nature, and scope of vocational rehabilitation services, to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment *and literacy services*, of the eligible individual, which comprehensive assessment—

\* \* \* \* \*

(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, **[educational achievements]** *and literacy skills*, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

\* \* \* \* \*

**[(7) [Repealed]]**

(7) *CONSUMER ORGANIZATION.*—*The term “consumer organization” means a membership organization in which a majority of the organization’s members and a majority of the organization’s officers are individuals with disabilities.*

\* \* \* \* \*

(17) INDEPENDENT LIVING CORE SERVICES.—The term “independent living core service” means—

(A) \* \* \*

\* \* \* \* \*

(C) peer counseling (including cross-disability peer counseling); [and]

(D) individual and systems advocacy[.]; and

(E) *maintaining individuals with significant disabilities in, or transitioning individuals with significant disabilities to, community-based living.*

\* \* \* \* \*

(24) LITERACY.—The term “literacy” has the meaning given the term in section 203 of the Adult Education and Family Literacy Act (20 U.S.C. 9202).

[(24)] (25) LOCAL AGENCY.—The term “local agency” means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the designated State agency to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from arranging to utilize another local public or non-profit agency to provide vocational rehabilitation services if such an arrangement is made part of the agreement specified in this paragraph.

[(25)] (26) LOCAL WORKFORCE INVESTMENT BOARD.—The term “local workforce force investment board” means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998.

[(26)] (27) NONPROFIT.—The term “nonprofit”, when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

[(27)] (28) ONGOING SUPPORT SERVICES.—The term “ongoing support services” means services—

(A) provided to individuals with the most significant disabilities;

(B) provided, at a minimum, twice monthly—

(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

(C) consisting of—

(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (2)(B);

(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the worksite;

(iii) job development, job retention, and placement services;

(iv) social skills training;

(v) regular observation or supervision of the individual;

(vi) followup services such as regular contact with the employers, the individuals, the individuals' representatives, and other appropriate individuals, in order to reinforce and stabilize the job placement;

(vii) facilitation of natural supports at the work site;

(viii) any other service identified in section 103; or

(ix) a service similar to another service described in this subparagraph.

[(28)] (29) PERSONAL ASSISTANCE SERVICES.—The term “personal assistance services” means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual’s control in life and ability to perform everyday activities on or off the job.

(30) POST-EMPLOYMENT SERVICE.—*The term “post-employment” service means a service identified in section 103(a) that is—*

*(A) provided subsequent to the achievement of an employment outcome; and*

*(B) necessary for an individual to maintain, regain, or advance in employment, consistent with the individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.*

[(29)] (31) PUBLIC OR NONPROFIT.—The term “public or nonprofit”, used with respect to an agency or organization, includes an Indian tribe.

[(30)] (32) REHABILITATION TECHNOLOGY.—The term “rehabilitation technology” means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

[(31)] (33) SECRETARY.—The term “Secretary”, except when the context otherwise requires, means the Secretary of Education.

[(32)] (34) STATE.—The term “State” includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[(33)] (35) STATE WORKFORCE INVESTMENT BOARD.—The term “State workforce investment board” means a State workforce investment board established under section 111 of the Workforce Investment Act of 1998.

[(34)] (36) STATEWIDE WORKFORCE INVESTMENT SYSTEM.—The term “statewide workforce investment system” means a system described in section 111(d)(2) of the Workforce Investment Act of 1998.

(37) STUDENT WITH A DISABILITY.—

(A) IN GENERAL.—The term “student with a disability” means an individual with a disability who attends an elementary school or secondary school and who—

- (i) is not younger than 14 years of age;
- (ii) is not older than 21 years of age;
- (iii) has been determined to be eligible under section 102(a) for assistance under title I; and
- (iv)(I) is eligible for, and receiving, special education and related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or

(II) is an individual with a disability, for purposes of section 504.

(B) STUDENTS WITH DISABILITIES.—The term “students with disabilities” means more than 1 student with a disability.

[(35)] (38) SUPPORTED EMPLOYMENT.—

(A) IN GENERAL.—The term “supported employment” means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities—

(i)(I) for whom competitive employment has not traditionally occurred; or

(II) for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

(ii) who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extension, described in [paragraph (36)(C)] paragraph (39)(C) and extended services after the transition described in paragraph (13)(C) in order to perform such work.

(B) CERTAIN TRANSITIONAL EMPLOYMENT.—Such term includes transitional employment for persons who are individuals with the most significant disabilities due to mental illness.

[(36)] (39) SUPPORTED EMPLOYMENT SERVICES.—The term “supported employment services” means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, that—

(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual to achieve competitive employment;

(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and

(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator involved jointly agree to extend the time in order to achieve the employment outcome identified in the individualized plan for employment.

[(37)] (40) **TRANSITION SERVICES.**—The term “transition services” means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student’s needs, taking into account the student’s preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

[(38)] (41) **VOCATIONAL REHABILITATION SERVICES.**—The term “vocational rehabilitation services” means those services identified in section 103 which are provided to individuals with disabilities under this Act.

[(39)] (42) **WORKFORCE INVESTMENT ACTIVITIES.**—The term “workforce investment activities” means workforce investment activities, as defined in section 101 of the Workforce Investment Act of 1998, that are carried out under that Act.

\* \* \* \* \*

#### ADMINISTRATION OF THE ACT

SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

(1)(A) provide consultative services and technical assistance to public or nonprofit private agencies and organizations, including assistance to enable such agencies and organizations to facilitate meaningful and effective participation by individuals with disabilities in workforce investment activities[;] ; and

(B) *provide technical assistance to the designated State units on developing successful partnerships with employers;*

\* \* \* \* \*

#### SEC. 19. CARRYOVER.

(a) **IN GENERAL.**—Except as provided in subsection (b), and notwithstanding any other provision of law—

(1) any funds appropriated for a fiscal year to carry out any grant program under part B of title I, [section 509 (except as provided in section 509(b)),] part B of title VI, part B [or C]



of chapter 1 of title VII, or chapter 2 of title VII (except as provided in section [752(b)] 753(b)), including any funds reallocated under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or

\* \* \* \* \*

(c) *PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.*—

(1) *APPROPRIATED AMOUNTS.*—*Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out a grant program under section 509 (except as provided in section 509(b)), including any funds reallocated under such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.*

(2) *PROGRAM INCOME.*—*Notwithstanding any other provision of law, any amounts of program income received by recipients under a grant program under section 509 in a fiscal year that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year, shall remain available until expended.*

\* \* \* \* \*

## **TITLE I—VOCATIONAL REHABILITATION SERVICES**

### **PART A—GENERAL PROVISIONS**

#### **SEC. 100. DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS.**

(a) *FINDINGS; PURPOSE; POLICY.*—

(1) *FINDINGS.*—Congress finds that—

\* \* \* \* \*

(b) *AUTHORIZATION OF APPROPRIATIONS.*—

(1) *IN GENERAL.*—For the purpose of making grants to States under part B to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for [fiscal years 1999 through 2003] *fiscal years 2004 through 2009*; except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this paragraph for the immediately preceding fiscal year, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year.

\* \* \* \* \*

#### **SEC. 101. STATE PLANS.**

(a) *PLAN REQUIREMENTS.*—

(1) *IN GENERAL.*—

(A) *SUBMISSION.*—\* \* \*

\* \* \* \* \*

(6) *METHODS FOR ADMINISTRATION.*—

## (A) IN GENERAL.—\* \* \*

\* \* \* \* \*

## (B) EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.—

The State plan shall provide that the designated State agency, and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under this title shall take affirmative action **to employ and advance in employment** *to recruit, employ, and advance in employment* qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 503.

\* \* \* \* \*

(7) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—  
The State plan shall—

(A) include a description (consistent with the purposes of this Act) of a comprehensive system of personnel development, which shall include—

## (i) \* \* \*

\* \* \* \* \*

**[(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology; and]**

*(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology, including training implemented in coordination with State programs carried out under section 101 of the Assistive Technology Act of 1998 (29 U.S.C. 3011); and*

\* \* \* \* \*

## (8) COMPARABLE SERVICES AND BENEFITS.—

## (A) DETERMINATION OF AVAILABILITY.—

## (i) IN GENERAL.—\* \* \*

\* \* \* \* \*

*(iii) SERVICES IDENTIFIED IN INDIVIDUALIZED WORK PLAN.—For purposes of clause (i), for an individual who receives assistance under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), comparable benefits and services available under such program only include those benefits and services identified in the individual's individualized work plan developed by an employment network pursuant to such section.*

\* \* \* \* \*

## (10) REPORTING REQUIREMENTS.—

## (A) IN GENERAL.—\* \* \*

\* \* \* \* \*

(B) ANNUAL REPORTING.—In specifying the information to be submitted in the reports, the Commissioner shall require **annual reporting on the eligible individual receiving the services, on those specific data elements described in section 136(d)(2) of the Workforce Investment Act of 1998** *annual reporting of information on eligible individuals receiving services that is needed to assess performance on the core indicators of performance described in section 136(b)(2)(A)(i) of the Workforce Investment Act of 1998* that are determined by the Secretary to be relevant in assessing the performance of designated State units in carrying out the vocational rehabilitation program established under this title.

\* \* \* \* \*

**[(iii) of those applicants and eligible recipients who are individuals with significant disabilities—**

**[(I) the number who ended their participation in the program carried out under this title and the number who achieved employment outcomes after receiving vocational rehabilitation services; and**

**[(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—**

**[(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and**

**[(bb) the number who received employment benefits from an employer during such employment; and**

**[(iv) of those applicants and eligible recipients who are not individuals with significant disabilities—**

**[(I) the number who ended their participation in the program carried out under this title and the number who achieved employment outcomes after receiving vocational rehabilitation services; and**

**[(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—**

**[(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and**

[(bb) the number who received employment benefits from an employer during such employment.]

(iii) *the number of applicants and eligible recipients, including the number of individuals with significant disabilities, who exited the program carried out under this title and the number of such individuals who achieved employment outcomes after receiving vocational rehabilitation services; and*

(iv) *the number of individuals who received vocational rehabilitation services who entered and retained employment and the increases in earnings of such individuals, consistent with State reporting responsibilities pursuant to section 136(b)(2)(A)(i) of the Workforce Investment Act of 1998.*

\* \* \* \* \*

(E) ADDITIONAL INFORMATION.—\* \* \*

\* \* \* \* \*

(i) \* \* \*

\* \* \* \* \*

(ii) information necessary to determine the success of the State [in meeting] *in meeting the standards and indicators established pursuant to section 106—*

[(I) the State performance measures established under section 136(b) of the Workforce Investment Act of 1998, to the extent the measures are applicable to individuals with disabilities; and

[(II) the standards and indicators established pursuant to section 106.]

\* \* \* \* \*

(11) COOPERATION, COLLABORATION, AND COORDINATION.—

(A) COOPERATIVE AGREEMENTS WITH OTHER COMPONENTS OF STATEWIDE WORKFORCE INVESTMENT SYSTEMS.—

\* \* \* \* \*

[(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, Federal, State, and local agencies and programs, including programs carried out by the Under Secretary for Rural Development of the Department of Agriculture and State use contracting programs, to the extent that such agencies and programs are not carrying out activities through the statewide workforce investment system.]

(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—*The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of Federal, State, and local agencies and programs, including the State programs carried out under section 101 of the Assistive Technology Act of 1998 (29 U.S.C. 3011), programs carried out by the Under Secretary for Rural Development of the Department of Agriculture, and State use*

*contracting programs, to the extent that such agencies and programs are not carrying out activities through the state-wide workforce investment system.*

\* \* \* \* \*

(D) COORDINATION WITH EDUCATION OFFICIALS.—\* \* \*

\* \* \* \* \*

(i) \* \* \*

\* \* \* \* \*

*(ii) transition planning by personnel of the designated State agency and the State educational agency that will facilitate the development and completion of the individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) and, as appropriate, the development and completion of the individualized plan for employment, in order to achieve post-school employment outcomes of students with disabilities;*

\* \* \* \* \*

(G) COORDINATION WITH TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.—*The State plan shall provide that the designated State unit will coordinate activities with any other State agency that administers a Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b-19).*

\* \* \* \* \*

(20) INFORMATION AND REFERRAL SERVICE.—

(A) IN GENERAL.—\* \* \*

\* \* \* \* \*

(B) INFORMATION ON ASSISTANCE FOR BENEFICIARIES OF ASSISTANCE UNDER TITLE II OR XVI OF THE SOCIAL SECURITY ACT.—*The State plan shall include an assurance that the designated State agency will make available to individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness, information on the availability of—*

*(i) medical assistance under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);*

*(ii) benefits under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);*

*(iii) assistance through benefits planning and assistance programs under section 1149 of the Social Security Act (42 U.S.C. 1320b-20) and protection and advocacy programs under section 1150 of the Social Security Act (42 U.S.C. 1324b-21); and*

*(iv) medical assistance under other federally funded programs.*

(C) INFORMATION FOR INDIVIDUALS UNDER THE TICKET TO WORK PROGRAM.—*The State plan shall include an assurance that the designated State agency will make available*

*to individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness and eligible for assistance under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b-19), general information regarding the Ticket to Work and Self-Sufficiency Program and specific information on how to contact the program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on approved employment networks.*

[(B)] (D) REFERRALS.—An appropriate referral made through the system shall—

(i) \* \* \*

(II) information identifying a specific [point of contact], *to the maximum extent possible*, within the agency carrying out the program; and

(III) information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, [or regain] *regain, or advance in employment.*

\* \* \* \* \*

## SEC. 102. ELIGIBILITY AND INDIVIDUALIZED PLAN FOR EMPLOYMENT.

(a) ELIGIBILITY.—

(1) CRITERION FOR ELIGIBILITY.—\* \* \*

\* \* \* \* \*

(b) DEVELOPMENT OF AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—

(1) OPTIONS FOR DEVELOPING AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—\* \* \*

\* \* \* \* \*

(A) information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the individualized plan for employment for the individual, and the availability of technical assistance in developing all or part of the individualized plan for employment for the individual[;] *including a listing of all the community resources (including resources from consumer organizations), to the maximum extent possible, to assist in the development of such individual's individualized plan for employment to enable the individual to make informed and effective choices in developing the individualized plan for employment;*

\* \* \* \* \*

(D)(i) a description of the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsection (c); [and]

(ii) a description of the availability of a client assistance program established pursuant to section 112 and information about how to contact the client assistance program[.];

(iii) *for individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381*

*et seq.) on the basis of a disability or blindness, information on the availability of—*

*(I) medical assistance under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);*

*(II) benefits under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);*

*(III) assistance through benefits planning and assistance programs under section 1149 of the Social Security Act (42 U.S.C. 1320b–20) and protection and advocacy programs under section 1150 of the Social Security Act (42 U.S.C. 1320b–21); and*

*(IV) medical assistance under other federally funded programs; and*

*(iv) for individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness and eligible for assistance under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), information—*

*(I) on the options under the Ticket to Work and Self-Sufficiency Program; and*

*(II) on how to contact the program manager of the Ticket to Work and Self-Sufficiency Program who has contact information on approved employment networks, the benefits planning and assistance programs in the area, and the protection and advocacy programs in the area.*

\* \* \* \* \*

(2) MANDATORY PROCEDURES.—

(A) WRITTEN DOCUMENT.—\* \* \*

\* \* \* \* \*

(E) REVIEW AND AMENDMENT.—The individualized plan for employment shall be—

(i) reviewed at least annually by—

(I) \* \* \*

\* \* \* \* \*

(II) the eligible individual or, as appropriate, the individual's representative, **[and]**

(ii) amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the designated State agency or a qualified vocational rehabilitation counselor (to the extent determined to be appropriate by the individual), if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and by a qualified vocational rehabilitation counselor employed by the designated State unit**[.]**; and

(iii) *amended, as necessary, to include the post-employment services and service providers that are necessary for the individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.*

(3) MANDATORY COMPONENTS OF AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—\* \* \*

\* \* \* \* \*

(B)(i) a description of the specific vocational rehabilitation services that are—

(I) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive ~~and personal assistance services~~, *technology services, mentoring services, and personal assistance services* including training in the management of such services; and

\* \* \* \* \*

(F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying—

(1) \* \* \*

\* \* \* \* \*

(ii) the source of extended services or, to extent that the source of the extended services cannot be identified at the time of the development of the individualized plan for employment, a description of the basis for concluding that there is a reasonable expectation that such source will become available; ~~and~~

(G) as determined to be necessary, a statement of projected need for post-employment services~~and~~;

(H) *for a student with a disability, the description—*

(i) *in paragraph (3)(A), may be a description of the student's projected post-school employment outcome; and*

(ii) *in paragraph (3)(B), shall include the specific transition services (including, as appropriate, work experience and mentoring activities) needed to achieve the student's employment outcome or projected employment outcome; and*

(I) *for an individual who is receiving assistance under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b-19), a list of services such individual receives from an employment network other than the designated State unit.*

\* \* \* \* \*

(c) PROCEDURES.—

(1) IN GENERAL.—\* \* \*

\* \* \* \* \*



(7) IMPACT ON PROVISION OF SERVICES.—Unless the individual with a disability so requests, or, in an appropriate case, the individual's representative, so requests, pending a decision by a mediator, hearing officer, or reviewing officer under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided for the individual, including evaluation and assessment services and plan development *that take into consideration the informed choice of the individual*, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual, or the individual's representative.

\* \* \* \* \*

**SEC. 103. VOCATIONAL REHABILITATION SERVICES.**

(a) VOCATIONAL REHABILITATION SERVICES FOR INDIVIDUALS.—

\* \* \* \* \*

(5) vocational and other training services, including the provision of personal and vocational adjustment services, *literacy services*, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

\* \* \* \* \*

(17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; **[and]**

(18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment**[.]**; *and*

(19) *mentoring services*.

\* \* \* \* \*

**SEC. 105. STATE REHABILITATION COUNCIL.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—\* \* \*

\* \* \* \* \*

(b) COMPOSITION AND APPOINTMENT.—

(1) COMPOSITION.—

(A) IN GENERAL.—Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

(i) \* \* \*

\* \* \* \* \*

**[(ix) in a State in which one or more projects are carried out under section 121, at least one representative of the directors of the projects;]**

*(ix) in a State in which 1 or more projects provide services under section 121, not less than 1 representative of the directors of the projects;*

\* \* \* \* \*

[(5) CHAIRPERSON.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

[(B) DESIGNATION BY CHIEF EXECUTIVE OFFICER.—In States in which the chief executive officer does not have veto power pursuant to State law, the appointing authority described in paragraph (3) shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.]

(5) CHAIRPERSON.—*The Council shall select a chairperson from among the voting membership of the Council.*

\* \* \* \* \*

#### SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—

(A) ESTABLISHMENT OF STANDARDS AND INDICATORS.—

\* \* \* \* \*

(b) COMPLIANCE.—

(1) STATE REPORTS.—\* \* \*

\* \* \* \* \*

(B) REVIEW.—The Commissioner shall—

(i) review the program improvement efforts of the State on a biannual basis and[, if necessary, request the State to make further revisions to the plan to improve performance;] *if the State has not improved its performance to acceptable levels, as determined by the Commissioner, direct the State to make further revisions to the plan to improve performance, which may include allocating a higher proportion of the State's resources for services to individuals with disabilities if the State's spending on such services is low in comparison to spending on such services in comparable agencies in other States; and*

\* \* \* \* \*

### PART B—BASIC VOCATIONAL REHABILITATION SERVICES

#### STATE ALLOTMENTS

SEC. 110. (a)(1) \* \* \*

\* \* \* \* \*

[(b)(1) Not later than 45 days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under sec-

tion 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

[(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this title to one or more other States to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes. The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

[(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.]

(b) *REALLOTMENT.*—

(1) *DETERMINATION.*—*Not later than 45 days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.*

(2) *FORMULA.*—

(A) *IN GENERAL.*—*As soon as practicable but not later than the end of the fiscal year, the Commissioner shall reallocate the amount available under paragraph (1) to other States, consistent with subparagraphs (B) and (C), for carrying out the purposes of this title to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes.*

(B) *FORMULA.*—

(i) *ELIGIBLE STATES.*—*The Commissioner shall reallocate the amount available under paragraph (1) for a fiscal year to each State whose allotment under subsection (a) for such fiscal year is less than such State's allotment under subsection (a) for the immediately preceding fiscal year increased by the percentage change in the funds available for subsection (a) from the immediately preceding fiscal year.*

(ii) *AMOUNT.*—

(I) *IN GENERAL.*—*A State that is eligible to receive a reallocation under clause (i) shall receive an amount for a fiscal year from the amount available for reallocation under paragraph (1) that is equal to the difference between—*

*(aa) the amount such State received for such fiscal year; and*

*(bb) the amount such State was allotted under subsection (a) for the immediately preceding fiscal year adjusted by the percentage*

*change in the funds available for subsection (a) from the immediately preceding fiscal year.*

(II) *INSUFFICIENT FUNDS.—If the amount available for reallocation under paragraph (1) is insufficient to provide each State eligible to receive a reallocation with the amount described in subclause (I), the amount reallocated to each eligible State shall be determined, by the Commissioner.*

(C) *REMAINING FUNDS.—If there are remaining after each State eligible to receive a reallocation under subparagraph (B)(i) receives the amount described, in subparagraph (B)(ii), the Commissioner shall reallocate the remaining funds among the States requesting a reallocation.*

(3) *NON-FEDERAL SHARE.—The Commissioner shall reallocate an amount to a State under this subsection only if the State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.*

(4) *INCREASE IN ALLOTMENT.—For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.*

(c)(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 100(b)(1) for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part C.

[(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

[(A) not less than three-quarters of 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for fiscal year 1999; and

[(B) not less than 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for each of fiscal years 2000 through 2003.]

(2)(A) *In this paragraph:*

(i) *The term “appropriated amount” means the amount appropriated under section 100(b)(1) for allotment under this section.*

(ii) *The term “covered year” means a fiscal year—*

*(I) that begins after September 30, 2003; and*

*(II) for which the appropriated amount exceeds the total of—*

*(aa) the appropriated amount for the preceding fiscal year; and*

*(bb) 0.075 percent of the appropriated amount for the preceding fiscal year.*

(B) *For each covered year, the sum referred to in paragraph (1) shall be, as determined by the Secretary—*

*(i) not less than the total of the sum reserved under this subsection for the preceding fiscal year and 0.1 percent of the appropriated amount for the covered year; and*

*(ii) not more than 1.5 percent of the appropriated amount for the covered year.*

\* \* \* \* \*

## CLIENT ASSISTANCE PROGRAM

SEC. 112. (a) From funds appropriated under subsection (h), the Secretary shall, in accordance with this section make grants to **[States]** *agencies designated under subsection (c)* to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this Act, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act and to facilitate access to the services funded under this Act through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

\* \* \* \* \*

(e)(1)(A) **[The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than \$50,000.]** *After reserving funds under subparagraphs (E) and (F), the Secretary shall allot the remainder of the sums appropriated for each fiscal year under this section among the agencies designated under subsection (c) within the States on the basis of relative population of each State, except that no such agency shall receive less than \$50,000.*

(B) The Secretary shall allot \$30,000 each to *the designated agencies located in American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.*

\* \* \* \* \*

(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed \$7,500,000, the minimum allotment shall be \$100,000 for *the designated agencies located in States* and \$45,000 for *the designated agencies located in territories.*

\* \* \* \* \*

(E)(i) *Beginning on October 1, 2004, for any fiscal year for which the amount appropriated to carry out this section equals or exceeds \$13,000,000, the Secretary shall reserve funds appropriated under this section to make grants to the protection and advocacy system serving the American Indian Consortium to provide client assistance services in accordance with this section. The amount of such grants shall be the same amount as provided to territories under subparagraph (B), as increased under clauses (i) and (ii) of subparagraph (D).*

(ii) *In this subparagraph:*

(I) The term “American Indian Consortium” has the meaning given the term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002).

(II) The term “protection and advocacy system” means a protection and advocacy system established under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(F) For any fiscal year for which the amount appropriated to carry out this section equals or exceeds \$14,000,000, the Secretary shall reserve not less than 1.8 percent and not more than 2.2 percent of such amount to provide training and technical assistance to the programs established under this section. Such training and technical assistance shall be coordinated with activities provided under section 509(c)(1)(A).

(2) The amount of an allotment to a [State] designated agency for a fiscal year which the Secretary determines will not be required by the [State] designated agency during the period for which it is available for the purpose for which allotted shall be available for reallocation by the Secretary at appropriate times to other [States] designated agencies with respect to which such a determination has not been made, in proportion to the original allotments of such [States] designated agencies for such fiscal year, but with such proportionate amount for any of such other [State] designated agency being reduced to the extent it exceeds the sum the Secretary estimates such [State] designated agency needs and will be able to use during such period, and the total of such reduction shall be similarly reallocated among the [States] designated agencies whose proportionate amounts were not so reduced. Any such amount so reallocated to a [State] designated agency for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

(3) [Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay] *The Secretary shall pay directly* to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).

(f) No grant may be made under this section unless the [State] agency designated under subsection (c) submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

\* \* \* \* \*

(h) There are authorized to be appropriated such sums as may be necessary for [fiscal years 1999 through 2003] *fiscal years 2004 through 2009* to carry out the provisions of this section.

\* \* \* \* \*

#### **SEC. 113. INCENTIVE GRANTS.**

(a) **AUTHORITY.**—*The Commissioner is authorized to make incentive grants to States that, based on the criteria established under subsection (b)(1), demonstrate—*

(1) *a high level of performance; or*

(2) *a significantly improved level of performance as compared to the previous reporting period or periods.*

(b) **CRITERIA.**—

(1) **ESTABLISHMENT.**—*Not later than 180 days after the date of enactment of this section, the Commissioner shall establish,*

and publish in the Federal Register, criteria for making grant awards under subsection (a).

(2) *DEVELOPMENT AND EVALUATION STANDARDS.*—The criteria under paragraph (1) shall—

(A) be developed with input from State vocational rehabilitation agencies and other vocational rehabilitation stakeholders, including vocational rehabilitation consumers and consumer organizations; and

(B) be based upon the evaluation standards and performance indicators established under section 106 and other performance related measures that the Commissioner determines to be appropriate.

(c) *USE OF FUNDS.*—A State that receives a grant under subsection (a) shall use the grant funds for any approved activities in the State's State plan submitted under section 101.

(d) *NO NON-FEDERAL SHARE REQUIREMENT.*—The provisions of sections 101(a)(3) and 111(a)(2) shall not apply to this section.

(e) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2004 through 2009.

\* \* \* \* \*

## PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

### VOCATIONAL REHABILITATION SERVICES GRANTS

SEC. 121. (a) The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for American Indians who are individuals with disabilities residing on or near such reservations, *consistent with such individuals' strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for, and engage in, gainful employment.* The non-Federal share of such costs may be in cash or in kind, fairly valued, and the Commissioner may waive such non-Federal share requirement in order to carry out the purposes of this Act.

\* \* \* \* \*

(B) contains assurances that the rehabilitation services provided under this part to American Indians who are individuals with disabilities residing on or near a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other individuals with disabilities residing in the State and that, where appropriate, may include services traditionally used by Indian tribes; **[and]**

(C) contains assurances that the application was developed in consultation with the designated State unit of the State **[.]**; and

(D) contains assurances that—

(i) all decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available

*services, and the provision of such services, will be made by a representative of the tribal vocational rehabilitation program; and*

*(ii) such decisions will not be delegated to another agency or individual.*

\* \* \* \* \*

(3) **Any application approved under this part shall be effective for not more than 60 months, except as determined otherwise by the Commissioner pursuant to prescribed regulations.** *An application approved under this part that complies with the program requirements set forth in the regulations promulgated to carry out this part shall be effective for 5 years and shall be renewed for additional 5-year periods if the Commissioner determines that the grantee demonstrated acceptable past performance and the grantee submits a plan, including a proposed budget, to the Commissioner that the Commissioner approves that identifies future performance criteria, goals, and objectives. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on or near a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).*

**(4) In making grants under this part, the Secretary shall give priority consideration to applications for the continuation of programs which have been funded under this part.**

*(4) In allocating funds under this part, the Secretary shall give priority to paying the continuation costs of existing projects and may provide for increases in funding for such projects as determined necessary.*

\* \* \* \* \*

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) There are authorized to be appropriated—

(1) for the purpose of providing for the expenses of the National Institute on Disability and Rehabilitation Research under section 202, which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204, such sums as may be necessary for each of **fiscal years 1999 through 2003** *fiscal years 2004 through 2009*; and

(2) to carry out section 204, such sums as may be necessary for each of **fiscal years 1999 through 2003** *fiscal years 2004 through 2009*.

#### NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH

SEC. 202. (a)(1) \* \* \*

\* \* \* \* \*

(f)(1) The Director shall provide for scientific peer review of all applications for financial assistance for research, training, and demonstration projects over which the Director has authority. The scientific peer review shall be conducted by individuals who are not **Federal employees** *Department of Education employees*, who are scientists or other experts in the rehabilitation field (including the



independent living field), including knowledgeable individuals with disabilities, and the individuals' representatives, and who are competent to review applications for the financial assistance.

\* \* \* \* \*

#### RESEARCH AND OTHER COVERED ACTIVITIES

##### SEC. 204. (a)(1) \* \* \*

\* \* \* \* \*

##### (c)(1) \* \* \*

\* \* \* \* \*

(2) The Director shall not make a grant under this section that exceeds ~~【\$500,000】~~ *\$750,000* unless the peer review of the grant application has included a site visit.

\* \* \* \* \*

#### SEC. 205. REHABILITATION RESEARCH ADVISORY COUNCIL.

##### (a) ESTABLISHMENT.—\* \* \*

\* \* \* \* \*

(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the individuals' representatives. At least one-half of the members shall be individuals with disabilities or the individuals' representatives. *The Council also shall include a representative from the business community who has experience with the vocational rehabilitation system and hiring individuals with disabilities.*

\* \* \* \* \*

#### SEC. 302. TRAINING.

##### (a) GRANTS AND CONTRACTS FOR PERSONNEL TRAINING.—

###### (1) AUTHORITY.—\* \* \*

\* \* \* \* \*

##### (b) GRANTS AND CONTRACTS FOR ACADEMIC DEGREES AND ACADEMIC CERTIFICATE GRANTING TRAINING PROJECTS.—

###### (1) AUTHORITY.—

###### (A) IN GENERAL.—\* \* \*

\* \* \* \* \*

(B) TYPES OF PROJECTS.—Academic training projects described in this subsection may include—

(i) projects to train personnel in the areas of assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting, and of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, ~~【or prosthetics and orthotics】~~ *pros-*

*thetics and orthotics, rehabilitation for the blind, or orientation and mobility instruction;*

\* \* \* \* \*

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section such sums, as may be necessary for each of the **[fiscal years 1999 through 2003]** *fiscal years 2004 through 2009.*

\* \* \* \* \*

**SEC. 303. DEMONSTRATION AND TRAINING PROGRAMS.**

(a) **DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE.**—

(1) **GRANTS.**—\* \* \*

\* \* \* \* \*

(5) **PRIORITY FOR COMPETITIONS.**—

(A) **IN GENERAL.**—In announcing competitions for grants and contracts under this subsection, the Commissioner shall give priority consideration to—

(i) **[special projects]** *not less than 2 special projects and demonstration programs of service delivery for adults who are either low-functioning and deaf or low-functioning and hard of hearing;*

\* \* \* \* \*

(c) **DEMONSTRATION PROJECTS FOR EMPLOYMENT OF STUDENTS WITH INTELLECTUAL DISABILITIES OR MENTAL ILLNESS.**—

(1) **PURPOSE.**—*The purpose of this subsection is to support model demonstration projects to provide supported and competitive employment experiences for students with intellectual disabilities or students with mental illness, and training for personnel that work with students described in this paragraph, to enable the students to gain employment skills and experience that will promote effective transitions from school to employment and adult living.*

(2) **GRANTS AUTHORIZED.**—

(A) **COMPETITIVE GRANTS AUTHORIZED.**—*The Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to eligible organizations described in paragraph (3), to enable the organizations to carry out demonstration projects described in paragraph (1).*

(B) **DURATION.**—*The Secretary shall award grants under this subsection for periods of 3 to 5 years.*

(3) **ELIGIBLE ORGANIZATIONS.**—*To be eligible to receive a grant, contract, or cooperative agreement under this subsection, an organization shall—*

(A) *have expertise in providing employment and support services for individuals with intellectual disabilities or individuals with mental illness;*

(B) *have a proven track record in successfully running supported employment programs;*

(C) *provide employment services that are exclusively integrated community-based supported employment services;*

(D) *have expertise in creating natural supports for employment;*

(E) *have expertise in providing computer training for the targeted population for the project involved; and*

(F) have experience operating mentoring programs for the target population in middle and high schools for at least a decade in diverse communities throughout the Nation.

(4) *APPLICATIONS.*—Each organization desiring to receive a grant, contract, or cooperative agreement under this subsection shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may require. Each application shall include—

(A) a description of how the organization plans to carry out the activities authorized in this subsection through a demonstration project;

(B) a description of how the organization will evaluate the project;

(C) a description of how the organization will disseminate information about the activities and the impact of the activities on the lives of students served by the project; and

(D) a description of how the organization will coordinate activities with any other relevant service providers in the locality where the organization is based, including federally supported independent living centers.

(5) *AUTHORIZED ACTIVITIES.*—An organization that receives a grant under this subsection shall use the funds made available through the grant to carry out 1 or more of the following activities for individuals, ages 14 through 21, who are students with intellectual disabilities or students with mental illness:

(A) *PROVIDING SUPPORTED AND COMPETITIVE EMPLOYMENT EXPERIENCES.*—The development of innovative and effective supported and competitive employment experiences after school, on weekends, and in the summer, utilizing natural supports that lead to competitive high-paying jobs.

(B) *PROVIDING TRAINING TO SCHOOL AND TRANSITION PERSONNEL.*—The development and deployment of experts to work with transition programs (including personnel working with students on transition) so that personnel from the programs develop skills needed to train students with intellectual disabilities or students with mental illness to be successful in competitive employment in a range of settings, including office settings. The training shall include training for the personnel in providing instruction to students in computer skills, office skills, interview etiquette, and appropriate social behavior required for successful long-term employment in professional environments.

(6) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to carry out this subsection \$5,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2008.

(d) *DEMONSTRATION PROJECT FOR EMPLOYMENT OF INDIVIDUALS WHO ARE DEAF AND LOW FUNCTIONING.*—

(1) *PURPOSE.*—It is the purpose of this subsection to support a model demonstration project to provide training and support services for individuals who are deaf and low functioning to enable them to gain employment skills that will allow them to become employed and economically self-sufficient.

(2) *DEFINITION.*—

(A) *IN GENERAL.*—In this subsection, the term “individual who is deaf and low functioning” means an individual who has been deaf from birth or very early childhood, reads at or below the second grade level, has little or no intelligible speech, and lacks a high school diploma or GED.

(B) *SECONDARY DISABILITIES.*—Such term may include an individual with a secondary disability.

(3) *GRANTS AUTHORIZED.*—

(A) *COMPETITIVE GRANTS AUTHORIZED.*—The Secretary may award grants to State agencies, other public agencies or organizations, or not-for-profit organizations with expertise in providing employment training and support services for individuals who are deaf and low functioning to support model demonstration projects.

(B) *DURATION.*—Grants under this subsection shall be awarded for a period not to exceed 5 years.

(4) *AUTHORIZED ACTIVITIES.*—

(A) *DEVELOPING A COMPREHENSIVE TRAINING PROGRAM.*—Each grant recipient shall develop an innovative, comprehensive program of instruction for individuals who are deaf and low functioning that can be implemented, at multiple training locations through such means as distance learning and use of advanced technology, as appropriate. Such training program shall be developed to maximize the potential for replication of the program by other training providers.

(B) *IMPLEMENTATION.*—Each grant recipient shall implement the comprehensive training program developed in subparagraph (A) as soon as feasible. Such training shall provide instruction on the job and the social skills necessary for successful long-term employment of individuals who are deaf, and low functioning.

(C) *ESTABLISHING A POST-TRAINING PROGRAM OF EMPLOYMENT AND SUPPORT SERVICES.*—Each grant recipient shall implement employment and support services to assist individuals who complete the training program under subparagraph (A) in securing employment and transitioning to the workplace for a period of not less than 90 days subsequent to placement.

(5) *APPLICATIONS.*—Each entity desiring to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require including—

(A) a description of how the applicant plans to address the activities authorized under this subsection;

(B) a description of the evaluation plan to be used in the project;

(C) a description of how the applicant will disseminate information about the training program developed and the results of the model demonstration project; and

(D) a description of how the project will coordinate with any other relevant service providers or entities providing employment training and supports for individuals who are deaf and low functioning.

(6) *MANDATED EVALUATION AND DISSEMINATION ACTIVITIES.*—

(A) *ANNUAL REPORT.*—Not later than 2 years after the date on which a grant under this subsection is awarded and annually thereafter, each grant recipient shall submit to the Commissioner a report containing—

- (i) the number of individuals who are participating in the demonstration project funded under this subsection;
- (ii) the employment and other skills being taught in the project;
- (iii) the number of individuals participating in the project that are placed in employment;
- (iv) the job sites in which those individuals are placed and the type of jobs they are placed in; and
- (v) the number of individuals who have dropped out of the project and the reasons for their terminating participation in the project.

(B) *EVALUATION OF THE PROJECT.*—Each grant recipient shall implement the evaluation plan approved in its application for determining the results of the project within the timeframe specified in, and following the provisions of, its approved application.

(C) *PARTICIPANT EVALUATION PROCESS; FINAL EVALUATION.*—In the final year of the project, the grant recipient will produce a final evaluation report of the results of the model demonstration project containing—

- (i) the number of individuals who participated in the training program;
- (ii) a description of the job sites in which those individuals were placed;
- (iii) the number of individuals placed in employment and the type of employment in which they were placed;
- (iv) the number of individuals who did not complete their training and the reasons those individuals dropped out of the project;
- (v) the number of individuals who participated in the training project and who remain employed as of 2 months prior to the date on which the final report is submitted to the Secretary;
- (vi) a written analysis of the model project, including both the strengths and weaknesses of the project, to assist other entities in replicating the training program developed through this model demonstration project; and
- (vii) such other information as the Secretary determines appropriate.

(D) *DISSEMINATION.*—Not later than 5 years after the date on which an award is granted under this subsection, the evaluations and results of activities funded by such grant shall be disseminated to State vocational rehabilitation agencies, school systems providing instruction to students who are deaf, supported employment providers, post-secondary vocational training programs, employers, the Social Security Administration, and other interested parties.

(7) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to carry out this subsection, \$5,000,000

for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

[(c)] (e) PARENT INFORMATION AND TRAINING PROGRAM.—

(1) GRANTS.—\* \* \*

\* \* \* \* \*

[(d)] (f) BRAILLE TRAINING PROGRAMS.—

(1) ESTABLISHMENT.—\* \* \*

\* \* \* \* \*

(g) ACCESS TO TELEWORK.—

(1) DEFINITION OF TELEWORK.—In this subsection, the term “telework” means to work from home and other telework sites with the assistance of a computer and with reasonable accommodations, including the necessary equipment to facilitate successful work from home and other telework sites.

(2) AUTHORIZATION OF PROGRAM.—The Commissioner is authorized to make grants to States and governing bodies of American Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay for the Federal share of the cost of establishing or expanding a telework program.

(3) APPLICATION.—A State that desires to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(4) USE OF FUNDS.—A State that receives a grant under this subsection shall establish or expand a telework program that shall provide loans or other alternative financing mechanisms to individuals with disabilities to enable such individuals to purchase computers or other equipment, including adaptive equipment, that facilitates work from home and other telework sites so that such individuals are able to telework.

(5) ANNUAL REPORT.—

(A) IN GENERAL.—A State that receives a grant under this subsection shall submit an annual report to the Commissioner.

(B) CONTENTS.—The report under subparagraph (A) shall include the following:

(i) The characteristics of each individual with a disability that receives a loan or other alternative financing mechanism under the program, including information about the individual such as the following:

(I) Age.

(II) Ethnicity.

(III) Type of disability.

(IV) Employment status at the time of application for a loan or other alternative financing mechanism under this subsection.

(V) Whether the individual attempted to secure financial support from other sources to enable the individual to telework and, if so, a description of such sources.

(VI) Whether the individual is working and, if so, whether the individual teleworks, the occupation in which the individual is working, the hourly

*salary the individual receives, and the hourly salary of the individual prior to receiving a loan or other alternative financing mechanism under the program.*

*(VII) Whether the individual has repaid the loan or other alternative financing mechanism received under the program, is in repayment status, is delinquent on repayments, or has defaulted on the loan or other alternative financing mechanism.*

*(ii) Any other information that the Commissioner may require.*

*(6) FEDERAL SHARE.—The Federal share of the cost of establishing a telework program shall be 10 percent of the cost.*

**[(e)] (h) AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out **[this section]** *this section (other than subsections (c) and (d))* such sums as may be necessary for each of the **[fiscal years 1999 through 2003]** *fiscal years 2004 through 2009.*

\* \* \* \* \*

#### **SEC. 304. MIGRANT AND SEASONAL FARMWORKERS.**

(a) GRANTS.—

(1) AUTHORITY.—\* \* \*

\* \* \* \* \*

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, for each of the **[fiscal years 1999 through 2003]** *fiscal years 2004 through 2009.*

\* \* \* \* \*

#### **SEC. 305. RECREATIONAL PROGRAMS.**

(a) GRANTS.—

(1) AUTHORITY.—

(A) IN GENERAL.—\* \* \*

(B) RECREATION PROGRAMS.—The recreation programs that may be funded using assistance provided under a grant under this section may include vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4-H activities, **[construction of facilities for aquatic rehabilitation therapy,]** music, dancing, handicrafts, art, and homemaking. When possible and appropriate, such programs and activities should be provided in settings with peers who are not individuals with disabilities.

\* \* \* \* \*

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the **[fiscal years 1999 through 2003]** *fiscal years 2004 through 2009.*

\* \* \* \* \*

## TITLE IV—NATIONAL COUNCIL ON DISABILITY

### ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY

SEC. 400. (a)(1)(A) \* \* \*

\* \* \* \* \*

### AUTHORIZATION OF APPROPRIATIONS

SEC. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the [fiscal years 1999 through 2003] *fiscal years 2004 through 2009*.

\* \* \* \* \*

## TITLE V—RIGHTS AND ADVOCACY

### EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

SEC. 501. (a) \* \* \*

\* \* \* \* \*

### ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 502. (a)(1) \* \* \*

\* \* \* \* \*

(j) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Access Board under this section such sums as may be necessary for each of the [fiscal years 1999 through 2003] *fiscal years 2004 through 2009*.

\* \* \* \* \*

### SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

(a) PURPOSE AND CONSTRUCTION.—

(1) PURPOSE.—\* \* \*

\* \* \* \* \*

(g) CARRYOVER AND DIRECT PAYMENT.—

(1) DIRECT PAYMENT.—\* \* \*

(2) CARRYOVER.—Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount [was paid] *was paid, except that program income generated from the amount paid to an eligible system shall remain available to such system until expended.*

\* \* \* \* \*

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the [fiscal years 1999 through 2003] *fiscal years 2004 through 2009*.

\* \* \* \* \*



## TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

### SHORT TITLE

SEC. 601. \* \* \*

\* \* \* \* \*

### AUTHORIZATION OF APPROPRIATIONS

SEC. 612. There are authorized to be appropriated to carry out the provisions of this part, such sums as may be necessary for each of **[fiscal years 1999 through 2003]** *fiscal years 2004 through 2009*.

### SEC. 628. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of **[fiscal years 1999 through 2003]** *fiscal years 2004 through 2009*.

\* \* \* \* \*

## TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

### CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES

#### PART A—GENERAL PROVISIONS

#### SEC. 701. PURPOSE.

\* \* \* \* \*

#### SEC. 704. STATE PLAN.

##### (a) IN GENERAL.—

##### (1) REQUIREMENT.—\* \* \*

\* \* \* \* \*

(o) *PROMOTING FULL ACCESS TO COMMUNITY LIFE.—The plan shall describe how the State will provide independent living services that promote full access to community life for individuals with significant disabilities. The services shall include, as appropriate, facilitating transitions from nursing homes and other institutions, including institutions serving individuals with cognitive disabilities, to community-based residences, assisting individuals with significant disabilities at risk of entering institutions to remain in the community, and promoting home ownership among individuals with significant disabilities.*

\* \* \* \* \*

#### SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.

##### (a) ESTABLISHMENT.—\* \* \*

##### (b) COMPOSITION AND APPOINTMENT.—

##### (1) APPOINTMENT.—\* \* \*

##### (2) COMPOSITION.—The Council shall include—

(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State;

(B) as ex officio, nonvoting members—

(i) a representative from the designated State unit;  
and

(ii) representatives from other State agencies that  
provide services for individuals with disabilities; and

[(C) in a State in which one or more projects are carried  
out under section 121, at least one representative of the di-  
rectors of the projects.]

*(C) in a State in which 1 or more projects provide serv-  
ices under section 121, not less than 1 representative of the  
directors of the projects.*

\* \* \* \* \*

[(5) CHAIRPERSON.—

[(A) IN GENERAL.—Except as provided in subparagraph  
(B), the Council shall select a chairperson from among the  
voting membership of the Council.

[(B) DESIGNATION BY CHIEF EXECUTIVE OFFICER.—In  
States in which the Governor does not have veto power  
pursuant to State law, the appointing authority described  
in paragraph (3) shall designate a voting member of the  
Council to serve as the chairperson of the Council or shall  
require the Council to so designate such a voting mem-  
ber.]

*(5) CHAIRPERSON.—The Council shall select a chairperson  
from among the voting membership of the Council.*

\* \* \* \* \*

## **PART B—INDEPENDENT LIVING SERVICES**

### **SEC. 711. ALLOTMENTS.**

(a) IN GENERAL.—

(1) STATES.—

(A) POPULATION BASIS.—\* \* \*

\* \* \* \* \*

### **SEC. 714. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this part  
such sums as may be necessary for each of the [fiscal years 1999  
through 2003] *fiscal years 2004 through 2009.*

\* \* \* \* \*

## **PART C—CENTERS FOR INDEPENDENT LIVING**

### **SEC. 721. PROGRAM AUTHORIZATION.**

(a) IN GENERAL.—\* \* \*

\* \* \* \* \*

[(c) IN GENERAL.—

[(1) STATES.—

[(A) POPULATION BASIS.—After the reservation required  
by subsection (b) has been made, and except as provided  
in subparagraphs (B) and (C), from the remainder of the  
amounts appropriated for each such fiscal year to carry out  
this part, the Commissioner shall make an allotment to  
each State whose State plan has been approved under sec-

tion 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

[(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

[(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

[(i) if such excess is not less than \$8,000,000, the allotment to any State under subparagraph (A) shall be not less than \$450,000 or  $\frac{1}{3}$  of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$450,000 or  $\frac{1}{3}$  of 1 percent of such sums shall be increased to the greater of the 2 amounts;

[(ii) if such excess is not less than \$4,000,000 and is less than \$8,000,000, the allotment to any State under subparagraph (A) shall be not less than \$400,000 or  $\frac{1}{3}$  of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$400,000 or  $\frac{1}{3}$  of 1 percent of such sums shall be increased to the greater of the 2 amounts; and

[(iii) if such excess is less than \$4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the 2 amounts described in clause (ii).

[(2) CERTAIN TERRITORIES.—

[(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

[(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than  $\frac{1}{8}$  of 1 percent of the remainder for the fiscal year for which the allotment is made.

[(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out

this part between the preceding fiscal year and the fiscal year involved.

[(4) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by paragraph (1)(B).]

(c) ALLOTMENTS TO STATES.—

(1) DEFINITIONS.—*In this subsection:*

(A) ADDITIONAL APPROPRIATION.—*The term “additional appropriation” means the amount (if any) by which the appropriation for a fiscal year exceeds the total of—*

- (i) the amount reserved under subsection (b) for that fiscal year; and*
- (ii) the appropriation for fiscal year 2003.*

(B) APPROPRIATION.—*The term “appropriation” means the amount appropriated, to carry out this part.*

(C) BASE APPROPRIATION.—*The term “base appropriation” means the portion of the appropriation for a fiscal year that is equal to the lesser of—*

- (i) an amount equal to 100 percent of the appropriation, minus the amount reserved under subsection (b) for that fiscal year; or*
- (ii) the appropriation for fiscal year 2003.*

(2) ALLOTMENTS TO STATES FROM BASE APPROPRIATION.—*After the reservation required by subsection (b) has been made, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount that bears the same ratio to the base appropriation as the amount the State received under this subsection for fiscal year 2003 bears to the total amount that all States received under this subsection for fiscal year 2003.*

(3) ALLOTMENTS TO STATES OF ADDITIONAL APPROPRIATION.—*From any additional appropriation for each fiscal year, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount equal to the sum of—*

- (A) an amount that bears the same ratio to 50 percent of the additional appropriation as the population of the State bears to the population of all States; and*
- (B)  $\frac{1}{56}$  of 50 percent of the additional appropriation.*

\* \* \* \* \*

(e) CARRYOVER AUTHORITY.—*Notwithstanding any other provision of law—*

*(1) any funds appropriated for a fiscal year to carry out a grant program under section 722 or 723, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during that succeeding fiscal year and the subsequent fiscal year; and*

(2) *any amounts of program income received by recipients under a grant program under section 722 or 723 in a fiscal year that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year, shall remain available for obligation and expenditure by such recipients during that succeeding fiscal year and the subsequent fiscal year.*

\* \* \* \* \*

**SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—\* \* \*

\* \* \* \* \*

(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that has been awarded a grant under this part [by September 30, 1997] *during the preceding year*, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

**SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—

(A) INITIAL YEAR.—

(i) DETERMINATION.—\* \* \*

\* \* \* \* \*

(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that has been awarded a grant under this part [by September 30, 1997] *during the preceding year*, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

\* \* \* \* \*

**SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.**

(a) IN GENERAL.—\* \* \*

(b) STANDARDS.—

(1) PHILOSOPHY.—\* \* \*

\* \* \* \* \*

(8) *PROMOTING FULL ACCESS TO COMMUNITY LIFE.—The center shall provide independent living services that promote full access to community life for individuals with significant disabilities. The services shall include, as appropriate, facilitating transitions from nursing homes and other institutions, including institutions serving individuals with cognitive disabilities, to community-based residences, assisting individuals with significant disabilities at risk of entering institutions to remain in*

*the community, and promoting home ownership among individuals with significant disabilities.*

\* \* \* \* \*

**SEC. 727. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the **[fiscal years 1999 through 2003]** *fiscal years 2004 through 2009.*

\* \* \* \* \*

**CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND**

**SEC. 751. DEFINITION.**

For purposes of this chapter, the term “older individual who is blind” means an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

**SEC. 752. TRAINING AND TECHNICAL ASSISTANCE.**

(a) *GRANTS; CONTRACTS; OTHER ARRANGEMENTS.*—For any fiscal year for which the funds appropriated to carry out this chapter exceed the funds appropriated to carry out this chapter for fiscal year 2003, the Commissioner shall first reserve from such excess, to provide training and technical assistance to designated State agencies for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this chapter for the fiscal year involved.

(b) *ALLOCATION.*—From the funds reserved under subsection (a), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that demonstrate expertise in the provision of services to older individuals who are blind to provide training and technical assistance with respect to planning, developing, conducting, administering, and evaluating independent living programs for older individuals who are blind.

(c) *FUNDING PRIORITIES.*—The Commissioner shall conduct a survey of designated State agencies that receive grants under section 753 regarding training and technical assistance needs in order to determine funding priorities for grants, contracts, and other arrangements under this section.

(d) *REVIEW.*—To be eligible to receive a grant or enter into a contract or other arrangement under this section, an eligible entity shall submit an application to the Commissioner at such time, in such manner, containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require.

(e) *PROHIBITION ON COMBINED FUNDS.*—No funds reserved by the Commissioner under this section may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

\* \* \* \* \*

**SEC. [752.] 753. PROGRAM OF GRANTS.****(a) IN GENERAL.—****(1) AUTHORITY FOR GRANTS.—\* \* \***

\*       \*       \*       \*       \*       \*

**(b) CONTINGENT COMPETITIVE GRANTS.**—Beginning with fiscal year 1993, in the case of any fiscal year for which the amount appropriated under **[section 753]** *section 754* is less than \$13,000,000, grants made under subsection (a) shall be—

(1) discretionary grants made on a competitive basis to States; or

(2) grants made on a noncompetitive basis to pay for the continuation costs of activities for which a grant was awarded—

(A) under this chapter; or

(B) under part C, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

**(c) CONTINGENT FORMULA GRANTS.—**

**(1) IN GENERAL.**—In the case of any fiscal year for which the amount appropriate under **[section 753]** *section 754* is equal to or greater than \$13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

**(2) ALLOTMENTS.**—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with **[subsection (j)]** *subsection (i)*, and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with **[subsection (i)]** *subsection (h)*.

**(g) CERTAIN EXPENDITURES OF GRANTS.**—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to, *or contracts with*, public and non-profit private agencies or organizations.

**[(h) REQUIREMENT REGARDING STATE PLAN.**—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.]

**[(i)] (h) APPLICATION FOR GRANT.—**

**(1) IN GENERAL.**—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under **[subsection (j)(4)]** *subsection (i)(4)*).

**(2) CONTENTS.**—An application for a grant under this section shall contain—

(A) an assurance that the agency described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the agency operates or administers under this section, whether directly or through a grant or

contract, which report shall contain, at a minimum, information on—

(i) \* \* \*

\* \* \* \* \*

(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year; *and*

(B) an assurance that the agency will—

(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

(ii) engage in—

(I) capacity-building activities, including collaboration with other agencies and organizations;

(II) activities to promote community awareness, involvement, and assistance; and

(III) outreach efforts **[and]**.

**[(C)]** an assurance that the application is consistent with the State plan for providing independent living services required by section 704. **]**

**[(j)]** (i) AMOUNT OF FORMULA GRANT.—

(1) IN GENERAL.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

(A) the amount determined under paragraph (2); or

(B) the amount determined under paragraph (3).

**[(2)]** MINIMUM ALLOTMENT.—

**[(A)]** STATES.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

**[(i)]** \$225,000; or

**[(ii)]** an amount equal to  $\frac{1}{3}$  of 1 percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

**[(B)]** CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is \$40,000. **]**

(2) MINIMUM ALLOTMENT.—

(A) STATES.—*In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in paragraph (1)(A) for a fiscal year is the greater of—*

*(i) \$350,000;*

*(ii) an amount equal to the amount the State, the District of Columbia, or the Commonwealth of Puerto Rico received to carry out this chapter for fiscal year 2003; or*

*(iii) an amount equal to  $\frac{1}{3}$  of 1 per cent of the amount appropriated under section 754, and not reserved under section 752, for the fiscal year and available for allotments under subsection (a).*

(B) CERTAIN TERRITORIES.—*In the case of Guam, American Samoa, the United States Virgin Islands, and the*



*Commonwealth of the Northern Mariana Islands, the amount referred to in paragraph (1)(A) for a fiscal year is \$60,000.*

(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

(A) the amount appropriated under [section 753] *section 754, and not reserved under section 752*, and available for allotments under subsection (a); and

\* \* \* \* \*

(4) DISPOSITION OF CERTAIN AMOUNTS.—

(A) GRANTS.—\* \* \*

(B) AMOUNTS.—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

(i) the failure of any State to submit an application under [subsection (i)] *subsection (h)*;

\* \* \* \* \*

#### **SEC. [753.] 754. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this chapter such sums as maybe necessary for each of the [fiscal years 1999 through 2003] *fiscal years 2004 through 2009*.

#### **HELEN KELLER NATIONAL CENTER ACT**

\* \* \* \* \*

#### **CONGRESSIONAL FINDINGS**

SEC. 202. The Congress finds that—

\* \* \* \* \*

#### **AUTHORIZATION OF APPROPRIATIONS**

SEC. 205. (a) There are authorized to be appropriated to carry out the provisions of this title such sums as may be necessary for each of the fiscal years [1999 through 2003] *2004 through 2009*. Such sums shall remain available until expended.

(b) Any appropriation Act containing any appropriation authorized by subsection (a) shall contain a statement of the specific amount being made available to the Center.

\* \* \* \* \*

#### **SEC. 208. HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT PROGRAM.**

(a) ESTABLISHMENT.—\* \* \*

\* \* \* \* \*

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years [1999 through 2003] *2004 through 2009*. Such sums shall remain available until expended.

\* \* \* \* \*