

§§ 3011 to 3015. Omitted

CODIFICATION

Sections, comprising subchapter I of this chapter “State Grant Programs”, were omitted in the general amendment of this chapter by Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1707.

Section 3011, Pub. L. 105-394, title I, §101, Nov. 13, 1998, 112 Stat. 3635, provided for continuity grants for States that received funding for a limited period for technology-related assistance.

Section 3012, Pub. L. 105-394, title I, §102, Nov. 13, 1998, 112 Stat. 3644; Pub. L. 106-402, title IV, §401(b)(4)(B), Oct. 30, 2000, 114 Stat. 1738, provided for State grants for protection and advocacy related to assistive technology.

Section 3013, Pub. L. 105-394, title I, §103, Nov. 13, 1998, 112 Stat. 3646, related to administrative provisions.

Section 3014, Pub. L. 105-394, title I, §104, Nov. 13, 1998, 112 Stat. 3648, related to a technical assistance program.

Section 3015, Pub. L. 105-394, title I, §105, Nov. 13, 1998, 112 Stat. 3651, authorized appropriations.

§§ 3031 to 3037. Omitted

CODIFICATION

Sections, comprising subchapter II of this chapter, “National Activities”, were omitted in the general amendment of this chapter by Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1707.

Section 3031, Pub. L. 105-394, title II, §211, Nov. 13, 1998, 112 Stat. 3654, related to small business incentives.

Section 3032, Pub. L. 105-394, title II, §212, Nov. 13, 1998, 112 Stat. 3654, related to technology transfer and universal design.

Section 3033, Pub. L. 105-394, title II, §213, Nov. 13, 1998, 112 Stat. 3655, related to universal design in products and the built environment.

Section 3034, Pub. L. 105-394, title II, §214, Nov. 13, 1998, 112 Stat. 3655, related to assistive technology outreach programs.

Section 3035, Pub. L. 105-394, title II, §215, Nov. 13, 1998, 112 Stat. 3656, related to training pertaining to rehabilitation engineers and technicians.

Section 3036, Pub. L. 105-394, title II, §216, Nov. 13, 1998, 112 Stat. 3656, related to the President’s Committee on Employment of People With Disabilities.

Section 3037, Pub. L. 105-394, title II, §217, Nov. 13, 1998, 112 Stat. 3657, authorized appropriations.

§§ 3051 to 3058. Omitted

CODIFICATION

Sections, comprising subchapter III of this chapter, “Alternative Financing Mechanisms”, were omitted in the general amendment of this chapter by Pub. L. 108-364, §2, Oct. 25, 2004, 118 Stat. 1707.

Section 3051, Pub. L. 105-394, title III, §301, Nov. 13, 1998, 112 Stat. 3657, related to the general authority of the Secretary.

Section 3052, Pub. L. 105-394, title III, §302, Nov. 13, 1998, 112 Stat. 3657, related to the amount of grants.

Section 3053, Pub. L. 105-394, title III, §303, Nov. 13, 1998, 112 Stat. 3658, related to grant applications and procedures.

Section 3054, Pub. L. 105-394, title III, §304, Nov. 13, 1998, 112 Stat. 3659, related to contracts with community-based organizations.

Section 3055, Pub. L. 105-394, title III, §305, Nov. 13, 1998, 112 Stat. 3660, related to grant administration requirements.

Section 3056, Pub. L. 105-394, title III, §306, Nov. 13, 1998, 112 Stat. 3660, related to grant information and technical assistance.

Section 3057, Pub. L. 105-394, title III, §307, Nov. 13, 1998, 112 Stat. 3660, related to annual reports.

Section 3058, Pub. L. 105-394, title III, §308, Nov. 13, 1998, 112 Stat. 3661, authorized appropriations.

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### § 3101. Purposes

The purposes of this Act are the following:

(1) To increase, for individuals in the United States, particularly those individuals with barriers to employment, access to and opportunities for the employment, education, training, and support services they need to succeed in the labor market.

(2) To support the alignment of workforce investment, education, and economic development systems in support of a comprehensive, accessible, and high-quality workforce development system in the United States.

(3) To improve the quality and labor market relevance of workforce investment, education, and economic development efforts to provide America's workers with the skills and credentials necessary to secure and advance in employment with family-sustaining wages and to provide America's employers with the skilled workers the employers need to succeed in a global economy.

(4) To promote improvement in the structure of and delivery of services through the United States workforce development system to better address the employment and skill needs of workers, jobseekers, and employers.

(5) To increase the prosperity of workers and employers in the United States, the economic growth of communities, regions, and States, and the global competitiveness of the United States.

(6) For purposes of parts A and B of subchapter I, to provide workforce investment activities, through statewide and local workforce development systems, that increase the employment, retention, and earnings of participants, and increase attainment of recognized postsecondary credentials by participants, and as a result, improve the quality of the workforce, reduce welfare dependency, increase economic self-sufficiency, meet the skill requirements of employers, and enhance the productivity and competitiveness of the Nation.

(Pub. L. 113–128, § 2, July 22, 2014, 128 Stat. 1428.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§ 2801 et seq.) of this title and chapter 73 (§ 9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

#### EFFECTIVE DATE

Pub. L. 113–128, title V, § 506, July 22, 2014, 128 Stat. 1703, provided that:

“(a) IN GENERAL.—Except as otherwise provided in this Act, this Act [see Tables for classification], including the amendments made by this Act, shall take effect on the first day of the first full program year after the date of enactment of this Act [July 22, 2014].

“(b) APPLICATION DATE FOR WORKFORCE DEVELOPMENT PERFORMANCE ACCOUNTABILITY SYSTEM.—

“(1) IN GENERAL.—Section 136 of the Workforce Investment Act of 1998 (29 U.S.C. 2871), as in effect on the day before the date of enactment of this Act, shall apply in lieu of section 116 of this Act [29 U.S.C. 3141], for the first full program year after the date of enactment of this Act.

“(2) SPECIAL PROVISIONS.—For purposes of the application described in paragraph (1)—

“(A) except as otherwise specified, a reference in section 136 of the Workforce Investment Act of 1998 to a provision in such Act (29 U.S.C. 2801 et seq.), other than to a provision in such section or section 112 of such Act [29 U.S.C. 2822], shall be deemed to refer to the corresponding provision of this Act;

“(B) the terms ‘local area’, ‘local board’, ‘one-stop partner’, and ‘State board’ have the meanings given the terms in section 3 of this Act [29 U.S.C. 3102];

“(C) except as provided in subparagraph (B), terms used in such section 136 shall have the meanings given the terms in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801);

“(D) any agreement negotiated and reached under section 136(c)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(c)(2)) shall remain in effect, until a new agreement is so negotiated and reached, for that first full program year;

“(E) if a State or local area fails to meet levels of performance under subsection (g) or (h), respectively, of section 136 of the Workforce Investment Act of 1998 [29 U.S.C. 2871(g), (h)] during that first full program year, the sanctions provided under such subsection shall apply during the second full program year [probably means beginning July 1, 2016] after the date of enactment of this Act; and

“(F) the Secretary shall use an amount retained, as a result of a reduction in an allotment to a State made under section 136(g)(1)(B) of such Act (29 U.S.C. 2871(g)(1)(B)), to provide technical assistance as described in subsections (f)(1) and (g)(1) of section 116 of this Act [29 U.S.C. 3141(f)(1), (g)(1)], in lieu of incentive grants under section 503 of the Workforce Investment Act of 1998 (20 U.S.C. 9273) as provided in section 136(g)(2) of such Act (29 U.S.C. 2871(g)(2)).

“(c) APPLICATION DATE FOR STATE AND LOCAL PLAN PROVISIONS.—

“(1) IMPLEMENTATION.—Sections 112 and 118 of the Workforce Investment Act of 1998 (29 U.S.C. 2822, 2833), as in effect on the day before the date of enactment of this Act, shall apply to implementation of State and local plans, in lieu of sections 102 and 103, and section 108, respectively, of this Act [29 U.S.C. 3112, 3113, 3123], for the first full program year after the date of enactment of this Act.

“(2) SPECIAL PROVISIONS.—For purposes of the application described in paragraph (1)—

“(A) except as otherwise specified, a reference in section 112 or 118 of the Workforce Investment Act of 1998 to a provision in such Act (29 U.S.C. 2801 et seq.), other than to a provision in or to either such section or to section 136 of such Act, shall be deemed to refer to the corresponding provision of this Act;

“(B) the terms ‘local area’, ‘local board’, ‘one-stop partner’, and ‘State board’ have the meanings given the terms in section 3 of this Act;

“(C) except as provided in subparagraph (B), terms used in such section 112 or 118 shall have the meanings given the terms in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801); and

“(D) section 112(b)(18)(D) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)(18)(D)) shall not apply.

“(3) SUBMISSION.—Sections 102, 103, and 108 of this Act shall apply to plans for the second full program year after the date of enactment, including the development, submission, and approval of such plans during the first full program year after such date.

“(d) DISABILITY PROVISIONS.—Except as otherwise provided in title IV of this Act, title IV [see Tables for classification], and the amendments made by title IV, shall take effect on the date of enactment of this Act.”

[The first full program year after the date of enactment of Pub. L. 113–128, referred to in section 506 of Pub. L. 113–128, set out above, probably begins on July

1, 2015, based on section 189(g)(1)(A) of Pub. L. 113–128, which is classified to section 3249(g)(1)(A) of this title.]

#### SHORT TITLE

Pub. L. 113–128, §1(a), July 22, 2014, 128 Stat. 1425, provided that: “This Act [see Tables for classification] may be cited as the ‘Workforce Innovation and Opportunity Act.’”

Pub. L. 113–128, title II, §201, July 22, 2014, 128 Stat. 1608, provided that: “This title [enacting subchapter II of this chapter] may be cited as the ‘Adult Education and Family Literacy Act.’”

#### § 3102. Definitions

In this Act, and the core program provisions that are not in this Act, except as otherwise expressly provided:

##### (1) Administrative costs

The term “administrative costs” means expenditures incurred by State boards and local boards, direct recipients (including State grant recipients under part B of subchapter I and recipients of awards under parts C and D of subchapter I), local grant recipients, local fiscal agents or local grant subrecipients, and one-stop operators in the performance of administrative functions and in carrying out activities under subchapter I that are not related to the direct provision of workforce investment services (including services to participants and employers). Such costs include both personnel and nonpersonnel costs and both direct and indirect costs.

##### (2) Adult

Except as otherwise specified in section 3172 of this title, the term “adult” means an individual who is age 18 or older.

##### (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 3272 of this title.

##### (4) Area career and technical education school

The term “area career and technical education school” has the meaning given the term in section 2302 of title 20.

##### (5) Basic skills deficient

The term “basic skills deficient” means, with respect to an individual—

(A) who is a youth, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or

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

##### (6) Career and technical education

The term “career and technical education” has the meaning given the term in section 2302 of title 20.

##### (7) Career pathway

The term “career pathway” means a combination of rigorous and high-quality education, training, and other services that—

(A) aligns with the skill needs of industries in the economy of the State or regional economy involved;

(B) prepares an individual to be successful in any of a full range of secondary or post-secondary education options, including apprenticeships registered 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.) (referred to individually in this Act as an “apprenticeship”, except in section 3226 of this title);

(C) includes counseling to support an individual in achieving the individual’s education and career goals;

(D) includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

(E) organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;

(F) enables an individual to attain a secondary school diploma or its recognized equivalent, and at least 1 recognized post-secondary credential; and

(G) helps an individual enter or advance within a specific occupation or occupational cluster.

#### **(8) Career planning**

The term “career planning” 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, education, and career counseling, as appropriate during program participation and after job placement.

#### **(9) 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 1 unit of general local government, the individuals designated under the agreement described in section 3122(c)(1)(B) of this title.

#### **(10) Community-based organization**

The term “community-based organization” means a private nonprofit organization (which may include 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 development.

#### **(11) Competitive integrated employment**

The term “competitive integrated employment” has the meaning given the term in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705), for individuals with disabilities.

#### **(12) Core program**

The term “core programs” means a program authorized under a core program provision.

#### **(13) Core program provision**

The term “core program provision” means—

(A) subparts 2 and 3 of part B of subchapter I (relating to youth workforce investment activities and adult and dislocated worker employment and training activities);

(B) subchapter II (relating to adult education and literacy activities);

(C) sections 1 through 13 of the Wagner-Peyser Act (29 U.S.C. 49 et seq.) (relating to employment services); and

(D) title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 or part C of that title (29 U.S.C. 732, 741) (relating to vocational rehabilitation services).

#### **(14) Customized training**

The term “customized training” means training—

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

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

(C) for which the employer pays—

(i) a significant portion of the cost of training, as determined by the local board involved, taking into account the size of the employer and such other factors as the local board determines to be appropriate, which may include the number of employees participating in training, wage and benefit levels of those employees (at present and anticipated upon completion of the training), relation of the training to the competitiveness of a participant, and other employer-provided training and advancement opportunities; and

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

#### **(15) 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 3151(e) of this title, 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) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

(iii) for purposes of eligibility to receive services other than training services described in section 3174(c)(3) of this title, career services described in section 3174(c)(2)(A)(xii) of this title, or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;

(C) was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters;

(D) is a displaced homemaker; or

(E)(i) is the spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10), and 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 and who meets the criteria described in paragraph (16)(B).

#### **(16) Displaced homemaker**

The term “displaced homemaker” means an individual who has been providing unpaid services to family members in the home and who—

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

(ii) is the dependent spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10) and whose family income is significantly reduced because of a deployment (as defined in section 991(b) of title 10 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, a permanent change of station, or the service-connected (as defined in section 101(16) of title 38) death or disability of the member; and

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

#### **(17) Economic development agency**

The term “economic development agency” includes a local planning or zoning commission or board, a community development agency, or another local agency or institution responsible for regulating, promoting, or assisting in local economic development.

#### **(18) Eligible youth**

Except as provided in parts C and D of subchapter I, the term “eligible youth” means an in-school youth or out-of-school youth.

#### **(19) Employment and training activity**

The term “employment and training activity” means an activity described in section 3174 of this title that is carried out for an adult or dislocated worker.

#### **(20) English language acquisition program**

The term “English language acquisition program” has the meaning given the term in section 3272 of this title.

#### **(21) English language learner**

The term “English language learner” has the meaning given the term in section 3272 of this title.

#### **(22) Governor**

The term “Governor” means the chief executive of a State or an outlying area.

#### **(23) In-demand industry sector or occupation**

##### **(A) In general**

The term “in-demand industry sector or occupation” means—

(i) an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or

(ii) an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate.

##### **(B) Determination**

The determination of whether an industry sector or occupation is in-demand under this paragraph shall be made by the State board or local board, as appropriate, using State and regional business and labor market projections, including the use of labor market information.

#### **(24) Individual with a barrier to employment**

The term “individual with a barrier to employment” means a member of 1 or more of the following populations:

(A) Displaced homemakers.

(B) Low-income individuals.

(C) Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in section 3221 of this title.

(D) Individuals with disabilities, including youth who are individuals with disabilities.

(E) Older individuals.

(F) Ex-offenders.

(G) Homeless individuals (as defined in section 14043e-2(6) of title 42), or homeless children and youths (as defined in section 11434a(2) of title 42).

(H) Youth who are in or have aged out of the foster care system.

(I) Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers.

(J) Eligible migrant and seasonal farmworkers, as defined in section 3222(i) of this title.

(K) 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.).

(L) Single parents (including single pregnant women).

(M) Long-term unemployed individuals.

(N) Such other groups as the Governor involved determines to have barriers to employment.

**(25) Individual with a disability**

**(A) In general**

The term “individual with a disability” means an individual with a disability as defined in section 12102 of title 42.

**(B) Individuals with disabilities**

The term “individuals with disabilities” means more than 1 individual with a disability.

**(26) Industry or sector partnership**

The term “industry or sector partnership” means a workforce collaborative, convened by or acting in partnership with a State board or local board, that—

(A) organizes key stakeholders in an industry cluster into a working group that focuses on the shared goals and human resources needs of the industry cluster and that includes, at the appropriate stage of development of the partnership—

(i) representatives of multiple businesses or other employers in the industry cluster, including small and medium-sized employers when practicable;

(ii) 1 or more representatives of a recognized State labor organization or central labor council, or another labor representative, as appropriate; and

(iii) 1 or more representatives of an institution of higher education with, or another provider of, education or training programs that support the industry cluster; and

(B) may include representatives of—

(i) State or local government;

(ii) State or local economic development agencies;

(iii) State boards or local boards, as appropriate;

(iv) a State workforce agency or other entity providing employment services;

(v) other State or local agencies;

(vi) business or trade associations;

(vii) economic development organizations;

(viii) nonprofit organizations, community-based organizations, or intermediaries;

(ix) philanthropic organizations;

(x) industry associations; and

(xi) other organizations, as determined to be necessary by the members comprising the industry or sector partnership.

**(27) In-school youth**

The term “in-school youth” means a youth described in section 3164(a)(1)(C) of this title.

**(28) Institution of higher education**

The term “institution of higher education” has the meaning given the term in section 1001 of title 20, and subparagraphs (A) and (B) of section 1002(a)(1), of title 20.

**(29) Integrated education and training**

The term “integrated education and training” has the meaning given the term in section 3272 of this title.

**(30) Labor market area**

The term “labor market area” means an economically integrated geographic area within which individuals can reside and find employment within a 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.

**(31) Literacy**

The term “literacy” has the meaning given the term in section 3272 of this title.

**(32) Local area**

The term “local area” means a local workforce investment area designated under section 3121 of this title, subject to sections 3121(c)(3)(A), 3122(c)(4)(B)(i), and 3249(i) of this title.

**(33) Local board**

The term “local board” means a local workforce development board established under section 3122 of this title, subject to section 3122(c)(4)(B)(i) of this title.

**(34) Local educational agency**

The term “local educational agency” has the meaning given the term in section 7801 of title 20.

**(35) Local plan**

The term “local plan” means a plan submitted under section 3123 of this title, subject to section 3121(c)(3)(B) of this title.

**(36) Low-income individual**

**(A) In general**

The term “low-income individual” means an individual who—

(i) receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or State or local income-based public assistance;

(ii) is in a family with total family income that does not exceed the higher of—

(I) the poverty line; or

(II) 70 percent of the lower living standard income level;

(iii) is a homeless individual (as defined in section 14043e-2(6) of title 42), or a homeless child or youth (as defined under section 11434a(2) of title 42);

(iv) 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.);

(v) is a foster child on behalf of whom State or local government payments are made; or

(vi) is an individual with a disability whose own income meets the income requirement of clause (ii), but who is a member of a family whose income does not meet this requirement.

**(B) 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 of Labor based on the most recent lower living family budget issued by the Secretary.

**(37) Nontraditional employment**

The term “nontraditional employment” refers to occupations or fields of work, for which individuals from the gender involved comprise less than 25 percent of the individuals employed in each such occupation or field of work.

**(38) Offender**

The term “offender” means an adult or juvenile—

(A) who is or has been subject to any stage of the criminal justice process, and 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.

**(39) Older individual**

The term “older individual” means an individual age 55 or older.

**(40) One-stop center**

The term “one-stop center” means a site described in section 3151(e)(2) of this title.

**(41) One-stop operator**

The term “one-stop operator” means 1 or more entities designated or certified under section 3151(d) of this title.

**(42) One-stop partner**

The term “one-stop partner” means—

(A) an entity described in section 3151(b)(1) of this title; and

(B) an entity described in section 3151(b)(2) of this title that is participating, with the approval of the local board and chief elected official, in the operation of a one-stop delivery system.

**(43) One-stop partner program**

The term “one-stop partner program” means a program or activities described in section 3151(b) of this title of a one-stop partner.

**(44) On-the-job training**

The term “on-the-job training” means training by an employer that is provided to a paid

participant while engaged in productive work in a job that—

(A) provides knowledge or skills essential to the full and adequate performance of the job;

(B) is made available through a program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, except as provided in section 3174(c)(3)(H) of this title, for the extraordinary costs of providing the training and additional supervision related to the training; and

(C) is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

**(45) Outlying area**

The term “outlying area” means—

(A) American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands; and

(B) the Republic of Palau, except during any period for which the Secretary of Labor and the Secretary of Education determine that a Compact of Free Association is in effect and contains provisions for training and education assistance prohibiting the assistance provided under this Act.

**(46) Out-of-school youth**

The term “out-of-school youth” means a youth described in section 3164(a)(1)(B) of this title.

**(47) Pay-for-performance contract strategy**

The term “pay-for-performance contract strategy” means a procurement strategy that uses pay-for-performance contracts in the provision of training services described in section 3174(c)(3) of this title or activities described in section 3164(c)(2) of this title, and includes—

(A) contracts, each of which shall specify a fixed amount that will be paid to an eligible service provider (which may include a local or national community-based organization or intermediary, community college, or other training provider, that is eligible under section 3152 or 3153 of this title, as appropriate) based on the achievement of specified levels of performance on the primary indicators of performance described in section 3141(b)(2)(A) of this title for target populations as identified by the local board (including individuals with barriers to employment), within a defined timetable, and which may provide for bonus payments to such service provider to expand capacity to provide effective training;

(B) a strategy for independently validating the achievement of the performance described in subparagraph (A); and

(C) a description of how the State or local area will reallocate funds not paid to a provider because the achievement of the performance described in subparagraph (A) did not occur, for further activities related to such a procurement strategy, subject to section 3249(g)(4) of this title.

**(48) Planning region**

The term “planning region” means a region described in subparagraph (B) or (C) of section 3121(a)(2) of this title, subject to section 3122(c)(4)(B)(i) of this title.

**(49) 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 9902(2) of title 42) applicable to a family of the size involved.

**(50) 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.

**(51) Rapid response activity**

The term “rapid response activity” means an activity provided by a State, or by an entity designated by a State, with funds provided by the State under section 3174(a)(1)(A) of this title, in the case of a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation, in order to assist dislocated workers in obtaining reemployment as soon as possible, with services including—

(A) the establishment of onsite contact with employers and employee representatives—

(i) immediately after the State is notified of a current or projected permanent closure or mass layoff; or

(ii) in the case of a disaster, immediately after the State is made aware of mass job dislocation as a result of such disaster;

(B) the provision of information on and access to available employment and training activities;

(C) assistance in establishing a labor-management committee, voluntarily agreed to by labor and management, with the ability to devise and implement a strategy for assessing the employment and training needs of dislocated workers and obtaining services to meet such needs;

(D) the provision of emergency assistance adapted to the particular closure, layoff, or disaster; and

(E) the provision of assistance to the local community in developing a coordinated response and in obtaining access to State economic development assistance.

**(52) Recognized postsecondary credential**

The term “recognized postsecondary credential” means a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the State involved or Federal Government, or an associate or baccalaureate degree.

**(53) Region**

The term “region”, used without further description, means a region identified under section 3121(a) of this title, subject to section 3122(c)(4)(B)(i) of this title and except as provided in section 3121(b)(1)(B)(ii) of this title.

**(54) 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.

**(55) Secondary school**

The term “secondary school” has the meaning given the term in section 7801 of title 20.

**(56) State**

The term “State” means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

**(57) State board**

The term “State board” means a State workforce development board established under section 3111 of this title.

**(58) State plan**

The term “State plan”, used without further description, means a unified State plan under section 3112 of this title or a combined State plan under section 3113 of this title.

**(59) 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 Act.

**(60) Training services**

The term “training services” means services described in section 3174(c)(3) of this title.

**(61) 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, for purposes of this paragraph, 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.

**(62) Unit of general local government**

The term “unit of general local 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.

**(63) Veteran; related definition****(A) Veteran**

The term “veteran” has the meaning given the term in section 101 of title 38.

**(B) Recently separated veteran**

The term “recently separated veteran” means any veteran who applies for participation under this Act within 48 months after the discharge or release from active military, naval, or air service.

**(64) Vocational rehabilitation program**

The term “vocational rehabilitation program” means a program authorized under a provision covered under paragraph (13)(D).

**(65) Workforce development activity**

The term “workforce development activity” means an activity carried out through a workforce development program.

**(66) Workforce development program**

The term “workforce development program” means a program made available through a workforce development system.

**(67) Workforce development system**

The term “workforce development system” means a system that makes available the core programs, the other one-stop partner programs, and any other programs providing employment and training services as identified by a State board or local board.

**(68) Workforce investment activity**

The term “workforce investment activity” means an employment and training activity, and a youth workforce investment activity.

**(69) Workforce preparation activities**

The term “workforce preparation activities” has the meaning given the term in section 3272 of this title.

**(70) Workplace learning advisor**

The term “workplace learning advisor” means an individual employed by an organization who has the knowledge and skills necessary to advise other employees of that organization about the education, skill development, job training, career counseling services, and credentials, including services provided through the workforce development system, required to progress toward career goals of such employees in order to meet employer requirements related to job openings and career advancements that support economic self-sufficiency.

**(71) Youth workforce investment activity**

The term “youth workforce investment activity” means an activity described in section 3164 of this title that is carried out for eligible youth (or as described in section 3164(a)(3)(A) of this title).

(Pub. L. 113–128, § 3, July 22, 2014, 128 Stat. 1429.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The National Apprenticeship Act, referred to in par. (7)(B), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, which is classified generally to chapter 4C (§50 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 50 of this title and Tables.

The Wagner-Peyser Act, referred to in par. (13)(C), is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of this title. Sections 1 to 13 of the Act are classified to sections 49 to 49c, 49d, and 49e to 49f of this title, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

The Rehabilitation Act of 1973, referred to in par. (13)(D), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355. Title I of the Act is classified generally to subchapter I (§720 et seq.) of chapter 16 of this title. Part C of title I of the Act is classified generally to part C (§741) of

subchapter I of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Social Security Act, referred to in pars. (24)(K) and (36)(A)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Title XVI of the Act is classified generally to subchapter XVI (§1381 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Food and Nutrition Act of 2008, referred to in par. (36)(A)(i), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Richard B. Russell National School Lunch Act, referred to in par. (36)(A)(iv), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

EFFECTIVE DATE

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

SUBCHAPTER I—WORKFORCE DEVELOPMENT ACTIVITIES

PART A—SYSTEM ALIGNMENT

SUBPART 1—STATE PROVISIONS

**§ 3111. State workforce development boards**

**(a) In general**

The Governor of a State shall establish a State workforce development board to carry out the functions described in subsection (d).

**(b) Membership**

**(1) In general**

The State board shall include—

- (A) the Governor;
- (B) a member of each chamber of the State legislature (to the extent consistent with State law), appointed by the appropriate presiding officers of such chamber; and
- (C) members appointed by the Governor, of which—

(i) a majority shall be representatives of businesses in the State, who—

(I) are owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority, and who, in addition, may be members of a local board described in section 3122(b)(2)(A)(i) of this title;

(II) represent businesses (including small businesses), or organizations representing businesses described in this subclause, that provide employment opportunities that, at a minimum, include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the State; and

(III) are appointed from among individuals nominated by State business organizations and business trade associations;

(ii) not less than 20 percent shall be representatives of the workforce within the State, who—

(I) shall include representatives of labor organizations, who have been nominated by State labor federations;

(II) shall include a representative, who shall be a member of a labor organization or a training director, from a joint labor-management apprenticeship program, or if no such joint program exists in the State, such a representative of an apprenticeship program in the State;

(III) may include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of individuals with barriers to employment, including organizations that serve veterans or that provide or support competitive, integrated employment for individuals with disabilities; and

(IV) may include representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth; and

(iii) the balance—

(I) shall include representatives of government, who—

(aa) shall include the lead State officials with primary responsibility for the core programs; and

(bb) shall include chief elected officials (collectively representing both cities and counties, where appropriate); and

(II) may include such other representatives and officials as the Governor may designate, such as—

(aa) the State agency officials from agencies that are one-stop partners not specified in subclause (I) (including additional one-stop partners whose programs are covered by the State plan, if any);

(bb) State agency officials responsible for economic development or juvenile justice programs in the State;

(cc) individuals who represent an Indian tribe or tribal organization, as such terms are defined in section 3221(b) of this title; and

(dd) State agency officials responsible for education programs in the State, including chief executive officers of community colleges and other institutions of higher education.

## **(2) Diverse and distinct representation**

The members of the State board shall represent diverse geographic areas of the State, including urban, rural, and suburban areas.

## **(3) No representation of multiple categories**

No person shall serve as a member for more than 1 of—

(A) the category described in paragraph (1)(C)(i); or

(B) 1 category described in a subclause of clause (ii) or (iii) of paragraph (1)(C).

## **(c) Chairperson**

The Governor shall select a chairperson for the State board from among the representatives described in subsection (b)(1)(C)(i).

## **(d) Functions**

The State board shall assist the Governor in—

(1) the development, implementation, and modification of the State plan;

(2) consistent with paragraph (1), the review of statewide policies, of statewide programs, and of recommendations on actions that should be taken by the State to align workforce development programs in the State in a manner that supports a comprehensive and streamlined workforce development system in the State, including the review and provision of comments on the State plans, if any, for programs and activities of one-stop partners that are not core programs;

(3) the development and continuous improvement of the workforce development system in the State, including—

(A) the identification of barriers and means for removing barriers to better coordinate, align, and avoid duplication among the programs and activities carried out through the system;

(B) the development of strategies to support the use of career pathways for the purpose of providing individuals, including low-skilled adults, youth, and individuals with barriers to employment (including individuals with disabilities), with workforce investment activities, education, and supportive services to enter or retain employment;

(C) the development of strategies for providing effective outreach to and improved access for individuals and employers who could benefit from services provided through the workforce development system;

(D) the development and expansion of strategies for meeting the needs of employers, workers, and jobseekers, particularly through industry or sector partnerships related to in-demand industry sectors and occupations;

(E) the identification of regions, including planning regions, for the purposes of section 3121(a) of this title, and the designation of local areas under section 3121 of this title, after consultation with local boards and chief elected officials;

(F) the development and continuous improvement of the one-stop delivery system in local areas, including providing assistance to local boards, one-stop operators, one-stop partners, and providers with planning and delivering services, including training services and supportive services, to support effective delivery of services to workers, jobseekers, and employers; and

(G) the development of strategies to support staff training and awareness across programs supported under the workforce development system;

(4) the development and updating of comprehensive State performance accountability

measures, including State adjusted levels of performance, to assess the effectiveness of the core programs in the State as required under section 3141(b) of this title;

(5) the identification and dissemination of information on best practices, including best practices for—

(A) the effective operation of one-stop centers, relating to the use of business outreach, partnerships, and service delivery strategies, including strategies for serving individuals with barriers to employment;

(B) the development of effective local boards, which may include information on factors that contribute to enabling local boards to exceed negotiated local levels of performance, sustain fiscal integrity, and achieve other measures of effectiveness; and

(C) effective training programs that respond to real-time labor market analysis, that effectively use direct assessment and prior learning assessment to measure an individual's prior knowledge, skills, competencies, and experiences, and that evaluate such skills, and competencies for adaptability, to support efficient placement into employment or career pathways;

(6) the development and review of statewide policies affecting the coordinated provision of services through the State's one-stop delivery system described in section 3151(e) of this title, including the development of—

(A) objective criteria and procedures for use by local boards in assessing the effectiveness and continuous improvement of one-stop centers described in such section;

(B) guidance for the allocation of one-stop center infrastructure funds under section 3151(h) of this title; and

(C) policies relating to the appropriate roles and contributions of entities carrying out one-stop partner programs within the one-stop delivery system, including approaches to facilitating equitable and efficient cost allocation in such system;

(7) the development of strategies for technological improvements to facilitate access to, and improve the quality of, services and activities provided through the one-stop delivery system, including such improvements to—

(A) enhance digital literacy skills (as defined in section 9101 of title 20; referred to in this Act as "digital literacy skills");

(B) accelerate the acquisition of skills and recognized postsecondary credentials by participants;

(C) strengthen the professional development of providers and workforce professionals; and

(D) ensure such technology is accessible to individuals with disabilities and individuals residing in remote areas;

(8) the development of strategies for aligning technology and data systems across one-stop partner programs to enhance service delivery and improve efficiencies in reporting on performance accountability measures (including the design and implementation of common intake, data collection, case management information, and performance accountability meas-

urement and reporting processes and the incorporation of local input into such design and implementation, to improve coordination of services across one-stop partner programs);

(9) the development of allocation formulas for the distribution of funds for employment and training activities for adults, and youth workforce investment activities, to local areas as permitted under sections 3163(b)(3) and 3173(b)(3) of this title;

(10) the preparation of the annual reports described in paragraphs (1) and (2) of section 3141(d) of this title;

(11) the development of the statewide workforce and labor market information system described in section 497-2(e) of this title; and

(12) the development of such other policies as may promote statewide objectives for, and enhance the performance of, the workforce development system in the State.

**(e) Alternative entity**

**(1) In general**

For the purposes of complying with subsections (a), (b), and (c), a State may use any State entity (including a State council, State workforce development board (within the meaning of the Workforce Investment Act of 1998, as in effect on the day before July 22, 2014), combination of regional workforce development boards, or similar entity) that—

(A) was in existence on the day before August 7, 1998;

(B) is substantially similar to the State board described in subsections (a) through (c); and

(C) includes representatives of business in the State and representatives of labor organizations in the State.

**(2) References**

A reference in this Act, or a core program provision that is not in this Act, to a State board shall be considered to include such an entity.

**(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 electronic means and open meetings, information regarding the activities of the State board, including information regarding the State plan, or a modification to the State plan, prior to submission of the plan or modification of the plan, respectively, information regarding membership, and, on request, minutes of formal meetings of the State board.

**(h) Authority to hire staff****(1) In general**

The State board may hire a director and other staff to assist in carrying out the functions described in subsection (d) using funds available as described in section 3164(b)(3) of this title or 3174(a)(3)(B)(i) of this title.

**(2) Qualifications**

The State board shall establish and apply a set of objective qualifications for the position of director, that ensures that the individual selected has the requisite knowledge, skills, and abilities, to meet identified benchmarks and to assist in effectively carrying out the functions of the State board.

**(3) Limitation on rate**

The director and staff described in paragraph (1) shall be subject to the limitations on the payment of salary and bonuses described in section 3254(15) of this title.

(Pub. L. 113-128, title I, §101, July 22, 2014, 128 Stat. 1440.)

## REFERENCES IN TEXT

This Act, referred to in subsecs. (d)(7)(A) and (e)(2), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§ 2801 et seq.) of this title and chapter 73 (§ 9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (e)(1), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113-128, title V, §§ 506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. For complete classification of this Act to the Code, see Tables.

## EFFECTIVE DATE

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

**§ 3112. Unified State plan****(a) Plan**

For a State to be eligible to receive allotments for the core programs, the Governor shall submit to the Secretary of Labor for the approval process described under subsection (c)(2), a unified State plan. The unified State plan shall outline a 4-year strategy for the core programs of the State and meet the requirements of this section.

**(b) Contents****(1) Strategic planning elements**

The unified State plan shall include strategic planning elements consisting of a strategic vision and goals for preparing an educated and skilled workforce, that include—

(A) an analysis of the economic conditions in the State, including—

(i) existing and emerging in-demand industry sectors and occupations; and

(ii) the employment needs of employers, including a description of the knowledge, skills, and abilities, needed in those industries and occupations;

(B) an analysis of the current workforce, employment and unemployment data, labor market trends, and the educational and skill levels of the workforce, including individuals with barriers to employment (including individuals with disabilities), in the State;

(C) an analysis of the workforce development activities (including education and training) in the State, including an analysis of the strengths and weaknesses of such activities, and the capacity of State entities to provide such activities, in order to address the identified education and skill needs of the workforce and the employment needs of employers in the State;

(D) a description of the State's strategic vision and goals for preparing an educated and skilled workforce (including preparing youth and individuals with barriers to employment) and for meeting the skilled workforce needs of employers, including goals relating to performance accountability measures based on primary indicators of performance described in section 3141(b)(2)(A) of this title, in order to support economic growth and economic self-sufficiency, and of how the State will assess the overall effectiveness of the workforce investment system in the State; and

(E) taking into account analyses described in subparagraphs (A) through (C), a strategy for aligning the core programs, as well as other resources available to the State, to achieve the strategic vision and goals described in subparagraph (D).

**(2) Operational planning elements****(A) In general**

The unified State plan shall include the operational planning elements contained in this paragraph, which shall support the strategy described in paragraph (1)(E), including a description of how the State board will implement the functions under section 3111(d) of this title.

**(B) Implementation of State strategy**

The unified State plan shall describe how the lead State agency with responsibility for the administration of a core program will implement the strategy described in paragraph (1)(E), including a description of—

(i) the activities that will be funded by the entities carrying out the respective core programs to implement the strategy and how such activities will be aligned across the programs and among the entities administering the programs, including using co-enrollment and other strategies;

(ii) how the activities described in clause (i) will be aligned with activities provided under employment, training, education, including career and technical education, and human services programs not covered by the plan, as appropriate, assuring coordination of, and avoiding duplication among, the activities referred to in this clause;

(iii) how the entities carrying out the respective core programs will coordinate activities and provide comprehensive, high-

quality services including supportive services, to individuals;

(iv) how the State's strategy will engage the State's community colleges and area career and technical education schools as partners in the workforce development system and enable the State to leverage other Federal, State, and local investments that have enhanced access to workforce development programs at those institutions;

(v) how the activities described in clause (i) will be coordinated with economic development strategies and activities in the State; and

(vi) how the State's strategy will improve access to activities leading to a recognized postsecondary credential (including a credential that is an industry-recognized certificate or certification, portable, and stackable).

### (C) State operating systems and policies

The unified State plan shall describe the State operating systems and policies that will support the implementation of the strategy described in paragraph (1)(E), including a description of—

(i) the State board, including the activities to assist members of the State board and the staff of such board in carrying out the functions of the State board effectively (but funds for such activities may not be used for long-distance travel expenses for training or development activities available locally or regionally);

(ii)(I) how the respective core programs will be assessed each year, including an assessment of the quality, effectiveness, and improvement of programs (analyzed by local area, or by provider), based on State performance accountability measures described in section 3141(b) of this title; and

(II) how other one-stop partner programs will be assessed each year;

(iii) the results of an assessment of the effectiveness of the core programs and other one-stop partner programs during the preceding 2-year period;

(iv) the methods and factors the State will use in distributing funds under the core programs, in accordance with the provisions authorizing such distributions;

(v)(I) how the lead State agencies with responsibility for the administration of the core programs will align and integrate available workforce and education data on core programs, unemployment insurance programs, and education through postsecondary education;

(II) how such agencies will use the workforce development system to assess the progress of participants that are exiting from core programs in entering, persisting in, and completing postsecondary education, or entering or remaining in employment; and

(III) the privacy safeguards incorporated in such system, including safeguards required by section 1232g of title 20 and other applicable Federal laws;

(vi) how the State will implement the priority of service provisions for veterans in accordance with the requirements of section 4215 of title 38;

(vii) how the one-stop delivery system, including one-stop operators and the one-stop partners, will comply with section 3248 of this title, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), regarding the physical and programmatic accessibility of facilities, programs, services, technology, and materials, for individuals with disabilities, including complying through providing staff training and support for addressing the needs of individuals with disabilities; and

(viii) such other operational planning elements as the Secretary of Labor or the Secretary of Education, as appropriate, determines to be necessary for effective State operating systems and policies.

### (D) Program-specific requirements

The unified State plan shall include—

(i) with respect to activities carried out under part B, a description of—

(I) State policies or guidance, for the statewide workforce development system and for use of State funds for workforce investment activities;

(II) the local areas designated in the State, including the process used for designating local areas, and the process used for identifying any planning regions under section 3121(a) of this title, including a description of how the State consulted with the local boards and chief elected officials in determining the planning regions;

(III) the appeals process referred to in section 3121(b)(5) of this title, relating to designation of local areas;

(IV) the appeals process referred to in section 3151(h)(2)(E) of this title, relating to determinations for infrastructure funding; and

(V) with respect to youth workforce investment activities authorized in section 3164 of this title, information identifying the criteria to be used by local boards in awarding grants for youth workforce investment activities and describing how the local boards will take into consideration the ability of the providers to meet performance accountability measures based on primary indicators of performance for the youth program as described in section 3141(b)(2)(A)(ii) of this title in awarding such grants;

(ii) with respect to activities carried out under subchapter II, a description of—

(I) how the eligible agency will, if applicable, align content standards for adult education with State-adopted challenging academic content standards, as adopted under section 6311(b)(1) of title 20;

(II) how the State will fund local activities using considerations specified in section 3321(e) of this title for—

(aa) activities under section 3321(b) of this title;

(bb) programs for corrections education under section 3305 of this title;

(cc) programs for integrated English literacy and civics education under section 3333 of this title; and

(dd) integrated education and training;

(III) how the State will use the funds to carry out activities under section 3303 of this title;

(IV) how the State will use the funds to carry out activities under section 3333 of this title;

(V) how the eligible agency will assess the quality of providers of adult education and literacy activities under subchapter II and take actions to improve such quality, including providing the activities described in section 3303(a)(1)(B) of this title;

(iii) with respect to programs carried out under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 or part C of that title (29 U.S.C. 732, 741), the information described in section 101(a) of that Act (29 U.S.C. 721(a)); and

(iv) information on such additional specific requirements for a program referenced in any of clauses (i) through (iii) or the Wagner-Peyser Act (29 U.S.C. 49 et seq.) as the Secretary of Labor determines to be necessary to administer that program but cannot reasonably be applied across all such programs.

#### **(E) Assurances**

The unified State plan shall include assurances—

(i) that the State has established a policy identifying circumstances that may present a conflict of interest for a State board or local board member, or the entity or class of officials that the member represents, and procedures to resolve such conflicts;

(ii) that the State has established a policy to provide to the public (including individuals with disabilities) access to meetings of State boards and local boards, and information regarding activities of State boards and local boards, such as data on board membership and minutes;

(iii)(I) that the lead State agencies with responsibility for the administration of core programs reviewed and commented on the appropriate operational planning elements of the unified State plan, and approved the elements as serving the needs of the populations served by such programs; and

(II) that the State obtained input into the development of the unified State plan and provided an opportunity for comment on the plan by representatives of local boards and chief elected officials, businesses, labor organizations, institutions of higher education, other primary stake-

holders, and the general public and that the unified State plan is available and accessible to the general public;

(iv) that the State has established, in accordance with section 3141(i) of this title, fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through allotments made for adult, dislocated worker, and youth programs to carry out workforce investment activities under subparts 2 and 3 of part B;

(v) that the State has taken appropriate action to secure compliance with uniform administrative requirements in this Act, including that the State will annually monitor local areas to ensure compliance and otherwise take appropriate action to secure compliance with the uniform administrative requirements under section 3244(a)(3) of this title;

(vi) that the State has taken the appropriate action to be in compliance with section 3248 of this title, if applicable;

(vii) that the Federal funds received to carry out a core program will not be expended for any purpose other than for activities authorized with respect to such funds under that core program;

(viii) that the eligible agency under subchapter II will—

(I) expend the funds appropriated to carry out that subchapter only in a manner consistent with fiscal requirements under section 3331(a) of this title (regarding supplement and not supplant provisions); and

(II) ensure that there is at least 1 eligible provider serving each local area;

(ix) that the State will pay an appropriate share (as defined by the State board) of the costs of carrying out section 3141 of this title, from funds made available through each of the core programs; and

(x) regarding such other matters as the Secretary of Labor or the Secretary of Education, as appropriate, determines to be necessary for the administration of the core programs.

#### **(3) Existing analysis**

As appropriate, a State may use an existing analysis in order to carry out the requirements of paragraph (1) concerning an analysis.

#### **(c) Plan submission and approval**

##### **(1) Submission**

###### **(A) Initial plan**

The initial unified State plan under this section (after July 22, 2014) shall be submitted to the Secretary of Labor not later than 120 days prior to the commencement of the second full program year after July 22, 2014.

###### **(B) Subsequent plans**

Except as provided in subparagraph (A), a unified State plan shall be submitted to the Secretary of Labor not later than 120 days prior to the end of the 4-year period covered by the preceding unified State plan.

**(2) Submission and approval****(A) Submission**

In approving a unified State plan under this section, the Secretary shall submit the portion of the unified State plan covering a program or activity to the head of the Federal agency that administers the program or activity for the approval of such portion by such head.

**(B) Approval**

A unified State plan shall be subject to the approval of both the Secretary of Labor and the Secretary of Education, after approval of the Commissioner of the Rehabilitation Services Administration for the portion of the plan described in subsection (b)(2)(D)(iii). The plan shall be considered to be approved at the end of the 90-day period beginning on the day the plan is submitted, unless the Secretary of Labor or the Secretary of Education makes a written determination, during the 90-day period, that the plan is inconsistent with the provisions of this section or the provisions authorizing the core programs, as appropriate.

**(3) Modifications****(A) Modifications**

At the end of the first 2-year period of any 4-year unified State plan, the State board shall review the unified State plan, and the Governor shall submit modifications to the plan to reflect changes in labor market and economic conditions or in other factors affecting the implementation of the unified State plan.

**(B) Approval**

A modified unified State plan submitted for the review required under subparagraph (A) shall be subject to the approval requirements described in paragraph (2). A Governor may submit a modified unified State plan at such other times as the Governor determines to be appropriate, and such modified unified State plan shall also be subject to the approval requirements described in paragraph (2).

**(4) Early implementers**

The Secretary of Labor, in conjunction with the Secretary of Education, shall establish a process for approving and may approve unified State plans that meet the requirements of this section and are submitted to cover periods commencing prior to the second full program year described in paragraph (1)(A).

(Pub. L. 113-128, title I, §102, July 22, 2014, 128 Stat. 1444.)

## REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(2)(C)(vii), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b)(2)(D)(iii), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355. Title I of the Act is classified generally to subchapter

I (§720 et seq.) of chapter 16 of this title. Part C of title I of the Act is classified generally to part C (§741) of subchapter I of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Wagner-Peyser Act, referred to in subsec. (b)(2)(D)(iv), is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

This Act, referred to in subsec. (b)(2)(E)(v), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

## EFFECTIVE DATE

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

**§ 3113. Combined State plan****(a) In general****(1) Authority to submit plan**

A State may develop and submit to the appropriate Secretaries a combined State plan for the core programs and 1 or more of the programs and activities described in paragraph (2) in lieu of submitting 2 or more plans, for the programs and activities and the core programs.

**(2) Programs**

The programs and activities referred to in paragraph (1) are as follows:

(A) Career and technical education programs authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

(B) Programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(C) Programs authorized under section 2015(d)(4) of title 7.

(D) Work programs authorized under section 2015(o) of title 7.

(E) Activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(F) Activities authorized under chapter 41 of title 38.

(G) Programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(H) Programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(I) Employment and training activities carried out by the Department of Housing and Urban Development.

(J) Employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(K) Programs authorized under section 17532 of title 42.

**(b) Requirements****(1) In general**

The portion of a combined plan covering the core programs shall be subject to the require-

ments of section 3112 of this title (including section 3112(c)(3) of this title). The portion of such plan covering a program or activity described in subsection (a)(2) shall be subject to the requirements, if any, applicable to a plan or application for assistance for that program or activity, under the Federal law authorizing the program or activity. At the election of the State, section 3112(c)(3) of this title may apply to that portion.

**(2) Additional submission not required**

A State that submits a combined plan that is approved under subsection (c) shall not be required to submit any other plan or application in order to receive Federal funds to carry out the core programs or the program or activities described in subsection (a)(2) that are covered by the combined plan.

**(3) Coordination**

A combined plan shall include—

(A) a description of the methods used for joint planning and coordination of the core programs and the other programs and activities covered by the combined plan; and

(B) an assurance that the methods included an opportunity for the entities responsible for planning or administering the core programs and the other programs and activities to review and comment on all portions of the combined plan.

**(c) Approval by the appropriate Secretaries**

**(1) Jurisdiction**

The appropriate Secretary shall have the authority to approve the corresponding portion of a combined plan as described in subsection (d). On the approval of the appropriate Secretary, that portion of the combined plan, covering a program or activity, shall be implemented by the State pursuant to that portion of the combined plan, and the Federal law authorizing the program or activity.

**(2) Approval of core programs**

No portion of the plan relating to a core program shall be implemented until the appropriate Secretary approves the corresponding portions of the plan for all core programs.

**(3) Timing of approval**

**(A) In general**

Except as provided in subparagraphs (B) and (C), a portion of the combined State plan covering the core programs or a program or activity described in subsection (a)(2) shall be considered to be approved by the appropriate Secretary at the end of the 90-day period beginning on the day the plan is submitted.

**(B) Plan approved by 3 or more appropriate Secretaries**

If an appropriate Secretary other than the Secretary of Labor or the Secretary of Education has authority to approve a portion of a combined plan, that portion of the combined plan shall be considered to be approved by the appropriate Secretary at the end of the 120-day period beginning on the day the plan is submitted.

**(C) Disapproval**

The portion shall not be considered to be approved if the appropriate Secretary makes a written determination, during the 90-day period (or the 120-day period, for an appropriate Secretary covered by subparagraph (B)), that the portion is not consistent with the requirements of the Federal law authorizing or applicable to the program or activity involved, including the criteria for approval of a plan or application, if any, under such law, or the plan is not consistent with the requirements of this section.

**(4) Special rule**

In paragraph (3), the term “criteria for approval of a plan or application”, with respect to a State and a core program or a program under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), includes a requirement for agreement between the State and the appropriate Secretaries regarding State performance measures or State performance accountability measures, as the case may be, including levels of performance.

**(d) Appropriate Secretary**

In this section, the term “appropriate Secretary” means—

(1) with respect to the portion of a combined plan relating to any of the core programs (including a description, and an assurance concerning that program, specified in subsection (b)(3)), the Secretary of Labor and the Secretary of Education; and

(2) with respect to the portion of a combined plan relating to a program or activity described in subsection (a)(2) (including a description, and an assurance concerning that program or activity, specified in subsection (b)(3)), the head of the Federal agency who exercises plan or application approval authority for the program or activity under the Federal law authorizing the program or activity, or, if there are no planning or application requirements for such program or activity, exercises administrative authority over the program or activity under that Federal law.

(Pub. L. 113–128, title I, §103, July 22, 2014, 128 Stat. 1450.)

REFERENCES IN TEXT

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsecs. (a)(2)(A) and (c)(4), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Social Security Act, referred to in subsec. (a)(2)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Trade Act of 1974, referred to in subsec. (a)(2)(E), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978. Chapter 2 of title II of the Act is classified generally to part 2 (§2271 et seq.) of subchapter II of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Older Americans Act of 1965, referred to in subsec. (a)(2)(H), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. Title V of the Act, known as the Community Service Senior Opportunities Act, is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Community Services Block Grant Act, referred to in subsec. (a)(2)(J), is subtitle B (§671 et seq.) of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§9901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of Title 42 and Tables.

#### EFFECTIVE DATE

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

#### SUBPART 2—LOCAL PROVISIONS

### § 3121. Workforce development areas

#### (a) Regions

##### (1) Identification

Before the second full program year after July 22, 2014, in order for a State to receive an allotment under section 3162(b) or 3172(b) of this title and as part of the process for developing the State plan, a State shall identify regions in the State after consultation with the local boards and chief elected officials in the local areas and consistent with the considerations described in subsection (b)(1)(B).

##### (2) Types of regions

For purposes of this Act, the State shall identify—

(A) which regions are comprised of 1 local area that is aligned with the region;

(B) which regions are comprised of 2 or more local areas that are (collectively) aligned with the region (referred to as planning regions, consistent with section 3102 of this title); and

(C) which, of the regions described in subparagraph (B), are interstate areas contained within 2 or more States, and consist of labor market areas, economic development areas, or other appropriate contiguous subareas of those States.

#### (b) Local areas

##### (1) In general

###### (A) Process

Except as provided in subsection (d), and consistent with paragraphs (2) and (3), in order for a State to receive an allotment under section 3162(b) or 3172(b) of this title, the Governor of the State shall designate local workforce development areas within the State—

(i) through consultation with the State board; and

(ii) after consultation with chief elected officials and local boards, and after consideration of comments received through the public comment process as described in section 3112(b)(2)(E)(iii)(II) of this title.

#### (B) Considerations

The Governor shall designate local areas (except for those local areas described in paragraphs (2) and (3)) based on considerations consisting of the extent to which the areas—

(i) are consistent with labor market areas in the State;

(ii) are consistent with regional economic development areas in the State; and

(iii) have available the Federal and non-Federal resources necessary to effectively administer activities under part B and other applicable provisions of this Act, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

#### (2) Initial designation

During the first 2 full program years following July 22, 2014, the Governor shall approve a request for initial designation as a local area from any area that was designated as a local area for purposes of the Workforce Investment Act of 1998 for the 2-year period preceding July 22, 2014, performed successfully, and sustained fiscal integrity.

#### (3) Subsequent designation

After the period for which a local area is initially designated under paragraph (2), the Governor shall approve a request for subsequent designation as a local area from such local area, if such area—

(A) performed successfully;

(B) sustained fiscal integrity; and

(C) in the case of a local area in a planning region, met the requirements described in subsection (c)(1).

#### (4) 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 of an area as a local area if the State board determines, based on the considerations described in paragraph (1)(B), and recommends to the Governor, that such area should be so designated.

#### (5) 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) 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 of Labor, 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 appeals process described in the State plan, as specified in section 3112(b)(2)(D)(i)(III) of this title, or that the area meets the requirements of paragraph (2) or (3), may require that the area be designated as a local area under such paragraph.

**(6) Redesignation assistance**

On the request of all of the local areas in a planning region, the State shall provide funding from funds made available under sections 3163(a) and 3173(a)(1) of this title to assist the local areas in carrying out activities to facilitate the redesignation of the local areas to a single local area.

**(c) Regional coordination****(1) Regional planning**

The local boards and chief elected officials in each planning region described in subparagraph (B) or (C) of subsection (a)(2) shall engage in a regional planning process that results in—

(A) the preparation of a regional plan, as described in paragraph (2);

(B) the establishment of regional service strategies, including use of cooperative service delivery agreements;

(C) the development and implementation of sector initiatives for in-demand industry sectors or occupations for the region;

(D) the collection and analysis of regional labor market data (in conjunction with the State);

(E) the establishment of administrative cost arrangements, including the pooling of funds for administrative costs, as appropriate, for the region;

(F) the coordination of transportation and other supportive services, as appropriate, for the region;

(G) the coordination of services with regional economic development services and providers; and

(H) the establishment of an agreement concerning how the planning region will collectively negotiate and reach agreement with Governor<sup>1</sup> on local levels of performance for, and report on, the performance accountability measures described in section 3141(c) of this title, for local areas or the planning region.

**(2) Regional plans**

The State, after consultation with local boards and chief elected officials for the planning regions, shall require the local boards and chief elected officials within a planning region to prepare, submit, and obtain approval of a single regional plan that includes a description of the activities described in paragraph (1) and that incorporates local plans for each of the local areas in the planning region. The State shall provide technical assistance and labor market data, as requested by local areas, to assist with such regional planning and subsequent service delivery efforts.

**(3) References**

In this Act, and the core program provisions that are not in this Act:

**(A) Local area**

Except as provided in section 3111(d)(9) of this title, this section, paragraph (1)(B) or (4) of section 3122(c) of this title, or section 3122(d)(12)(B) of this title, or in any text that

provides an accompanying provision specifically for a planning region, the term “local area” in a provision includes a reference to a planning region for purposes of implementation of that provision by the corresponding local areas in the region.

**(B) Local plan**

Except as provided in this subsection, the term “local plan” includes a reference to the portion of a regional plan developed with respect to the corresponding local area within the region, and any regionwide provision of that plan that impacts or relates to the local area.

**(d) Single State local areas****(1) Continuation of previous designation**

The Governor of any State that was a single State local area for purposes of title I of the Workforce Investment Act of 1998, as in effect on July 1, 2013, may designate the State as a single State local area for purposes of this subchapter. In the case of such designation, the Governor shall identify the State as a local area in the State plan.

**(2) Effect on local plan and local functions**

In any case in which a State is designated as a local area pursuant to this subsection, the local plan prepared under section 3123 of this title for the area shall be submitted for approval as part of the State plan. In such a State, the State board shall carry out the functions of a local board, as specified in this Act or the provisions authorizing a core program, but the State shall not be required to meet and report on a set of local performance accountability measures.

**(e) Definitions**

For purposes of this section:

**(1) Performed successfully**

The term “performed successfully”, used with respect to a local area, means the local area met or exceeded the adjusted levels of performance for primary indicators of performance described in section 3141(b)(2)(A) of this title (or, if applicable, core indicators of performance described in section 136(b)(2)(A) of the Workforce Investment Act of 1998 [29 U.S.C. 2871(b)(2)(A)], as in effect the day before July 22, 2014) for each of the last 2 consecutive years for which data are available preceding the determination of performance under this paragraph.

**(2) Sustained fiscal integrity**

The term “sustained fiscal integrity”, used with respect to a local area, means that the Secretary has not made a formal determination, during either of the last 2 consecutive years preceding the determination regarding such integrity, that either the grant recipient or the administrative entity of the area misexpended funds provided under part B (or, if applicable, title I of the Workforce Investment Act of 1998 as in effect prior to the effective date of such part B) due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration.

<sup>1</sup> So in original.

(Pub. L. 113-128, title I, §106, July 22, 2014, 128 Stat. 1452.)

#### REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(2), (b)(1)(B)(iii), (c)(3), and (d)(2), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsecs. (b)(2), (d)(1), and (e)(2), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113-128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Title I of the Act was classified principally to chapter 30 (§2801 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

The effective date of such part B, referred to in subsec. (e)(2), is the first day of the first full program year after July 22, 2014 [probably July 1, 2015], see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of this title.

#### EFFECTIVE DATE

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

### § 3122. Local workforce development boards

#### (a) Establishment

Except as provided in subsection (c)(2)(A), there shall be established, and certified by the Governor of the State, a local workforce development board in each local area of a State to carry out the functions described in subsection (d) (and any functions specified for the local board under this Act or the provisions establishing a core program) for such area.

#### (b) Membership

##### (1) State criteria

The Governor, 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 that, at a minimum—

(A) a majority of the members of each local board shall be representatives of business in the local area, who—

(i) are owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority;

(ii) represent businesses, including small businesses, or organizations representing businesses described in this clause, that provide employment opportunities that, at a minimum, include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the local area; and

(iii) are appointed from among individuals nominated by local business organizations and business trade associations;

(B) not less than 20 percent of the members of each local board shall be representatives of the workforce within the local area, who—

(i) shall include representatives of labor organizations (for a local area in which employees are represented by labor organizations), who have been nominated by local labor federations, or (for a local area in which no employees are represented by such organizations) other representatives of employees;

(ii) shall include a representative, who shall be a member of a labor organization or a training director, from a joint labor-management apprenticeship program, or if no such joint program exists in the area, such a representative of an apprenticeship program in the area, if such a program exists;

(iii) may include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including organizations that serve veterans or that provide or support competitive integrated employment for individuals with disabilities; and

(iv) may include representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth;

(C) each local board shall include representatives of entities administering education and training activities in the local area, who—

(i) shall include a representative of eligible providers administering adult education and literacy activities under subchapter II;

(ii) shall include a representative of institutions of higher education providing workforce investment activities (including community colleges);

(iii) may include representatives of local educational agencies, and of community-based organizations with demonstrated experience and expertise in addressing the education or training needs of individuals with barriers to employment;

(D) each local board shall include representatives of governmental and economic and community development entities serving the local area, who—

(i) shall include a representative of economic and community development entities;

(ii) shall include an appropriate representative from the State employment service office under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) serving the local area;

(iii) shall include an appropriate representative of the programs carried out under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 or part C of that title (29 U.S.C. 732, 741), serving the local area;

(iv) may include representatives of agencies or entities administering programs serving the local area relating to transportation, housing, and public assistance; and

(v) may include representatives of philanthropic organizations serving the local area; and

(E) each local board may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

**(3) Chairperson**

The members of the local board shall elect a chairperson for the local board from among the representatives described in paragraph (2)(A).

**(4) Standing committees**

**(A) In general**

The local board may designate and direct the activities of standing committees to provide information and to assist the local board in carrying out activities under this section. Such standing committees shall be chaired by a member of the local board, may include other members of the local board, and shall include other individuals appointed by the local board who are not members of the local board and who the local board determines have appropriate experience and expertise. At a minimum, the local board may designate each of the following:

(i) A standing committee to provide information and assist with operational and other issues relating to the one-stop delivery system, which may include as members representatives of the one-stop partners.

(ii) A standing committee to provide information and to assist with planning, operational, and other issues relating to the provision of services to youth, which shall include community-based organizations with a demonstrated record of success in serving eligible youth.

(iii) A standing committee to provide information and to assist with operational and other issues relating to the provision of services to individuals with disabilities, including issues relating to compliance with section 3248 of this title, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding providing programmatic and physical access to the services, programs, and activities of the one-stop delivery system, as well as appropriate training for staff on providing supports for or accommodations to, and finding employment opportunities for, individuals with disabilities.

**(B) Additional committees**

The local board may designate standing committees in addition to the standing committees specified in subparagraph (A).

**(C) Designation of entity**

Nothing in this paragraph shall be construed to prohibit the designation of an existing (as of July 22, 2014) entity, such as an

effective youth council, to fulfill the requirements of this paragraph as long as the entity meets the requirements of this paragraph.

**(5) Authority 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 geographic areas within the local area.

**(6) Special rule**

If there are multiple eligible providers serving the local area by administering adult education and literacy activities under subchapter II, or multiple institutions of higher education serving the local area by providing workforce investment activities, each representative on the local board described in clause (i) or (ii) of paragraph (2)(C), respectively, shall be appointed from among individuals nominated by local providers representing such providers or institutions, respectively.

**(c) Appointment and certification of board**

**(1) Appointment of board members and assignment of responsibilities**

**(A) In general**

The chief elected official in a local area is authorized to appoint the members of the local board for such area, in accordance with the State criteria established under subsection (b).

**(B) Multiple units of local government in area**

**(i) In general**

In a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials—

(I) in the appointment of the members of the local board from the individuals nominated or recommended to be such members in accordance with the criteria established under subsection (b); and

(II) in carrying out any other responsibilities assigned to such officials under this subchapter.

**(ii) Lack of agreement**

If, after a reasonable effort, the chief elected officials are unable to reach agreement as provided under clause (i), the Governor may appoint the members of the local board from individuals so nominated or recommended.

**(C) Concentrated employment programs**

In the case of an area that was designated as a local area in accordance with section 2831(a)(2)(B) of this title (as in effect on the day before July 22, 2014), and that remains a local area on that date, the governing body of the concentrated employment program involved shall act in consultation with the chief elected official in the local area to ap-

point 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.

**(2) Certification**

**(A) In general**

The Governor shall, once every 2 years, certify 1 local board for each local area in the State.

**(B) Criteria**

Such certification shall be based on criteria established under subsection (b), and for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the corresponding performance accountability measures and achieve sustained fiscal integrity, as defined in section 3121(e)(2) of this title.

**(C) Failure to achieve certification**

Failure of a local board to achieve certification shall result in appointment and certification of a new local board for the local area pursuant to the process described in paragraph (1) and this paragraph.

**(3) Decertification**

**(A) Fraud, abuse, failure to carry out functions**

Notwithstanding paragraph (2), the Governor shall have the authority to decertify a local board at any time after providing notice and an opportunity for comment, for—

- (i) fraud or abuse; or
- (ii) failure to carry out the functions specified for the local board in subsection (d).

**(B) Nonperformance**

Notwithstanding paragraph (2), the Governor may decertify a local board if a local area fails to meet the local performance accountability measures for such local area in accordance with section 3141(c) of this title for 2 consecutive program years.

**(C) Reorganization plan**

If the Governor decertifies a local board for a local area under subparagraph (A) or (B), the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official in the local area and in accordance with the criteria established under subsection (b).

**(4) Single State local area**

**(A) State board**

Notwithstanding subsection (b) and paragraphs (1) and (2), if a State described in section 3121(d) of this title indicates in the State plan that the State will be treated as a single State local area, for purposes of the application of this Act or the provisions authorizing a core program, the State board

shall carry out any of the functions of a local board under this Act or the provisions authorizing a core program, including the functions described in subsection (d).

**(B) References**

**(i) In general**

Except as provided in clauses (ii) and (iii), with respect to such a State, a reference in this Act or a core program provision to a local board shall be considered to be a reference to the State board, and a reference in the Act or provision to a local area or region shall be considered to be a reference to the State.

**(ii) Plans**

The State board shall prepare a local plan under section 3123 of this title for the State, and submit the plan for approval as part of the State plan.

**(iii) Performance accountability measures**

The State shall not be required to meet and report on a set of local performance accountability measures.

**(d) Functions of local board**

Consistent with section 3123 of this title, the functions of the local board shall include the following:

**(1) Local plan**

The local board, in partnership with the chief elected official for the local area involved, shall develop and submit a local plan to the Governor that meets the requirements in section 3123 of this title. If the local area is part of a planning region that includes other local areas, the local board shall collaborate with the other local boards and chief elected officials from such other local areas in the preparation and submission of a regional plan as described in section 3121(c)(2) of this title.

**(2) Workforce research and regional labor market analysis**

In order to assist in the development and implementation of the local plan, the local board shall—

(A) carry out analyses of the economic conditions in the region, the needed knowledge and skills for the region, the workforce in the region, and workforce development activities (including education and training) in the region described in section 3123(b)(1)(D) of this title, and regularly update such information;

(B) assist the Governor in developing the statewide workforce and labor market information system described in section 15(e) of the Wagner-Peyser Act (29 U.S.C. 491-2(e)), specifically in the collection, analysis, and utilization of workforce and labor market information for the region; and

(C) conduct such other research, data collection, and analysis related to the workforce needs of the regional economy as the board, after receiving input from a wide array of stakeholders, determines to be necessary to carry out its functions.

**(3) Convening, brokering, leveraging**

The local board shall convene local workforce development system stakeholders to as-

sist in the development of the local plan under section 3123 of this title and in identifying non-Federal expertise and resources to leverage support for workforce development activities. The local board, including standing committees, may engage such stakeholders in carrying out the functions described in this subsection.

**(4) Employer engagement**

The local board shall lead efforts to engage with a diverse range of employers and with entities in the region involved—

(A) to promote business representation (particularly representatives with optimal policymaking or hiring authority from employers whose employment opportunities reflect existing and emerging employment opportunities in the region) on the local board;

(B) to develop effective linkages (including the use of intermediaries) with employers in the region to support employer utilization of the local workforce development system and to support local workforce investment activities;

(C) to ensure that workforce investment activities meet the needs of employers and support economic growth in the region, by enhancing communication, coordination, and collaboration among employers, economic development entities, and service providers; and

(D) to develop and implement proven or promising strategies for meeting the employment and skill needs of workers and employers (such as the establishment of industry and sector partnerships), that provide the skilled workforce needed by employers in the region, and that expand employment and career advancement opportunities for workforce development system participants in in-demand industry sectors or occupations.

**(5) Career pathways development**

The local board, with representatives of secondary and postsecondary education programs, shall lead efforts in the local area to develop and implement career pathways within the local area by aligning the employment, training, education, and supportive services that are needed by adults and youth, particularly individuals with barriers to employment.

**(6) Proven and promising practices**

The local board shall lead efforts in the local area to—

(A) identify and promote proven and promising strategies and initiatives for meeting the needs of employers, and workers and jobseekers (including individuals with barriers to employment) in the local workforce development system, including providing physical and programmatic accessibility, in accordance with section 3248 of this title, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), to the one-stop delivery system; and

(B) identify and disseminate information on proven and promising practices carried out in other local areas for meeting such needs.

**(7) Technology**

The local board shall develop strategies for using technology to maximize the accessibility and effectiveness of the local workforce development system for employers, and workers and jobseekers, by—

(A) facilitating connections among the intake and case management information systems of the one-stop partner programs to support a comprehensive workforce development system in the local area;

(B) facilitating access to services provided through the one-stop delivery system involved, including facilitating the access in remote areas;

(C) identifying strategies for better meeting the needs of individuals with barriers to employment, including strategies that augment traditional service delivery, and increase access to services and programs of the one-stop delivery system, such as improving digital literacy skills; and

(D) leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals with barriers to employment.

**(8) Program oversight**

The local board, in partnership with the chief elected official for the local area, shall—

(A)(i) conduct oversight for local youth workforce investment activities authorized under section 3164(c) of this title, local employment and training activities authorized under subsections (c) and (d) of section 3174 of this title, and the one-stop delivery system in the local area; and

(ii) ensure the appropriate use and management of the funds provided under part B for the activities and system described in clause (i); and

(B) for workforce development activities, ensure the appropriate use, management, and investment of funds to maximize performance outcomes under section 3141 of this title.

**(9) Negotiation of local performance accountability measures**

The local board, the chief elected official, and the Governor shall negotiate and reach agreement on local performance accountability measures as described in section 3141(c) of this title.

**(10) Selection of operators and providers**

**(A) Selection of one-stop operators**

Consistent with section 3151(d) of this title, the local board, with the agreement of the chief elected official for the local area—

(i) shall designate or certify one-stop operators as described in section 3151(d)(2)(A) of this title; and

(ii) may terminate for cause the eligibility of such operators.

**(B) Selection of youth providers**

Consistent with section 3153 of this title, the local board—

(i) shall identify eligible providers of youth workforce investment activities in

the local area by awarding grants or contracts on a competitive basis (except as provided in section 3153(b) of this title), based on the recommendations of the youth standing committee, if such a committee is established for the local area under subsection (b)(4); and

(ii) may terminate for cause the eligibility of such providers.

**(C) Identification of eligible providers of training services**

Consistent with section 3152 of this title, the local board shall identify eligible providers of training services in the local area.

**(D) Identification of eligible providers of career services**

If the one-stop operator does not provide career services described in section 3174(c)(2) of this title in a local area, the local board shall identify eligible providers of those career services in the local area by awarding contracts.

**(E) Consumer choice requirements**

Consistent with section 3152 of this title and paragraphs (2) and (3) of section 3174(c) of this title, the local board shall work with the State to ensure there are sufficient numbers and types of providers of career services and training services (including eligible providers with expertise in assisting individuals with disabilities and eligible providers with expertise in assisting adults in need of adult education and literacy activities) serving the local area and providing the services involved in a manner that maximizes consumer choice, as well as providing opportunities that lead to competitive integrated employment for individuals with disabilities.

**(11) Coordination with education providers**

**(A) In general**

The local board shall coordinate activities with education and training providers in the local area, including providers of workforce investment activities, providers of adult education and literacy activities under subchapter II, providers of career and technical education (as defined in section 2302 of title 20) and local agencies administering plans under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 or part C of that title (29 U.S.C. 732, 741).

**(B) Applications and agreements**

The coordination described in subparagraph (A) shall include—

(i) consistent with section 3322 of this title—

(I) reviewing the applications to provide adult education and literacy activities under subchapter II for the local area, submitted under such section to the eligible agency by eligible providers, to determine whether such applications are consistent with the local plan; and

(II) making recommendations to the eligible agency to promote alignment with such plan; and

(ii) replicating cooperative agreements in accordance with subparagraph (B) of section 101(a)(11) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)[(B)]), and implementing cooperative agreements in accordance with that section with the local agencies administering plans under title I of that Act (29 U.S.C. 720 et seq.) (other than section 112 or part C of that title (29 U.S.C. 732, 741) and subject to section 3151(f) of this title), with respect to efforts that will enhance the provision of services to individuals with disabilities and other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other efforts at cooperation, collaboration, and coordination.

**(C) Cooperative agreement**

In this paragraph, the term “cooperative agreement” means an agreement entered into by a State designated agency or State designated unit under subparagraph (A) of section 101(a)(11) of the Rehabilitation Act of 1973 [29 U.S.C. 721(a)(11)(A)].

**(12) Budget and administration**

**(A) Budget**

The local board shall develop a budget for the activities of the local board in the local area, consistent with the local plan and the duties of the local board under this section, subject to the approval of the chief elected official.

**(B) Administration**

**(i) Grant recipient**

**(I) In general**

The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area under sections 3163 and 3173 of this title, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear such liability.

**(II) Designation**

In order to assist in administration of the grant funds, the chief elected official or the Governor, where the Governor serves as the local grant recipient for a local area, may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent. Such designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds as described in subclause (I).

**(III) Disbursal**

The local grant recipient or an entity designated under subclause (II) shall disburse the grant funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this subchapter. The local grant recipient or entity designated under subclause (II) shall disburse the funds immediately on receiving such direction from the local board.

**(ii) Grants and donations**

The local board may solicit and accept grants and donations from sources other than Federal funds made available under this Act.

**(iii) Tax-exempt status**

For purposes of carrying out duties under this Act, local boards may incorporate, and may operate as entities described in section 501(c)(3) of title 26 that are exempt from taxation under section 501(a) of such title.

**(13) Accessibility for individuals with disabilities**

The local board shall annually assess the physical and programmatic accessibility, in accordance with section 3248 of this title, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), of all one-stop centers in the local area.

**(e) Sunshine provision**

The local board shall make available to the public, on a regular basis through electronic means and open meetings, information regarding the activities of the local board, including information regarding the local plan prior to submission of the plan, and regarding membership, the designation and certification of one-stop operators, and the award of grants or contracts to eligible providers of youth workforce investment activities, and on request, minutes of formal meetings of the local board.

**(f) Staff****(1) In general**

The local board may hire a director and other staff to assist in carrying out the functions described in subsection (d) using funds available under sections 3163(b) and 3173(b) of this title as described in section 3163(b)(4) of this title.

**(2) Qualifications**

The local board shall establish and apply a set of objective qualifications for the position of director, that ensures that the individual selected has the requisite knowledge, skills, and abilities, to meet identified benchmarks and to assist in effectively carrying out the functions of the local board.

**(3) Limitation on rate**

The director and staff described in paragraph (1) shall be subject to the limitations on the payment of salaries and bonuses described in section 3254(15) of this title.

**(g) Limitations****(1) Training services****(A) In general**

Except as provided in subparagraph (B), no local board may provide training services.

**(B) Waivers of training prohibition**

The Governor of the State in which a local board is located may, pursuant to a request from the local board, grant a written waiver of the prohibition set forth in subparagraph

(A) (relating to the provision of training services) for a program of training services, if the local board—

(i) submits to the Governor a proposed request for the waiver that includes—

(I) satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area;

(II) information demonstrating that the board meets the requirements for an eligible provider of training services under section 3152 of this title; and

(III) information demonstrating that the program of training services prepares participants for an in-demand industry sector or occupation in the local area;

(ii) makes the proposed request available to eligible providers of training services and other interested members of the public for a public comment period of not less than 30 days; and

(iii) includes, in the final request for the waiver, the evidence and information described in clause (i) and the comments received pursuant to clause (ii).

**(C) Duration**

A waiver granted to a local board under subparagraph (B) shall apply for a period that shall not exceed the duration of the local plan. The waiver may be renewed for additional periods under subsequent local plans, not to exceed the durations of such subsequent plans, pursuant to requests from the local board, if the board meets the requirements of subparagraph (B) in making the requests.

**(D) Revocation**

The Governor shall have the authority to revoke the waiver during the appropriate period described in subparagraph (C) if the Governor determines the waiver is no longer needed or that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.

**(2) Career services; designation or certification as one-stop operators**

A local board may provide career services described in section 3174(c)(2) of this title through a one-stop delivery system or be designated or certified as a one-stop operator only with the agreement of the chief elected official in the local area and the Governor.

**(3) Limitation on authority**

Nothing in this Act shall be construed to provide a local board with the authority to mandate curricula for schools.

**(h) Conflict of interest**

A member of a local board, or a member of a standing committee, may not—

(1) vote on a matter under consideration by the local 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.

**(i) Alternative entity**

**(1) In general**

For purposes of complying with subsections (a), (b), and (c), 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) was in existence on the day before July 22, 2014, pursuant to State law; and

(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**

A reference in this Act or a core program provision to a local board, shall include a reference to such an entity.

(Pub. L. 113–128, title I, §107, July 22, 2014, 128 Stat. 1456.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (c)(1)(C), (4)(A), (B)(i), (d)(12)(B)(ii), (iii), (g)(3), and (i)(2), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Wagner-Peyser Act, referred to in subsec. (b)(2)(D)(ii), is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsecs. (b)(2)(D)(iii) and (d)(11)(A), (B)(ii), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355. Title I of the Act is classified generally to subchapter I (§720 et seq.) of chapter 16 of this title. Part C of title I of the Act is classified generally to part C (§741) of subchapter I of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in subsecs. (b)(4)(A)(iii) and (d)(6)(A), (13), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 [probably July 1, 2015], see

section 506 of Pub. L. 113–128, set out as a note under section 3101 of this title.

**§ 3123. Local plan**

**(a) In general**

Each local board shall develop and submit to the Governor a comprehensive 4-year local plan, in partnership with the chief elected official. The local plan shall support the strategy described in the State plan in accordance with section 3112(b)(1)(E) of this title, and otherwise be consistent with the State plan. If the local area is part of a planning region, the local board shall comply with section 3121(c) of this title in the preparation and submission of a regional plan. At the end of the first 2-year period of the 4-year local plan, each local board shall review the local plan and the local board, in partnership with the chief elected official, shall prepare and submit modifications to the local plan to reflect changes in labor market and economic conditions or in other factors affecting the implementation of the local plan.

**(b) Contents**

The local plan shall include—

(1) a description of the strategic planning elements consisting of—

(A) an analysis of the regional economic conditions including—

(i) existing and emerging in-demand industry sectors and occupations; and

(ii) the employment needs of employers in those industry sectors and occupations;

(B) an analysis of the knowledge and skills needed to meet the employment needs of the employers in the region, including employment needs in in-demand industry sectors and occupations;

(C) an analysis of the workforce in the region, including current labor force employment (and unemployment) data, and information on labor market trends, and the educational and skill levels of the workforce in the region, including individuals with barriers to employment;

(D) an analysis of the workforce development activities (including education and training) in the region, including an analysis of the strengths and weaknesses of such services, and the capacity to provide such services, to address the identified education and skill needs of the workforce and the employment needs of employers in the region;

(E) a description of the local board's strategic vision and goals for preparing an educated and skilled workforce (including youth and individuals with barriers to employment), including goals relating to the performance accountability measures based on primary indicators of performance described in section 3141(b)(2)(A) of this title in order to support regional economic growth and economic self-sufficiency; and

(F) taking into account analyses described in subparagraphs (A) through (D), a strategy to work with the entities that carry out the core programs to align resources available to the local area, to achieve the strategic vision and goals described in subparagraph (E);

(2) a description of the workforce development system in the local area that identifies the programs that are included in that system and how the local board will work with the entities carrying out core programs and other workforce development programs to support alignment to provide services, including programs of study authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), that support the strategy identified in the State plan under section 3112(b)(1)(E) of this title;

(3) a description of how the local board, working with the entities carrying out core programs, will expand access to employment, training, education, and supportive services for eligible individuals, particularly eligible individuals with barriers to employment, including how the local board will facilitate the development of career pathways and co-enrollment, as appropriate, in core programs, and improve access to activities leading to a recognized postsecondary credential (including a credential that is an industry-recognized certificate or certification, portable, and stackable);

(4) a description of the strategies and services that will be used in the local area—

(A) in order to—

(i) facilitate engagement of employers, including small employers and employers in in-demand industry sectors and occupations, in workforce development programs;

(ii) support a local workforce development system that meets the needs of businesses in the local area;

(iii) better coordinate workforce development programs and economic development; and

(iv) strengthen linkages between the one-stop delivery system and unemployment insurance programs; and

(B) that may include the implementation of initiatives such as incumbent worker training programs, on-the-job training programs, customized training programs, industry and sector strategies, career pathways initiatives, utilization of effective business intermediaries, and other business services and strategies, designed to meet the needs of employers in the corresponding region in support of the strategy described in paragraph (1)(F);

(5) 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 region in which the local area is located (or planning region), and promote entrepreneurial skills training and microenterprise services;

(6) a description of the one-stop delivery system 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 workers and jobseekers;

(B) a description of how the local board will facilitate access to services provided

through the one-stop delivery system, including in remote areas, through the use of technology and through other means;

(C) a description of how entities within the one-stop delivery system, including one-stop operators and the one-stop partners, will comply with section 3248 of this title, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding the physical and programmatic accessibility of facilities, programs and services, technology, and materials for individuals with disabilities, including providing staff training and support for addressing the needs of individuals with disabilities; and

(D) a description of the roles and resource contributions of the one-stop partners;

(7) a description and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area;

(8) a description of how the local board will coordinate workforce investment activities carried out in the local area with statewide rapid response activities, as described in section 3174(a)(2)(A) of this title;

(9) a description and assessment of the type and availability of youth workforce investment activities in the local area, including activities for youth who are individuals with disabilities, which description and assessment shall include an identification of successful models of such youth workforce investment activities;

(10) a description of how the local board will coordinate education and workforce investment activities carried out in the local area with relevant secondary and postsecondary education programs and activities to coordinate strategies, enhance services, and avoid duplication of services;

(11) a description of how the local board will coordinate workforce investment activities carried out under this subchapter in the local area with the provision of transportation, including public transportation, and other appropriate supportive services in the local area;

(12) a description of plans and strategies for, and assurances concerning, maximizing coordination of services provided by the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and services provided in the local area through the one-stop delivery system, to improve service delivery and avoid duplication of services;

(13) a description of how the local board will coordinate workforce investment activities carried out under this subchapter in the local area with the provision of adult education and literacy activities under subchapter II in the local area, including a description of how the local board will carry out, consistent with subparagraphs (A) and (B)(i) of section 3122(d)(11) of this title and section 3322 of this title, the review of local applications submitted under subchapter II;

(14) a description of the replicated cooperative agreements (as defined in section 3122(d)(11) of this title) between the local board or other local entities described in sec-

tion 101(a)(11)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)(B)) and the local office of a designated State agency or designated State unit administering programs carried out under title I of such Act (29 U.S.C. 720 et seq.) (other than section 112 or part C of that title (29 U.S.C. 732, 741) and subject to section 3151(f) of this title) in accordance with section 101(a)(11) of such Act (29 U.S.C. 721(a)(11)) with respect to efforts that will enhance the provision of services to individuals with disabilities and to other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other efforts at cooperation, collaboration, and coordination;

(15) an identification of the entity responsible for the disbursement of grant funds described in section 3122(d)(12)(B)(i)(III) of this title, as determined by the chief elected official or the Governor under section 3122(d)(12)(B)(i) of this title;

(16) a description of the competitive process to be used to award the subgrants and contracts in the local area for activities carried out under this subchapter;

(17) a description of the local levels of performance negotiated with the Governor and chief elected official pursuant to section 3141(c) of this title, to be used to measure the performance of the local area and to be used by the local board for measuring the performance of the local fiscal agent (where appropriate), eligible providers under part B, and the one-stop delivery system, in the local area;

(18) a description of the actions the local board will take toward becoming or remaining a high-performing board, consistent with the factors developed by the State board pursuant to section 3111(d)(6) of this title;

(19) a description of how training services under subpart 3 of part B will be provided in accordance with section 3174(c)(3)(G) of this title, including, if contracts for the training services will be used, how the use of such contracts will be coordinated with the use of individual training accounts under that subpart and how the local board will ensure informed customer choice in the selection of training programs regardless of how the training services are to be provided;

(20) a description of the process used by the local board, consistent with subsection (d), to provide an opportunity for public comment, including comment by representatives of businesses and comment by representatives of labor organizations, and input into the development of the local plan, prior to submission of the plan;

(21) a description of how one-stop centers are implementing and transitioning to an integrated, technology-enabled intake and case management information system for programs carried out under this Act and programs carried out by one-stop partners; and

(22) such other information as the Governor may require.

#### (c) Existing analysis

As appropriate, a local area may use an existing analysis in order to carry out the require-

ments of subsection (b)(1) concerning an analysis.

#### (d) Process

Prior to the date on which the local board submits a local plan under this section, the local board shall—

(1) make available copies of a proposed local plan to the public through electronic and other means, such as public hearings and local news media;

(2) allow members of the public, including representatives of business, representatives of labor organizations, and representatives of education to submit to the local board comments on the proposed local plan, not later than the end of the 30-day period beginning on the date on which the proposed local plan is made available; and

(3) include with the local plan submitted to the Governor under this section any such comments that represent disagreement with the plan.

#### (e) Plan submission and approval

A local plan submitted to the Governor under this section (including a modification to such a local plan) shall be considered to be approved by the Governor at the end of the 90-day period beginning on the day the Governor receives the plan (including such a modification), unless the Governor makes a written determination during the 90-day period that—

(1) deficiencies in activities carried out under this part or part B have been identified, through audits conducted under section 3244 of this title or otherwise, and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies;

(2) the plan does not comply with the applicable provisions of this Act; or

(3) the plan does not align with the State plan, including failing to provide for alignment of the core programs to support the strategy identified in the State plan in accordance with section 3112(b)(1)(E) of this title.

(Pub. L. 113-128, title I, §108, July 22, 2014, 128 Stat. 1466.)

#### REFERENCES IN TEXT

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (b)(2), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(6)(C), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Wagner-Peyser Act, referred to in subsec. (b)(12), is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b)(14), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355. Title

I of the Act is classified generally to subchapter I (§720 et seq.) of chapter 16 of this title. Part C of title I of the Act is classified generally to part C (§741) of subchapter I of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

This Act, referred to in subsecs. (b)(21) and (e)(2), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

#### EFFECTIVE DATE

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

#### SUBPART 3—BOARD PROVISIONS

### § 3131. Funding of State and local boards

#### (a) State boards

In funding a State board under this part, a State—

(1) shall use funds available as described in section 3164(b)(3) or 3174(a)(3)(B) of this title; and

(2) may use non-Federal funds available to the State that the State determines are appropriate and available for that use.

#### (b) Local boards

In funding a local board under this part, the chief elected official and local board for the local area—

(1) shall use funds available as described in section 3163(b)(4) of this title; and

(2) may use non-Federal funds available to the local area that the chief elected official and local board determine are appropriate and available for that use.

(Pub. L. 113-128, title I, §111, July 22, 2014, 128 Stat. 1471.)

#### EFFECTIVE DATE

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

#### SUBPART 4—PERFORMANCE ACCOUNTABILITY

### § 3141. Performance accountability system

#### (a) Purpose

The purpose of this section is to establish performance accountability measures that apply across the core programs to assess the effectiveness of States and local areas (for core programs described in part B) in achieving positive outcomes for individuals served by those programs.

#### (b) State performance accountability measures

##### (1) In general

For each State, the performance accountability measures for the core programs shall consist of—

(A)(i) the primary indicators of performance described in paragraph (2)(A); and

(ii) the additional indicators of performance (if any) identified by the State under paragraph (2)(B); and

(B) a State adjusted level of performance for each indicator described in subparagraph (A).

#### (2) Indicators of performance

##### (A) Primary indicators of performance

###### (i) In general

The State primary indicators of performance for activities provided under the adult and dislocated worker programs authorized under subpart 3 of part B, the program of adult education and literacy activities authorized under subchapter II, the employment services program authorized under sections 1 through 13 of the Wagner-Peyser Act (29 U.S.C. 49 et seq.) (except that subclauses (IV) and (V) shall not apply to such program), and the program authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 or part C of that title (29 U.S.C. 732, 741), shall consist of—

(I) the percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program;

(II) the percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program;

(III) the median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program;

(IV) the percentage of program participants who obtain a recognized postsecondary credential, or a secondary school diploma or its recognized equivalent (subject to clause (iii)), during participation in or within 1 year after exit from the program;

(V) the percentage of program participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains toward such a credential or employment; and

(VI) the indicators of effectiveness in serving employers established pursuant to clause (iv).

###### (ii) Primary indicators for eligible youth

The primary indicators of performance for the youth program authorized under subpart 2 of part B shall consist of—

(I) the percentage of program participants who are in education or training activities, or in unsubsidized employment, during the second quarter after exit from the program;

(II) the percentage of program participants who are in education or training activities, or in unsubsidized employment, during the fourth quarter after exit from the program; and

(III) the primary indicators of performance described in subclauses (III) through (VI) of subparagraph (A)(i).

###### (iii) Indicator relating to credential

For purposes of clause (i)(IV), or clause (ii)(III) with respect to clause (i)(IV), pro-

gram participants who obtain a secondary school diploma or its recognized equivalent shall be included in the percentage counted as meeting the criterion under such clause only if such participants, in addition to obtaining such diploma or its recognized equivalent, have obtained or retained employment or are in an education or training program leading to a recognized postsecondary credential within 1 year after exit from the program.

**(iv) Indicator for services to employers**

Prior to the commencement of the second full program year after July 22, 2014, for purposes of clauses (i)(VI), or clause (ii)(III) with respect to clause (i)(IV), the Secretary of Labor and the Secretary of Education, after consultation with the representatives described in paragraph (4)(B), shall jointly develop and establish, for purposes of this subparagraph, 1 or more primary indicators of performance that indicate the effectiveness of the core programs in serving employers.

**(B) Additional indicators**

A State may identify in the State plan additional performance accountability indicators.

**(3) Levels of performance**

**(A) State adjusted levels of performance for primary indicators**

**(i) In general**

For each State submitting a State plan, there shall be established, in accordance with this subparagraph, levels of performance for each of the corresponding primary indicators of performance described in paragraph (2) for each of the programs described in clause (ii).

**(ii) Included programs**

The programs included under clause (i) are—

(I) the youth program authorized under subpart 2 of part B;

(II) the adult program authorized under subpart 3 of part B;

(III) the dislocated worker program authorized under subpart 3 of part B;

(IV) the program of adult education and literacy activities authorized under subchapter II;

(V) the employment services program authorized under sections 1 through 13 of the Wagner-Peyser Act (29 U.S.C. 49 et seq.); and

(VI) the program authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 or part C of that title (29 U.S.C. 732, 741).

**(iii) Identification in State plan**

Each State shall identify, in the State plan, expected levels of performance for each of the corresponding primary indicators of performance for each of the programs described in clause (ii) for the first 2 program years covered by the State plan.

**(iv) Agreement on State adjusted levels of performance**

**(I) First 2 years**

The State shall reach agreement with the Secretary of Labor, in conjunction with the Secretary of Education on levels of performance for each indicator described in clause (iii) for each of the programs described in clause (ii) for each of the first 2 program years covered by the State plan. In reaching the agreement, the State and the Secretary of Labor in conjunction with the Secretary of Education shall take into account the levels identified in the State plan under clause (iii) and the factors described in clause (v). The levels agreed to shall be considered to be the State adjusted levels of performance for the State for such program years and shall be incorporated into the State plan prior to the approval of such plan.

**(II) Third and fourth year**

The State and the Secretary of Labor, in conjunction with the Secretary of Education, shall reach agreement, prior to the third program year covered by the State plan, on levels of performance for each indicator described in clause (iii) for each of the programs described in clause (ii) for each of the third and fourth program years covered by the State plan. In reaching the agreement, the State and Secretary of Labor, in conjunction with the Secretary of Education, shall take into account the factors described in clause (v). The levels agreed to shall be considered to be the State adjusted levels of performance for the State for such program years and shall be incorporated into the State plan as a modification to the plan.

**(v) Factors**

In reaching the agreements described in clause (iv), the State and Secretaries shall—

(I) take into account how the levels involved compare with the State adjusted levels of performance established for other States;

(II) ensure that the levels involved are adjusted, using the objective statistical model established by the Secretaries pursuant to clause (viii), based on—

(aa) the differences among States in actual economic conditions (including differences in unemployment rates and job losses or gains in particular industries); and

(bb) the characteristics of participants when the participants entered the program involved, including indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, dislocation from high-wage and high-benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency;

(III) take into account the extent to which the levels involved promote continuous improvement in performance accountability on the performance accountability measures by such State and ensure optimal return on the investment of Federal funds; and

(IV) take into account the extent to which the levels involved will assist the State in meeting the goals described in clause (vi).

**(vi) Goals**

In order to promote enhanced performance outcomes and to facilitate the process of reaching agreements with the States under clause (iv), the Secretary of Labor, in conjunction with the Secretary of Education, shall establish performance goals for the core programs, in accordance with the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285) and the amendments made by that Act, and in consultation with States and other appropriate parties. Such goals shall be long-term goals for the adjusted levels of performance to be achieved by each of the programs described in clause (ii) regarding the corresponding primary indicators of performance described in paragraph (2)(A).

**(vii) Revisions based on economic conditions and individuals served during the program year**

The Secretary of Labor, in conjunction with the Secretary of Education, shall, in accordance with the objective statistical model developed pursuant to clause (viii), revise the State adjusted levels of performance applicable for each of the programs described in clause (ii), for a program year and a State, to reflect the actual economic conditions and characteristics of participants (as described in clause (v)(II)) in that program during such program year in such State.

**(viii) Statistical adjustment model**

The Secretary of Labor and the Secretary of Education, after consultation with the representatives described in paragraph (4)(B), shall develop and disseminate an objective statistical model that will be used to make the adjustments in the State adjusted levels of performance for actual economic conditions and characteristics of participants under clauses (v) and (vii).

**(B) Levels of performance for additional indicators**

The State may identify, in the State plan, State levels of performance for each of the additional indicators identified under paragraph (2)(B). Such levels shall be considered to be State adjusted levels of performance for purposes of this section.

**(4) Definitions of indicators of performance**

**(A) In general**

In order to ensure nationwide comparability of performance data, the Secretary of

Labor and the Secretary of Education, after consultation with representatives described in subparagraph (B), shall issue definitions for the indicators described in paragraph (2).

**(B) Representatives**

The representatives referred to in subparagraph (A) are representatives of States and political subdivisions, business and industry, employees, eligible providers of activities carried out through the core programs, educators, researchers, participants, the lead State agency officials with responsibility for the programs carried out through the core programs, individuals with expertise in serving individuals with barriers to employment, and other interested parties.

**(c) Local performance accountability measures for part B**

**(1) In general**

For each local area in a State designated under section 3121 of this title, the local performance accountability measures for each of the programs described in subclauses (I) through (III) of subsection (b)(3)(A)(ii) shall consist of—

(A)(i) the primary indicators of performance described in subsection (b)(2)(A) that are applicable to such programs; and

(ii) additional indicators of performance, if any, identified by the State for such programs under subsection (b)(2)(B); and

(B) the local level of performance for each indicator described in subparagraph (A).

**(2) Local level of performance**

The local board, the chief elected official, and the Governor shall negotiate and reach agreement on local levels of performance based on the State adjusted levels of performance established under subsection (b)(3)(A).

**(3) Adjustment factors**

In negotiating the local levels of performance, the local board, the chief elected official, and the Governor shall make adjustments for the expected economic conditions and the expected characteristics of participants to be served in the local area, using the statistical adjustment model developed pursuant to subsection (b)(3)(A)(viii). In addition, the negotiated local levels of performance applicable to a program year shall be revised to reflect the actual economic conditions experienced and the characteristics of the populations served in the local area during such program year using the statistical adjustment model.

**(d) Performance reports**

**(1) In general**

Not later than 12 months after July 22, 2014, the Secretary of Labor, in conjunction with the Secretary of Education, shall develop a template for performance reports that shall be used by States, local boards, and eligible providers of training services under section 3152 of this title to report on outcomes achieved by the core programs. In developing such templates, the Secretary of Labor, in conjunction with the Secretary of Education, will take into account the need to maximize the value

of the templates for workers, jobseekers, employers, local elected officials, State officials, Federal policymakers, and other key stakeholders.

**(2) Contents of State performance reports**

The performance report for a State shall include, subject to paragraph (5)(C)—

(A) information specifying the levels of performance achieved with respect to the primary indicators of performance described in subsection (b)(2)(A) for each of the programs described in subsection (b)(3)(A)(ii) and the State adjusted levels of performance with respect to such indicators for each program;

(B) information specifying the levels of performance achieved with respect to the primary indicators of performance described in subsection (b)(2)(A) for each of the programs described in subsection (b)(3)(A)(ii) with respect to individuals with barriers to employment, disaggregated by each subpopulation of such individuals, and by race, ethnicity, sex, and age;

(C) the total number of participants served by each of the programs described in subsection (b)(3)(A)(ii);

(D) the number of participants who received career and training services, respectively, during the most recent program year and the 3 preceding program years, and the amount of funds spent on each type of service;

(E) the number of participants who exited from career and training services, respectively, during the most recent program year and the 3 preceding program years;

(F) the average cost per participant of those participants who received career and training services, respectively, during the most recent program year and the 3 preceding program years;

(G) the percentage of participants in a program authorized under this part who received training services and obtained unsubsidized employment in a field related to the training received;

(H) the number of individuals with barriers to employment served by each of the programs described in subsection (b)(3)(A)(ii), disaggregated by each subpopulation of such individuals;

(I) the number of participants who are enrolled in more than 1 of the programs described in subsection (b)(3)(A)(ii);

(J) the percentage of the State's annual allotment under section 3172(b) of this title that the State spent on administrative costs;

(K) in the case of a State in which local areas are implementing pay-for-performance contract strategies for programs—

(i) the performance of service providers entering into contracts for such strategies, measured against the levels of performance specified in the contracts for such strategies; and

(ii) an evaluation of the design of the programs and performance of the strategies, and, where possible, the level of satis-

faction with the strategies among employers and participants benefitting from the strategies; and

(L) other information that facilitates comparisons of programs with programs in other States.

**(3) Contents of local area performance reports**

The performance reports for a local area shall include, subject to paragraph (6)(C)—

(A) the information specified in subparagraphs (A) through (L) of paragraph (2), for each of the programs described in subclauses (I) through (III) of subsection (b)(3)(A)(ii);

(B) the percentage of the local area's allocation under sections 3163(b) and 3173(b) of this title that the local area spent on administrative costs; and

(C) other information that facilitates comparisons of programs with programs in other local areas (or planning regions, as appropriate).

**(4) Contents of eligible training providers performance reports**

The performance report for an eligible provider of training services under section 3152 of this title shall include, subject to paragraph (6)(C), with respect to each program of study (or the equivalent) of such provider—

(A) information specifying the levels of performance achieved with respect to the primary indicators of performance described in subclauses (I) through (IV) of subsection (b)(2)(A)(i) with respect to all individuals engaging in the program of study (or the equivalent);

(B) the total number of individuals exiting from the program of study (or the equivalent);

(C) the total number of participants who received training services through each of the adult program and the dislocated worker program authorized under subpart 3 of part B, disaggregated by the type of entity that provided the training, during the most recent program year and the 3 preceding program years;

(D) the total number of participants who exited from training services, disaggregated by the type of entity that provided the training, during the most recent program year and the 3 preceding program years;

(E) the average cost per participant for the participants who received training services, disaggregated by the type of entity that provided the training, during the most recent program year and the 3 preceding program years; and

(F) the number of individuals with barriers to employment served by each of the adult program and the dislocated worker program authorized under subpart 3 of part B, disaggregated by each subpopulation of such individuals, and by race, ethnicity, sex, and age.

**(5) Data validation**

In preparing the State reports described in this subsection, each State shall establish procedures, consistent with guidelines issued by the Secretary, in conjunction with the Sec-

retary of Education, to ensure the information contained in the reports is valid and reliable.

**(6) Publication**

**(A) State performance reports**

The Secretary of Labor and the Secretary of Education shall annually make available (including by electronic means), in an easily understandable format, the performance reports for States containing the information described in paragraph (2).

**(B) Local area and eligible training provider performance reports**

The State shall make available (including by electronic means), in an easily understandable format, the performance reports for the local areas containing the information described in paragraph (3) and the performance reports for eligible providers of training services containing the information described in paragraph (4).

**(C) Rules for reporting of data**

The disaggregation of data under this subsection shall not be required when the number of participants in a category is insufficient to yield statistically reliable information or when the results would reveal personally identifiable information about an individual participant.

**(D) Dissemination to Congress**

The Secretary of Labor and the Secretary of Education shall make available (including by electronic means) a summary of the reports, and the reports, required under this subsection to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate. The Secretaries shall prepare and make available with the reports a set of recommendations for improvements in and adjustments to pay-for-performance contract strategies used under part B.

**(e) Evaluation of State programs**

**(1) In general**

Using funds authorized under a core program and made available to carry out this section, the State, in coordination with local boards in the State and the State agencies responsible for the administration of the core programs, shall conduct ongoing evaluations of activities carried out in the State under such programs. The State, local boards, and State agencies shall conduct the evaluations in order to promote, establish, implement, and utilize methods for continuously improving core program activities in order to achieve high-level performance within, and high-level outcomes from, the workforce development system. The State shall coordinate the evaluations with the evaluations provided for by the Secretary of Labor and the Secretary of Education under section 3224 of this title, section 3332(c)(2)(D) of this title, and sections 12(a)(5), 14, and 107 of the Rehabilitation Act of 1973 (29 U.S.C. 709(a)(5), 711, 727) (applied with respect to programs carried out under title I of that Act (29 U.S.C. 720 et seq.)) and the investigations pro-

vided for by the Secretary of Labor under section 10(b) of the Wagner-Peyser Act (29 U.S.C. 49i(b)).

**(2) Design**

The evaluations conducted under this subsection shall be designed in conjunction with the State board, State agencies responsible for the administration of the core programs, and local boards and shall include analysis of customer feedback and outcome and process measures in the statewide workforce development system. The evaluations shall use designs that employ the most rigorous analytical and statistical methods that are reasonably feasible, such as the use of control groups.

**(3) Results**

The State shall annually prepare, submit to the State board and local boards in the State, and make available to the public (including by electronic means), reports containing the results of evaluations conducted under this subsection, to promote the efficiency and effectiveness of the workforce development system.

**(4) Cooperation with Federal evaluations**

The State shall, to the extent practicable, cooperate in the conduct of evaluations (including related research projects) provided for by the Secretary of Labor or the Secretary of Education under the provisions of Federal law identified in paragraph (1). Such cooperation shall include the provision of data (in accordance with appropriate privacy protections established by the Secretary of Labor), the provision of responses to surveys, and allowing site visits in a timely manner, for the Secretaries or their agents.

**(f) Sanctions for State failure to meet State performance accountability measures**

**(1) States**

**(A) Technical assistance**

If a State fails to meet the State adjusted levels of performance relating to indicators described in subsection (b)(2)(A) for a program for any program year, the Secretary of Labor and the Secretary of Education shall provide technical assistance, including assistance in the development of a performance improvement plan.

**(B) Reduction in amount of grant**

If such failure continues for a second consecutive year, or (except in the case of exceptional circumstances as determined by the Secretary of Labor or the Secretary of Education, as appropriate) a State fails to submit a report under subsection (d) for any program year, the percentage of each amount that would (in the absence of this paragraph) be reserved by the Governor under section 3163(a) of this title for the immediately succeeding program year shall be reduced by 5 percentage points until such date as the Secretary of Labor or the Secretary of Education, as appropriate, determines that the State meets such State adjusted levels of performance and has submitted such reports for the appropriate program years.

**(g) Sanctions for local area failure to meet local performance accountability measures**

**(1) Technical assistance**

If a local area fails to meet local performance accountability measures established under subsection (c) for the youth, adult, or dislocated worker program authorized under subpart 2 or 3 of part B for a program described in subsection (d)(2)(A) for any program year, the Governor, or upon request by the Governor, the Secretary of Labor, shall provide technical assistance, which may include assistance in the development of a performance improvement plan or the development of a modified local plan (or regional plan).

**(2) Corrective actions**

**(A) In general**

If such failure continues for a third consecutive year, the Governor shall take corrective actions, which shall include development of a reorganization plan through which the Governor shall—

- (i) require the appointment and certification of a new local board, consistent with the criteria established under section 3122(b) of this title;
- (ii) prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or
- (iii) take such other significant actions as the Governor determines are appropriate.

**(B) Appeal by local area**

**(i) Appeal to Governor**

The local board and chief elected official for a local area that is subject to a reorganization plan under subparagraph (A) may, not later than 30 days after receiving notice of the reorganization plan, appeal to the Governor to rescind or revise such plan. In such case, the Governor shall make a final decision not later than 30 days after the receipt of the appeal.

**(ii) Subsequent action**

The local board and chief elected official for a local area may, not later than 30 days after receiving a decision from the Governor pursuant to clause (i), appeal such decision to the Secretary of Labor. In such case, the Secretary shall make a final decision not later than 30 days after the receipt of the appeal.

**(C) Effective date**

The decision made by the Governor under subparagraph (B)(i) shall become effective at the time the Governor issues the decision pursuant to such clause. Such decision shall remain effective unless the Secretary of Labor rescinds or revises such plan pursuant to subparagraph (B)(ii).

**(h) Establishing pay-for-performance contract strategy incentives**

Using non-Federal funds, the Governor may establish incentives for local boards to implement pay-for-performance contract strategies for the delivery of training services described in

section 3174(c)(3) of this title or activities described in section 3164(c)(2) of this title in the local areas served by the local boards.

**(i) Fiscal and management accountability information systems**

**(1) In general**

Using funds authorized under a core program and made available to carry out this subpart, the Governor, in coordination with the State board, the State agencies administering the core programs, local boards, and chief elected officials in the State, shall establish and operate a fiscal and management accountability information system based on guidelines established by the Secretary of Labor and the Secretary of Education after consultation with the Governors of States, chief elected officials, and one-stop partners. Such guidelines shall promote efficient collection and use of fiscal and management information for reporting and monitoring the use of funds authorized under the core programs and for preparing the annual report described in subsection (d).

**(2) Wage records**

In measuring the progress of the State on State and local performance accountability measures, a State shall utilize quarterly wage records, consistent with State law. The Secretary of Labor shall make arrangements, consistent with State law, to ensure that the wage records of any State are available to any other State to the extent that such wage records are required by the State in carrying out the State plan of the State or completing the annual report described in subsection (d).

**(3) Confidentiality**

In carrying out the requirements of this Act, the State shall comply with section 1232g of title 20.

(Pub. L. 113-128, title I, §116, July 22, 2014, 128 Stat. 1471.)

REFERENCES IN TEXT

The Wagner-Peyser Act, referred to in subsec. (b)(2)(A)(i), (3)(A)(ii)(V), is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of this title. Sections 1 to 13 of the Act are classified to sections 49 to 49c, 49d, and 49e to 49f of this title, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsecs. (b)(2)(A)(i), (3)(A)(ii)(VI) and (e)(1), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355. Title I of the Act is classified generally to subchapter I (§720 et seq.) of chapter 16 of this title. Part C of title I of the Act is classified generally to part C (§741) of subchapter I of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Government Performance and Results Act of 1993, referred to in subsec. (b)(3)(A)(vi), is Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

This Act, referred to in subsec. (i)(3), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

#### EFFECTIVE DATE

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

### PART B—WORKFORCE INVESTMENT ACTIVITIES AND PROVIDERS

#### DEFINITION OF “SECRETARY”

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

### SUBPART 1—WORKFORCE INVESTMENT ACTIVITIES AND PROVIDERS

## § 3151. Establishment of one-stop delivery systems

### (a) In general

Consistent with an approved State plan, the local board for a local area, with the agreement of the chief elected official for the local area, shall—

(1) develop and enter into the memorandum of understanding described in subsection (c) with one-stop partners;

(2) designate or certify one-stop operators under subsection (d); and

(3) conduct oversight with respect to the one-stop delivery system in the local area.

### (b) One-stop partners

#### (1) Required partners

##### (A) Roles and responsibilities of one-stop partners

Each entity that carries out a program or activities described in subparagraph (B) in a local area shall—

(i) provide access through the one-stop delivery system to such program or activities carried out by the entity, including making the career services described in section 3174(c)(2) of this title that are applicable to the program or activities available at the one-stop centers (in addition to any other appropriate locations);

(ii) use a portion of the funds available for the program and activities 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 subchapter, and the requirements of the Federal laws authorizing the program or activities; and

(v) provide representation on the State board to the extent provided under section 3111 of this title.

### (B) Programs and activities

The programs and activities referred to in subparagraph (A) consist of—

(i) programs authorized under this subchapter;

(ii) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(iii) adult education and literacy activities authorized under subchapter II;

(iv) programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) (other than section 112 or part C of title I of such Act (29 U.S.C. 732, 741));<sup>1</sup>

(v) activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(vi) career and technical education programs at the postsecondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.);

(vii) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(viii) activities authorized under chapter 41 of title 38;

(ix) employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.);

(x) employment and training activities carried out by the Department of Housing and Urban Development;

(xi) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law);

(xii) programs authorized under section 17532 of title 42; and

(xiii) 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 a program referred to in subparagraph (B)(xiii) shall be included in the one-stop partners for the local area, as a required partner, for purposes of this Act and the other core program provisions that are not part of this Act, unless the Governor 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 of Labor (referred to in this part, and parts C through E, as the “Secretary”) and the Secretary of Health and Human Services.

<sup>1</sup>So in original. Another closing parenthesis probably should precede the semicolon.

**(2) Additional partners****(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 workforce development programs described in subparagraph (B) may be one-stop partners for the local area and carry out the responsibilities described in paragraph (1)(A).

**(B) Programs**

The programs referred to in subparagraph (A) may include—

(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 2015(d)(4) of title 7;

(iv) work programs authorized under section 2015(o) of title 7;

(v) programs carried out under section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732);

(vi) programs authorized under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.); and

(vii) other appropriate Federal, State, or local programs, including employment, education, and training programs provided by public libraries or in the private sector.

**(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 consistent with the requirements of this section, including the manner in which the services will be coordinated and delivered through such system;

(ii) how the costs of such services and the operating costs of such system will be funded, including—

(I) funding through cash and in-kind contributions (fairly evaluated), which contributions may include funding from philanthropic organizations or other private entities, or through other alternative financing options, to provide a stable and equitable funding stream for ongoing one-stop delivery system operations; and

(II) 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 workers and youth, and individuals with barriers to employment, including individuals with disabilities, are addressed in the provision of necessary and appropriate access to services, including access to technology and materials, made available through the one-stop delivery system; and

(v) the duration of the memorandum of understanding and the procedures for amending the memorandum during the duration of the memorandum, and assurances that such memorandum shall be reviewed not less than once every 3-year period to ensure appropriate funding and delivery of services; and

(B) such other provisions, consistent with the requirements of this subchapter, as the parties to the agreement determine to be appropriate.

**(d) One-stop operators****(1) Local 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 part to operate a one-stop center referred to in subsection (e), an entity (which may be a consortium of entities)—

(A) shall be designated or certified as a one-stop operator through a competitive process; and

(B) shall be an entity (public, private, or nonprofit), or consortium of entities (including a consortium of entities that, at a minimum, includes 3 or more of the one-stop partners described in subsection (b)(1)), of demonstrated effectiveness, located in the local area, which may include—

(i) an institution of higher education;

(ii) an employment service State agency established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), on behalf of the local office of the agency;

(iii) a community-based organization, nonprofit organization, or intermediary;

(iv) a private for-profit entity;

(v) a government agency; and

(vi) another interested organization or entity, which may include a local chamber of commerce or other business organization, or a labor organization.

**(3) Exception**

Elementary schools and secondary schools shall not be eligible for designation or certification as one-stop operators, except that non-traditional public secondary schools and area career and technical education schools may be eligible for such designation or certification.

**(4) Additional requirements**

The State and local boards shall ensure that in carrying out activities under this subchapter, one-stop operators—

(A) disclose any potential conflicts of interest arising from the relationships of the operators with particular training service providers or other service providers;

(B) do not establish practices that create disincentives to providing services to individuals with barriers to employment who may require longer-term services, such as intensive employment, training, and education services; and

(C) comply with Federal regulations, and procurement policies, relating to the calculation and use of profits.

**(e) Establishment of one-stop delivery system**

**(1) In general**

There shall be established in each local area in a State that receives an allotment under section 3172(b) of this title a one-stop delivery system, which shall—

(A) provide the career services described in section 3174(c)(2) of this title;

(B) provide access to training services as described in section 3174(c)(3) of this title, including serving as the point of access to training services for participants in accordance with section 3174(c)(3)(G) of this title;

(C) provide access to the employment and training activities carried out under section 3174(d) of this title, if any;

(D) provide access to programs and activities carried out by one-stop partners described in subsection (b); and

(E) provide access to the data, information, and analysis described in section 15(a) of the Wagner-Peyser Act (29 U.S.C. 491-2(a)) 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**

The one-stop delivery system—

(A) at a minimum, shall make each of the programs, services, and activities described in paragraph (1) accessible at not less than 1 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 1 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 1 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 career services will be available regardless of where the individuals initially enter the statewide workforce development system, including information made available through an access point described in subclause (I);

(C) may have specialized centers to address special needs, such as the needs of dislocated workers, youth, or key industry sectors or clusters; and

(D) as applicable and practicable, shall make programs, services, and activities accessible to individuals through electronic means in a manner that improves efficiency, coordination, and quality in the delivery of one-stop partner services.

**(3) Colocation of Wagner-Peyser services**

Consistent with section 3(d) of the Wagner-Peyser Act (29 U.S.C. 49b(d)), and in order to improve service delivery, avoid duplication of services, and enhance coordination of services, including location of staff to ensure access to services in underserved areas, the employment service offices in each State shall be collocated with one-stop centers established under this subchapter.

**(4) Use of common one-stop delivery system identifier**

In addition to using any State or locally developed identifier, each one-stop delivery system shall include in the identification of products, programs, activities, services, facilities, and related property and materials, a common one-stop delivery system identifier. The identifier shall be developed by the Secretary, in consultation with heads of other appropriate departments and agencies, and representatives of State boards and local boards and of other stakeholders in the one-stop delivery system, not later than the beginning of the second full program year after July 22, 2014. Such common identifier may consist of a logo, phrase, or other identifier that informs users of the one-stop delivery system that such products, programs, activities, services, facilities, property, or materials are being provided through such system. Nothing in this paragraph shall be construed to prohibit one-stop partners, States, or local areas from having additional identifiers.

**(f) Application to certain vocational rehabilitation programs**

**(1) Limitation**

Nothing in this section shall be construed to apply to part C of title I of the Rehabilitation Act of 1973 (29 U.S.C. 741).

**(2) Client assistance**

Nothing in this Act shall be construed to require that any entity carrying out a client assistance program authorized under section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732)—

(A) be included as a mandatory one-stop partner under subsection (b)(1); or

(B) if the entity is included as an additional one-stop partner under subsection (b)(2)—

(i) violate the requirement of section 112(c)(1)(A) of that Act (29 U.S.C. 732(c)(1)(A)) that the entity be independent of any agency that provides treatment, services, or rehabilitation to individuals under that Act; or

(ii) carry out any activity not authorized under section 112 of that Act (including appropriate Federal regulations).

**(g) Certification and continuous improvement of one-stop centers****(1) In general**

In order to be eligible to receive infrastructure funding described in subsection (h), the State board, in consultation with chief elected officials and local boards, shall establish objective criteria and procedures for use by local boards in assessing at least once every 3 years the effectiveness, physical and programmatic accessibility in accordance with section 3248 of this title, if applicable, and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and continuous improvement of one-stop centers and the one-stop delivery system, consistent with the requirements of section 3111(d)(6) of this title.

**(2) Criteria**

The criteria and procedures developed under this subsection shall include standards relating to 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. Such criteria and procedures shall—

(A) be developed in a manner that is consistent with the guidelines, guidance, and policies provided by the Governor and by the State board, in consultation with the chief elected officials and local boards, for such partners' participation under subsections (h)(1) and (i); and

(B) include such factors relating to the effectiveness, accessibility, and improvement of the one-stop delivery system as the State board determines to be appropriate, including at a minimum how well the one-stop center—

(i) supports the achievement of the negotiated local levels of performance for the indicators of performance described in section 3141(b)(2) of this title for the local area;

(ii) integrates available services; and

(iii) meets the workforce development and employment needs of local employers and participants.

**(3) Local criteria**

Consistent with the criteria developed under paragraph (1) by the State, a local board in the State may develop additional criteria (or higher levels of service coordination than required for the State-developed criteria) relating to service coordination achieved by the one-stop delivery system, for purposes of assessments described in paragraph (1), in order to respond to labor market, economic, and demographic, conditions and trends in the local area.

**(4) Effect of certification**

One-stop centers certified under this subsection shall be eligible to receive the infrastructure funding described in subsection (h).

**(5) Review and update**

The criteria and procedures established under this subsection shall be reviewed and updated by the State board or the local board, as the case may be, as part of the biennial process for review and modification of State

and local plans described in sections 3112(c)(2) and 3123(a) of this title.

**(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 described in subsection (b)(1) in a local area may fund the costs of infrastructure of one-stop centers in the local area through—

(I) methods agreed on by the local board, chief elected officials, and one-stop partners (and described in the memorandum of understanding described in subsection (c)); or

(II) if no consensus agreement on methods is reached under subclause (I), the State infrastructure funding mechanism described in paragraph (2).

**(ii) Failure to reach consensus agreement on funding methods**

Beginning July 1, 2016, if the local board, chief elected officials, and one-stop partners described in subsection (b)(1) in a local area fail to reach consensus agreement on methods of sufficiently funding the costs of infrastructure of one-stop centers for a program year, the State infrastructure funding mechanism described in paragraph (2) shall be applicable to such local area for that program year and for each subsequent program year for which those entities and individuals fail to reach such agreement.

**(B) Guidance for infrastructure funding**

In addition to carrying out the requirements relating to the State infrastructure funding mechanism described in paragraph (2), the Governor, after consultation with chief elected officials, local boards, and the State board, and consistent with the guidance and policies provided by the State board under subparagraphs (B) and (C)(i) of section 3111(d)(7) of this title, shall provide, for the use of local areas under subparagraph (A)(i)(I)—

(i) guidelines for State-administered one-stop partner programs, for determining such programs' contributions to a one-stop delivery system, based on such programs' proportionate use of such system consistent with chapter II of title 2, Code of Federal Regulations (or any corresponding similar regulation or ruling), including determining funding for the costs of infrastructure, which contributions shall be negotiated pursuant to the memorandum of understanding under subsection (c); and

(ii) guidance to assist local boards, chief elected officials, and one-stop partners in local areas in determining equitable and stable methods of funding the costs of infrastructure of one-stop centers in such areas.

**(2) State one-stop infrastructure funding****(A) Definition**

In this paragraph, the term "covered portion", used with respect to funding for a fis-

cal year for a program described in subsection (b)(1), means a portion determined under subparagraph (C) of the Federal funds provided to a State (including local areas within the State) under the Federal law authorizing that program described in subsection (b)(1) for the fiscal year (taking into account the availability of funding for purposes related to infrastructure from philanthropic organizations, private entities, or other alternative financing options).

**(B) Partner contributions**

Subject to subparagraph (D), for local areas in a State that are not covered by paragraph (1)(A)(i)(I), the covered portions of funding for a fiscal year shall be provided to the Governor from the programs described in subsection (b)(1), to assist in paying the costs of infrastructure of one-stop centers in those local areas of the State not adequately funded under the option described in paragraph (1)(A)(i)(I).

**(C) Determination of Governor**

**(i) In general**

Subject to clause (ii) and subparagraph (D), the Governor, after consultation with chief elected officials, local boards, and the State board, shall determine the portion of funds to be provided under subparagraph (B) by each one-stop partner from each program described in subparagraph (B). In making such determination for the purpose of determining funding contributions, for funding pursuant to clause (i)(II) or (ii) of paragraph (1)(A) by each partner, the Governor shall calculate amounts for the proportionate use of the one-stop centers in the State, consistent with chapter II of title 2, Code of Federal Regulations (or any corresponding similar regulation or ruling), taking into account the costs of administration of the one-stop delivery system for purposes not related to one-stop centers, for each partner. The Governor shall exclude from such determination of funds the amounts for proportionate use of one-stop centers attributable to the programs of one-stop partners for those local areas of the State where the costs of infrastructure of one-stop centers are funded under the option described in paragraph (1)(A)(i)(I). The Governor shall also take into account the statutory requirements for each partner program and the partner program's ability to fulfill such requirements.

**(ii) Special rule**

In a State in which the State constitution or a State statute 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 subchapter II, postsecondary career and technical education activities authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), or vocational rehabilitation services offered

under a provision covered by section 3102(13)(D) of this title, the determination described in clause (i) with respect to the programs authorized under that subchapter, Act, or provision shall be made by the chief officer of the entity, or the official, with such authority in consultation with the Governor.

**(D) Limitations**

**(i) Provision from administrative funds**

**(I) In general**

Subject to subclause (II), 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's limitations with respect to the portion of funds under such program that may be used for administration.

**(II) Exceptions**

Nothing in this clause shall be construed to apply to the programs carried out under this subchapter, or under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

**(ii) Cap on required contributions**

For local areas in a State that are not covered by paragraph (1)(A)(i)(I), the following rules shall apply:

**(I) WIA formula programs and employment service**

The portion of funds required to be contributed under this paragraph from a program authorized under subpart 2 or 3, or the Wagner-Peyser Act (29 U.S.C. 49 et seq.) shall not exceed 3 percent of the amount of Federal funds provided to carry out that program in the State for a fiscal year.

**(II) Other one-stop partners**

The portion of funds required to be contributed under this paragraph from a program described in subsection (b)(1) other than the programs described in subclause (I) shall not exceed 1.5 percent of the amount of Federal funds provided to carry out that program in the State for a fiscal year.

**(III) Vocational rehabilitation**

Notwithstanding subclauses (I) and (II), an entity administering a program described in subsection (b)(1)(B)(iv) shall not be required to provide from that program, under this paragraph, a portion that exceeds—

(aa) 0.75 percent of the amount of Federal funds provided to carry out such program in the State for the second full program year that begins after July 22, 2014;

(bb) 1.0 percent of the amount provided to carry out such program in the State for the third full program year that begins after such date;

(cc) 1.25 percent of the amount provided to carry out such program in the State for the fourth full program year that begins after such date; and

(dd) 1.5 percent of the amount provided to carry out such program in the State for the fifth and each succeeding full program year that begins after such date.

**(iii) Federal direct spending programs**

For local areas in a State that are not covered by paragraph (1)(A)(i)(I), an entity administering a program funded with direct spending as defined in section 900(c)(8) of title 2, as in effect on February 15, 2014<sup>2</sup> shall not be required to provide, for purposes of this paragraph, an amount in excess of the amount determined under subparagraph (C)(i) to be equivalent to the cost of the proportionate use of the one-stop centers for the one-stop partner for such program in the State.

**(iv) Native American programs**

One-stop partners for Native American programs established under section 3221 of this title shall not be subject to the provisions of this subsection (other than this clause) or subsection (i). For purposes of subsection (c)(2)(A)(ii)(II), the method for determining the appropriate portion of funds to be provided by such partners 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.

**(E) Appeal by one-stop partners**

The Governor shall establish a process, described under section 3112(b)(2)(D)(i)(IV) of this title, for a one-stop partner administering a program described in subsection (b)(1) to appeal a determination regarding the portion of funds to be provided under this paragraph. Such a determination may be appealed under the process on the basis that such determination is inconsistent with the requirements of this paragraph. Such process shall ensure prompt resolution of the appeal in order to ensure the funds are distributed in a timely manner, consistent with the requirements of section 3242(e) of this title.

**(3) Allocation by Governor**

**(A) In general**

From the funds provided under paragraph (1), the Governor shall allocate the funds to local areas described in subparagraph (B) in accordance with the formula established under subparagraph (B) for the purposes of assisting in paying the costs of infrastructure of one-stop centers.

**(B) Allocation formula**

The State board shall develop a formula to be used by the Governor to allocate the funds provided under paragraph (1) to local

areas not funding costs of infrastructure 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.

**(4) 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 assessment-related products and assistive technology for individuals with disabilities), and technology to facilitate access to the one-stop center, including the center’s planning and 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 (3), to the extent not inconsistent with the Federal law involved. Such costs shall include the costs of the provision of career services described in section 3174(c)(2) of this title applicable to each program and may include common costs that are not paid from the funds provided under subsection (h).

**(2) Shared services**

The costs described under paragraph (1) may include costs of services that are authorized for and may be commonly provided through the one-stop partner programs to any individual, such as initial intake, assessment of needs, appraisal of basic skills, identification of appropriate services to meet such needs, referrals to other one-stop partners, and other similar services.

**(3) Determination and guidance**

The method for determining the appropriate portion of funds and noncash resources to be provided by the one-stop partner for 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, for purposes of the memorandum of understanding, of an appropriate allocation of the funds and noncash resources in local areas, consistent with the requirements of section 3111(d)(6)(C) of this title.

<sup>2</sup>So in original. Probably should be “2014.”

(Pub. L. 113-128, title I, §121, July 22, 2014, 128 Stat. 1481.)

#### REFERENCES IN TEXT

The Wagner-Peyser Act, referred to in subsecs. (b)(1)(B)(ii), (d)(2)(B)(ii), (e)(1)(E), and (h)(2)(D)(i)(I), is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsecs. (b)(1)(B)(iv) and (f), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of this title. Title I of the Act is classified generally to subchapter I (§720 et seq.) of chapter 16 of this title. Part C of title I of the Act is classified generally to part C (§741) of subchapter I of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Older Americans Act of 1965, referred to in subsecs. (b)(1)(B)(v) and (h)(2)(D)(i)(II), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. Title V of the Act, known as the Community Service Senior Opportunities Act, is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsecs. (b)(1)(B)(vi) and (h)(2)(C)(ii), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Trade Act of 1974, referred to in subsec. (b)(1)(B)(vii), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978. Chapter 2 of title II of the Act is classified generally to part 2 (§2271 et seq.) of subchapter II of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Community Services Block Grant Act, referred to in subsec. (b)(1)(B)(ix), is subtitle B (§671 et seq.) of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§9901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (b)(1)(B)(xiii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

This Act, referred to in subsecs. (b)(1)(C)(i) and (f)(2), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The National and Community Service Act of 1990, referred to in subsec. (b)(2)(B)(vi), is Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to chapter 129 (§12501 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (g)(1), is Pub. L. 101-336, July 26, 1990, 104

Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

#### EFFECTIVE DATE

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

### § 3152. Identification of eligible providers of training services

#### (a) Eligibility

##### (1) In general

Except as provided in subsection (h), the Governor, after consultation with the State board, shall establish criteria, information requirements, and procedures regarding the eligibility of providers of training services to receive funds provided under section 3173(b) of this title for the provision of training services in local areas in the State.

##### (2) Providers

Subject to the provisions of this section, to be eligible to receive those funds for the provision of training services, the provider shall be—

(A) an institution of higher education that provides a program that leads to a recognized postsecondary credential;

(B) an entity that carries out programs registered 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, which may include joint labor-management organizations, and eligible providers of adult education and literacy activities under subchapter II if such activities are provided in combination with occupational skills training.

##### (3) Inclusion in list of eligible providers

A provider described in subparagraph (A) or (C) of paragraph (2) shall comply with the criteria, information requirements, and procedures established under this section to be included on the list of eligible providers of training services described in subsection (d). A provider described in paragraph (2)(B) shall be included and maintained on the list of eligible providers of training services described in subsection (d) for so long as the corresponding program of the provider remains registered as described in paragraph (2)(B).

#### (b) Criteria and information requirements

##### (1) State criteria

In establishing criteria pursuant to subsection (a), the Governor shall take into account each of the following:

(A) The performance of providers of training services with respect to—

(i) the performance accountability measures and other matters for which information is required under paragraph (2); and

(ii) other appropriate measures of performance outcomes determined by the

Governor for those participants receiving training services under this part (taking into consideration the characteristics of the population served and relevant economic conditions), and the outcomes of the program through which those training services were provided for students in general with respect to employment and earnings as defined under section 3141(b)(2) of this title.

(B) The need to ensure access to training services throughout the State, including in rural areas, and through the use of technology.

(C) Information reported to State agencies with respect to Federal and State programs involving training services (other than the program carried out under this part), including one-stop partner programs.

(D) The degree to which the training programs of such providers relate to in-demand industry sectors and occupations in the State.

(E) The requirements for State licensing of providers of training services, and the licensing status of providers of training services if applicable.

(F) Ways in which the criteria can encourage, to the extent practicable, the providers to use industry-recognized certificates or certifications.

(G) The ability of the providers to offer programs that lead to recognized post-secondary credentials.

(H) The quality of a program of training services, including a program of training services that leads to a recognized post-secondary credential.

(I) The ability of the providers to provide training services to individuals who are employed and individuals with barriers to employment.

(J) Such other factors as the Governor determines are appropriate to ensure—

- (i) the accountability of the providers;
- (ii) that the one-stop centers in the State will ensure that such providers meet the needs of local employers and participants;
- (iii) the informed choice of participants among training services providers; and
- (iv) that the collection of information required to demonstrate compliance with the criteria is not unduly burdensome or costly to providers.

## (2) State information requirements

The information requirements established by the Governor shall require that a provider of training services submit appropriate, accurate, and timely information to the State, to enable the State to carry out subsection (d), with respect to participants receiving training services under this part in the applicable program, including—

(A) information on the performance of the provider with respect to the performance accountability measures described in section 3141 of this title for such participants (taking into consideration the characteristics of the population served and relevant economic

conditions), and information specifying the percentage of such participants who entered unsubsidized employment in an occupation related to the program, to the extent practicable;

(B) information on recognized postsecondary credentials received by such participants;

(C) information on cost of attendance, including costs of tuition and fees, for participants in the program;

(D) information on the program completion rate for such participants; and

(E) information on the criteria described in paragraph (1).

## (3) Local criteria and information requirements

A local board in the State may establish criteria and information requirements in addition to the criteria and information requirements established by the Governor, or may require higher levels of performance than required for the criteria established by the Governor, for purposes of determining the eligibility of providers of training services to receive funds described in subsection (a) for the provision of training services in the local area involved.

## (4) Criteria and information requirements to establish initial eligibility

### (A) Purpose

The purpose of this paragraph is to enable the providers of programs carried out under subpart 3 to offer the highest quality training services and be responsive to in-demand and emerging industries by providing training services for those industries.

### (B) Initial eligibility

Providers may seek initial eligibility under this paragraph as providers of training services and may receive that initial eligibility for only 1 fiscal year for a particular program. The criteria and information requirements established by the Governor under this paragraph shall require that a provider who has not previously been an eligible provider of training services under this section (or section 122 of the Workforce Investment Act of 1998 [29 U.S.C. 2842], as in effect on the day before July 22, 2014) provide the information described in subparagraph (C).

### (C) Information

The provider shall provide verifiable program-specific performance information based on criteria established by the State as described in subparagraph (D) that supports the provider's ability to serve participants under this part.

### (D) Criteria

The criteria described in subparagraph (C) shall include at least—

- (i) a factor related to indicators described in section 3141 of this title;
- (ii) a factor concerning whether the provider is in a partnership with business;
- (iii) other factors that indicate high-quality training services, including the factor described in paragraph (1)(H); and

(iv) a factor concerning alignment of the training services with in-demand industry sectors and occupations, to the extent practicable.

**(E) Provision**

The provider shall provide the information described in subparagraph (C) to the Governor and the local board in a manner that will permit the Governor and the local board to make a decision on inclusion of the provider on the list of eligible providers described in subsection (d).

**(F) Limitation**

A provider that receives initial eligibility under this paragraph for a program shall be subject to the requirements under subsection (c) for that program after such initial eligibility expires.

**(c) Procedures**

**(1) Application 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 3173(b) of this title for the provision of training services. The procedures shall 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, information, and procedures 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.

**(2) Renewal procedures**

The procedures established by the Governor shall also provide for biennial review and renewal of eligibility under this section for providers of training services.

**(d) List and information to assist participants in choosing providers**

**(1) In general**

In order to facilitate and assist participants in choosing employment and training activities and in choosing providers of training services, the Governor shall ensure that an appropriate list of providers determined to be eligible under this section to offer a program in the State (and, as appropriate, in a local area), accompanied by information identifying the recognized postsecondary credential offered by the provider and other appropriate information, is prepared. The list shall be provided to the local boards in the State, and made available to such participants and to members of the public through the one-stop delivery system in the State.

**(2) Accompanying information**

The accompanying information shall—

(A) with respect to providers described in subparagraphs (A) and (C) of subsection (a)(2), consist of information provided by such providers, disaggregated by local areas

served, as applicable, in accordance with subsection (b);

(B) with respect to providers described in subsection (b)(4), consist of information provided by such providers in accordance with subsection (b)(4); and

(C) such other information as the Governor determines to be appropriate.

**(3) Availability**

The list and the accompanying information shall be made available to such participants and to members of the public through the one-stop delivery system in the State, in a manner that does not reveal personally identifiable information about an individual participant.

**(4) Limitation**

In carrying out the requirements of this subsection, no personally identifiable information regarding a student, including a Social Security number, student identification number, or other identifier, may be disclosed without the prior written consent of the parent or student in compliance with section 1232g of title 20.

**(e) Opportunity to submit comments**

In establishing, under this section, criteria, information requirements, procedures, and the list of eligible providers described in subsection (d), the Governor shall provide an opportunity for interested members of the public to make recommendations and submit comments regarding such criteria, information requirements, procedures, and list.

**(f) Enforcement**

**(1) In general**

The 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 procedures, that a provider of training services, or individual providing information on behalf of the provider, violated this section (or section 122 of the Workforce Investment Act of 1998 [29 U.S.C. 2842], as in effect on the day before July 22, 2014) by intentionally supplying inaccurate information under this section, the eligibility of such provider to receive funds under subpart 3 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 procedures, that a provider of training services substantially violated any requirement under this subchapter (or title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.], as in effect on the day before July 22, 2014), the eligibility of such provider to receive funds under subpart 3 for the program involved shall be terminated for a period of not less than 2 years.

**(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 of subtitle B of title I of the Workforce Investment Act of 1998 [29 U.S.C. 2861 et seq.], as in effect on the day before July 22, 2014, or subpart 3 of this part during a period of violation described in such subparagraph.

**(2) Construction**

Paragraph (1) shall be construed to provide remedies and penalties that supplement, but shall not supplant, civil and criminal remedies and penalties specified in other provisions of law.

**(g) Agreements with other States**

States may enter into agreements, on a reciprocal basis, to permit eligible providers of training services to accept individual training accounts provided in another State.

**(h) On-the-job training, customized training, incumbent worker training, and other training exceptions**

**(1) In general**

Providers of on-the-job training, customized training, incumbent worker training, internships, and paid or unpaid work experience opportunities, or transitional employment shall not be subject to the requirements of subsections (a) through (f).

**(2) Collection and dissemination of information**

A one-stop operator in a local area shall collect such performance information from providers of on-the-job training, customized training, incumbent worker training, internships, paid or unpaid work experience opportunities, and transitional employment as the Governor may require, and use the information to determine whether the providers meet such performance criteria as the Governor may require. The one-stop operator shall disseminate information identifying such 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) Transition period for implementation**

The Governor and local boards shall implement the requirements of this section not later than 12 months after July 22, 2014. 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 of subtitle B of title I of the Workforce Investment Act of 1998 [29 U.S.C. 2861 et seq.], as such chapter was in effect on the day before July 22, 2014, may continue to be eligible to provide such services until December 31, 2015, or until such earlier date as the Governor determines to be appropriate.

(Pub. L. 113–128, title I, §122, July 22, 2014, 128 Stat. 1492.)

REFERENCES IN TEXT

The National Apprenticeship Act, referred to in subsec. (a)(2)(B), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, which is classified generally to chapter 4C (§50 et seq.)

of this title. For complete classification of this Act to the Code, see Short Title note set out under section 50 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsecs. (f)(1)(B), (C), and (i), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Title I of the Act was classified principally to chapter 30 (§2801 et seq.) of this title. Chapter 5 of subtitle B of title I of the Act was classified generally to part E (§2861 et seq.) of subchapter II of chapter 30 of this title. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

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

**§ 3153. Eligible providers of youth workforce investment activities**

**(a) In general**

From the funds allocated under section 3163(b) of this title to a local area, the local board for such area shall award grants or contracts on a competitive basis to providers of youth workforce investment activities identified based on the criteria in the State plan (including such quality criteria as the Governor shall establish for a training program that leads to a recognized postsecondary credential), and taking into consideration the ability of the providers to meet performance accountability measures based on primary indicators of performance for the youth program as described in section 3141(b)(2)(A)(ii) of this title, as described in section 3112(b)(2)(D)(i)(V) of this title, 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 workforce investment 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).

(Pub. L. 113–128, title I, §123, July 22, 2014, 128 Stat. 1498.)

EFFECTIVE DATE

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

SUBPART 2—YOUTH WORKFORCE INVESTMENT ACTIVITIES

**§ 3161. General authorization**

The Secretary shall make an allotment under section 3162(b)(1)(C) of this title to each State that meets the requirements of section 3112 or 3113 of this title and a grant under section 3162(b)(1)(B) of this title to each outlying area that complies with the requirements of this subchapter, to assist the State or outlying area, and to enable the State or outlying area to assist local areas, for the purpose of providing workforce investment activities for eligible

youth in the State or outlying area and in the local areas.

(Pub. L. 113-128, title I, §126, July 22, 2014, 128 Stat. 1498.)

#### EFFECTIVE DATE

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

### § 3162. State allotments

#### (a) In general

The Secretary shall—

(1) for each fiscal year for which the amount appropriated under section 3181(a) of this title exceeds \$925,000,000, reserve 4 percent of the excess amount to provide youth workforce investment activities under section 3222 of this title (relating to migrant and seasonal farmworkers); and

(2) use the remainder of the amount appropriated under section 3181(a) of this title for a fiscal year to make allotments and grants in accordance with subsection (b).

#### (b) Allotment among States

##### (1) Youth workforce investment activities

###### (A) Native Americans

From the amount appropriated under section 3181(a) of this title for a fiscal year that is not reserved under subsection (a)(1), the Secretary shall reserve not more than 1½ percent of such amount to provide youth workforce investment activities under section 3221 of this title (relating to Native Americans).

###### (B) Outlying areas

###### (i) In general

From the amount appropriated under section 3181(a) of this title for each fiscal year that is not reserved under subsection (a)(1) and subparagraph (A), the Secretary shall reserve not more than ¼ of 1 percent of such amount to provide assistance to the outlying areas to carry out youth workforce investment activities and statewide workforce investment activities.

###### (ii) Limitation for outlying areas

###### (I) Competitive grants

The Secretary shall use funds reserved under clause (i) to award grants to outlying areas to carry out youth workforce investment 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) 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 section 1469a of title 48, permitting the consolidation of grants by the outlying areas, shall not apply to assistance provided to those areas, including Palau, under this subparagraph.

### (C) States

#### (i) In general

From the remainder of the amount appropriated under section 3181(a) of this title for a fiscal year that exists after the Secretary determines the amounts to be reserved under subsection (a)(1) and subparagraphs (A) and (B), the Secretary shall make allotments to the States in accordance with clause (ii) for youth workforce investment activities and statewide workforce investment activities.

#### (ii) Formula

Subject to clauses (iii) and (iv), of the remainder—

(I) 33½ 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) 33⅓ 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) 33⅓ 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 an area that was designated as a local area as described in section 3122(c)(1)(C) of this title, 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 allotments of the State under section 127(b)(1)(C) of the Workforce Investment Act of 1998 [29 U.S.C. 2852(b)(1)(C)] (as in effect on the day before July 22, 2014) for fiscal year 2014.

**(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) for the fiscal year; and

(bb) 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.

**(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) does not exceed \$1,000,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology specified in section 127(b)(1)(C)(iv)(IV) of the Workforce Investment Act of 1998 [29 U.S.C. 2852(b)(1)(C)(iv)(IV)] (as in effect on the day before July 22, 2014).

**(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 2015 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i) that is received through an allotment made under paragraph (1)(C) for the fiscal year. The term, used with respect to fiscal year 2014, means the percentage of the amount allotted to States under section 127(b)(1)(C) of the Workforce Investment Act of 1998 [29 U.S.C. 2852(b)(1)(C)] (as in effect on July 22, 2014) that is received under such section by the State involved for fiscal year 2014.

**(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 part 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.

**(c) Reallotment**

**(1) In general**

The Secretary shall, in accordance with this subsection, reallot to eligible States amounts that are made available to States from allotments made under this section or a corresponding provision of the Workforce Investment Act of 1998 for youth workforce investment activities and statewide workforce investment activities (referred to individually in this subsection as a “State allotment”) and that are available for reallotment.

**(2) Amount**

The amount available for reallotment for a program year is equal to the amount by which the unobligated balance of the State allotment, 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.

**(3) Reallotment**

In making reallotments 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 of the State allotment for the

program year for which the determination is made, as compared to the total amount of the State allotments for all eligible States for such program year.

**(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 shall prescribe uniform procedures for the obligation 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.

(Pub. L. 113-128, title I, §127, July 22, 2014, 128 Stat. 1498.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (c)(1), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113-128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pursuant to section 3361(a) of this title, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. For complete classification of the Workforce Investment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

EFFECTIVE DATE

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

**§ 3163. Within State allocations**

**(a) Reservations for statewide activities**

**(1) In general**

The Governor shall reserve not more than 15 percent of each of the amounts allotted to the State under section 3162(b)(1)(C) of this title and paragraphs (1)(B) and (2)(B) of section 3172(b) of this title for a fiscal year for statewide workforce investment activities.

**(2) Use of funds**

Regardless of whether the reserved amounts were allotted under section 3162(b)(1)(C) of this title, or under paragraph (1)(B) or (2)(B) of section 3172(b) of this title, the Governor may use the reserved amounts to carry out statewide activities under section 3164(b) of this title or statewide employment and training activities, for adults or dislocated workers, under section 3174(a) of this title.

**(b) Within State allocations**

**(1) Methods**

The Governor, acting in accordance with the State plan, and after consulting with chief

elected officials and local boards in the local areas, shall allocate the funds that are allotted to the State for youth activities and statewide workforce investment activities under section 3162(b)(1)(C) of this title 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) 33 $\frac{1}{3}$  percent of the funds on the basis described in section 3162(b)(1)(C)(ii)(I) of this title;

(II) 33 $\frac{1}{3}$  percent of the funds on the basis described in section 3162(b)(1)(C)(ii)(II) of this title; and

(III) 33 $\frac{1}{3}$  percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 3162(b)(1)(C) of this title.

**(ii) Minimum percentage**

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**

In this subparagraph, the term “allocation percentage”, used with respect to fiscal year 2015 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. The term, used with respect to fiscal year 2013 or 2014, means a percentage of the funds referred to in section 128(b)(1) of the Workforce Investment Act of 1998 [29 U.S.C. 2853(b)(1)] (as in effect on the day before July 22, 2014), received through an allocation made under paragraph (2) or (3) of section 128(b) of the Workforce Investment Act of 1998 (as so in effect), for the fiscal year 2013 or 2014, respectively.

**(B) Application**

For purposes of carrying out subparagraph (A)—

(i) references in section 3162(b) of this title to a State shall be deemed to be references to a local area;

(ii) references in section 3162(b) of this title 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 3162(b)(1) of this title to the term “excess number” shall be considered to be references to the term as defined in section 3162(b)(2) of this title.

**(3) Youth discretionary allocation**

In lieu of making the allocation described in paragraph (2), in allocating the funds de-

scribed 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) Local administrative cost limit

##### (A) In general

Of the amount allocated to a local area under this subsection and section 3173(b) of this title 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 subpart or subpart 3.

##### (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 subpart or subpart 3, regardless of whether the funds were allocated under this subsection or section 3173(b) of this title.

#### (c) Reallocation among local areas

##### (1) In general

The Governor may, in accordance with this subsection and after consultation with the State board, reallocate to eligible local areas within the State amounts that are made available to local areas from allocations made under this section or a corresponding provision of the Workforce Investment Act of 1998 for youth workforce investment activities (referred to individually in this subsection as a “local allocation”) 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 allocation, 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.

##### (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 of the local allocation for the program year for which the determination is made, as

compared to the total amount of the local allocations for all eligible local areas in the State for such program year.

#### (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.

(Pub. L. 113–128, title I, §128, July 22, 2014, 128 Stat. 1502.)

#### REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (c)(1), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pursuant to section 3361(a) of this title, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. For complete classification of the Workforce Investment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

#### EFFECTIVE DATE

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

#### § 3164. Use of funds for youth workforce investment activities

##### (a) Youth participant eligibility

##### (1) Eligibility

##### (A) In general

To be eligible to participate in activities carried out under this subpart 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 subchapter, the term “out-of-school youth” means an individual who is—

(i) not attending any school (as defined under State law);

(ii) not younger than age 16 or older than age 24; and

(iii) one or more of the following:

(I) A school dropout.

(II) A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter.

(III) A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is—

(aa) basic skills deficient; or

(bb) an English language learner.

(IV) An individual who is subject to the juvenile or adult justice system.

(V) A homeless individual (as defined in section 14043e–2(6) of title 42), a home-

less child or youth (as defined in section 11434a(2) of title 42), a runaway, in foster care or has<sup>1</sup> aged out of the foster care system, a child eligible for assistance under section 677 of title 42, or in an out-of-home placement.

(VI) An individual who is pregnant or parenting.

(VII) A youth who is an individual with a disability.

(VIII) A low-income individual who requires additional assistance to enter or 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) attending school (as defined by State law);

(ii) not younger than age 14 or (unless an individual with a disability who is attending school under State law) older than age 21;

(iii) a low-income individual; and

(iv) one or more of the following:

(I) Basic skills deficient.

(II) An English language learner.

(III) An offender.

(IV) A homeless individual (as defined in section 14043e-2(6) of title 42), a homeless child or youth (as defined in section 11434a(2) of title 42), a runaway, in foster care or has<sup>1</sup> aged out of the foster care system, a child eligible for assistance under section 677 of title 42, or in an out-of-home placement.

(V) Pregnant or parenting.

(VI) A youth who is an individual with a disability.

(VII) An individual who requires additional assistance to complete an educational program or to secure or hold employment.

#### **(2) Special rule**

For the purpose of this subsection, the term “low-income”, used with respect to an individual, also includes a youth living in a high-poverty area.

#### **(3) Exception and limitation**

##### **(A) Exception for persons who are not low-income individuals**

###### **(i) Definition**

In this subparagraph, the term “covered individual” means an in-school youth, or an out-of-school youth who is described in subclause (III) or (VIII) of paragraph (1)(B)(iii).

###### **(ii) Exception**

In each local area, not more than 5 percent of the individuals assisted under this section may be persons who would be covered individuals, except that the persons are not low-income individuals.

##### **(B) Limitation**

In each local area, not more than 5 percent of the in-school youth assisted under this

section may be eligible under paragraph (1) because the youth are in-school youth described in paragraph (1)(C)(iv)(VII).

#### **(4) Out-of-school priority**

##### **(A) In general**

For any program year, not less than 75 percent of the funds allotted under section 3162(b)(1)(C) of this title, reserved under section 3163(a) of this title, and available for statewide activities under subsection (b), and not less than 75 percent of funds available to local areas under subsection (c), shall be used to provide youth workforce investment activities for out-of-school youth.

##### **(B) Exception**

A State that receives a minimum allotment under section 3162(b)(1) of this title in accordance with section 3162(b)(1)(C)(iv) of this title or under section 3172(b)(1) of this title in accordance with section 3172(b)(1)(B)(iv) of this title may decrease the percentage described in subparagraph (A) to not less than 50 percent for a local area in the State, if—

(i) after an analysis of the in-school youth and out-of-school youth populations in the local area, the State determines that the local area will be unable to use at least 75 percent of the funds available for activities under subsection (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 percentage decreased to not less than 50 percent for purposes of subparagraph (A), and a summary of the analysis described in clause (i); and

(II) the request is approved by the Secretary.

#### **(5) 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 activities**

##### **(1) Required statewide youth activities**

Funds reserved by a Governor as described in sections 3163(a) and 3173(a)(1) of this title shall be used, regardless of whether the funds were allotted to the State under section 3162(b)(1)(C) of this title or under paragraph (1)(B) or (2)(B) of section 3172(b) of this title for statewide activities, which shall include—

(A) conducting evaluations under section 3141(e) of this title of activities authorized under this subpart and subpart 3 in coordination with evaluations carried out by the Secretary under section 3224(a) of this title;

(B) disseminating a list of eligible providers of youth workforce investment activities, as determined under section 3153 of this title;

(C) providing assistance to local areas as described in subsections (b)(6) and (c)(2) of

<sup>1</sup> So in original. Probably should be preceded by “who”.

section 3121 of this title, for local coordination of activities carried out under this subchapter;

(D) operating a fiscal and management accountability information system under section 3141(i) of this title;

(E) carrying out monitoring and oversight of activities carried out under this subpart and subpart 3, which may include a review comparing the services provided to male and female youth; and

(F) providing additional assistance to local areas that have high concentrations of eligible youth.

**(2) Allowable statewide youth activities**

Funds reserved by a Governor as described in sections 3163(a) and 3173(a)(1) of this title may be used, regardless of whether the funds were allotted to the State under section 3162(b)(1)(C) of this title or under paragraph (1)(B) or (2)(B) of section 3172(b) of this title, for statewide activities, which may include—

(A) conducting—

(i) research related to meeting the education and employment needs of eligible youth; and

(ii) demonstration projects related to meeting the education and employment needs of eligible youth;

(B) supporting the development of alternative, evidence-based programs and other activities that enhance the choices available to eligible youth and encourage such youth to reenter and complete secondary education, enroll in postsecondary education and advanced training, progress through a career pathway, and enter into unsubsidized employment that leads to economic self-sufficiency;

(C) supporting the provision of career services described in section 3174(c)(2) of this title in the one-stop delivery system in the State;

(D) supporting financial literacy, including—

(i) supporting the ability of participants to create household budgets, initiate savings plans, and make informed financial decisions about education, retirement, home ownership, wealth building, or other savings goals;

(ii) supporting the ability to manage spending, credit, and debt, including credit card debt, effectively;

(iii) increasing awareness of the availability and significance of credit reports and credit scores in obtaining credit, including determining their accuracy (and how to correct inaccuracies in the reports and scores), and their effect on credit terms;

(iv) supporting the ability to understand, evaluate, and compare financial products, services, and opportunities; and

(v) supporting activities that address the particular financial literacy needs of non-English speakers, including providing the support through the development and distribution of multilingual financial literacy and education materials; and

(E) providing technical assistance to, as appropriate, local boards, chief elected officials, one-stop operators, one-stop partners, and eligible providers, in local areas, which provision of technical assistance shall include 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 accountability measures described in section 3141(c) of this title, and the provision of technology to facilitate remote access to services provided through the one-stop delivery system in the State.

**(3) Limitation**

Not more than 5 percent of the funds allotted to a State under section 3162(b)(1)(C) of this title shall be used by the State for administrative activities carried out under this subsection or section 3174(a) of this title.

**(c) Local elements and requirements**

**(1) Program design**

Funds allocated to a local area for eligible youth under section 3163(b) of this title 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, for the purpose of identifying appropriate services and career pathways for participants, 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 indicators of performance described in section 3141(b)(2)(A)(ii) of this title, and that shall identify career pathways that include education and employment goals (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;

(C) provide—

(i) activities leading to the attainment of a secondary school diploma or its recognized equivalent, or a recognized postsecondary credential;

(ii) preparation for postsecondary educational and training opportunities;

(iii) strong linkages between academic instruction (based on State academic con-

tent and student academic achievement standards established under section 6311 of title 20) and occupational education that lead to the attainment of recognized postsecondary credentials;

(iv) preparation for unsubsidized employment opportunities, in appropriate cases; and

(v) effective connections to employers, including small employers, in in-demand industry sectors and occupations of the local and regional labor markets; and

(D) at the discretion of the local board, implement a pay-for-performance contract strategy for elements described in paragraph (2), for which the local board may reserve and use not more than 10 percent of the total funds allocated to the local area under section 3163(b) of this title.

## **(2) Program elements**

In order to support the attainment of a secondary school diploma or its recognized equivalent, entry into postsecondary education, and career readiness for participants, the programs described in paragraph (1) shall provide elements consisting of—

(A) tutoring, study skills training, instruction, and evidence-based dropout prevention and recovery strategies that lead to completion of the requirements for a secondary school diploma or its recognized equivalent (including a recognized certificate of attendance or similar document for individuals with disabilities) or for a recognized postsecondary credential;

(B) alternative secondary school services, or dropout recovery services, as appropriate;

(C) paid and unpaid work experiences that have as a component academic and occupational education, which may include—

(i) summer employment opportunities and other employment opportunities available throughout the school year;

(ii) pre-apprenticeship programs;

(iii) internships and job shadowing; and

(iv) on-the-job training opportunities;

(D) occupational skill training, which shall include priority consideration for training programs that lead to recognized postsecondary credentials that are aligned with in-demand industry sectors or occupations in the local area involved, if the local board determines that the programs meet the quality criteria described in section 3153 of this title;

(E) education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

(F) leadership development opportunities, which may include community service and peer-centered activities encouraging responsibility and other positive social and civic behaviors, as appropriate;

(G) supportive services;

(H) adult mentoring for the period of participation and a subsequent period, for a total of not less than 12 months;

(I) followup services for not less than 12 months after the completion of participation, as appropriate;

(J) comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral, as appropriate;

(K) financial literacy education;

(L) entrepreneurial skills training;

(M) services that provide labor market and employment information about in-demand industry sectors or occupations available in the local area, such as career awareness, career counseling, and career exploration services; and

(N) activities that help youth prepare for and transition to postsecondary education and training.

## **(3) Additional requirements**

### **(A) Information and referrals**

Each local board shall ensure that each participant shall be provided—

(i) information on the full array of applicable or appropriate services that are available through the local board or other eligible providers or one-stop partners, including those providers or partners receiving funds under this part; and

(ii) referral to appropriate training and educational programs that have the capacity to serve the participant either on a sequential or concurrent basis.

### **(B) Applicants not meeting enrollment requirements**

Each eligible provider of a program of youth workforce investment activities shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program or who cannot be served shall be referred for further assessment, as necessary, and referred to appropriate programs in accordance with subparagraph (A) to meet the basic skills and training needs of the applicant.

### **(C) Involvement in design and implementation**

The local board shall ensure that parents, participants, and other members of the community with experience relating to programs for youth are involved in the design and implementation of the programs described in paragraph (1).

### **(4) Priority**

Not less than 20 percent of the funds allocated to the local area as described in paragraph (1) shall be used to provide in-school youth and out-of-school youth with activities under paragraph (2)(C).

### **(5) Rule of construction**

Nothing in this subpart shall be construed to require that each of the elements described in subparagraphs of paragraph (2) be offered by each provider of youth services.

### **(6) 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 ex-

ercise 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) 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) Linkages**

In coordinating the programs authorized under this section, local boards shall establish linkages with local educational agencies responsible for services to participants as appropriate.

**(8) 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.

(Pub. L. 113-128, title I, §129, July 22, 2014, 128 Stat. 1504.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(6)(A), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

EFFECTIVE DATE

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

SUBPART 3—ADULT AND DISLOCATED WORKER  
EMPLOYMENT AND TRAINING ACTIVITIES

**§ 3171. General authorization**

The Secretary shall make allotments under paragraphs (1)(B) and (2)(B) of section 3172(b) of this title to each State that meets the requirements of section 3112 or 3113 of this title and grants under paragraphs (1)(A) and (2)(A) of section 3172(b) of this title to each outlying area that complies with the requirements of this subchapter, to assist the State or outlying area, and to enable the State or outlying area to assist local areas, for the purpose of providing workforce investment activities for adults, and dislocated workers, in the State or outlying area and in the local areas.

(Pub. L. 113-128, title I, §131, July 22, 2014, 128 Stat. 1511.)

EFFECTIVE DATE

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

**§ 3172. State allotments**

**(a) In general**

The Secretary shall—

(1) make allotments and grants from the amount appropriated under section 3181(b) of this title for a fiscal year in accordance with subsection (b)(1); and

(2)(A) reserve 20 percent of the amount appropriated under section 3181(c) of this title for the fiscal year for use under subsection (b)(2)(A), and under sections 3223(b) (relating to dislocated worker technical assistance), 3224(c) (relating to dislocated worker projects), and 3225 of this title (relating to national dislocated worker grants); and

(B) make allotments from 80 percent of the amount appropriated under section 3181(c) of this title for the 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**

From the amount made available under subsection (a)(1) for a fiscal year, the Secretary shall reserve not more than  $\frac{1}{4}$  of 1 percent of such amount to provide assistance to the outlying areas.

**(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 3162(b)(1)(B) of this title.

**(B) States**

**(i) In general**

After determining the amount to be reserved under subparagraph (A), the Secretary shall allot the remainder of the amount made available under subsection (a)(1) for that fiscal year to the States pursuant to clause (ii) for adult employment and training 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 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)(III) for any State in which there is an area that was designated as a local area as described in section 3122(c)(1)(C) of this title, the allotment shall be based on the higher of—

(I) the number of adults in families with an income below the low-income level in such area; or

(II) the number of disadvantaged adults 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 an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year.

**(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 \$960,000,000 of the remainder described in clause (i) for the fiscal year; and

(bb) if the remainder described in clause (i) for the fiscal year exceeds \$960,000,000,  $\frac{2}{3}$  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) does not exceed \$960,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology specified in section 132(b)(1)(B)(iv)(IV) of the Workforce Investment Act of 1998 [29 U.S.C. 2862(b)(1)(B)(iv)(IV)] (as in effect on the day before July 22, 2014).

**(v) Definitions**

For the purpose of the formula specified in this subparagraph:

**(I) Adult**

The term “adult” means an individual who is not less than age 22 and not more than age 72.

**(II) Allotment percentage**

The term “allotment percentage”, used with respect to fiscal year 2015 or a subsequent fiscal year, means a percentage of the remainder described in clause (i) that is received through an allotment made under this subparagraph for the fiscal year. The term, used with respect to fiscal year 2014, means the percentage of the amount allotted to States under section 132(b)(1)(B) of the Workforce Investment Act of 1998 [29 U.S.C. 2862(b)(1)(B)] (as in effect on the day before July 22, 2014) that is received under such section by the State involved for fiscal year 2014.

**(III) 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 part 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 subclause, determinations of areas of substantial unemployment shall be made once each fiscal year.

**(IV) Disadvantaged adult**

Subject to subclause (V), the term “disadvantaged adult” means an adult 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—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

**(V) Disadvantaged adult special rule**

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 adults.

**(VI) Excess number**

The term “excess number” means, used with respect to the excess number of unemployed individuals within a State, the higher of—

(aa) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

(bb) 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.

**(VII) 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.

**(2) Dislocated worker employment and training activities**

**(A) Reservation for outlying areas**

**(i) In general**

From the amount made available under subsection (a)(2)(A) for a fiscal year, the Secretary shall reserve not more than  $\frac{1}{4}$  of 1 percent of the amount appropriated under section 3181(c) of this title for the fiscal year to provide assistance to the outlying areas.

**(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 3162(b)(1)(B) of this title.

**(B) States**

**(i) In general**

The Secretary shall allot the amount referred to in subsection (a)(2)(B) for a fiscal year to the States pursuant to clause (ii) for dislocated worker employment and training activities and statewide workforce investment activities.

**(ii) Formula**

Subject to clause (iii), of the amount—

(I)  $33\frac{1}{2}$  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;

(II)  $33\frac{1}{2}$  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)  $33\frac{1}{2}$  percent shall be allotted on the basis of the relative number of individuals in each State who have been unemployed for 15 weeks or more, compared to the total number of individuals in all States who have been unemployed for 15 weeks or more.

**(iii) Minimum and maximum percentages and minimum allotments**

In making allotments under this subparagraph, for fiscal year 2016 and each subsequent fiscal year, the Secretary shall ensure the following:

**(I) Minimum percentage and allotment**

The Secretary shall ensure that no State shall receive an allotment for a fiscal year that is an amount based on 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 for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

**(iv) Definitions**

For the purpose of the formula specified in this subparagraph:

**(I) Allotment percentage**

The term “allotment percentage”, used with respect to fiscal year 2015 or a subsequent fiscal year, means a percentage of the amount described in clause (i) that is received through an allotment made under this subparagraph for the fiscal year.

**(II) Excess number**

The term “excess number” means, used with respect to the excess number of unemployed individuals within a State, the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

**(c) Reallotment**

**(1) In general**

The Secretary shall, in accordance with this subsection, reallot to eligible States amounts that are made available to States from allotments made under this section or a corresponding provision of the Workforce Investment Act of 1998 for employment and training activities and statewide workforce investment activities (referred to individually in this subsection as a “State allotment”) and that are available for reallotment.

**(2) Amount**

The amount available for reallotment for a program year for programs funded under subsection (b)(1)(B) (relating to adult employment and training) or for programs funded under subsection (b)(2)(B) (relating to dislocated worker employment and training) is equal to the amount by which the unobligated balance of the State allotments for adult employment and training activities or dislocated worker employment and training activities, respectively, 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.

**(3) Reallotment**

In making reallotments 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 of the State allotment under paragraph (1)(B) or (2)(B), respectively, of subsection (b) for the program year for which the determination is made, as compared to the total amount of the State allotments under paragraph (1)(B) or (2)(B), respectively, of subsection (b) for all eligible States for such program year.

**(4) Eligibility**

For purposes of this subsection, an eligible State means—

(A) with respect to funds allotted through a State allotment for adult employment and training activities, 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 through a State allotment for dislocated worker employment and training activities, 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 shall prescribe uniform procedures for the obligation 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.

(Pub. L. 113-128, title I, § 132, July 22, 2014, 128 Stat. 1511.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (c)(1), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113-128, title V, §§ 506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pursuant to section 3361(a) of this title, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. For complete classification of the Workforce Investment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

EFFECTIVE DATE

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

**§ 3173. Within State allocations**

**(a) Reservations for State activities**

**(1) Statewide workforce investment activities**

The Governor shall make the reservation required under section 3163(a) of this title.

**(2) Statewide rapid response activities**

The Governor shall reserve not more than 25 percent of the total amount allotted to the State under section 3172(b)(2)(B) of this title for a fiscal year for statewide rapid response activities described in section 3174(a)(2)(A) of this title.

**(b) Within State allocation**

**(1) Methods**

The Governor, acting in accordance with the State plan, and after consulting with chief elected officials and local boards in the local areas, shall allocate—

(A) the funds that are allotted to the State for adult employment and training activities

and statewide workforce investment activities under section 3172(b)(1)(B) of this title and are not reserved under subsection (a)(1), in accordance with paragraph (2) or (3); and

(B) the funds that are allotted to the State for dislocated worker employment and training activities and statewide workforce investment activities under section 3172(b)(2)(B) of this title and are not reserved under paragraph (1) or (2) of subsection (a), in accordance with paragraph (2).

**(2) Formula allocations**

**(A) Adult employment and training activities**

**(i) Allocation**

In allocating the funds described in paragraph (1)(A) to local areas, a State may allocate—

(I) 33⅓ percent of the funds on the basis described in section 3172(b)(1)(B)(ii)(I) of this title;

(II) 33⅓ percent of the funds on the basis described in section 3172(b)(1)(B)(ii)(II) of this title; and

(III) 33⅓ percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 3172(b)(1)(B) of this title.

**(ii) Minimum percentage**

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**

In this subparagraph, the term “allocation percentage”, used with respect to fiscal year 2015 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. The term, used with respect to fiscal year 2013 or 2014, means a percentage of the amount allocated to local areas under paragraphs (2)(A) and (3) of section 133(b) of the Workforce Investment Act of 1998 [29 U.S.C. 2863(b)] (as in effect on the day before July 22, 2014), received through an allocation made under paragraph (2)(A) or (3) of that section for fiscal year 2013 or 2014, respectively.

**(B) Dislocated worker employment and training activities**

**(i) Allocation**

In allocating the funds described in paragraph (1)(B) to local areas, a State shall allocate the funds based on an allocation formula prescribed by the Governor of the State. Such formula may be amended by the Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State’s worker readjustment assistance needs.

**(ii) Information**

The information described in clause (i) shall include insured unemployment data, unemployment concentrations, plant closing and mass layoff data, declining industries data, farmer-rancher economic hardship data, and long-term unemployment data.

**(iii) Minimum percentage**

The local area shall not receive an allocation percentage for fiscal year 2016 or a subsequent 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.

**(iv) Definition**

In this subparagraph, the term “allocation percentage”, used with respect to fiscal year 2015 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. The term, used with respect to fiscal year 2014, means a percentage of the amount allocated to local areas under section 133(b)(2)(B) of the Workforce Investment Act of 1998 [29 U.S.C. 2863(b)(2)(B)] (as in effect on the day before July 22, 2014), received through an allocation made under that section for fiscal year 2014.

**(C) Application**

For purposes of carrying out subparagraph (A)—

(i) references in section 3172(b) of this title to a State shall be deemed to be references to a local area;

(ii) references in section 3172(b) of this title 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 3172(b)(1) of this title to the term “excess number” shall be considered to be references to the term as defined in section 3172(b)(1) of this title.

**(3) Adult employment and training discretionary allocations**

In lieu of making the allocation described in paragraph (2)(A), in allocating the funds described in paragraph (1)(A) 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 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) Transfer authority**

A local board may transfer, if such a transfer is approved by the Governor, up to and including 100 percent of the funds allocated to the local area under paragraph (2)(A) or (3), and up to and including 100 percent of the funds allocated to the local area under paragraph (2)(B), for a fiscal year between—

(A) adult employment and training activities; and

(B) dislocated worker employment and training activities.

**(5) Allocation****(A) In general**

The Governor shall allocate the funds described in paragraph (1) to local areas under paragraphs (2) and (3) for the purpose of providing a single system of employment and training activities for adults and dislocated workers in accordance with subsections (c) and (d) of section 3174 of this title.

**(B) Additional requirements****(i) Adults**

Funds allocated under paragraph (2)(A) or (3) shall be used by a local area to contribute to the costs of the one-stop delivery system described in section 3151(e) of this title as determined under section 3151(h) of this title and to pay for employment and training activities provided to adults in the local area, consistent with section 3174 of this title.

**(ii) Dislocated workers**

Funds allocated under paragraph (2)(B) shall be used by a local area to contribute to the costs of the one-stop delivery system described in section 3151(e) of this title as determined under section 3151(h) of this title and to pay for employment and training activities provided to dislocated workers in the local area, consistent with section 3174 of this title.

**(c) Reallocation among local areas****(1) In general**

The Governor may, in accordance with this subsection and after consultation with the State board, reallocate to eligible local areas within the State amounts that are made available to local areas from allocations made under paragraph (2)(A) or (3) of subsection (b) or a corresponding provision of the Workforce Investment Act of 1998 for adult employment and training activities, or under subsection (b)(2)(B) or a corresponding provision of the Workforce Investment Act of 1998 for dislocated worker employment and training activities (referred to individually in this subsection as a “local allocation”) and that are available for reallocation.

**(2) Amount**

The amount available for reallocation for a program year—

(A) for adult employment and training activities is equal to the amount by which the

unobligated balance of the local 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 subparagraph is made, exceeds 20 percent of such allocation for the prior program year; and

(B) for dislocated worker employment and training activities is equal to the amount by which the unobligated balance of the local allocation under subsection (b)(2)(B) for such activities, at the end of the program year prior to the program year for which the determination under this subparagraph is made, exceeds 20 percent of such allocation for the 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—

(A) with respect to such available amounts that were allocated under paragraph (2)(A) or (3) of subsection (b), an amount based on the relative amount of the local allocation under paragraph (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 of the local allocations under paragraph (2)(A) or (3) of subsection (b), as appropriate, for all eligible local areas in the State for such program year; and

(B) with respect to such available amounts that were allocated under subsection (b)(2)(B), an amount based on the relative amount of the local allocation under subsection (b)(2)(B) for the program year for which the determination is made, as compared to the total amount of the local allocations under subsection (b)(2)(B) for all eligible local areas in the State for such program year.

### (4) Eligibility

For purposes of this subsection, an eligible local area means—

(A) with respect to funds allocated through a local allocation for adult employment and training activities, 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 through a local allocation for dislocated worker employment and training activities, 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.

(Pub. L. 113-128, title I, § 133, July 22, 2014, 128 Stat. 1516.)

#### REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (c)(1), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113-128, title V, §§ 506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pursuant to section 3361(a) of this title, references

to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. For complete classification of the Workforce Investment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

#### EFFECTIVE DATE

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

### § 3174. Use of funds for employment and training activities

#### (a) Statewide employment and training activities

##### (1) In general

Funds reserved by a Governor—

(A) as described in section 3173(a)(2) of this title shall be used to carry out the statewide rapid response activities described in paragraph (2)(A); and

(B) as described in sections 3163(a) and 3173(a)(1) of this title—

(i) shall be used to carry out the statewide employment and training activities described in paragraph (2)(B); and

(ii) may be used to carry out any of the statewide employment and training activities described in paragraph (3),

regardless of whether the funds were allotted to the State under section 3162(b)(1) of this title or under paragraph (1) or (2) of section 3172(b) of this title.

##### (2) Required statewide employment and training activities

###### (A) Statewide rapid response activities

###### (i) In general

A State shall carry out statewide rapid response activities using funds reserved by the Governor for the State under section 3173(a)(2) of this title, which 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 unobligated funds

Funds reserved by a Governor under section 3173(a)(2) of this title, and section 2863(a)(2) of this title (as in effect on the day before July 22, 2014), to carry out this subparagraph that remain unobligated 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) or paragraph (3)(A), in addition to activities under this subparagraph.

**(B) Statewide employment and training activities**

Funds reserved by a Governor under sections 3163(a)(1) and 3173(a)(1) of this title and not used under paragraph (1)(A) (regardless of whether the funds were allotted to the States under section 3162(b)(1)(C) of this title or paragraph (1)(B) or (2)(B) of section 3172(b) of this title) shall be used for statewide employment and training activities, including—

- (i) providing assistance to—
  - (I) State entities and agencies, local areas, and one-stop partners in carrying out the activities described in the State plan, including the coordination and alignment of data systems used to carry out the requirements of this Act;
  - (II) local areas for carrying out the regional planning and service delivery efforts required under section 3121(c) of this title;
  - (III) local areas by providing information on and support for the effective development, convening, and implementation of industry or sector partnerships; and
  - (IV) local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, which may include the development and training of staff to provide opportunities for individuals with barriers to employment to enter in-demand industry sectors or occupations and non-traditional occupations, the development of exemplary program activities, and the provision of technical assistance to local areas that fail to meet local performance accountability measures described in section 3141(c) of this title;
- (ii) providing assistance to local areas as described in section 3121(b)(6) of this title;
- (iii) operating a fiscal and management accountability information system in accordance with section 3141(i) of this title;
- (iv) carrying out monitoring and oversight of activities carried out under this subpart and subpart 2;
- (v) disseminating—
  - (I) the State list of eligible providers of training services, including eligible providers of nontraditional training services and eligible providers of apprenticeship programs described in section 3152(a)(2)(B) of this title;
  - (II) information identifying eligible providers of on-the-job training, customized training, incumbent worker training, internships, paid or unpaid work experience opportunities, or transitional jobs;
  - (III) information on effective outreach to, partnerships with, and services for, business;
  - (IV) information on effective service delivery strategies to serve workers and job seekers;

(V) performance information and information on the cost of attendance (including tuition and fees) for participants in applicable programs, as described in subsections (d) and (h) of section 3152 of this title; and

(VI) information on physical and programmatic accessibility, in accordance with section 3248 of this title, if applicable, and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), for individuals with disabilities; and

(vi) conducting evaluations under section 3141(e) of this title of activities authorized under this subpart and subpart 2 in coordination with evaluations carried out by the Secretary under section 3224(a) of this title.

**(3) Allowable statewide employment and training activities**

**(A) In general**

Funds reserved by a Governor under sections 3163(a)(1) and 3173(a)(1) of this title and not used under paragraph (1)(A) or (2)(B) (regardless of whether the funds were allotted to the State under section 3162(b)(1)(C) of this title or paragraph (1)(B) or (2)(B) of section 3172(b) of this title) 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 employers (including small employers) in the State, which programs and strategies may include incumbent worker training programs, customized training, sectoral and industry cluster strategies and implementation of industry or sector partnerships, career pathway programs, microenterprise and entrepreneurial training and support programs, utilization of effective business intermediaries, layoff aversion strategies, activities to improve linkages between the one-stop delivery system 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 development system more relevant to the needs of State and local businesses, consistent with the objectives of this subchapter;
- (ii) developing strategies for effectively serving individuals with barriers to employment and for coordinating programs and services among one-stop partners;
- (iii) the development or identification of education and training programs that respond to real-time labor market analysis, that utilize direct assessment and prior learning assessment to measure and provide credit for prior knowledge, skills, competencies, and experiences, that evaluate such skills and competencies for adaptability, that ensure credits are portable and stackable for more skilled employment, and that accelerate course or credential completion;

(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 (c)(3), provided through a one-stop delivery system, including facilitating access through the use of technology;

(vi) supporting the provision of career services described in subsection (c)(2) in the one-stop delivery systems in the State;

(vii) coordinating activities with the child welfare system to facilitate provision of services for children and youth who are eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677);

(viii) activities—

(I) to improve coordination of workforce investment activities with economic development activities;

(II) to improve coordination of employment and training activities with—

(aa) 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.);

(bb) cooperative extension programs carried out by the Department of Agriculture;

(cc) programs carried out in local areas for individuals with disabilities, including programs carried out by State agencies relating to intellectual disabilities and developmental disabilities, activities carried out by Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), programs funded under part B of chapter 1 of title VII of such Act (29 U.S.C. 796e et seq.), and activities carried out by centers for independent living, as defined in section 702 of such Act (29 U.S.C. 796a);

(dd) adult education and literacy activities, including those provided by public libraries;

(ee) activities in the corrections system that assist ex-offenders in reentering the workforce; and

(ff) financial literacy activities including those described in section 3164(b)(2)(D) of this title; and

(III) consisting of development and dissemination of workforce and labor market information;

(ix) conducting research and demonstration projects related to meeting the employment and education needs of adult and dislocated workers;

(x) implementing promising services for workers and businesses, which may include providing support for education, training, skill upgrading, and statewide networking for employees to become workplace learning advisors and maintain proficiency in carrying out the activities associated with such advising;

(xi) providing incentive grants to local areas for performance by the local areas on local performance accountability measures described in section 3141(c) of this title;

(xii) adopting, calculating, or commissioning for approval an economic self-sufficiency standard for the State that specifies the income needs of families, by family size, the number and ages of children in the family, and substate geographical considerations;

(xiii) developing and disseminating common intake procedures and related items, including registration processes, materials, or software; and

(xiv) providing technical assistance to local areas that are implementing pay-for-performance contract strategies, which technical assistance may include providing assistance with data collection, meeting data entry requirements, identifying levels of performance, and conducting evaluations of such strategies.

## **(B) Limitation**

### **(i) In general**

Of the funds allotted to a State under sections 3162(b) and 3172(b) of this title and reserved as described in sections 3163(a) and 3173(a)(1) of this title for a fiscal year—

(I) not more than 5 percent of the amount allotted under section 3162(b)(1) of this title;

(II) not more than 5 percent of the amount allotted under section 3172(b)(1) of this title; and

(III) not more than 5 percent of the amount allotted under section 3172(b)(2) of this title,

may be used by the State for the administration of statewide youth workforce investment activities carried out under section 3164 of this title and statewide employment and training activities carried out under this section.

### **(ii) Use of funds**

Funds made available for administrative costs under clause (i) may be used for the administrative cost of any of the statewide youth workforce investment activities or statewide employment and training activities, regardless of whether the funds were allotted to the State under section 3162(b)(1) of this title or paragraph (1) or (2) of section 3172(b) of this title.

## **(b) Local employment and training activities**

Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 3173(b) of this title, and funds allocated to a local area for dislocated workers under section 3173(b)(2)(B) of this title—

(1) shall be used to carry out employment and training activities described in subsection (c) for adults or dislocated workers, respectively; and

(2) may be used to carry out employment and training activities described in subsection

(d) for adults or dislocated workers, respectively.

**(c) Required local employment and training activities**

**(1) In general**

**(A) Allocated funds**

Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 3173(b) of this title, and funds allocated to the local area for dislocated workers under section 3173(b)(2)(B) of this title, shall be used—

(i) to establish a one-stop delivery system described in section 3151(e) of this title;

(ii) to provide the career 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 training services described in paragraph (3) to adults and dislocated workers, respectively, described in such paragraph;

(iv) to establish and develop relationships and networks with large and small employers and their intermediaries; and

(v) to develop, convene, or implement industry or sector partnerships.

**(B) Other funds**

Consistent with subsections (h) and (i) of section 3151 of this title, a portion of the funds made available under Federal law authorizing the programs and activities described in section 3151(b)(1)(B) of this title, including the Wagner-Peyser Act (29 U.S.C. 49 et seq.), shall be used as described in clauses (i) and (ii) of subparagraph (A), to the extent not inconsistent with the Federal law involved.

**(2) Career services**

**(A) Services provided**

Funds described in paragraph (1) shall be used to provide career 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—

(i) determinations of whether the individuals are eligible to receive assistance under this part;

(ii) outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop delivery system;

(iii) initial assessment of skill levels (including literacy, numeracy, and English language proficiency), aptitudes, abilities (including skills gaps), and supportive service needs;

(iv) labor exchange services, including—

(I) job search and placement assistance and, in appropriate cases, career counseling, including—

(aa) provision of information on in-demand industry sectors and occupations; and

(bb) provision of information on non-traditional employment; and

(II) appropriate recruitment and other business services on behalf of employers, including small employers, in the local area, which services may include services described in this subsection, such as providing information and referral to specialized business services not traditionally offered through the one-stop delivery system;

(v) provision of referrals to and coordination of activities with other programs and services, including programs and services within the one-stop delivery system and, in appropriate cases, other workforce development programs;

(vi) provision of workforce and labor market employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—

(I) job vacancy listings in such labor market areas;

(II) information on job skills necessary to obtain the jobs described in subclause (I); and

(III) information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for such occupations; and

(vii) provision of performance information and program cost information on eligible providers of training services as described in section 3152 of this title, provided by program, and eligible providers of youth workforce investment activities described in section 3153 of this title, providers of adult education described in subchapter II, providers of career and technical education activities at the post-secondary level, and career and technical education activities available to school dropouts, under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), and providers of vocational rehabilitation services described in title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(viii) provision of information, in formats that are usable by and understandable to one-stop center customers, regarding how the local area is performing on the local performance accountability measures described in section 3141(c) of this title and any additional performance information with respect to the one-stop delivery system in the local area;

(ix)(I) provision of information, in formats that are usable by and understandable to 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 (42 U.S.C. 1396 et seq. and 1397aa et seq.), benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), assistance through the earned income tax credit under section 32

of title 26, and assistance under a State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and other supportive services and transportation provided through funds made available under such part, available in the local area; and

(II) referral to the services or assistance described in subclause (I), as appropriate;

(x) provision of information and assistance regarding filing claims for unemployment compensation;

(xi) assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under this Act;

(xii) services, if determined to be appropriate in order for an individual to obtain or retain employment, that consist of—

(I) comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include—

(aa) diagnostic testing and use of other assessment tools; and

(bb) in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;

(II) development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals, including providing information on eligible providers of training services pursuant to paragraph (3)(F)(ii), and career pathways to attain career objectives;

(III) group counseling;

(IV) individual counseling;

(V) career planning;

(VI) short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training;

(VII) internships and work experiences that are linked to careers;

(VIII) workforce preparation activities;

(IX) financial literacy services, such as the activities described in section 3164(b)(2)(D) of this title;

(X) out-of-area job search assistance and relocation assistance; or

(XI) English language acquisition and integrated education and training programs; and

(xiii) followup services, including counseling regarding the workplace, for participants in workforce investment activities authorized under this part who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.

#### **(B) Use of previous assessments**

A one-stop operator or one-stop partner shall not be required to conduct a new inter-

view, evaluation, or assessment of a participant under subparagraph (A)(xii) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent interview, evaluation, or assessment of the participant conducted pursuant to another education or training program.

#### **(C) Delivery of services**

The career services described in subparagraph (A) shall be provided through the one-stop delivery system—

(i) directly through one-stop operators identified pursuant to section 3151(d) of this title; or

(ii) through contracts with service providers, which may include contracts with public, private for-profit, and private non-profit service providers, approved by the local board.

### **(3) Training services**

#### **(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 3173(b) of this title, and funds allocated to the local area for dislocated workers under section 3173(b)(2)(B) of this title, shall be used to provide training services to adults and dislocated workers, respectively—

(I) who, after an interview, evaluation, or assessment, and career planning, 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 economic self-sufficiency or wages comparable to or higher than wages from previous employment, through the career services described in paragraph (2)(A)(xii);

(bb) be in need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from 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 the planning region, 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) Use of previous assessments**

A one-stop operator or one-stop partner shall not be required to conduct a new interview, evaluation, or assessment of a participant under clause (i) if the one-stop operator or one-stop partner determines

that it is appropriate to use a recent interview, evaluation, or assessment of the participant conducted pursuant to another education or training program.

**(iii) Rule of construction**

Nothing in this subparagraph shall be construed to mean an individual is required to receive career services prior to receiving training services.

**(B) Qualification**

**(i) Requirement**

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—

(I) are unable to obtain other grant assistance for such services, including Federal Pell Grants established under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.); or

(II) require assistance beyond the assistance made available under other grant assistance programs, including Federal Pell Grants.

**(ii) Reimbursements**

Training services may be provided under this paragraph to an individual who otherwise meets the requirements of this paragraph while an application for a Federal Pell Grant is pending, except that if such individual is subsequently awarded a Federal Pell Grant, appropriate reimbursement shall be made to the local area from such Federal Pell Grant.

**(iii) Consideration**

In determining whether an individual requires assistance under clause (i)(II), a one-stop operator (or one-stop partner, where appropriate) may take into consideration the full cost of participating in training services, including the costs of dependent care and transportation, and other appropriate costs.

**(C) Provider qualification**

Training services shall be provided through providers identified in accordance with section 3152 of this title.

**(D) Training services**

Training services may include—

(i) occupational skills training, including training for nontraditional employment;

(ii) on-the-job training;

(iii) incumbent worker training in accordance with subsection (d)(4);

(iv) programs that combine workplace training with related instruction, which may include cooperative education programs;

(v) training programs operated by the private sector;

(vi) skill upgrading and retraining;

(vii) entrepreneurial training;

(viii) transitional jobs in accordance with subsection (d)(5);

(ix) job readiness training provided in combination with services described in any of clauses (i) through (viii);

(x) adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with services described in any of clauses (i) through (vii); and

(xi) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

**(E) Priority**

With respect to funds allocated to a local area for adult employment and training activities under paragraph (2)(A) or (3) of section 3173(b) of this title, priority shall be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient for receipt of career services described in paragraph (2)(A)(xii) and training services. The appropriate local board and the Governor shall direct the one-stop operators in the local area with regard to making determinations related to such priority.

**(F) Consumer choice requirements**

**(i) In general**

Training services provided under this paragraph shall be provided in a manner that maximizes consumer choice in the selection of an eligible provider of such services.

**(ii) Eligible providers**

Each local board, through one-stop centers, shall make available the list of eligible providers of training services described in section 3152(d) of this title, and accompanying information, in accordance with section 3152(d) of this title.

**(iii) Individual training accounts**

An individual who seeks training services and who is eligible pursuant to subparagraph (A), may, in consultation with a career planner, select an eligible provider of training services from the list of providers described in 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.

**(iv) Coordination**

Each local board may, through one-stop centers, coordinate funding for individual training accounts with funding from other Federal, State, local, or private job training programs or sources to assist the individual in obtaining training services.

**(v) Additional information**

Priority consideration shall, consistent with clause (i), be given to programs that lead to recognized postsecondary credentials that are aligned with in-demand in-

dustry sectors or occupations in the local area involved.

**(G) Use of individual training 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 in accordance with this paragraph, and shall be provided to eligible individuals through the one-stop delivery system.

**(ii) Training contracts**

Training services authorized under this paragraph may be provided pursuant to a contract for services in lieu of an individual training account if—

(I) the requirements of subparagraph (F) are met;

(II) such services are on-the-job training, customized training, incumbent worker training, or transitional employment;

(III) 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;

(IV) 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 individuals with barriers to employment;

(V) the local board determines that—

(aa) it would be most appropriate to award a contract to an institution of higher education or other eligible provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations; and

(bb) such contract does not limit customer choice; or

(VI) the contract is a pay-for-performance contract.

**(iii) Linkage to occupations in demand**

Training services provided under this paragraph shall be directly linked to an in-demand industry sector or occupation in the local area or the planning region, or in another area to which an adult or dislocated worker receiving such services is willing to relocate, except that a local board may approve training services for occupations determined by the local board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area.

**(iv) Rule of construction**

Nothing in this paragraph shall be construed to preclude the combined use of individual training accounts and contracts in the provision of training services, including arrangements that allow individuals receiving individual training accounts to obtain training services that are contracted for under clause (ii).

**(H) Reimbursement for on-the-job training**

**(i) Reimbursement level**

For purposes of the provision of on-the-job training under this paragraph, the Governor or local board involved may increase the amount of the reimbursement described in section 3102(44) of this title to an amount of up to 75 percent of the wage rate of a participant for a program carried out under subpart 2 or this subpart, if, respectively—

(I) the Governor approves the increase with respect to a program carried out with funds reserved by the State under that subpart, taking into account the factors described in clause (ii); or

(II) the local board approves the increase with respect to a program carried out with funds allocated to a local area under such subpart, taking into account those factors.

**(ii) Factors**

For purposes of clause (i), the Governor or local board, respectively, shall take into account factors consisting of—

(I) the characteristics of the participants;

(II) the size of the employer;

(III) the quality of employer-provided training and advancement opportunities; and

(IV) such other factors as the Governor or local board, respectively, may determine to be appropriate, which may include the number of employees participating in the training, wage and benefit levels of those employees (at present and anticipated upon completion of the training), and relation of the training to the competitiveness of a participant.

**(d) 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 3173(b) of this title, and funds allocated to the local area for dislocated workers under section 3173(b)(2)(B) of this title, may be used to provide, through the one-stop delivery system involved (and through collaboration with the local board, for the purpose of the activities described in clauses (vii) and (ix))—

(i) customized screening and referral of qualified participants in training services described in subsection (c)(3) to employers;

(ii) customized employment-related services to employers, employer associations, or other such organizations on a fee-for-service basis;

(iii) implementation of a pay-for-performance contract strategy for training services, for which the local board may reserve and use not more than 10 percent of the total funds allocated to the local area under paragraph (2) or (3) of section 3173(b) of this title;

(iv) customer support to enable individuals with barriers to employment (including individuals with disabilities) and veterans, to navigate among multiple services and activities for such populations;

(v) technical assistance for one-stop operators, one-stop partners, and eligible providers of training services, regarding the provision of services to individuals with disabilities in local areas, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, the coordination of services across providers and programs, and the development of performance accountability measures;

(vi) employment and training activities provided in coordination with—

(I) 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. 651 et seq.);

(II) 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) cooperative extension programs carried out by the Department of Agriculture; and

(IV) activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access through the use of technology;

(vii) activities—

(I) to improve coordination between workforce investment activities and economic development activities carried out within the local area involved, and to promote entrepreneurial skills training and microenterprise services;

(II) to improve services and linkages between the local workforce investment system (including the local one-stop delivery system) and employers, including small employers, in the local area, through services described in this section; and

(III) to strengthen linkages between the one-stop delivery system and unemployment insurance programs;

(viii) training programs for displaced homemakers and for individuals training for nontraditional occupations, in conjunction with programs operated in the local area;

(ix) activities to provide business services and strategies that meet the workforce investment needs of area employers, as determined by the local board, consistent with the local plan under section 3123 of this title, 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, philanthropic, and other public and private resources in a manner determined appropriate by the local board; and

(II) may include—

(aa) developing and implementing industry sector strategies (including strategies involving industry partnerships, regional skills alliances, industry skill panels, and sectoral skills partnerships);

(bb) developing and delivering innovative workforce investment services and strategies for area employers, which may include career pathways, skills upgrading, skill standard development and certification for recognized postsecondary credential or other employer use, apprenticeship, and other effective initiatives for meeting the workforce investment needs of area employers and workers;

(cc) assistance to area employers in managing reductions in force in coordination with rapid response activities provided under subsection (a)(2)(A) and with strategies for the aversion of layoffs, which strategies may include early identification of firms at risk of layoffs, use of feasibility studies to assess the needs of and options for at-risk firms, and the delivery of employment and training activities to address risk factors; and

(dd) the marketing of business services offered under this subchapter, to appropriate area employers, including small and mid-sized employers;

(x) activities to adjust the economic self-sufficiency standards referred to in subsection (a)(3)(A)(xii) for local factors, or activities to adopt, calculate, or commission for approval, economic self-sufficiency standards for the local areas that specify the income needs of families, by family size, the number and ages of children in the family, and substate geographical considerations;

(xi) improved coordination between employment and training activities and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to intellectual disabilities and developmental disabilities, activities carried out by Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), programs funded under part B of chapter 1 of title VII of such Act (29 U.S.C. 796e et seq.), and activities carried out by centers for independent living, as defined in section 702 of such Act (29 U.S.C. 796a); and

(xii) implementation of promising services to workers and businesses, which may include support for education, training, skill upgrading, and statewide networking for employees to become workplace learning advisors and maintain proficiency in carrying out the activities associated with such advising.

**(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 3173(b) of this title, and funds allocated to the local area for dislocated workers under section 3173(b)(2)(B) of this title, 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 of the system shall coordinate the appropriate programs and resources of the partners with the activities and resources provided under this subparagraph.

**(ii) Activities**

The work support 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 3173(b) of this title, and funds allocated to the local area for dislocated workers under section 3173(b)(2)(B) of this title, may be used to provide supportive services to adults and dislocated workers, respectively—

(A) who are participating in programs with activities authorized in paragraph (2) or (3) of subsection (c); and

(B) who are unable to obtain such supportive services through other programs providing such services.

**(3) Needs-related payments**

**(A) In general**

Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 3173(b) of this title, and funds allocated to the local area for dislocated workers under section 3173(b)(2)(B) of this title, may be used to provide needs-related payments to adults and dislocated workers, respectively, who are unemployed and do not qualify for (or have ceased to qualify for) unemployment compensation for the purpose of enabling such individuals to participate in programs of training services under subsection (c)(3).

**(B) Additional eligibility requirements**

In addition to the requirements contained in subparagraph (A), a dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments under this paragraph only if such worker was enrolled in the training services—

(i) by the end of the 13th week after the most recent layoff that resulted in a deter-

mination of the worker's eligibility for employment and training activities for dislocated workers under this part; or

(ii) if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months.

**(C) Level of payments**

The level of a needs-related payment made to a dislocated worker under this paragraph shall not exceed the greater of—

(i) the applicable level of unemployment compensation; or

(ii) if such worker did not qualify for unemployment compensation, an amount equal to the poverty line, for an equivalent period, which amount shall be adjusted to reflect changes in total family income.

**(4) Incumbent worker training programs**

**(A) In general**

**(i) Standard reservation of funds**

The local board may reserve and use not more than 20 percent of the funds allocated to the local area involved under section 3173(b) of this title to pay for the Federal share of the cost of providing training through a training program for incumbent workers, carried out in accordance with this paragraph.

**(ii) Determination of eligibility**

For the purpose of determining the eligibility of an employer to receive funding under clause (i), the local board shall take into account factors consisting of—

(I) the characteristics of the participants in the program;

(II) the relationship of the training to the competitiveness of a participant and the employer; and

(III) such other factors as the local board may determine to be appropriate, which may include the number of employees participating in the training, the wage and benefit levels of those employees (at present and anticipated upon completion of the training), and the existence of other training and advancement opportunities provided by the employer.

**(iii) Statewide impact**

The Governor or State board involved may make recommendations to the local board for providing incumbent worker training that has 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 (which may include employers in partnership with other entities for the purposes of delivering training) for the purpose of assisting such workers in obtaining the skills necessary to retain employment or avert layoffs.

**(C) Employer payment of non-Federal share**

Employers participating in the program carried out under this paragraph shall be re-

quired to pay for the non-Federal share of the cost of providing the training to incumbent workers of the employers.

**(D) Non-Federal share**

**(i) Factors**

Subject to clause (ii), the local board shall establish the non-Federal share of such cost (taking into consideration such other factors as the number of employees participating in the training, the wage and benefit levels of the employees (at the beginning and anticipated upon completion of the training), the relationship of the training to the competitiveness of the employer and employees, and the availability of other employer-provided training and advancement opportunities.<sup>1</sup>

**(ii) Limits**

The non-Federal share shall not be less than—

(I) 10 percent of the cost, for employers with not more than 50 employees;

(II) 25 percent of the cost, for employers with more than 50 employees but not more than 100 employees; and

(III) 50 percent of the cost, for employers with more than 100 employees.

**(iii) Calculation of employer share**

The non-Federal share provided by an employer participating in the program 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. The employer may provide the share in cash or in kind, fairly evaluated.

**(5) Transitional jobs**

The local board may use not more than 10 percent of the funds allocated to the local area involved under section 3173(b) of this title to provide transitional jobs under subsection (c)(3) that—

(A) are time-limited work experiences that are subsidized and are in the public, private, or nonprofit sectors for individuals with barriers to employment who are chronically unemployed or have an inconsistent work history;

(B) are combined with comprehensive employment and supportive services; and

(C) are designed to assist the individuals described in subparagraph (A) to establish a work history, demonstrate success in the workplace, and develop the skills that lead to entry into and retention in unsubsidized employment.

(Pub. L. 113-128, title I, § 134, July 22, 2014, 128 Stat. 1520.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(2)(B)(i)(I) and (c)(2)(A)(xi), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§ 2801 et seq.) of this title and chapter 73 (§ 9201

<sup>1</sup> So in original. A closing parenthesis probably should precede the period.

et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(2)(B)(v)(VI), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Social Security Act, referred to in subsecs. (a)(3)(A)(viii)(II)(aa), (c)(2)(A)(ix)(I), and (d)(1)(A)(vi)(I), (II), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XIX and XXI of the Act are classified generally to subchapters XIX (§ 1396 et seq.) and XXI (§ 1397aa et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. Parts A and D of title IV of the Act are classified generally to parts A (§ 601 et seq.) and D (§ 651 et seq.), respectively, of subchapter IV of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsecs. (a)(3)(A)(viii)(II)(cc), (c)(2)(A)(vii), and (d)(1)(A)(xi), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355. Title I of the Act is classified generally to subchapter I (§ 720 et seq.) of chapter 16 of this title. Part B of chapter 1 of title VII of the Act is classified generally to subpart 2 (§ 796e et seq.) of part A of subchapter VII of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Wagner-Peyser Act, referred to in (c)(1)(B), is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§ 49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (c)(2)(A)(vii), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, § 1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§ 2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (c)(2)(A)(ix)(I), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§ 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Higher Education Act of 1965, referred to in subsec. (c)(3)(B)(i)(I), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Subpart 1 of part A of title IV of the Act is classified generally to subpart 1 (§ 1070a et seq.) of part A of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

EFFECTIVE DATE

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

SUBPART 4—GENERAL WORKFORCE INVESTMENT PROVISIONS

**§ 3181. Authorization of appropriations**

**(a) Youth workforce investment activities**

There are authorized to be appropriated to carry out the activities described in section 3162(a) of this title, \$820,430,000 for fiscal year 2015, \$883,800,000 for fiscal year 2016, \$902,139,000 for fiscal year 2017, \$922,148,000 for fiscal year

2018, \$943,828,000 for fiscal year 2019, and \$963,837,000 for fiscal year 2020.

**(b) Adult employment and training activities**

There are authorized to be appropriated to carry out the activities described in section 3172(a)(1) of this title, \$766,080,000 for fiscal year 2015, \$825,252,000 for fiscal year 2016, \$842,376,000 for fiscal year 2017, \$861,060,000 for fiscal year 2018, \$881,303,000 for fiscal year 2019, and \$899,987,000 for fiscal year 2020.

**(c) Dislocated worker employment and training activities**

There are authorized to be appropriated to carry out the activities described in section 3172(a)(2) of this title, \$1,222,457,000 for fiscal year 2015, \$1,316,880,000 for fiscal year 2016, \$1,344,205,000 for fiscal year 2017, \$1,374,019,000 for fiscal year 2018, \$1,406,322,000 for fiscal year 2019, and \$1,436,137,000 for fiscal year 2020.

(Pub. L. 113–128, title I, § 136, July 22, 2014, 128 Stat. 1537.)

EFFECTIVE DATE

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

PART C—JOB CORPS

DEFINITION OF “SECRETARY”

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

**§ 3191. Purposes**

The purposes of this part are—

(1) to maintain a national Job Corps program, carried out in partnership with States and communities, to—

(A) assist eligible youth to connect to the labor force by providing them with intensive social, academic, career and technical education, and service-learning opportunities, in primarily residential centers, in order for such youth to obtain secondary school diplomas or recognized postsecondary credentials leading to—

(i) successful careers, in in-demand industry sectors or occupations or the Armed Forces, that will result in economic self-sufficiency and opportunities for advancement; or

(ii) enrollment in postsecondary education, including an apprenticeship program; and

(B) support responsible citizenship;

(2) to set forth standards and procedures for selecting individuals as enrollees in the Job Corps;

(3) to authorize the establishment of Job Corps centers in which enrollees will participate in intensive programs of activities described in this part; and

(4) to prescribe various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps.

(Pub. L. 113–128, title I, § 141, July 22, 2014, 128 Stat. 1537.)

EFFECTIVE DATE

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

**§ 3192. Definitions**

In this part:

**(1) Applicable local board**

The term “applicable local board” means a local board—

(A) that provides information for a Job Corps center on local employment opportunities and the job skills needed to obtain the opportunities; and

(B) that serves communities in which the graduates of the Job Corps center seek employment.

**(2) Applicable one-stop center**

The term “applicable one-stop center” means a one-stop center that provides services, such as referral, assessment, recruitment, and placement, to support the purposes of the Job Corps.

**(3) Enrollee**

The term “enrollee” means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, and remains with the program, but has not yet become a graduate.

**(4) Former enrollee**

The term “former enrollee” means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, but left the program prior to becoming a graduate.

**(5) Graduate**

The term “graduate” means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program and who, as a result of participation in the Job Corps program, has received a secondary school diploma or recognized equivalent, or completed the requirements of a career and technical education and training program that prepares individuals for employment leading to economic self-sufficiency or entrance into postsecondary education or training.

**(6) Job Corps**

The term “Job Corps” means the Job Corps described in section 3193 of this title.

**(7) Job Corps center**

The term “Job Corps center” means a center described in section 3197 of this title.

**(8) Operator**

The term “operator” means an entity selected under this part to operate a Job Corps center.

**(9) Region**

The term “region” means an area defined by the Secretary.

**(10) Service provider**

The term “service provider” means an entity selected under this part to provide serv-

ices described in this part to a Job Corps center.

(Pub. L. 113-128, title I, §142, July 22, 2014, 128 Stat. 1538.)

EFFECTIVE DATE

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

**§ 3193. Establishment**

There shall be within the Department of Labor a “Job Corps”.

(Pub. L. 113-128, title I, §143, July 22, 2014, 128 Stat. 1539.)

EFFECTIVE DATE

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

**§ 3194. Individuals eligible for the Job Corps**

**(a) In general**

To be eligible to become an enrollee, an individual shall be—

(1) not less than age 16 and not more than age 21 on the date of enrollment, except that—

(A) not more than 20 percent of the individuals enrolled in the Job Corps may be not less than age 22 and not more than age 24 on the date of enrollment; and

(B) either such maximum age limitation may be waived by the Secretary, in accordance with regulations of the Secretary, in the case of an individual with a disability;

(2) a low-income individual; and

(3) an individual who is one or more of the following:

(A) Basic skills deficient.

(B) A school dropout.

(C) A homeless individual (as defined in section 14043e-2(6) of title 42), a homeless child or youth (as defined in section 11434a(2) of title 42), a runaway, an individual in foster care, or an individual who was in foster care and has aged out of the foster care system.

(D) A parent.

(E) An individual who requires additional education, career and technical education or training, or workforce preparation skills to be able to obtain and retain employment that leads to economic self-sufficiency.

**(b) Special rule for veterans**

Notwithstanding the requirement of subsection (a)(2), a veteran shall be eligible to become an enrollee under subsection (a) if the individual—

(1) meets the requirements of paragraphs (1) and (3) of such subsection; and

(2) does not meet the requirement of subsection (a)(2) because the military income earned by such individual within the 6-month period prior to the individual’s application for Job Corps prevents the individual from meeting such requirement.

(Pub. L. 113-128, title I, §144, July 22, 2014, 128 Stat. 1539.)

EFFECTIVE DATE

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

**§ 3195. Recruitment, screening, selection, and assignment of enrollees**

**(a) Standards and procedures**

**(1) In general**

The Secretary shall prescribe specific standards and procedures for the recruitment, screening, and selection of eligible applicants for the Job Corps, after considering recommendations from Governors of States, local boards, and other interested parties.

**(2) Methods**

In prescribing standards and procedures under paragraph (1), the Secretary, at a minimum, shall—

(A) prescribe procedures for informing enrollees that drug tests will be administered to the enrollees and the results received within 45 days after the enrollees enroll in the Job Corps;

(B) establish standards for recruitment of Job Corps applicants;

(C) establish standards and procedures for—

(i) determining, for each applicant, whether the educational and career and technical education and training needs of the applicant can best be met through the Job Corps program or an alternative program in the community in which the applicant resides; and

(ii) obtaining from each applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment;

(D) where appropriate, take measures to improve the professional capability of the individuals conducting screening of the applicants; and

(E) assure appropriate representation of enrollees from urban areas and from rural areas.

**(3) Implementation**

The standards and procedures shall be implemented through arrangements with—

(A) applicable one-stop centers;

(B) organizations that have a demonstrated record of effectiveness in serving at-risk youth and placing such youth into employment, including community action agencies, business organizations, or labor organizations; and

(C) child welfare agencies that are responsible for children and youth eligible for benefits and services under section 677 of title 42.

**(4) Consultation**

The standards and procedures shall provide for necessary consultation with individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers.

**(5) Reimbursement**

The Secretary is authorized to enter into contracts with and make payments to individ-

uals and organizations for the cost of conducting recruitment, screening, and selection of eligible applicants for the Job Corps, as provided for in this section. The Secretary shall make no payment to any individual or organization solely as compensation for referring the names of applicants for the Job Corps.

**(b) Special limitations on selection**

**(1) In general**

No individual shall be selected as an enrollee unless the individual or organization implementing the standards and procedures described in subsection (a) determines that—

(A) there is a reasonable expectation that the individual considered for selection can participate successfully in group situations and activities, and is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the Job Corps program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the Job Corps center to which the individual might be assigned and communities surrounding the Job Corps center;

(B) the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe the rules, and agrees to comply with such rules; and

(C) the individual has passed a background check conducted in accordance with procedures established by the Secretary and with applicable State and local laws.

**(2) Individuals on probation, parole, or supervised release**

An individual on probation, parole, or supervised release may be selected as an enrollee only if release from the supervision of the probation or parole official involved is satisfactory to the official and the Secretary and does not violate applicable laws (including regulations). No individual shall be denied a position in the Job Corps solely on the basis of individual contact with the criminal justice system except for a disqualifying conviction as specified in paragraph (3).

**(3) Individuals convicted of certain crimes**

An individual shall not be selected as an enrollee if the individual has been convicted of a felony consisting of murder (as described in section 1111 of title 18), child abuse, or a crime involving rape or sexual assault.

**(c) Assignment plan**

**(1) In general**

Every 2 years, the Secretary shall develop and implement a plan for assigning enrollees to Job Corps centers. In developing the plan, the Secretary shall, based on the analysis described in paragraph (2), establish targets, applicable to each Job Corps center, for—

(A) the maximum attainable percentage of enrollees at the Job Corps center that reside in the State in which the center is located; and

(B) the maximum attainable percentage of enrollees at the Job Corps center that reside in the region in which the center is located, and in surrounding regions.

**(2) Analysis**

In order to develop the plan described in paragraph (1), every 2 years the Secretary, in consultation with operators of Job Corps centers, shall analyze relevant factors relating to each Job Corps center, including—

(A) the size of the population of individuals eligible to participate in Job<sup>1</sup> Corps in the State and region in which the Job Corps center is located, and in surrounding regions;

(B) the relative demand for participation in the Job Corps in the State and region, and in surrounding regions;

(C) the capacity and utilization of the Job Corps center, including the education, training, and supportive services provided through the center; and

(D) the performance of the Job Corps center relating to the expected levels of performance for the indicators described in section 3209(c)(1) of this title, and whether any actions have been taken with respect to such center pursuant to paragraphs (2) and (3) of section 3209(f) of this title.

**(d) Assignment of individual enrollees**

**(1) In general**

After an individual has been selected for the Job Corps in accordance with the standards and procedures of the Secretary under subsection (a), the enrollee shall be assigned to the Job Corps center that offers the type of career and technical education and training selected by the individual and, among the centers that offer such education and training, is closest to the home of the individual. The Secretary may waive this requirement if—

(A) the enrollee would be unduly delayed in participating in the Job Corps program because the closest center is operating at full capacity; or

(B) the parent or guardian of the enrollee requests assignment of the enrollee to another Job Corps center due to circumstances in the community of the enrollee that would impair prospects for successful participation in the Job Corps program.

**(2) Enrollees who are younger than 18**

An enrollee who is younger than 18 shall not be assigned to a Job Corps center other than the center closest to the home that offers the career and technical education and training desired by the enrollee pursuant to paragraph (1) if the parent or guardian of the enrollee objects to the assignment.

(Pub. L. 113–128, title I, §145, July 22, 2014, 128 Stat. 1539.)

EFFECTIVE DATE

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

<sup>1</sup> So in original. Probably should be preceded by “the”.

**§ 3196. Enrollment****(a) Relationship between enrollment and military obligations**

Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

**(b) Period of enrollment**

No individual may be enrolled in the Job Corps for more than 2 years, except—

(1) in a case in which completion of an advanced career training program under section 3198(c) of this title would require an individual to participate in the Job Corps for not more than one additional year;

(2) in the case of an individual with a disability who would reasonably be expected to meet the standards for a Job Corps graduate, as defined under section 3192(5) of this title, if allowed to participate in the Job Corps for not more than 1 additional year;

(3) in the case of an individual who participates in national service, as authorized by a Civilian Conservation Center program, who would be granted an enrollment extension in the Job Corps for the amount of time equal to the period of national service; or

(4) as the Secretary may authorize in a special case.

(Pub. L. 113-128, title I, § 146, July 22, 2014, 128 Stat. 1542.)

## REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (a), is act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to section 451 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 451 of Title 50, Appendix and Tables.

## EFFECTIVE DATE

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

**§ 3197. Job Corps centers****(a) Operators and service providers****(1) Eligible entities****(A) Operators**

The Secretary shall enter into an agreement with a Federal, State, or local agency, an area career and technical education school, a residential career and technical education school, or a private organization, for the operation of each Job Corps center.

**(B) Providers**

The Secretary may enter into an agreement with a local entity, or other entity with the necessary capacity, to provide activities described in this part to a Job Corps center.

**(2) Selection process****(A) Competitive basis**

Except as provided in subsections (a) and (b) of section 3304 of title 41, the Secretary shall select on a competitive basis an entity

to operate a Job Corps center and entities to provide activities described in this part to the Job Corps center. In developing a solicitation for an operator or service provider, the Secretary shall consult with the Governor of the State in which the center is located, the workforce council for the Job Corps center (if established), and the applicable local board regarding the contents of such solicitation, including elements that will promote the consistency of the activities carried out through the center with the objectives set forth in the State plan or in a local plan.

**(B) Recommendations and considerations****(i) Operators**

In selecting an entity to operate a Job Corps center, the Secretary shall consider—

(I) the ability of the entity to coordinate the activities carried out through the Job Corps center with activities carried out under the appropriate State plan and local plans;

(II) the ability of the entity to offer career and technical education and training that has been proposed by the workforce council under section 3204(c) of this title, and the degree to which such education and training reflects employment opportunities in the local areas in which enrollees at the center intend to seek employment;

(III) the degree to which the entity demonstrates relationships with the surrounding communities, employers, labor organizations, State boards, local boards, applicable one-stop centers, and the State and region in which the center is located;

(IV) the performance of the entity, if any, relating to operating or providing activities described in this part to a Job Corps center, including information regarding the entity in any reports developed by the Office of Inspector General of the Department of Labor and the entity's demonstrated effectiveness in assisting individuals in achieving the primary indicators of performance for eligible youth described in section 3141(b)(2)(A)(ii) of this title; and

(V) the ability of the entity to demonstrate a record of successfully assisting at-risk youth to connect to the workforce, including providing them with intensive academics and career and technical education and training.

**(ii) Providers**

In selecting a service provider for a Job Corps center, the Secretary shall consider the factors described in clause (i).

**(3) Additional selection factors**

To be eligible to operate a Job Corps center, an entity shall submit to the Secretary, at such time and in such manner as the Secretary may require, information related to additional selection factors, which shall include the following:

(A) A description of the program activities that will be offered at the center and how the academics and career and technical education and training reflect State and local employment opportunities, including opportunities in in-demand industry sectors and occupations recommended by the workforce council under section 3204(c)(2)(A) of this title.

(B) A description of the counseling, placement, and support activities that will be offered at the center, including a description of the strategies and procedures the entity will use to place graduates into unsubsidized employment or education leading to a recognized postsecondary credential upon completion of the program.

(C) A description of the demonstrated record of effectiveness that the entity has in placing at-risk youth into employment and postsecondary education, including past performance of operating a Job Corps center under this part or subtitle C of title I of the Workforce Investment Act of 1998, and as appropriate, the entity's demonstrated effectiveness in assisting individuals in achieving the indicators of performance for eligible youth described in section 3141(b)(2)(A)(ii) of this title.

(D) A description of the relationships that the entity has developed with State boards, local boards, applicable one-stop centers, employers, labor organizations, State and local educational agencies, and the surrounding communities in which the center is located, in an effort to promote a comprehensive statewide workforce development system.

(E) A description of the entity's ability to coordinate the activities carried out through the Job Corps center with activities carried out under the appropriate State plan and local plans.

(F) A description of the strong fiscal controls the entity has in place to ensure proper accounting of Federal funds, and a description of how the entity will meet the requirements of section 3209(a) of this title.

(G) A description of the steps to be taken to control costs in accordance with section 3209(a)(3) of this title.

(H) A detailed budget of the activities that will be supported using funds under this part and non-Federal resources.

(I) An assurance the entity is licensed to operate in the State in which the center is located.

(J) An assurance the entity will comply with basic health and safety codes, which shall include the disciplinary measures described in section 3202(b) of this title.

(K) Any other information on additional selection factors that the Secretary may require.

**(b) High-performing centers**

**(1) In general**

If an entity meets the requirements described in paragraph (2) as applied to a particular Job Corps center, such entity shall be allowed to compete in any competitive selec-

tion process carried out for an award to operate such center.

**(2) High performance**

An entity shall be considered to be an operator of a high-performing center if the Job Corps center operated by the entity—

(A) is ranked among the top 20 percent of Job Corps centers for the most recent preceding program year; and

(B) meets the expected levels of performance established under section 3209(c)(1) of this title and, with respect to each of the primary indicators of performance for eligible youth described in section 3141(b)(2)(A)(ii) of this title—

(i) for the period of the most recent preceding 3 program years for which information is available at the time the determination is made, achieved an average of 100 percent, or higher, of the expected level of performance established under section 3209(c)(1) of this title for the indicator; and

(ii) for the most recent preceding program year for which information is available at the time the determination is made, achieved 100 percent, or higher, of the expected level of performance established under such section for the indicator.

**(3) Transition**

If any of the program years described in paragraph (2)(B) precedes the implementation of the establishment of expected levels of performance under section 3209(c) of this title and the application of the primary indicators of performance for eligible youth described in section 3141(b)(2)(A)(ii) of this title, an entity shall be considered an operator of a high-performing center during that period if the Job Corps center operated by the entity—

(A) meets the requirements of paragraph (2)(B) with respect to such preceding program years using the performance of the Job Corps center regarding the national goals or targets established by the Office of the Job Corps under the previous performance accountability system for—

(i) the 6-month follow-up placement rate of graduates in employment, the military, education, or training;

(ii) the 12-month follow-up placement rate of graduates in employment, the military, education, or training;

(iii) the 6-month follow-up average weekly earnings of graduates;

(iv) the rate of attainment of secondary school diplomas or their recognized equivalent;

(v) the rate of attainment of completion certificates for career and technical training;

(vi) average literacy gains; and

(vii) average numeracy gains; or

(B) is ranked among the top 5 percent of Job Corps centers for the most recent preceding program year.

**(c) Character and activities**

Job Corps centers may be residential or non-residential in character, and shall be designed and operated so as to provide enrollees, in a

well-supervised setting, with access to activities described in this part. In any year, no more than 20 percent of the individuals enrolled in the Job Corps may be nonresidential participants in the Job Corps.

**(d) Civilian Conservation Centers**

**(1) In general**

The Job Corps centers may include Civilian Conservation Centers, operated under an agreement between the Secretary of Labor and the Secretary of Agriculture, that are located primarily in rural areas. Such centers shall provide, in addition to academics, career and technical education and training, and workforce preparation skills training, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest.

**(2) Assistance during disasters**

Enrollees in Civilian Conservation Centers may provide assistance in addressing national, State, and local disasters, consistent with current child labor laws (including regulations). The Secretary of Agriculture shall ensure that with respect to the provision of such assistance the enrollees are properly trained, equipped, supervised, and dispatched consistent with standards for the conservation and rehabilitation of wildlife established under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.).

**(3) National liaison**

The Secretary of Agriculture shall designate a Job Corps National Liaison to support the agreement under this section between the Departments of Labor and Agriculture.

**(e) Indian tribes**

**(1) General authority**

The Secretary may enter into agreements with Indian tribes to operate Job Corps centers for Indians.

**(2) Definitions**

In this subsection, the terms “Indian” and “Indian tribe” have the meanings given such terms in subsections (d) and (e), respectively, of section 450b of title 25.

**(f) Length of agreement**

The agreement described in subsection (a)(1)(A) shall be for not more than a 2-year period. The Secretary may exercise any contractual option to renew the agreement in 1-year increments for not more than 3 additional years, consistent with the requirements of subsection (g).

**(g) Renewal conditions**

**(1) In general**

Subject to paragraph (2), the Secretary shall not renew the terms of an agreement for any 1-year additional period described in subsection (f) for an entity to operate a particular Job Corps center if, for both of the 2 most recent preceding program years for which information is available at the time the determination is made, or if a second program year is

not available, the preceding year for which information is available, such center—

(A) has been ranked in the lowest 10 percent of Job Corps centers; and

(B) failed to achieve an average of 50 percent or higher of the expected level of performance under section 3209(c)(1) of this title with respect to each of the primary indicators of performance for eligible youth described in section 3141(b)(2)(A)(ii) of this title.

**(2) Exception**

Notwithstanding paragraph (1), the Secretary may exercise an option to renew the agreement for no more than 2 additional years if the Secretary determines such renewal would be in the best interest of the Job Corps program, taking into account factors including—

(A) significant improvements in program performance in carrying out a performance improvement plan under section 3209(f)(2) of this title;

(B) that the performance is due to circumstances beyond the control of the entity, such as an emergency or disaster, as defined in section 3225(a)(1) of this title;

(C) a significant disruption in the operations of the center, including in the ability to continue to provide services to students, or significant increase in the cost of such operations; or

(D) a significant disruption in the procurement process with respect to carrying out a competition for the selection of a center operator.

**(3) Detailed explanation**

If the Secretary exercises an option under paragraph (2), the Secretary shall provide, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a detailed explanation of the rationale for exercising such option.

**(4) Additional considerations**

The Secretary shall only renew the agreement of an entity to operate a Job Corps center if the entity—

(A) has a satisfactory record of integrity and business ethics;

(B) has adequate financial resources to perform the agreement;

(C) has the necessary organization, experience, accounting and operational controls, and technical skills; and

(D) is otherwise qualified and eligible under applicable laws and regulations, including that the contractor is not under suspension or debarred from eligibility for Federal contracts.

(Pub. L. 113–128, title I, §147, July 22, 2014, 128 Stat. 1542.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (a)(3)(C), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Subtitle C of title I of the Act was classi-

fied generally to subchapter III (§2881 et seq.) of chapter 30 of this title. Pursuant to section 3361(a) of this title, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. For complete classification of the Workforce Investment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Fish and Wildlife Coordination Act, referred to in subsec. (d)(2), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, which is classified generally to sections 661 to 666c of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 16 and Tables.

#### EFFECTIVE DATE

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

### § 3198. Program activities

#### (a) Activities provided by Job Corps centers

##### (1) In general

Each Job Corps center shall provide enrollees with an intensive, well organized, and fully supervised program of education, including English language acquisition programs, career and technical education and training, work experience, work-based learning, recreational activities, physical rehabilitation and development, driver's education, and counseling, which may include information about financial literacy. Each Job Corps center shall provide enrollees assigned to the center with access to career services described in clauses (i) through (xi) of section 3174(c)(2)(A) of this title.

##### (2) Relationship to opportunities

The activities provided under this subsection shall be targeted to helping enrollees, on completion of their enrollment—

(A) secure and maintain meaningful unsubsidized employment;

(B) enroll in and complete secondary education or postsecondary education or training programs, including other suitable career and technical education and training, and apprenticeship programs; or

(C) satisfy Armed Forces requirements.

##### (3) Link to employment opportunities

The career and technical education and training provided shall be linked to employment opportunities in in-demand industry sectors and occupations in the State or local area in which the Job Corps center is located and, to the extent practicable, in the State or local area in which the enrollee intends to seek employment after graduation.

#### (b) Academic and career and technical education and training

The Secretary may arrange for career and technical education and training of enrollees through local public or private educational agencies, career and technical educational institutions, technical institutes, or national service providers, whenever such entities provide edu-

cation and training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

#### (c) Advanced career training programs

##### (1) In general

The Secretary may arrange for programs of advanced career training for selected enrollees in which the enrollees may continue to participate for a period of not to exceed 1 year in addition to the period of participation to which the enrollees would otherwise be limited. The advanced career training may be provided through the eligible providers of training services identified under section 3152 of this title.

##### (2) Benefits

During the period of participation in an advanced career training program, an enrollee shall be eligible for full Job Corps benefits, or a monthly stipend equal to the average value of the residential support, food, allowances, and other benefits provided to enrollees assigned to residential Job Corps centers.

##### (3) Demonstration

The Secretary shall develop standards by which any operator seeking to enroll additional enrollees in an advanced career training program shall demonstrate, before the operator may carry out such additional enrollment, that—

(A) participants in such program have achieved a satisfactory rate of completion and placement in training-related jobs; and

(B) for the most recently preceding 2 program years, such operator has, on average, met or exceeded the expected levels of performance under section 3209(c)(1) of this title for each of the primary indicators of performance for eligible youth described in section 3141(b)(2)(A)(ii) of this title.

#### (d) Graduate services

In order to promote the retention of graduates in employment or postsecondary education, the Secretary shall arrange for the provision of job placement and support services to graduates for up to 12 months after the date of graduation. Multiple resources, including one-stop partners, may support the provision of these services, including services from the State vocational rehabilitation agency, to supplement job placement and job development efforts for Job Corps graduates who are individuals with disabilities.

#### (e) Child care

The Secretary shall, to the extent practicable, provide child care at or near Job Corps centers, for individuals who require child care for their children in order to participate in the Job Corps.

(Pub. L. 113-128, title I, §148, July 22, 2014, 128 Stat. 1547.)

#### EFFECTIVE DATE

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

**§ 3199. Counseling and job placement****(a) Assessment and counseling**

The Secretary shall arrange for assessment and counseling for each enrollee at regular intervals to measure progress in the academic and career and technical education and training programs carried out through the Job Corps.

**(b) Placement**

The Secretary shall arrange for assessment and counseling for enrollees prior to their scheduled graduations to determine their capabilities and, based on their capabilities, shall place the enrollees in employment leading to economic self-sufficiency for which the enrollees are trained or assist the enrollees in participating in further activities described in this part. In arranging for the placement of graduates in jobs, the Secretary shall utilize the one-stop delivery system to the maximum extent practicable.

**(c) Status and progress**

The Secretary shall determine the status and progress of enrollees scheduled for graduation and make every effort to assure that their needs for further activities described in this part are met.

**(d) Services to former enrollees**

The Secretary may provide such services as the Secretary determines to be appropriate under this part to former enrollees.

(Pub. L. 113-128, title I, §149, July 22, 2014, 128 Stat. 1548.)

## EFFECTIVE DATE

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

**§ 3200. Support****(a) Personal allowances**

The Secretary may provide enrollees assigned to Job Corps centers with such personal allowances as the Secretary may determine to be necessary or appropriate to meet the needs of the enrollees.

**(b) Transition allowances**

The Secretary shall arrange for a transition allowance to be paid to graduates. The transition allowance shall be incentive-based to reflect a graduate's completion of academic, career and technical education or training, and attainment of recognized postsecondary credentials.

**(c) Transition support**

The Secretary may arrange for the provision of 3 months of employment services for former enrollees.

(Pub. L. 113-128, title I, §150, July 22, 2014, 128 Stat. 1549.)

## EFFECTIVE DATE

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

**§ 3201. Operations****(a) Operating plan**

The provisions of the contract between the Secretary and an entity selected to operate a Job Corps center shall, at a minimum, serve as an operating plan for the Job Corps center.

**(b) Additional information**

The Secretary may require the operator, in order to remain eligible to operate the Job Corps center, to submit such additional information as the Secretary may require, which shall be considered part of the operating plan.

**(c) Availability**

The Secretary shall make the operating plan described in subsections (a) and (b), excluding any proprietary information, available to the public.

(Pub. L. 113-128, title I, §151, July 22, 2014, 128 Stat. 1549.)

## EFFECTIVE DATE

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

**§ 3202. Standards of conduct****(a) Provision and enforcement**

The Secretary shall provide, and directors of Job Corps centers shall stringently enforce, standards of conduct within the centers. Such standards of conduct shall include provisions forbidding the actions described in subsection (b)(2)(A).

**(b) Disciplinary measures****(1) In general**

To promote the proper behavioral standards in the Job Corps, the directors of Job Corps centers shall have the authority to take appropriate disciplinary measures against enrollees if such a director determines that an enrollee has committed a violation of the standards of conduct. The director shall dismiss the enrollee from the Job Corps if the director determines that the retention of the enrollee in the Job Corps will jeopardize the enforcement of such standards, threaten the safety of staff, students, or the local community, or diminish the opportunities of other enrollees.

**(2) Zero tolerance policy and drug testing****(A) Guidelines**

The Secretary shall adopt guidelines establishing a zero tolerance policy for an act of violence, for use, sale, or possession of a controlled substance, for abuse of alcohol, or for other illegal or disruptive activity.

**(B) Drug testing**

The Secretary shall require drug testing of all enrollees for controlled substances in accordance with procedures prescribed by the Secretary under section 3195(a) of this title.

**(C) Definitions**

In this paragraph:

**(i) Controlled substance**

The term “controlled substance” has the meaning given the term in section 802 of title 21.

**(ii) Zero tolerance policy**

The term “zero tolerance policy” means a policy under which an enrollee shall be automatically dismissed from the Job Corps after a determination by the director that the enrollee has carried out an action described in subparagraph (A).

**(c) Appeal**

A disciplinary measure taken by a director under this section shall be subject to expeditious appeal in accordance with procedures established by the Secretary.

(Pub. L. 113–128, title I, §152, July 22, 2014, 128 Stat. 1549.)

## EFFECTIVE DATE

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

**§ 3203. Community participation****(a) Business and community participation**

The director of each Job Corps center shall ensure the establishment and development of the mutually beneficial business and community relationships and networks described in subsection (b), including the use of local boards, in order to enhance the effectiveness of such centers.

**(b) Networks**

The activities carried out by each Job Corps center under this section shall include—

(1) establishing and developing relationships and networks with—

(A) local and distant employers, to the extent practicable, in coordination with entities carrying out other Federal and non-Federal programs that conduct similar outreach to employers;

(B) applicable one-stop centers and applicable local boards, for the purpose of providing—

(i) information to, and referral of, potential enrollees; and

(ii) job opportunities for Job Corps graduates; and

(C)(i) entities carrying out relevant apprenticeship programs and youth programs;

(ii) labor-management organizations and local labor organizations;

(iii) employers and contractors that support national training contractor programs; and

(iv) community-based organizations, non-profit organizations, and intermediaries providing workforce development-related services; and

(2) establishing and developing relationships with members of the community in which the Job Corps center is located, informing members of the community about the projects of the Job Corps center and changes in the rules,

procedures, or activities of the center that may affect the community, and planning events of mutual interest to the community and the Job Corps center.

**(c) New centers**

The director of a Job Corps center that is not yet operating shall ensure the establishment and development of the relationships and networks described in subsection (b) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

(Pub. L. 113–128, title I, §153, July 22, 2014, 128 Stat. 1550.)

## EFFECTIVE DATE

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

**§ 3204. Workforce councils****(a) In general**

Each Job Corps center shall have a workforce council, appointed by the director of the center, in accordance with procedures established by the Secretary.

**(b) Workforce council composition****(1) In general**

A workforce council shall be comprised of—

(A) a majority of members who shall be owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector employers, who—

(i) have substantial management, hiring, or policy responsibility; and

(ii) represent businesses with employment opportunities that reflect the employment opportunities of the applicable local areas in which enrollees will be seeking employment;

(B) representatives of labor organizations (where present) and representatives of employees; and

(C) enrollees and graduates of the Job Corps.

**(2) Local board**

The workforce council may include members of the applicable local boards who meet the requirements described in paragraph (1).

**(3) Employers outside of local area**

The workforce council for a Job Corps center 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 State local areas**

In the case of a single State local area designated under section 3121(d) of this title, the workforce council shall include a representative of the State Board.

**(c) Responsibilities**

The responsibilities of the workforce council shall be—

(1) to work closely with all applicable local boards in order to determine, and recommend

to the Secretary, appropriate career and technical education and training for the center;

(2) to review all the relevant labor market information, including related information in the State plan or the local plan, to—

(A) recommend the in-demand industry sectors or occupations in the area in which the Job Corps center operates;

(B) determine the employment opportunities in the local areas in which the enrollees intend to seek employment after graduation;

(C) determine the skills and education that are necessary to obtain the employment opportunities; and

(D) recommend to the Secretary the type of career and technical education and training that should be implemented at the center to enable the enrollees to obtain the employment opportunities; and

(3) to meet at least once every 6 months to reevaluate the labor market information, and other relevant information, to determine, and recommend to the Secretary, any necessary changes in the career and technical education and training provided at the center.

**(d) New centers**

The workforce council for a Job Corps center that is not yet operating shall carry out the responsibilities described in subsection (c) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

(Pub. L. 113-128, title I, §154, July 22, 2014, 128 Stat. 1551.)

EFFECTIVE DATE

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

**§ 3205. Advisory committees**

The Secretary may establish and use advisory committees in connection with the operation of the Job Corps program, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

(Pub. L. 113-128, title I, §155, July 22, 2014, 128 Stat. 1552.)

EFFECTIVE DATE

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

**§ 3206. Experimental projects and technical assistance**

**(a) Projects**

The Secretary may carry out experimental, research, or demonstration projects relating to carrying out the Job Corps program. The Secretary may waive any provisions of this part that the Secretary finds would prevent the Sec-

retary from carrying out the projects if the Secretary informs the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, in writing, not less than 90 days in advance of issuing such waiver.

**(b) Technical assistance**

From the funds provided under section 3212 of this title (for the purposes of administration), the Secretary may reserve  $\frac{1}{4}$  of 1 percent to provide, directly or through grants, contracts, or other agreements or arrangements as the Secretary considers appropriate, technical assistance for the Job Corps program for the purpose of improving program quality. Such assistance shall include—

(1) assisting Job Corps centers and programs—

(A) in correcting deficiencies under, and violations of, this part;

(B) in meeting or exceeding the expected levels of performance under section 3209(c)(1) of this title for the indicators of performance described in section 3141(b)(2)(A) of this title;

(C) in the development of sound management practices, including financial management procedures; and

(2) assisting entities, including entities not currently operating a Job Corps center, in developing the additional selection factors information described in section 3197(a)(3) of this title.

(Pub. L. 113-128, title I, §156, July 22, 2014, 128 Stat. 1552.)

EFFECTIVE DATE

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

**§ 3207. Application of provisions of Federal law**

**(a) Enrollees not considered to be Federal employees**

**(1) In general**

Except as otherwise provided in this subsection and in section 8143(a) of title 5, enrollees shall not be considered to be Federal employees and shall not be subject to the provisions of law relating to Federal employment, including such provisions regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

**(2) Provisions relating to taxes and social security benefits**

For purposes of title 26 and title II of the Social Security Act (42 U.S.C. 401 et seq.), enrollees shall be deemed to be employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

**(3) Provisions relating to compensation to Federal employees for work injuries**

For purposes of subchapter I of chapter 81 of title 5 (relating to compensation to Federal

employees for work injuries), enrollees shall be deemed to be civil employees of the Government of the United States within the meaning of the term “employee” as defined in section 8101 of title 5, and the provisions of such subchapter shall apply as specified in section 8143(a) of title 5.

**(4) Federal tort claims provisions**

For purposes of the Federal tort claims provisions in title 28, enrollees shall be considered to be employees of the Government.

**(b) Adjustments and settlements**

Whenever the Secretary finds a claim for damages to a person or property resulting from the operation of the Job Corps to be a proper charge against the United States, and the claim is not cognizable under section 2672 of title 28, the Secretary may adjust and settle the claim in an amount not exceeding \$1,500.

**(c) Personnel of the uniformed services**

Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Job Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

(Pub. L. 113-128, title I, §157, July 22, 2014, 128 Stat. 1552.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

EFFECTIVE DATE

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

**§ 3208. Special provisions**

**(a) Enrollment**

The Secretary shall ensure that women and men have an equal opportunity to participate in the Job Corps program, consistent with section 3195 of this title.

**(b) Studies, evaluations, proposals, and data**

The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of carrying out the Job Corps program shall become the property of the United States.

**(c) Transfer of property**

**(1) In general**

Notwithstanding chapter 5 of title 40, and any other provision of law, the Secretary and the Secretary of Education shall receive priority by the Secretary of Defense for the direct transfer, on a nonreimbursable basis, of the property described in paragraph (2) for use in carrying out programs under this Act or under any other Act.

**(2) Property**

The property described in this paragraph is real and personal property under the control of the Department of Defense that is not used by such Department, including property that the Secretary of Defense determines is in excess of current and projected requirements of such Department.

**(d) Gross receipts**

Transactions conducted by a private for-profit or nonprofit entity that is an operator or service provider for a Job Corps center shall not be considered to be generating gross receipts. Such an operator or service provider shall not be liable, directly or indirectly, to any State or subdivision of a State (nor to any person acting on behalf of such a State or subdivision) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such entity for operating or providing services to a Job Corps center. Such an operator or service provider shall not be liable to any State or subdivision of a State to collect or pay any sales, excise, use, or similar tax imposed on the sale to or use by such operator or service provider of any property, service, or other item in connection with the operation of or provision of services to a Job Corps center.

**(e) Management fee**

The Secretary shall provide each operator and (in an appropriate case, as determined by the Secretary) service provider with an equitable and negotiated management fee of not less than 1 percent of the amount of the funding provided under the appropriate agreement specified in section 3197 of this title.

**(f) Donations**

The Secretary may accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including equipment and materials, if such donations are available for appropriate use for the purposes set forth in this part.

**(g) Sale of property**

Notwithstanding any other provision of law, if the Administrator of General Services sells a Job Corps center facility, the Administrator shall transfer the proceeds from the sale to the Secretary, who shall use the proceeds to carry out the Job Corps program.

(Pub. L. 113-128, title I, §158, July 22, 2014, 128 Stat. 1553.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(1), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 [probably July 1, 2015], see

section 506 of Pub. L. 113-128, set out as a note under section 3101 of this title.

### § 3209. Management information

#### (a) Financial management information system

##### (1) In general

The Secretary shall establish procedures to ensure that each operator, and each service provider, maintains a financial management information system that will provide—

(A) accurate, complete, and current disclosures of the costs of Job Corps operations; and

(B) sufficient data for the effective evaluation of activities carried out through the Job Corps program.

##### (2) Accounts

Each operator and service provider shall maintain funds received under this part in accounts in a manner that ensures timely and accurate reporting as required by the Secretary.

##### (3) Fiscal responsibility

Operators shall remain fiscally responsible and control costs, regardless of whether the funds made available for Job Corps centers are incrementally increased or decreased between fiscal years.

#### (b) Audit

##### (1) Access

The Secretary, the Inspector General of the Department of Labor, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the operators and service providers described in subsection (a) that are pertinent to the Job Corps program, for purposes of conducting surveys, audits, and evaluations of the operators and service providers.

##### (2) Surveys, audits, and evaluations

The Secretary shall survey, audit, or evaluate, or arrange for the survey, audit, or evaluation of, the operators and service providers, using Federal auditors or independent public accountants. The Secretary shall conduct such surveys, audits, or evaluations not less often than once every 3 years.

#### (c) Information on indicators of performance

##### (1) Levels of performance and indicators

The Secretary shall annually establish expected levels of performance for a Job Corps center and the Job Corps program relating to each of the primary indicators of performance for eligible youth described in section 3141(b)(2)(A)(ii) of this title.

##### (2) Performance of recruiters

The Secretary shall also establish performance indicators, and expected levels of performance on the performance indicators, for recruitment service providers serving the Job Corps program. The performance indicators shall relate to—

(A) the number of enrollees recruited, compared to the established goals for such recruitment, and the number of enrollees

who remain committed to the program for 90 days after enrollment; and

(B) the measurements described in subparagraphs (I), (L), and (M) of subsection (d)(1).

##### (3) Performance of career transition service providers

The Secretary shall also establish performance indicators, and expected performance levels on the performance indicators, for career transition service providers serving the Job Corps program. The performance indicators shall relate to—

(A) the primary indicators of performance for eligible youth described in section 3141(b)(2)(A)(ii) of this title; and

(B) the measurements described in subparagraphs (D), (E), (H), (J), and (K) of subsection (d)(1).

##### (4) Report

The Secretary shall collect, and annually submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report including—

(A) information on the performance of each Job Corps center, and the Job Corps program, based on the performance indicators described in paragraph (1), as compared to the expected level of performance established under such paragraph for each performance indicator; and

(B) information on the performance of the service providers described in paragraphs (2) and (3) on the performance indicators established under such paragraphs, as compared to the expected level of performance established for each performance indicator.

#### (d) Additional information

##### (1) In general

The Secretary shall also collect, and submit in the report described in subsection (c)(4), information on the performance of each Job Corps center, and the Job Corps program, regarding—

(A) the number of enrollees served;

(B) demographic information on the enrollees served, including age, race, gender, and education and income level;

(C) the number of graduates of a Job Corps center;

(D) the number of graduates who entered the Armed Forces;

(E) the number of graduates who entered apprenticeship programs;

(F) the number of graduates who received a regular secondary school diploma;

(G) the number of graduates who received a State recognized equivalent of a secondary school diploma;

(H) the number of graduates who entered unsubsidized employment related to the career and technical education and training received through the Job Corps program and the number who entered unsubsidized employment not related to the education and training received;

(I) the percentage and number of former enrollees, including the number dismissed

under the zero tolerance policy described in section 3202(b) of this title;

(J) the percentage and number of graduates who enter postsecondary education;

(K) the average wage of graduates who enter unsubsidized employment—

(i) on the first day of such employment; and

(ii) on the day that is 6 months after such first day;

(L) the percentages of enrollees described in subparagraphs (A) and (B) of section 3195(c)(1) of this title, as compared to the percentage targets established by the Secretary under such section for the center;

(M) the cost per enrollee, which is calculated by comparing the number of enrollees at the center in a program year to the total budget for such center in the same program year;

(N) the cost per graduate, which is calculated by comparing the number of graduates of the center in a program year compared to the total budget for such center in the same program year; and

(O) any additional information required by the Secretary.

**(2) Rules for reporting of data**

The disaggregation of data under this subsection shall not be required when the number of individuals in a category is insufficient to yield statistically reliable information or when the results would reveal personally identifiable information about an individual.

**(e) Methods**

The Secretary shall collect the information described in subsections (c) and (d), using methods described in section 3141(i)(2) of this title and consistent with State law, by entering into agreements with the States to access such data for Job Corps enrollees, former enrollees, and graduates.

**(f) Performance assessments and improvements**

**(1) Assessments**

The Secretary shall conduct an annual assessment of the performance of each Job Corps center. Based on the assessment, the Secretary shall take measures to continuously improve the performance of the Job Corps program.

**(2) Performance improvement**

With respect to a Job Corps center that fails to meet the expected levels of performance relating to the primary indicators of performance specified in subsection (c)(1), the Secretary shall develop and implement a performance improvement plan. Such a plan shall require action to be taken during a 1-year period, including—

(A) providing technical assistance to the center;

(B) changing the career and technical education and training offered at the center;

(C) changing the management staff of the center;

(D) replacing the operator of the center;

(E) reducing the capacity of the center;

(F) relocating the center; or

(G) closing the center.

**(3) Additional performance improvement**

In addition to the performance improvement plans required under paragraph (2), the Secretary may develop and implement additional performance improvement plans. Such a plan shall require improvements, including the actions described in such paragraph, for a Job Corps center that fails to meet criteria established by the Secretary other than the expected levels of performance described in such paragraph.

**(4) Civilian Conservation Centers**

With respect to a Civilian Conservation Center that fails to meet the expected levels of performance relating to the primary indicators of performance specified in subsection (c)(1) or fails to improve performance as described in paragraph (2) after 3 program years, the Secretary, in consultation with the Secretary of Agriculture, shall select an entity to operate the Civilian Conservation Center on a competitive basis, in accordance with the requirements of section 3197 of this title.

**(g) Participant health and safety**

**(1) Center**

The Secretary shall ensure that a review by an appropriate Federal, State, or local entity of the physical condition and health-related activities of each Job Corps center occurs annually.

**(2) Work-based learning locations**

The Secretary shall require that an entity that has entered into a contract to provide work-based learning activities for any Job Corps enrollee under this part shall comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) or, as appropriate, under the corresponding State Occupational Safety and Health Act of 1970 requirements in the State in which such activities occur.

**(h) Buildings and facilities**

The Secretary shall collect, and submit in the report described in subsection (c)(4), information regarding the state of Job Corps buildings and facilities. Such report shall include—

(1) a review of requested construction, rehabilitation, and acquisition projects, by each Job Corps center; and

(2) a review of new facilities under construction.

**(i) National and community service**

The Secretary shall include in the report described in subsection (c)(4) available information regarding the national and community service activities of enrollees, particularly those enrollees at Civilian Conservation Centers.

**(j) Closure of Job Corps center**

Prior to the closure of any Job Corps center, the Secretary shall ensure—

(1) that the proposed decision to close the center is announced in advance to the general public through publication in the Federal Register or other appropriate means;

(2) the establishment of a reasonable comment period, not to exceed 30 days, for inter-

ested individuals to submit written comments to the Secretary; and

(3) that the Member of Congress who represents the district in which such center is located is notified within a reasonable period of time in advance of any final decision to close the center.

(Pub. L. 113–128, title I, § 159, July 22, 2014, 128 Stat. 1554.)

#### REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (g)(2), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, which is classified principally to chapter 15 (§651 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 651 of this title and Tables.

#### EFFECTIVE DATE

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

### § 3210. General provisions

The Secretary is authorized to—

(1) disseminate, with regard to the provisions of section 3204 of title 39, data and information in such forms as the Secretary shall determine to be appropriate, to public agencies, private organizations, and the general public;

(2) subject to section 3207(b) of this title, collect or compromise all obligations to or held by the Secretary and exercise all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this part—

(A) for printing and binding, in accordance with applicable law (including regulation); and

(B) without regard to any other law (including regulation), for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not expend funds under the authority of this subparagraph—

(i) except when necessary to obtain an item, service, or facility, that is required in the proper administration of this part, and that otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which the item, service, or facility is needed; and

(ii) prior to having given written notification to the Administrator of General Services (if the expenditure would affect an activity that otherwise would be under the jurisdiction of the General Services Administration) of the intention of the Secretary to make the expenditure, and the reasons and justifications for the expenditure.

(Pub. L. 113–128, title I, § 160, July 22, 2014, 128 Stat. 1558.)

#### EFFECTIVE DATE

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

### § 3211. Job Corps oversight and reporting

#### (a) Temporary financial reporting

##### (1) In general

During the periods described in paragraphs (2) and (3)(B), the Secretary shall prepare and submit to the applicable committees financial reports regarding the Job Corps program under this part. Each such financial report shall include—

(A) information regarding the implementation of the financial oversight measures suggested in the May 31, 2013, report of the Office of Inspector General of the Department of Labor entitled “The U.S. Department of Labor’s Employment and Training Administration Needs to Strengthen Controls over Job Corps Funds”;

(B) a description of any budgetary shortfalls for the program for the period covered by the financial report, and the reasons for such shortfalls; and

(C) a description and explanation for any approval for contract expenditures that are in excess of the amounts provided for under the contract.

##### (2) Timing of reports

The Secretary shall submit a financial report under paragraph (1) once every 6 months beginning on July 22, 2014, for a 3-year period. After the completion of such 3-year period, the Secretary shall submit a financial report under such paragraph once a year for the next 2 years, unless additional reports are required under paragraph (3)(B).

##### (3) Reporting requirements in cases of budgetary shortfalls

If any financial report required under this subsection finds that the Job Corps program under this part has a budgetary shortfall for the period covered by the report, the Secretary shall—

(A) not later than 90 days after the budgetary shortfall was identified, submit a report to the applicable committees explaining how the budgetary shortfall will be addressed; and

(B) submit an additional financial report under paragraph (1) for each 6-month period subsequent to the finding of the budgetary shortfall until the Secretary demonstrates, through such report, that the Job Corps program has no budgetary shortfall.

##### (b) Third-party review

Every 5 years after July 22, 2014, the Secretary shall provide for a third-party review of the Job Corps program under this part that addresses all of the areas described in subparagraphs (A) through (G) of section 3224(a)(2) of this title. The results of the review shall be submitted to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

**(c) Criteria for Job Corps center closures**

By not later than December 1, 2014, the Secretary shall establish written criteria that the Secretary shall use to determine when a Job Corps center supported under this part is to be closed and how to carry out such closure, and shall submit such criteria to the applicable committees.

**(d) Definition of applicable committees**

In this section, the term “applicable committees” means—

- (1) the Committee on Education and the Workforce of the House of Representatives;
- (2) the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Committee of Appropriations of the House of Representatives;
- (3) the Committee on Health, Education, Labor, and Pensions of the Senate; and
- (4) the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Committee of Appropriations of the Senate.

(Pub. L. 113-128, title I, §161, July 22, 2014, 128 Stat. 1558.)

## EFFECTIVE DATE

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

**§ 3212. Authorization of appropriations**

There are authorized to be appropriated to carry out this part—

- (1) \$1,688,155,000 for fiscal year 2015;
- (2) \$1,818,548,000 for fiscal year 2016;
- (3) \$1,856,283,000 for fiscal year 2017;
- (4) \$1,897,455,000 for fiscal year 2018;
- (5) \$1,942,064,000 for fiscal year 2019; and
- (6) \$1,983,236,000 for fiscal year 2020.

(Pub. L. 113-128, title I, §162, July 22, 2014, 128 Stat. 1559.)

## EFFECTIVE DATE

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

## PART D—NATIONAL PROGRAMS

## DEFINITION OF “SECRETARY”

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

**§ 3221. Native American programs****(a) Purpose****(1) In general**

The purpose of this section is to support employment and training activities for Indian, Alaska Native, and Native Hawaiian individuals in order—

- (A) to develop more fully the academic, occupational, and literacy skills of such individuals;
- (B) to make such individuals more competitive in the workforce and to equip them with the entrepreneurial skills necessary for successful self-employment; and

(C) to promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.

**(2) Indian policy**

All programs assisted under this section shall be administered in a manner consistent with the principles of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and the government-to-government relationship between the Federal Government and Indian tribal governments.

**(b) Definitions**

As used in this section:

**(1) Alaska Native**

The term “Alaska Native” includes a Native and a descendant of a Native, as such terms are defined in subsections (b) and (r) of section 1602 of title 43.

**(2) Indian, Indian tribe, and tribal organization**

The terms “Indian”, “Indian tribe”, and “tribal organization” have the meanings given such terms in subsections (d), (e), and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

**(3) Native Hawaiian and Native Hawaiian organization**

The terms “Native Hawaiian” and “Native Hawaiian organization” have the meanings given such terms in section 7517 of title 20.

**(c) Program authorized**

Every 4 years, the Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to carry out the authorized activities described in subsection (d).

**(d) Authorized activities****(1) In general**

Funds made available under subsection (c) shall be used to carry out the activities described in paragraph (2) that—

- (A) are consistent with this section; and
- (B) are necessary to meet the needs of Indians, Alaska Natives, or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment leading to self-sufficiency.

**(2) Workforce development activities and supplemental services****(A) In general**

Funds made available under subsection (c) shall be used for—

- (i) comprehensive workforce development activities for Indians, Alaska Natives, or Native Hawaiians, including training on entrepreneurial skills; or
- (ii) supplemental services for Indian, Alaska Native, or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii.

**(B) Special rule**

Notwithstanding any other provision of this section, individuals who were eligible to participate in programs under section 1671 of this title (as such section was in effect on the day before August 7, 1998) shall be eligible to participate in an activity assisted under this section.

**(e) Program plan**

In order to receive a grant or enter into a contract or cooperative agreement under this section, an entity described in subsection (c) shall submit to the Secretary a program plan that describes a 4-year strategy for meeting the needs of Indian, Alaska Native, or Native Hawaiian individuals, as appropriate, in the area served by such entity. Such plan shall—

- (1) be consistent with the purpose of this section;
- (2) identify the population to be served;
- (3) identify the education and employment needs of the population to be served and the manner in which the activities to be provided will strengthen the ability of the individuals served to obtain or retain unsubsidized employment leading to self-sufficiency;
- (4) describe the activities to be provided and the manner in which such activities are to be integrated with other appropriate activities; and
- (5) describe, after the entity submitting the plan consults with the Secretary, the performance accountability measures to be used to assess the performance of entities in carrying out the activities assisted under this section, which shall include the primary indicators of performance described in section 3141(b)(2)(A) of this title and expected levels of performance for such indicators, in accordance with subsection (h).

**(f) Consolidation of funds**

Each entity receiving assistance under subsection (c) may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

**(g) Nonduplicative and nonexclusive services**

Nothing in this section shall be construed—

- (1) to limit the eligibility of any entity described in subsection (c) to participate in any activity offered by a State or local entity under this Act; or
- (2) to preclude or discourage any agreement, between any entity described in subsection (c) and any State or local entity, to facilitate the provision of services by such entity or to the population served by such entity.

**(h) Performance accountability measures****(1) Additional performance indicators and standards****(A) Development of indicators and standards**

The Secretary, in consultation with the Native American Employment and Training Council, shall develop a set of performance indicators and standards that is in addition to the primary indicators of performance de-

scribed in section 3141(b)(2)(A) of this title and that shall be applicable to programs under this section.

**(B) Special considerations**

Such performance indicators and standards shall take into account—

- (i) the purpose of this section as described in subsection (a)(1);
- (ii) the needs of the groups served by this section, including the differences in needs among such groups in various geographic service areas; and
- (iii) the economic circumstances of the communities served, including differences in circumstances among various geographic service areas.

**(2) Agreement on adjusted levels of performance**

The Secretary and the entity described in subsection (c) shall reach agreement on the levels of performance for each of the primary indicators of performance described in section 3141(b)(2)(A) of this title, taking into account economic conditions, characteristics of the individuals served, and other appropriate factors and using, to the extent practicable, the statistical adjustment model under section 3141(b)(3)(A)(viii) of this title. The levels agreed to shall be the adjusted levels of performance and shall be incorporated in the program plan.

**(i) Administrative provisions****(1) Organizational unit established**

The Secretary shall designate a single organizational unit within the Department of Labor that shall have primary responsibility for the administration of the activities authorized under this section.

**(2) Regulations**

The Secretary shall consult with the entities described in subsection (c) in—

- (A) establishing regulations to carry out this section, including regulations relating to the performance accountability measures for entities receiving assistance under this section; and
- (B) developing a funding distribution plan that takes into consideration previous levels of funding (prior to July 22, 2014) to such entities.

**(3) Waivers****(A) In general**

With respect to an entity described in subsection (c), the Secretary, notwithstanding any other provision of law, may, pursuant to a request submitted by such entity that meets the requirements established under subparagraph (B), waive any of the statutory or regulatory requirements of this subchapter that are inconsistent with the specific needs of the entity described in such subsection, except that the Secretary may not waive requirements relating to wage and labor standards, worker rights, participation and protection of workers and participants, grievance procedures, and judicial review.

**(B) Request and approval**

An entity described in subsection (c) that requests a waiver under subparagraph (A)

shall submit a plan to the Secretary to improve the program of workforce investment activities carried out by the entity, which plan shall meet the requirements established by the Secretary and shall be generally consistent with the requirements of section 3249(i)(3)(B) of this title.

**(4) Advisory Council**

**(A) In general**

Using funds made available to carry out this section, the Secretary shall establish a Native American Employment and Training Council to facilitate the consultation described in paragraph (2) and to provide the advice described in subparagraph (C).

**(B) Composition**

The Council shall be composed of individuals, appointed by the Secretary, who are representatives of the entities described in subsection (c).

**(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).

**(D) Personnel matters**

**(i) Compensation of members**

Members of the Council shall serve without compensation.

**(ii) Travel expenses**

The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Council.

**(iii) Administrative support**

The Secretary shall provide the Council with such administrative support as may be necessary to perform the functions of the Council.

**(E) Chairperson**

The Council shall select a chairperson from among its members.

**(F) Meetings**

The Council shall meet not less than twice each year.

**(G) Application**

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

**(5) Technical assistance**

The Secretary, acting through the unit established under paragraph (1), is authorized to provide technical assistance to entities described in subsection (c) that receive assistance under such subsection to enable such entities to improve the activities authorized under this section that are provided by such entities.

**(6) Agreement for certain federally recognized Indian tribes to transfer funds to the program**

A federally recognized Indian tribe that administers funds provided under this section and funds provided by more than one State under other sections of this subchapter may enter into an agreement with the Secretary and the Governors of the affected States to transfer the funds provided by the States to the program administered by the tribe under this section.

**(j) Compliance with single audit requirements; related requirement**

Grants made and contracts and cooperative agreements entered into under this section shall be subject to the requirements of chapter 75 of subtitle V of title 31, and charging of costs under this section shall be subject to appropriate circulars issued by the Office of Management and Budget.

**(k) Assistance to unique populations in Alaska and Hawaii**

**(1) In general**

Notwithstanding any other provision of law, the Secretary is authorized to award grants, on a competitive basis, to entities with demonstrated experience and expertise in developing and implementing programs for the unique populations who reside in Alaska or Hawaii, including public and private nonprofit organizations, tribal organizations, American Indian tribal colleges or universities, institutions of higher education, or consortia of such organizations or institutions, to improve job training and workforce investment activities for such unique populations.

**(2) Authorization of appropriations**

There are authorized to be appropriated to carry out this subsection—

- (A) \$461,000 for fiscal year 2015;
- (B) \$497,000 for fiscal year 2016;
- (C) \$507,000 for fiscal year 2017;
- (D) \$518,000 for fiscal year 2018;
- (E) \$530,000 for fiscal year 2019; and
- (F) \$542,000 for fiscal year 2020.

(Pub. L. 113–128, title I, §166, July 22, 2014, 128 Stat. 1560.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a)(2), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

Section 1671 of this title, referred to in subsec. (d)(2)(B), was repealed by Pub. L. 105–220, title I, §199(b)(2), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000.

The Indian Employment, Training and Related Services Demonstration Act of 1992, referred to in subsec. (f), is Pub. L. 102–477, Oct. 23, 1992, 106 Stat. 2302, which is classified generally to chapter 36 (§3401 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 25 and Tables.

This Act, referred to in subsec. (g)(1), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, known as the Work-

force Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (i)(4)(G), is section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

#### EFFECTIVE DATE

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

### § 3222. Migrant and seasonal farmworker programs

#### (a) In general

Every 4 years, the Secretary shall, on a competitive basis, make grants to, or enter into contracts with, eligible entities to carry out the activities described in subsection (d).

#### (b) Eligible entities

To be eligible to receive a grant or enter into a contract under this section, an entity shall have an understanding of the problems of eligible migrant and seasonal farmworkers (including dependents), a familiarity with the area to be served, and the ability to demonstrate a capacity to administer and deliver effectively a diversified program of workforce investment activities (including youth workforce investment activities) and related assistance for eligible migrant and seasonal farmworkers.

#### (c) Program plan

##### (1) In general

To be eligible to receive a grant or enter into a contract under this section, an entity described in subsection (b) shall submit to the Secretary a plan that describes a 4-year strategy for meeting the needs of eligible migrant and seasonal farmworkers in the area to be served by such entity.

##### (2) Contents

Such plan shall—

(A) describe the population to be served and identify the education and employment needs of the population to be served and the manner in which the services to be provided will strengthen the ability of the eligible migrant and seasonal farmworkers and dependents to obtain or retain unsubsidized employment, or stabilize their unsubsidized employment, including upgraded employment in agriculture;

(B) describe the related assistance and supportive services to be provided and the manner in which such assistance and services are to be integrated and coordinated with other appropriate services;

(C) describe the performance accountability measures to be used to assess the performance of such entity in carrying out the activities assisted under this section, which shall include the expected levels of performance for the primary indicators of perform-

ance described in section 3141(b)(2)(A) of this title;

(D) describe the availability and accessibility of local resources, such as supportive services, services provided through one-stop delivery systems, and education and training services, and how the resources can be made available to the population to be served; and

(E) describe the plan for providing services under this section, including strategies and systems for outreach, career planning, assessment, and delivery through one-stop delivery systems.

#### (3) Agreement on adjusted levels of performance

The Secretary and the entity described in subsection (b) shall reach agreement on the levels of performance for each of the primary indicators of performance described in section 3141(b)(2)(A) of this title, taking into account economic conditions, characteristics of the individuals served, and other appropriate factors, and using, to the extent practicable, the statistical adjustment model under section 3141(b)(3)(A)(viii) of this title. The levels agreed to shall be the adjusted levels of performance and shall be incorporated in the program plan.

#### (4) Administration

Grants and contracts awarded under this section shall be centrally administered by the Department of Labor and competitively awarded by the Secretary using procedures consistent with standard Federal Government competitive procurement policies.

#### (d) Authorized activities

Funds made available under this section and section 3162(a)(1) of this title shall be used to carry out workforce investment activities (including youth workforce investment activities) and provide related assistance for eligible migrant and seasonal farmworkers, which may include—

(1) outreach, employment, training, educational assistance, literacy assistance, English language and literacy instruction, pesticide and worker safety training, housing (including permanent housing), supportive services, and school dropout prevention and recovery activities;

(2) followup services for those individuals placed in employment;

(3) self-employment and related business or micro-enterprise development or education as needed by eligible individuals as identified pursuant to the plan required by subsection (c);

(4) customized career and technical education in occupations that will lead to higher wages, enhanced benefits, and long-term employment in agriculture or another area; and

(5) technical assistance to improve coordination of services and implement best practices relating to service delivery through one-stop delivery systems.

#### (e) Consultation with Governors and local boards

In making grants and entering into contracts under this section, the Secretary shall consult

with the Governors and local boards of the States in which the eligible entities will carry out the activities described in subsection (d).

**(f) Regulations**

The Secretary shall consult with eligible migrant and seasonal farmworkers groups and States in establishing regulations to carry out this section, including regulations relating to how economic and demographic barriers to employment of eligible migrant and seasonal farmworkers should be considered and included in the negotiations leading to the adjusted levels of performance described in subsection (c)(3).

**(g) Compliance with single audit requirements; related requirement**

Grants made and contracts entered into under this section shall be subject to the requirements of chapter 75 of subtitle V of title 31, and charging of costs under this section shall be subject to appropriate circulars issued by the Office of Management and Budget.

**(h) Funding allocation**

From the funds appropriated and made available to carry out this section, the Secretary shall reserve not more than 1 percent for discretionary purposes, such as providing technical assistance to eligible entities.

**(i) Definitions**

In this section:

**(1) Eligible migrant and seasonal farmworkers**

The term “eligible migrant and seasonal farmworkers” means individuals who are eligible migrant farmworkers or are eligible seasonal farmworkers.

**(2) Eligible migrant farmworker**

The term “eligible migrant farmworker” means—

(A) an eligible seasonal farmworker described in paragraph (3)(A) whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day; and

(B) a dependent of the farmworker described in subparagraph (A).

**(3) Eligible seasonal farmworker**

The term “eligible seasonal farmworker” means—

(A) a low-income individual who—

(i) for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural or fish farming labor that is characterized by chronic unemployment or underemployment; and

(ii) faces multiple barriers to economic self-sufficiency; and

(B) a dependent of the person described in subparagraph (A).

(Pub. L. 113–128, title I, §167, July 22, 2014, 128 Stat. 1564.)

EFFECTIVE DATE

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

**§ 3223. Technical assistance**

**(a) General technical assistance**

**(1) In general**

The Secretary shall ensure that the Department has sufficient capacity to, and does, provide, coordinate, and support the development of, appropriate training, technical assistance, staff development, and other activities, including—

(A) assistance in replicating programs of demonstrated effectiveness, to States and localities;

(B) the training of staff providing rapid response services;

(C) the training of other staff of recipients of funds under this subchapter, including the staff of local boards and State boards;

(D) the training of members of State boards and local boards;

(E) assistance in the development and implementation of integrated, technology-enabled intake and case management information systems for programs carried out under this Act and programs carried out by one-stop partners, such as standard sets of technical requirements for the systems, offering interfaces that States could use in conjunction with their current (as of the first date of implementation of the systems) intake and case management information systems that would facilitate shared registration across programs;

(F) assistance regarding accounting and program operations to States and localities (when such assistance would not supplant assistance provided by the State);

(G) peer review activities under this subchapter; and

(H) in particular, assistance to States in making transitions to implement the provisions of this Act.

**(2) Form of assistance**

**(A) In general**

In order to carry out paragraph (1) on behalf of a State or recipient of financial assistance under section 3221 or 3222 of this title, the Secretary, after consultation with the State or grant recipient, may award grants or enter into contracts or cooperative agreements.

**(B) Limitation**

Grants or contracts awarded under paragraph (1) to entities other than States or local units of government that are for amounts in excess of \$100,000 shall only be awarded on a competitive basis.

**(b) Dislocated worker technical assistance**

**(1) Authority**

Of the amounts available pursuant to section 3172(a)(2)(A) of this title, the Secretary shall reserve not more than 5 percent of such amounts to provide technical assistance to States that do not meet the State performance accountability measures for the primary indicators of performance described in section 3141(b)(2)(A)(i) of this title with respect to employment and training activities for dislocated

workers. Using such reserved funds, the Secretary may provide such assistance to other States, local areas, and other entities involved in providing assistance to dislocated workers, to promote the continuous improvement of assistance provided to dislocated workers, under this subchapter.

**(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 Employment and Training Administration of the Department.

**(c) Promising and proven practices coordination**

The Secretary shall—

(1) establish a system through which States may share information regarding promising and proven practices with regard to the operation of workforce investment activities under this Act;

(2) evaluate and disseminate information regarding such promising and proven practices and identify knowledge gaps; and

(3) commission research under section 3224(b) of this title to address knowledge gaps identified under paragraph (2).

(Pub. L. 113-128, title I, §168, July 22, 2014, 128 Stat. 1566.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1)(E), (H) and (c)(1), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

EFFECTIVE DATE

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

**§ 3224. Evaluations and research**

**(a) Evaluations**

**(1) Evaluations of programs and activities carried out under this subchapter**

**(A) In general**

For the purpose of improving the management and effectiveness of programs and activities carried out under this subchapter, the Secretary, through grants, contracts, or cooperative agreements, shall provide for the continuing evaluation of the programs and activities under this subchapter, including those programs and activities carried out under this section.

**(B) Periodic independent evaluation**

The evaluations carried out under this paragraph shall include an independent evaluation, at least once every 4 years, of the

programs and activities carried out under this subchapter.

**(2) Evaluation subjects**

Each evaluation carried out under paragraph (1) shall address—

(A) the general effectiveness of such programs and activities in relation to their cost, including the extent to which the programs and activities—

(i) improve the employment competencies of participants in comparison to comparably-situated individuals who did not participate in such programs and activities; and

(ii) to the extent feasible, increase the level of total employment over the level that would have existed in the absence of such programs and activities;

(B) the effectiveness of the performance accountability measures relating to such programs and activities;

(C) the effectiveness of the structure and mechanisms for delivery of services through such programs and activities, including the coordination and integration of services through such programs and activities;

(D) the impact of such programs and activities on the community, businesses, and participants involved;

(E) the impact of such programs and activities on related programs and activities;

(F) the extent to which such programs and activities meet the needs of various demographic groups; and

(G) such other factors as may be appropriate.

**(3) Evaluations of other programs and activities**

The Secretary may conduct evaluations of other federally funded employment-related programs and activities under other provisions of law.

**(4) Techniques**

Evaluations conducted under this subsection shall utilize appropriate and rigorous methodology and research designs, including the use of control groups chosen by scientific random assignment methodologies. The Secretary shall conduct at least 1 multisite control group evaluation under this subsection by the end of fiscal year 2019, and thereafter shall ensure that such an analysis is included in the independent evaluation described in paragraph (1)(B) that is conducted at least once every 4 years.

**(5) Reports**

The entity carrying out an evaluation described in paragraph (1) or (2) shall prepare and submit to the Secretary a draft report and a final report containing the results of the evaluation.

**(6) Reports to Congress**

Not later than 30 days after the completion of a draft report under paragraph (5), the Secretary shall transmit the draft report to the Committee on Education and the Workforce of the House of Representatives and the Commit-

tee on Health, Education, Labor and Pensions of the Senate. Not later than 60 days after the completion of a final report under such paragraph, the Secretary shall transmit the final report to such committees.

**(7) Public availability**

Not later than 30 days after the date the Secretary transmits the final report as described in paragraph (6), the Secretary shall make that final report available to the general public on the Internet, on the Web site of the Department of Labor.

**(8) Publication of reports**

If an entity that enters into a contract or other arrangement with the Secretary to conduct an evaluation of a program or activity under this subsection requests permission from the Secretary to publish a report resulting from the evaluation, such entity may publish the report unless the Secretary denies the request during the 90-day period beginning on the date the Secretary receives such request.

**(9) Coordination**

The Secretary shall ensure the coordination of evaluations carried out by States pursuant to section 3141(e) of this title with the evaluations carried out under this subsection.

**(b) Research, studies, and multistate projects**

**(1) In general**

After consultation with States, localities, and other interested parties, the Secretary shall, every 2 years, publish in the Federal Register, a plan that describes the research, studies, and multistate project priorities of the Department of Labor concerning employment and training for the 5-year period following the submission of the plan. The plan shall be consistent with the purposes of this subchapter, including the purpose of aligning and coordinating core programs with other one-stop partner programs. Copies of the plan shall be transmitted to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, the Department of Education, and other relevant Federal agencies.

**(2) Factors**

The plan published under paragraph (1) shall contain strategies to address national employment and training problems and take into account factors such as—

(A) the availability of existing research (as of the date of the publication);

(B) the need to ensure results that have interstate validity;

(C) the benefits of economies of scale and the efficiency of proposed projects; and

(D) the likelihood that the results of the projects will be useful to policymakers and stakeholders in addressing employment and training problems.

**(3) Research projects**

The Secretary shall, through grants or contracts, carry out research projects that will contribute to the solution of employment and training problems in the United States and

that are consistent with the priorities specified in the plan published under paragraph (1).

**(4) Studies and reports**

**(A) Net impact studies and reports**

The Secretary of Labor, in coordination with the Secretary of Education and other relevant Federal agencies, may conduct studies to determine the net impact and best practices of programs, services, and activities carried out under this Act.

**(B) Study on resources available to assist disconnected youth**

The Secretary of Labor, in coordination with the Secretary of Education, may conduct a study examining the characteristics of eligible youth that result in such youth being significantly disconnected from education and workforce participation, the ways in which such youth could have greater opportunities for education attainment and obtaining employment, and the resources available to assist such youth in obtaining the skills, credentials, and work experience necessary to become economically self-sufficient.

**(C) Study of effectiveness of workforce development system in meeting business needs**

Using funds available to carry out this subsection jointly with funds available to the Secretary of Commerce, the Administrator of the Small Business Administration, and the Secretary of Education, the Secretary of Labor, in coordination with the Secretary of Commerce, the Administrator of the Small Business Administration, and the Secretary of Education, may conduct a study of the effectiveness of the workforce development system in meeting the needs of business, such as through the use of industry or sector partnerships, with particular attention to the needs of small business, including in assisting workers to obtain the skills needed to utilize emerging technologies.

**(D) Study on participants entering nontraditional occupations**

The Secretary of Labor, in coordination with the Secretary of Education, may conduct a study examining the number and percentage of individuals who receive employment and training activities and who enter nontraditional occupations, successful strategies to place and support the retention of individuals in nontraditional employment (such as by providing post-placement assistance to participants in the form of exit interviews, mentoring, networking, and leadership development), and the degree to which recipients of employment and training activities are informed of the possibility of, or directed to begin, training or education needed for entrance into nontraditional occupations.

**(E) Study on performance indicators**

The Secretary of Labor, in coordination with the Secretary of Education, may conduct studies to determine the feasibility of,

and potential means to replicate, measuring the compensation, including the wages, benefits, and other incentives provided by an employer, received by program participants by using data other than or in addition to data available through wage records, for potential use as a performance indicator.

**(F) Study on job training for recipients of public housing assistance**

The Secretary of Labor, in coordination with the Secretary of Housing and Urban Development, may conduct studies to assist public housing authorities to provide, to recipients of public housing assistance, job training programs that successfully upgrade job skills and employment in, and access to, jobs with opportunity for advancement and economic self-sufficiency for such recipients.

**(G) Study on improving employment prospects for older individuals**

The Secretary of Labor, in coordination with the Secretary of Education and the Secretary of Health and Human Services, may conduct studies that lead to better design and implementation of, in conjunction with employers, local boards or State boards, community colleges or area career and technical education schools, and other organizations, effective evidence-based strategies to provide services to workers who are low-income, low-skilled older individuals that increase the workers' skills and employment prospects.

**(H) Study on prior learning**

The Secretary of Labor, in coordination with other heads of Federal agencies, as appropriate, may conduct studies that, through convening stakeholders from the fields of education, workforce, business, labor, defense, and veterans services, and experts in such fields, develop guidelines for assessing, accounting for, and utilizing the prior learning of individuals, including dislocated workers and veterans, in order to provide the individuals with postsecondary educational credit for such prior learning that leads to the attainment of a recognized postsecondary credential identified under section 3152(d) of this title and employment.

**(I) Study on career pathways for health care providers and providers of early education and child care**

The Secretary of Labor, in coordination with the Secretary of Education and the Secretary of Health and Human Services, shall conduct a multistate study to develop, implement, and build upon career advancement models and practices for low-wage health care providers or providers of early education and child care, including faculty education and distance education programs.

**(J) Study on equivalent pay**

The Secretary shall conduct a multistate study to develop and disseminate strategies for ensuring that programs and activities carried out under this Act are placing individuals in jobs, education, and training that lead to equivalent pay for men and women,

including strategies to increase the participation of women in high-wage, high-demand occupations in which women are under-represented.

**(K) Reports**

The Secretary shall prepare and disseminate 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 to the public, including through electronic means, reports containing the results of the studies conducted under this paragraph.

**(5) Multistate projects**

**(A) Authority**

The Secretary may, through grants or contracts, carry out multistate projects that require demonstrated expertise that is available at the national level to effectively disseminate best practices and models for implementing employment and training services, address the specialized employment and training needs of particular service populations, or address industry-wide skill shortages, to the extent such projects are consistent with the priorities specified in the plan published under paragraph (1).

**(B) Design of grants**

Agreements for grants or contracts awarded under this paragraph shall be designed to obtain information relating to the provision of services under different economic conditions or to various demographic groups in order to provide guidance at the national and State levels about how best to administer specific employment and training services.

**(6) Limitations**

**(A) Competitive awards**

A grant or contract awarded for carrying out a project under this subsection in an amount that exceeds \$100,000 shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of assistance under the grant or contract for the project.

**(B) Time limits**

A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

**(C) Peer review**

**(i) In general**

The Secretary shall utilize a peer review process—

(I) to review and evaluate all applications for grants in amounts that exceed \$500,000 that are submitted under this section; and

(II) to review and designate exemplary and promising programs under this section.

**(ii) Availability of funds**

The Secretary is authorized to use funds provided under this section to carry out peer review activities under this subparagraph.

**(D) Priority**

In awarding grants or contracts under this subsection, priority shall be provided to entities with recognized expertise in the methods, techniques, and knowledge of workforce investment activities. The Secretary shall establish appropriate time limits for the duration of such projects.

**(c) Dislocated worker projects**

Of the amount made available pursuant to section 3172(a)(2)(A) of this title for any program year, the Secretary shall use not more than 10 percent of such amount to carry out demonstration and pilot projects, multiservice projects, and multistate projects relating to the employment and training needs of dislocated workers. Of the requirements of this section, such projects shall be subject only to the provisions relating to review and evaluation of applications under subsection (b)(6)(C). Such projects may include demonstration and pilot projects relating to promoting self-employment, promoting job creation, averting dislocations, assisting dislocated farmers, assisting dislocated fishermen, and promoting public works. Such projects shall be administered by the Secretary, acting through the Assistant Secretary for Employment and Training.

(Pub. L. 113-128, title I, §169, July 22, 2014, 128 Stat. 1568.)

## REFERENCES IN TEXT

This Act, referred to in subsec. (b)(4)(A), (J), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

## EFFECTIVE DATE

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

**§ 3225. National dislocated worker grants****(a) Definitions**

In this section:

**(1) Emergency or disaster**

The term “emergency or disaster” means—

(A) an emergency or a major disaster, as defined in paragraphs (1) and (2), respectively, of section 5122 of title 42; or

(B) an emergency or disaster situation of national significance that could result in a potentially large loss of employment, as declared or otherwise recognized by the chief official of a Federal agency with authority for or jurisdiction over the Federal response to the emergency or disaster situation.

**(2) Disaster area**

The term “disaster area” means an area that has suffered or in which has occurred an emergency or disaster.

**(b) In general****(1) Grants**

The Secretary is authorized to award national dislocated worker grants—

(A) to an entity described in subsection (c)(1)(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;

(B) to provide assistance to—

(i) the Governor of any State within the boundaries of which is a disaster area, to provide disaster relief employment in the disaster area; or

(ii) the Governor of any State to which a substantial number of workers from an area in which an emergency or disaster has been declared or otherwise recognized have relocated;

(C) to provide additional assistance to a State board or local board for eligible dislocated workers in a case in which the State board or local board has expended the funds provided under this section to carry out activities described in subparagraphs (A) and (B) and can demonstrate the need for additional funds to provide appropriate services for such workers, in accordance with requirements prescribed by the Secretary; and

(D) to provide additional assistance to a State board or local board serving an area where—

(i) a higher-than-average demand for employment and training activities for dislocated members of the Armed Forces, spouses described in section 3102(15)(E) of this title, or members of the Armed Forces described in subsection (c)(2)(A)(iv), exceeds State and local resources for providing such activities; and

(ii) such activities are to be carried out in partnership with the Department of Defense and Department of Veterans Affairs transition assistance programs.

**(2) Decisions and obligations**

The Secretary shall issue a final decision on an application for a national dislocated worker grant under this subsection not later than 45 calendar days after receipt of the application. The Secretary shall issue a notice of obligation for such grant not later than 10 days after the award of such grant.

**(c) Employment and training assistance requirements****(1) Grant recipient eligibility****(A) Application**

To be eligible to receive a grant under subsection (b)(1)(A), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

**(B) Eligible entity**

In this paragraph, the term “entity” means a State, a local board, an entity de-

scribed in section 3221(c) of this title, an entity determined to be eligible by the Governor of the State involved, and any other entity that demonstrates to the Secretary the capability to effectively respond to the circumstances relating to particular dislocations.

**(2) Participant eligibility**

**(A) In general**

In order to be eligible to receive employment and training assistance under a national dislocated worker grant awarded pursuant to subsection (b)(1)(A), an individual shall be—

- (i) a dislocated worker;
- (ii) a civilian employee of the Department of Defense or the Department of Energy employed at a military installation that is being closed, or that will undergo realignment, within the next 24 months after the date of the determination of eligibility;
- (iii) an individual who is employed in a nonmanagerial position with a Department of Defense contractor, who is determined by the Secretary of Defense to be at risk of termination from employment as a result of reductions in defense expenditures, and whose employer is converting operations from defense to nondefense applications in order to prevent worker layoffs; or
- (iv) a member of the Armed Forces who—
  - (I) was on active duty or full-time National Guard duty;
  - (II)(aa) is involuntarily separated (as defined in section 1141 of title 10) from active duty or full-time National Guard duty; or
  - (bb) is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under section 1174a of title 10, or the voluntary separation incentive program under section 1175 of that title;
  - (III) is not entitled to retired or retained pay incident to the separation described in subclause (II); and
  - (IV) applies for such employment and training assistance before the end of the 180-day period beginning on the date of that separation.

**(B) Retraining assistance**

The individuals described in subparagraph (A)(iii) shall be eligible for retraining assistance to upgrade skills by obtaining marketable skills needed to support the conversion described in subparagraph (A)(iii).

**(C) Additional requirements**

The Secretary shall establish and publish additional requirements related to eligibility for employment and training assistance under the national dislocated worker grants to ensure effective use of the funds available for this purpose.

**(D) Definitions**

In this paragraph, the terms “military installation” and “realignment” have the

meanings given the terms in section 2910 of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; 10 U.S.C. 2687 note).

**(d) Disaster relief employment assistance requirements**

**(1) In general**

Funds made available under subsection (b)(1)(B)—

(A) shall be used, in coordination with the Administrator of the Federal Emergency Management Agency, as applicable, to provide disaster relief employment on projects that provide food, clothing, shelter, and other humanitarian assistance for emergency and disaster victims, and projects regarding demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area and in offshore areas related to the emergency or disaster;

(B) may be expended through public and private agencies and organizations engaged in such projects; and

(C) may be expended to provide employment and training activities.

**(2) Eligibility**

An individual shall be eligible to be offered disaster relief employment under subsection (b)(1)(B) if such individual—

- (A) is a dislocated worker;
- (B) is a long-term unemployed individual;
- (C) is temporarily or permanently laid off as a consequence of the emergency or disaster; or
- (D) in the case of an individual who is self-employed, becomes unemployed or significantly underemployed as a result of the emergency or disaster.

**(3) Limitations on disaster relief employment**

**(A) In general**

Except as provided in subparagraph (B), no individual shall be employed under subsection (b)(1)(B) for more than 12 months for work related to recovery from a single emergency or disaster.

**(B) Extension**

At the request of a State, the Secretary may extend such employment, related to recovery from a single emergency or disaster involving the State, for not more than an additional 12 months.

**(4) Use of available funds**

Funds made available under subsection (b)(1)(B) shall be available to assist workers described in paragraph (2) who are affected by an emergency or disaster, including workers who have relocated from an area in which an emergency or disaster has been declared or otherwise recognized, as appropriate. Under conditions determined by the Secretary and following notification to the Secretary, a State may use such funds, that are appropriated for any fiscal year and available for expenditure under any grant awarded to the State under this section, to provide any assist-

ance authorized under this subsection. Funds used pursuant to the authority provided under this paragraph shall be subject to the liability and reimbursement requirements described in paragraph (5).

**(5) Liability and reimbursement**

Nothing in this Act shall be construed to relieve liability, by a responsible party that is liable under Federal law, for any costs incurred by the United States under subsection (b)(1)(B) or this subsection, including the responsibility to provide reimbursement for such costs to the United States.

(Pub. L. 113-128, title I, §170, July 22, 2014, 128 Stat. 1573.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d)(5), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

EFFECTIVE DATE

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

**§ 3226. YouthBuild program**

**(a) Statement of purpose**

The purposes of this section are—

(1) to enable disadvantaged youth to obtain the education and employment skills necessary to achieve economic self-sufficiency in occupations in demand and postsecondary education and training opportunities;

(2) to provide disadvantaged youth with opportunities for meaningful work and service to their communities;

(3) to foster the development of employment and leadership skills and commitment to community development among youth in low-income communities;

(4) to expand the supply of permanent affordable housing for homeless individuals and low-income families by utilizing the energies and talents of disadvantaged youth; and

(5) to improve the quality and energy efficiency of community and other nonprofit and public facilities, including those facilities that are used to serve homeless and low-income families.

**(b) Definitions**

In this section:

**(1) Adjusted income**

The term “adjusted income” has the meaning given the term in section 1437a(b) of title 42.

**(2) Applicant**

The term “applicant” means an eligible entity that has submitted an application under subsection (c).

**(3) Eligible entity**

The term “eligible entity” means a public or private nonprofit agency or organization (in-

cluding a consortium of such agencies or organizations), including—

(A) a community-based organization;

(B) a faith-based organization;

(C) an entity carrying out activities under this subchapter, such as a local board;

(D) a community action agency;

(E) a State or local housing development agency;

(F) an Indian tribe or other agency primarily serving Indians;

(G) a community development corporation;

(H) a State or local youth service or conservation corps; and

(I) any other entity eligible to provide education or employment training under a Federal program (other than the program carried out under this section).

**(4) Homeless individual**

The term “homeless individual” means a homeless individual (as defined in section 14043e-2(6) of title 42) or a homeless child or youth (as defined in section 11434a(2) of title 42).

**(5) Housing development agency**

The term “housing development agency” means any agency of a State or local government, or any private nonprofit organization, that is engaged in providing housing for homeless individuals or low-income families.

**(6) Income**

The term “income” has the meaning given the term in section 1437a(b) of title 42.

**(7) Indian; Indian tribe**

The terms “Indian” and “Indian tribe” have the meanings given such terms in section 450b of title 25.

**(8) Low-income family**

The term “low-income family” means a family described in section 1437a(b)(2) of title 42.

**(9) Qualified national nonprofit agency**

The term “qualified national nonprofit agency” means a nonprofit agency that—

(A) has significant national experience providing services consisting of training, information, technical assistance, and data management to YouthBuild programs or similar projects; and

(B) has the capacity to provide those services.

**(10) Registered apprenticeship program**

The term “registered apprenticeship program” means an apprenticeship program—

(A) registered 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.); and

(B) that meets such other criteria as may be established by the Secretary under this section.

**(11) Transitional housing**

The term “transitional housing” has the meaning given the term in section 11360(29) of title 42.

**(12) YouthBuild program**

The term “YouthBuild program” means any program that receives assistance under this

section and provides disadvantaged youth with opportunities for employment, education, leadership development, and training through the rehabilitation (which, for purposes of this section, shall include energy efficiency enhancements) or construction of housing for homeless individuals and low-income families, and of public facilities.

**(c) YouthBuild grants**

**(1) Amounts of grants**

The Secretary is authorized to make grants to applicants for the purpose of carrying out YouthBuild programs approved under this section.

**(2) Eligible activities**

An entity that receives a grant under this subsection shall use the funds made available through the grant to carry out a YouthBuild program, which may include the following activities:

(A) Education and workforce investment activities including—

(i) work experience and skills training (coordinated, to the maximum extent feasible, with preapprenticeship and registered apprenticeship programs) in the activities described in subparagraphs (B) and (C) related to rehabilitation or construction, and, if approved by the Secretary, in additional in-demand industry sectors or occupations in the region in which the program operates;

(ii) occupational skills training;

(iii) other paid and unpaid work experiences, including internships and job shadowing;

(iv) services and activities designed to meet the educational needs of participants, including—

(I) basic skills instruction and remedial education;

(II) language instruction educational programs for participants who are English language learners;

(III) secondary education services and activities, including tutoring, study skills training, and school dropout prevention and recovery activities, designed to lead to the attainment of a secondary school diploma or its recognized equivalent (including recognized certificates of attendance or similar documents for individuals with disabilities);

(IV) counseling and assistance in obtaining postsecondary education and required financial aid; and

(V) alternative secondary school services;

(v) counseling services and related activities, such as comprehensive guidance and counseling on drug and alcohol abuse and referral;

(vi) activities designed to develop employment and leadership skills, which may include community service and peer-centered activities encouraging responsibility and other positive social behaviors, and activities related to youth policy committees that participate in decision-making related to the program;

(vii) supportive services and provision of need-based stipends necessary to enable individuals to participate in the program and to assist individuals, for a period not to exceed 12 months after the completion of training, in obtaining or retaining employment, or applying for and transitioning to postsecondary education or training; and

(viii) job search and assistance.

(B) Supervision and training for participants in the rehabilitation or construction of housing, including residential housing for homeless individuals or low-income families, or transitional housing for homeless individuals, and, if approved by the Secretary, in additional in-demand industry sectors or occupations in the region in which the program operates.

(C) Supervision and training for participants—

(i) in the rehabilitation or construction of community and other public facilities, except that not more than 15 percent of funds appropriated to carry out this section may be used for such supervision and training; and

(ii) if approved by the Secretary, in additional in-demand industry sectors or occupations in the region in which the program operates.

(D) Payment of administrative costs of the applicant, including recruitment and selection of participants, except that not more than 10 percent of the amount of assistance provided under this subsection to the grant recipient may be used for such costs.

(E) Adult mentoring.

(F) Provision of wages, stipends, or benefits to participants in the program.

(G) Ongoing training and technical assistance that are related to developing and carrying out the program.

(H) Follow-up services.

**(3) Application**

**(A) Form and procedure**

To be qualified to receive a grant under this subsection, an eligible entity shall submit an application at such time, in such manner, and containing such information as the Secretary may require.

**(B) Minimum requirements**

The Secretary shall require that the application contain, at a minimum—

(i) labor market information for the labor market area where the proposed program will be implemented, including both current data (as of the date of submission of the application) and projections on career opportunities in construction and in-demand industry sectors or occupations;

(ii) a request for the grant, specifying the amount of the grant requested and its proposed uses;

(iii) a description of the applicant and a statement of its qualifications, including a description of the applicant's relationship with local boards, one-stop operators, local

unions, entities carrying out registered apprenticeship programs, other community groups, and employers, and the applicant's past experience, if any, with rehabilitation or construction of housing or public facilities, and with youth education and employment training programs;

(iv) a description of the proposed site for the proposed program;

(v) a description of the educational and job training activities, work opportunities, postsecondary education and training opportunities, and other services that will be provided to participants, and how those activities, opportunities, and services will prepare youth for employment in in-demand industry sectors or occupations in the labor market area described in clause (i);

(vi)(I) a description of the proposed activities to be undertaken under the grant related to rehabilitation or construction, and, in the case of an applicant requesting approval from the Secretary to also carry out additional activities related to in-demand industry sectors or occupations, a description of such additional proposed activities; and

(II) the anticipated schedule for carrying out all activities proposed under subclause (I);

(vii) a description of the manner in which eligible youth will be recruited and selected as participants, including a description of arrangements that will be made with local boards, one-stop operators, faith- and community-based organizations, State educational agencies or local educational agencies (including agencies of Indian tribes), public assistance agencies, the courts of jurisdiction, agencies operating shelters for homeless individuals and other agencies that serve youth who are homeless individuals, foster care agencies, and other appropriate public and private agencies;

(viii) a description of the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children) as participants;

(ix) a description of the specific role of employers in the proposed program, such as their role in developing the proposed program and assisting in service provision and in placement activities;

(x) a description of how the proposed program will be coordinated with other Federal, State, and local activities and activities conducted by Indian tribes, such as local workforce investment activities, career and technical education and training programs, adult and language instruction educational programs, activities conducted by public schools, activities conducted by community colleges, national service programs, and other job training provided with funds available under this subchapter;

(xi) assurances that there will be a sufficient number of adequately trained supervisory personnel in the proposed program;

(xii) a description of the levels of performance to be achieved with respect to the primary indicators of performance for eligible youth described in section 3141(b)(2)(A)(ii) of this title;

(xiii) a description of the applicant's relationship with local building trade unions regarding their involvement in training to be provided through the proposed program, the relationship of the proposed program to established registered apprenticeship programs and employers, the ability of the applicant to grant an industry-recognized certificate or certification through the program, and the quality of the program leading to the certificate or certification;

(xiv) a description of activities that will be undertaken to develop the leadership skills of participants;

(xv) a detailed budget and a description of the system of fiscal controls, and auditing and accountability procedures, that will be used to ensure fiscal soundness for the proposed program;

(xvi) a description of the commitments for any additional resources (in addition to the funds made available through the grant) to be made available to the proposed program from—

(I) the applicant;

(II) recipients of other Federal, State, or local housing and community development assistance that will sponsor any part of the rehabilitation or construction, operation and maintenance, or other housing and community development activities undertaken as part of the proposed program; or

(III) entities carrying out other Federal, State, or local activities or activities conducted by Indian tribes, including career and technical education and training programs, adult and language instruction educational programs, and job training provided with funds available under this subchapter;

(xvii) information identifying, and a description of, the financing proposed for any—

(I) rehabilitation of the property involved;

(II) acquisition of the property; or

(III) construction of the property;

(xviii) information identifying, and a description of, the entity that will operate and manage the property;

(xix) information identifying, and a description of, the data collection systems to be used;

(xx) a certification, by a public official responsible for the housing strategy for the State or unit of general local government within which the proposed program is located, that the proposed program is consistent with the housing strategy; and

(xxi) a certification that the applicant will comply with the requirements of the Fair Housing Act (42 U.S.C. 3601 et seq.) and will affirmatively further fair housing.

**(4) Selection criteria**

For an applicant to be eligible to receive a grant under this subsection, the applicant and the applicant's proposed program shall meet such selection criteria as the Secretary shall establish under this section, which shall include criteria relating to—

(A) the qualifications or potential capabilities of an applicant;

(B) an applicant's potential for developing a successful YouthBuild program;

(C) the need for an applicant's proposed program, as determined by the degree of economic distress of the community from which participants would be recruited (measured by indicators such as poverty, youth unemployment, and the number of individuals who have dropped out of secondary school) and of the community in which the housing and community and public facilities proposed to be rehabilitated or constructed is located (measured by indicators such as incidence of homelessness, shortage of affordable housing, and poverty);

(D) the commitment of an applicant to providing skills training, leadership development, and education to participants;

(E) the focus of a proposed program on preparing youth for in-demand industry sectors or occupations, or postsecondary education and training opportunities;

(F) the extent of an applicant's coordination of activities to be carried out through the proposed program with local boards, one-stop operators, and one-stop partners participating in the operation of the one-stop delivery system involved, or the extent of the applicant's good faith efforts in achieving such coordination;

(G) the extent of the applicant's coordination of activities with public education, criminal justice, housing and community development, national service, or postsecondary education or other systems that relate to the goals of the proposed program;

(H) the extent of an applicant's coordination of activities with employers in the local area involved;

(I) the extent to which a proposed program provides for inclusion of tenants who were previously homeless individuals in the rental housing provided through the program;

(J) the commitment of additional resources (in addition to the funds made available through the grant) to a proposed program by—

(i) an applicant;

(ii) recipients of other Federal, State, or local housing and community development assistance who will sponsor any part of the rehabilitation or construction, operation and maintenance, or other housing and community development activities undertaken as part of the proposed program; or

(iii) entities carrying out other Federal, State, or local activities or activities conducted by Indian tribes, including career and technical education and training programs, adult and language instruction educational programs, and job training provided with funds available under this subchapter;

(K) the applicant's potential to serve different regions, including rural areas and States that have not previously received grants for YouthBuild programs; and

(L) such other factors as the Secretary determines to be appropriate for purposes of carrying out the proposed program in an effective and efficient manner.

**(5) Approval**

To the extent practicable, the Secretary shall notify each applicant, not later than 5 months after the date of receipt of the application by the Secretary, whether the application is approved or not approved.

**(d) Use of housing units**

Residential housing units rehabilitated or constructed using funds made available under subsection (c), shall be available solely—

(1) for rental by, or sale to, homeless individuals or low-income families; or

(2) for use as transitional or permanent housing, for the purpose of assisting in the movement of homeless individuals to independent living.

**(e) Additional program requirements****(1) Eligible participants****(A) In general**

Except as provided in subparagraph (B), an individual may participate in a YouthBuild program only if such individual is—

(i) not less than age 16 and not more than age 24, on the date of enrollment;

(ii) a member of a low-income family, a youth in foster care (including youth aging out of foster care), a youth offender, a youth who is an individual with a disability, a child of incarcerated parents, or a migrant youth; and

(iii) a school dropout, or an individual who was a school dropout and has subsequently reenrolled.

**(B) Exception for individuals not meeting income or educational need requirements**

Not more than 25 percent of the participants in such program may be individuals who do not meet the requirements of clause (ii) or (iii) of subparagraph (A), but who—

(i) are basic skills deficient, despite attainment of a secondary school diploma or its recognized equivalent (including recognized certificates of attendance or similar documents for individuals with disabilities); or

(ii) have been referred by a local secondary school for participation in a YouthBuild program leading to the attainment of a secondary school diploma.

**(2) Participation limitation**

An eligible individual selected for participation in a YouthBuild program shall be offered full-time participation in the program for a period of not less than 6 months and not more than 24 months.

**(3) Minimum time devoted to educational services and activities**

A YouthBuild program receiving assistance under subsection (c) shall be structured so that participants in the program are offered—

(A) education and related services and activities designed to meet educational needs, such as those specified in clauses (iv) through (vii) of subsection (c)(2)(A), during at least 50 percent of the time during which the participants participate in the program; and

(B) work and skill development activities, such as those specified in clauses (i), (ii), (iii), and (viii) of subsection (c)(2)(A), during at least 40 percent of the time during which the participants participate in the program.

**(4) Authority restriction**

No provision of this section may be construed to authorize any 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 (including a school) or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

**(5) State and local standards**

All educational programs and activities supported with funds provided under subsection (c) shall be consistent with applicable State and local educational standards. Standards and procedures for the programs and activities that relate to awarding academic credit for and certifying educational attainment in such programs and activities shall be consistent with applicable State and local educational standards.

**(f) Levels of performance and indicators**

**(1) In general**

The Secretary shall annually establish expected levels of performance for YouthBuild programs relating to each of the primary indicators of performance for eligible youth activities described in section 3141(b)(2)(A)(ii) of this title.

**(2) Additional indicators**

The Secretary may establish expected levels of performance for additional indicators for YouthBuild programs, as the Secretary determines appropriate.

**(g) Management and technical assistance**

**(1) Secretary assistance**

The Secretary may enter into contracts with 1 or more entities to provide assistance to the Secretary in the management, supervision, and coordination of the program carried out under this section.

**(2) Technical assistance**

**(A) Contracts and grants**

The Secretary shall enter into contracts with or make grants to 1 or more qualified national nonprofit agencies, in order to provide training, information, technical assistance, program evaluation, and data management to recipients of grants under subsection (c).

**(B) Reservation of funds**

Of the amounts available under subsection (i) to carry out this section for a fiscal year,

the Secretary shall reserve 5 percent to carry out subparagraph (A).

**(3) Capacity building grants**

**(A) In general**

In each fiscal year, the Secretary may use not more than 3 percent of the amounts available under subsection (i) to award grants to 1 or more qualified national nonprofit agencies to pay for the Federal share of the cost of capacity building activities.

**(B) Federal share**

The Federal share of the cost described in subparagraph (A) shall be 25 percent. The non-Federal share shall be provided from private sources.

**(h) Subgrants and contracts**

Each recipient of a grant under subsection (c) to carry out a YouthBuild program shall provide the services and activities described in this section directly or through subgrants, contracts, or other arrangements with local educational agencies, institutions of higher education, State or local housing development agencies, other public agencies, including agencies of Indian tribes, or private organizations.

**(i) Authorization of appropriations**

There are authorized to be appropriated to carry out this section—

- (1) \$77,534,000 for fiscal year 2015;
- (2) \$83,523,000 for fiscal year 2016;
- (3) \$85,256,000 for fiscal year 2017;
- (4) \$87,147,000 for fiscal year 2018;
- (5) \$89,196,000 for fiscal year 2019; and
- (6) \$91,087,000 for fiscal year 2020.

(Pub. L. 113-128, title I, §171, July 22, 2014, 128 Stat. 1576.)

REFERENCES IN TEXT

Act of August 16, 1937, commonly known as the National Apprenticeship Act, referred to in subsec. (b)(10)(A), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, which is classified generally to chapter 4C (§50 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 50 of this title and Tables.

The Fair Housing Act, referred to in subsec. (c)(3)(B)(xxi), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

EFFECTIVE DATE

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

**§ 3227. Authorization of appropriations**

**(a) Native American programs**

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

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

(6) \$54,137,000 for fiscal year 2020.

**(b) Migrant and seasonal farmworker programs**

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

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

**(c) Technical assistance**

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

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

**(d) Evaluations and research**

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

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

**(e) Assistance for veterans**

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

**(f) Assistance for eligible workers**

If, as of July 22, 2014, any unobligated funds appropriated to carry out subsections (f) and (g) of section 2918 of this title, as in effect on the day before July 22, 2014, remain available, the Secretary of Labor shall continue to use such funds to carry out such subsections, as in effect on such day, until all of such funds are expended.

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

REFERENCES IN TEXT

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

EFFECTIVE DATE

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

PART E—ADMINISTRATION

DEFINITION OF “SECRETARY”

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

**§ 3241. Requirements and restrictions**

**(a) Benefits**

**(1) Wages**

**(A) In general**

Individuals in on-the-job training or individuals employed in activities under this

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

**(B) Rule of construction**

The reference in subparagraph (A) to section 206(a)(1) of this title shall not be applicable for individuals in territorial jurisdictions in which section 206(a)(1) of this title does not apply.

**(2) Treatment of allowances, earnings, and payments**

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

**(b) Labor standards**

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

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

**(2) Displacement**

**(A) Prohibition**

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

**(B) Prohibition on impairment of contracts**

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

**(3) Other prohibitions**

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

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

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

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

**(4) Health and safety**

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

**(5) Employment conditions**

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

**(6) Opportunity to submit comments**

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

**(7) No impact on union organizing**

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

**(c) Grievance procedure**

**(1) In general**

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

**(2) Investigation**

**(A) In general**

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

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

**(B) Additional requirement**

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

**(3) Remedies**

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

- (A) to suspension or termination of payments under this subchapter;
- (B) to prohibition of placement of a participant with an employer that has violated any requirement under this subchapter;
- (C) where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and
- (D) where appropriate, to other equitable relief.

**(4) Rule of construction**

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

**(d) Relocation**

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

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

**(2) Prohibition on use of funds after relocation**

No funds provided under this subchapter for an employment or training activity shall be used for customized or skill training, on-the-job training, incumbent worker training, transitional employment, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated, until the date that is 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee of such business at the original location and such original location is within the United States.

**(3) Repayment**

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

**(e) Limitation on use of funds**

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

**(f) Testing and sanctioning for use of controlled substances****(1) In general**

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

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

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

**(2) Additional requirements****(A) Period of sanction**

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

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

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

**(B) Appeal**

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

**(C) Privacy**

A State shall establish procedures for testing participants for the use of controlled substances that ensure a maximum degree of privacy for the participants.

**(3) Funding requirement**

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

**(g) Subgrant authority**

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

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

## REFERENCES IN TEXT

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

## EFFECTIVE DATE

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

**§ 3242. Prompt allocation of funds****(a) Allotments based on latest available data**

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

**(b) Publication in Federal Register relating to formula funds**

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

**(c) Requirement for funds distributed by formula**

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

**(d) Publication in Federal Register relating to discretionary funds**

Whenever the Secretary utilizes a formula to allot or allocate funds made available for distribution at the Secretary's discretion under this subchapter, the Secretary shall, not later than 30 days prior to such allotment or allocation, publish for comment in the Federal Register the formula, the rationale for the formula, and the proposed amounts to be distributed to each State and local area. After consideration of any comments received, the Secretary shall publish final allotments and allocations in the Federal Register.

**(e) Availability of funds**

Funds shall be made available under section 3163 of this title, and funds shall be made available under section 3173 of this title, for a local area not later than 30 days after the date the funds are made available to the Governor involved, under section 3162 or 3172 of this title (as the case may be), or 7 days after the date the local plan for the area is approved, whichever is later.

(Pub. L. 113-128, title I, §182, July 22, 2014, 128 Stat. 1589.)

## EFFECTIVE DATE

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

**§ 3243. Monitoring****(a) In general**

The Secretary is authorized to monitor all recipients of financial assistance under this subchapter to determine whether the recipients are complying with the provisions of this subchapter, including the regulations issued under this subchapter.

**(b) Investigations**

The Secretary may investigate any matter the Secretary determines to be necessary to determine the compliance of the recipients with this subchapter, including the regulations issued under this subchapter. The investigations authorized by this subsection may include examining records (including making certified copies of the records), questioning employees, and entering any premises or onto any site in which any part of a program or activity of such a recipient is conducted or in which any of the records of the recipient are kept.

**(c) Additional requirement**

For the purpose of any investigation or hearing conducted under this subchapter by the Secretary, the provisions of section 49 of title 15 (relating to the attendance of witnesses and the production of documents) apply to the Secretary, in the same manner and to the same extent as the provisions apply to the Federal Trade Commission.

(Pub. L. 113-128, title I, § 183, July 22, 2014, 128 Stat. 1590.)

## EFFECTIVE DATE

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

**§ 3244. Fiscal controls; sanctions****(a) Establishment of fiscal controls by States****(1) In general**

Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds allocated to local areas under part B. Such procedures shall ensure that all financial transactions carried out under part B are conducted and records maintained in accordance with generally accepted accounting principles applicable in each State.

**(2) Cost principles****(A) In general**

Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this subchapter shall comply with the applicable uniform cost principles included in appropriate circulars or rules of the Office of Management and Budget for the type of entity receiving the funds.

**(B) Exception**

The funds made available to a State for administration of statewide workforce investment activities in accordance with section 3174(a)(3)(B) of this title shall be allocable to the overall administration of workforce investment activities, but need not be specifically allocable to—

- (i) the administration of adult employment and training activities;
- (ii) the administration of dislocated worker employment and training activities; or

- (iii) the administration of youth workforce investment activities.

**(3) Uniform administrative requirements****(A) In general**

Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this subchapter shall comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, as promulgated in circulars or rules of the Office of Management and Budget.

**(B) Additional requirement**

Procurement transactions under this subchapter between local boards and units of State or local governments shall be conducted only on a cost-reimbursable basis.

**(4) Monitoring**

Each Governor of a State shall conduct on an annual basis onsite monitoring of each local area within the State to ensure compliance with the uniform administrative requirements referred to in paragraph (3).

**(5) Action by Governor**

If the Governor determines that a local area is not in compliance with the uniform administrative requirements referred to in paragraph (3), the Governor shall—

- (A) require corrective action to secure prompt compliance with the requirements; and
- (B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

**(6) Certification**

The Governor shall, every 2 years, certify to the Secretary that—

- (A) the State has implemented the uniform administrative requirements referred to in paragraph (3);
- (B) the State has monitored local areas to ensure compliance with the uniform administrative requirements as required under paragraph (4); and
- (C) the State has taken appropriate action to secure compliance with the requirements pursuant to paragraph (5).

**(7) Action by the Secretary**

If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

- (A) require corrective action to secure prompt compliance with the requirements of this subsection; and
- (B) impose the sanctions provided under subsection (e) in the event of failure of the Governor to take the required appropriate action to secure compliance with the requirements.

**(b) Substantial violation****(1) Action by Governor**

If, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this subchapter, and correc-

tive action has not been taken, the Governor shall—

(A) issue a notice of intent to revoke approval of all or part of the local plan affected; or

(B) impose a reorganization plan, which may include—

(i) decertifying the local board involved;

(ii) prohibiting the use of eligible providers;

(iii) selecting an alternative entity to administer the program for the local area involved;

(iv) merging the local area into one or more other local areas; or

(v) making such other changes as the Secretary or Governor determines to be necessary to secure compliance with the provision.

**(2) Appeal**

**(A) In general**

The actions taken by the Governor pursuant to subparagraphs (A) and (B) of paragraph (1) may be appealed to the Secretary and shall not become effective until—

(i) the time for appeal has expired; or

(ii) the Secretary has issued a decision.

**(B) Additional requirement**

The Secretary shall make a final decision under subparagraph (A) not later than 45 days after the receipt of the appeal.

**(3) Action by the Secretary**

If the Governor fails to take promptly an action required under paragraph (1), the Secretary shall take such action.

**(c) Repayment of certain amounts to the United States**

**(1) In general**

Every recipient of funds under this subchapter shall repay to the United States amounts found not to have been expended in accordance with this subchapter.

**(2) Offset of repayment amount**

If the Secretary determines that a State has expended funds received under this subchapter in a manner contrary to the requirements of this subchapter, the Secretary may require repayment by offsetting the amount of such expenditures against any other amount to which the State is or may be entitled under this subchapter, except as provided under subsection (d)(1).

**(3) Repayment from deduction by State**

If the Secretary requires a State to repay funds as a result of a determination that a local area of the State has expended funds in a manner contrary to the requirements of this subchapter, the Governor of the State may use an amount deducted under paragraph (4) to repay the funds, except as provided under subsection (e).<sup>1</sup>

**(4) Deduction by State**

The Governor may deduct an amount equal to the misexpenditure described in paragraph

(3) from subsequent program year (subsequent to the program year for which the determination was made) allocations to the local area from funds reserved for the administrative costs of the local programs involved, as appropriate.

**(5) Limitations**

A deduction made by a State as described in paragraph (4) shall not be made until such time as the Governor has taken appropriate corrective action to ensure full compliance with this subchapter within such local area with regard to appropriate expenditures of funds under this subchapter.

**(d) Repayment of amounts**

**(1) In general**

Each recipient of funds under this subchapter shall be liable to repay the amounts described in subsection (c)(1), from funds other than funds received under this subchapter, upon a determination by the Secretary that the misexpenditure of the amounts was due to willful disregard of the requirements of this subchapter, gross negligence, failure to observe accepted standards of administration, or a pattern of misexpenditure described in subsection (c)(1). No such determination shall be made under this subsection or subsection (c) until notice and opportunity for a fair hearing have been given to the recipient.

**(2) Factors in imposing sanctions**

In determining whether to impose any sanction authorized by this section against a recipient of funds under this subchapter for violations of this subchapter (including applicable regulations) by a subgrantee or contractor of such recipient, the Secretary shall first determine whether such recipient has adequately demonstrated that the recipient has—

(A) established and adhered to an appropriate system, for entering into and monitoring subgrant agreements and contracts with subgrantees and contractors, that contains acceptable standards for ensuring accountability;

(B) entered into a written subgrant agreement or contract with such a subgrantee or contractor that established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the subgrant agreement or contract, including carrying out the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this subchapter, including regulations issued under this subchapter, by such subgrantee or contractor.

**(3) Waiver**

If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this subchapter and with any applicable Fed-

<sup>1</sup>So in original. Subsec. (e) relates to termination or suspension of financial assistance.

eral or State law directly against any subgrantee or contractor for violation of this subchapter, including regulations issued under this subchapter.

**(e) Immediate termination or suspension of assistance in emergency situations**

In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program or activity involved, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, to the recipient if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

**(f) Discrimination against participants**

If the Secretary determines that any recipient under this subchapter has discharged or in any other manner discriminated against a participant or against any individual in connection with the administration of the program involved, or against any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this subchapter, or has testified or is about to testify in any such proceeding or an investigation under or related to this subchapter, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this subchapter, including regulations issued under this subchapter, the Secretary shall, within 30 days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved individual, or both.

**(g) Remedies**

The remedies described in this section shall not be considered to be the exclusive remedies available for violations described in this section. (Pub. L. 113-128, title I, §184, July 22, 2014, 128 Stat. 1590.)

**EFFECTIVE DATE**

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

**§ 3245. Reports; recordkeeping; investigations**

**(a) Recipient recordkeeping and reports**

**(1) In general**

Recipients of funds under this subchapter shall keep records that are sufficient to permit the preparation of reports required by this subchapter and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

**(2) Records and reports regarding general performance**

Every such recipient shall maintain such records and submit such reports, in such form and containing such information, as the Sec-

retary may require regarding the performance of programs and activities carried out under this subchapter. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by Congress or a committee of Congress, in which case an estimate regarding such information may be provided.

**(3) Maintenance of standardized records**

In order to allow for the preparation of the reports required under subsection (c), such recipients shall maintain standardized records for all individual participants and provide to the Secretary a sufficient number of such records to provide for an adequate analysis of the records.

**(4) Availability to the public**

**(A) In general**

Except as provided in subparagraph (B), records maintained by such recipients pursuant to this subsection shall be made available to the public upon request.

**(B) Exception**

Subparagraph (A) shall not apply to—

- (i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and
- (ii) trade secrets, or commercial or financial information, that is—
  - (I) obtained from a person; and
  - (II) privileged or confidential.

**(C) Fees to recover costs**

Such recipients may charge fees sufficient to recover costs applicable to the processing of requests for records under subparagraph (A).

**(b) Investigations of use of funds**

**(1) In general**

**(A) Secretary**

In order to evaluate compliance with the provisions of this subchapter, the Secretary shall conduct, in several States, in each fiscal year, investigations of the use of funds received by recipients under this subchapter.

**(B) Comptroller general of the United States**

In order to ensure compliance with the provisions of this subchapter, the Comptroller General of the United States may conduct investigations of the use of funds received under this subchapter by any recipient.

**(2) Prohibition**

In conducting any investigation under this subchapter, the Secretary or the Comptroller General of the United States may not request the compilation of any information that the recipient is not otherwise required to compile and that is not readily available to such recipient.

**(3) Audits**

**(A) In general**

In carrying out any audit under this subchapter (other than any initial audit survey

or any audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General of the Department of Labor, or the Comptroller General of the United States shall furnish to the State, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not later than 14 days (or as soon as practicable) prior to the commencement of the audit.

**(B) Notification requirement**

If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

**(C) Additional requirement**

The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding contained in the reports.

**(D) Rule of construction**

Nothing contained in this subchapter shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General of the United States.

**(c) Grantee information responsibilities**

Each State, each local board, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this subchapter—

(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 3248 of this title;

(3) shall monitor the performance of providers in complying with the terms of grants, contracts, or other agreements made pursuant to this subchapter; and

(4) shall, to the extent practicable, submit or make available (including through electronic means) any reports, records, plans, or any other data that are required to be submitted or made available, respectively, under this subchapter.

**(d) Information to be included in reports**

**(1) In general**

The reports required in subsection (c) shall include information regarding programs and activities carried out under this subchapter pertaining to—

(A) the relevant demographic characteristics (including race, ethnicity, sex, and age)

and other related information regarding participants;

(B) the programs and activities in which participants are enrolled, and the length of time that participants are engaged in such programs and activities;

(C) outcomes of the programs and activities for participants, including the occupations of participants, and placement for participants in nontraditional employment;

(D) specified costs of the programs and activities; and

(E) information necessary to prepare reports to comply with section 3248 of this title.

**(2) Additional requirement**

The Secretary shall ensure that all elements of the information required for the reports described in paragraph (1) are defined and that the information is reported uniformly.

**(e) Quarterly financial reports**

**(1) In general**

Each local board in a State shall submit quarterly financial reports to the Governor with respect to programs and activities carried out under this subchapter. Such reports shall include information identifying all program and activity costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation involved.

**(2) Additional requirement**

Each State shall submit to the Secretary, and the Secretary shall 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, on a quarterly basis, a summary of the reports submitted to the Governor pursuant to paragraph (1).

**(f) Maintenance of additional records**

Each State and local board shall maintain records with respect to programs and activities carried out under this subchapter that identify—

(1) any income or profits earned, including such income or profits earned by subrecipients; and

(2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

**(g) Cost categories**

In requiring entities to maintain records of costs by cost category under this subchapter, the Secretary shall require only that the costs be categorized as administrative or programmatic costs.

(Pub. L. 113-128, title I, §185, July 22, 2014, 128 Stat. 1594.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (b)(3)(D), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 [probably July 1, 2015], see

section 506 of Pub. L. 113-128, set out as a note under section 3101 of this title.

### § 3246. Administrative adjudication

#### (a) In general

Whenever any applicant for financial assistance under this subchapter is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section 3244 of this title.

#### (b) Appeal

The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part of the decision has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged during the 20-day period shall be deemed to have been waived. After the 20-day period the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days after such filing, notifies the parties that the case involved has been accepted for review.

#### (c) Time limit

Any case accepted for review by the Secretary under subsection (b) shall be decided within 180 days after such acceptance. If the case is not decided within the 180-day period, the decision of the administrative law judge shall become the final decision of the Secretary at the end of the 180-day period.

#### (d) Additional requirement

The provisions of section 3247 of this title shall apply to any final action of the Secretary under this section.

(Pub. L. 113-128, title I, §186, July 22, 2014, 128 Stat. 1596.)

#### EFFECTIVE DATE

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

### § 3247. Judicial review

#### (a) Review

##### (1) Petition

With respect to any final order by the Secretary under section 3246 of this title by which the Secretary awards, declines to award, or only conditionally awards, financial assistance under this subchapter, or any final order of the Secretary under section 3246 of this title with respect to a corrective action or sanction imposed under section 3244 of this title, any party to a proceeding that resulted in such final order may obtain review of such final order in the United States Court of Appeals

having jurisdiction over the applicant for or recipient of the funds involved, by filing a review petition within 30 days after the date of issuance of such final order.

#### (2) Action on petition

The clerk of the court shall transmit a copy of the review petition to the Secretary, who shall file the record on which the final order was entered as provided in section 2112 of title 28. The filing of a review petition shall not stay the order of the Secretary, unless the court orders a stay. Petitions filed under this subsection shall be heard expeditiously, if possible within 10 days after the date of filing of a reply to the petition.

#### (3) Standard and scope of review

No objection to the order of the Secretary shall be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review shall be limited to questions of law and the findings of fact of the Secretary shall be conclusive if supported by substantial evidence.

#### (b) Judgment

The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The judgment of the court regarding the order shall be final, subject to certiorari review by the Supreme Court as provided in section 1254(1) of title 28.

(Pub. L. 113-128, title I, §187, July 22, 2014, 128 Stat. 1597.)

#### EFFECTIVE DATE

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

### § 3248. Nondiscrimination

#### (a) In general

##### (1) Federal financial assistance

For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 794 of this title, on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

##### (2) Prohibition of discrimination regarding participation, benefits, and employment

No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.]), national

origin, age, disability, or political affiliation or belief.

**(3) Prohibition on assistance for facilities for sectarian instruction or religious worship**

Participants shall not be employed under this subchapter to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).

**(4) Prohibition on discrimination on basis of participant status**

No person may discriminate against an individual who is a participant in a program or activity that receives funds under this subchapter, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant.

**(5) Prohibition on discrimination against certain noncitizens**

Participation in programs and activities or receiving funds under this subchapter shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

**(b) Action of Secretary**

Whenever the Secretary finds that a State or other recipient of funds under this subchapter has failed to comply with a provision of law referred to in subsection (a)(1), or with paragraph (2), (3), (4), or (5) of subsection (a), including an applicable regulation prescribed to carry out such provision or paragraph, the Secretary shall notify such State or recipient and shall request that the State or recipient comply. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(2) take such other action as may be provided by law.

**(c) Action of Attorney General**

When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient of funds under this subchapter is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

**(d) Job Corps**

For the purposes of this section, Job Corps members shall be considered to be the ultimate beneficiaries of Federal financial assistance.

**(e) Regulations**

The Secretary shall issue regulations necessary to implement this section not later than 1 year after July 22, 2014. Such regulations shall adopt standards for determining discrimination and procedures for enforcement that are consistent with the Acts referred to in subsection (a)(1), as well as procedures to ensure that complaints filed under this section and such Acts are processed in a manner that avoids duplication of effort.

(Pub. L. 113-128, title I, §188, July 22, 2014, 128 Stat. 1597.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in subsec. (a)(1), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 42 and Tables.

The Education Amendments of 1972, referred to in subsec. (a)(1), (2), is Pub. L. 92-318, June 23, 1972, 86 Stat. 235. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

This Act, referred to in subsec. (a)(1), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

EFFECTIVE DATE

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

**§ 3249. Secretarial administrative authorities and responsibilities**

**(a) In general**

In accordance with chapter 5 of title 5, the Secretary may prescribe rules and regulations to carry out this subchapter, only to the extent necessary to administer and ensure compliance with the requirements of this subchapter. Such rules and regulations may include provisions making adjustments authorized by section 6504 of title 31. All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective dates. Copies of each such rule or regulation shall be transmitted to the appropriate committees of Congress on the date of such publication and shall contain, with respect to each material provision of such rule or regulation, a citation to the particular substantive section of law that is the basis for the provision.

**(b) Acquisition of certain property and services**

The Secretary is authorized, in carrying out this subchapter, to accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this subchapter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31.

**(c) Authority to enter into certain agreements and to make certain expenditures**

The Secretary may make such grants, enter into such contracts or agreements, establish such procedures, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend such funds under this subchapter, as may be necessary to carry out this subchapter, including making expenditures for construction, repairs, and capital improvements, and including making necessary adjustments in payments on account of over-payments or underpayments.

**(d) Annual report**

The Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate an annual report regarding the programs and activities funded under this subchapter. The Secretary shall include in such report—

- (1) a summary of the achievements, failures, and challenges of the programs and activities in meeting the objectives of this subchapter;
- (2) a summary of major findings from research, evaluations, pilot projects, and experiments conducted under this subchapter in the fiscal year prior to the submission of the report;
- (3) recommendations for modifications in the programs and activities based on analysis of such findings; and
- (4) such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.

**(e) Utilization of services and facilities**

The Secretary is authorized, in carrying out this subchapter, under the same procedures as are applicable under subsection (c) or to the extent permitted by law other than this subchapter, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized, in carrying out this subchapter, to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with the consent of the State or political subdivision.

**(f) Obligational authority**

Notwithstanding any other provision of this subchapter, the Secretary shall have no authority to enter into contracts, grant agreements, or other financial assistance agreements under this subchapter, except to such extent and in such amounts as are provided in advance in appropriations Acts.

**(g) Program year****(1) In general****(A) Program year**

Except as provided in subparagraph (B), appropriations for any fiscal year for programs and activities funded under this subchapter shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

**(B) Youth workforce investment activities**

The Secretary may make available for obligation, beginning April 1 of any fiscal year, funds appropriated for such fiscal year to carry out youth workforce investment activities under part B and activities under section 3226 of this title.

**(2) Availability****(A) In general**

Funds obligated for any program year for a program or activity funded under part B may be expended by each State receiving such funds during that program year and the 2 succeeding program years. Funds received by local areas from States under part B during a program year may be expended during that program year and the succeeding program year.

**(B) Certain national activities****(i) In general**

Funds obligated for any program year for any program or activity carried out under section 3224 of this title shall remain available until expended.

**(ii) Incremental funding basis**

A contract or arrangement entered into under the authority of subsection (a) or (b) of section 3224 of this title (relating to evaluations, research projects, studies and reports, and multistate projects), including a long-term, nonseverable services contract, may be funded on an incremental basis with annual appropriations or other available funds.

**(C) Special rule**

No amount of the funds obligated for a program year for a program or activity funded under this subchapter shall be deobligated on account of a rate of expenditure that is consistent with a State plan, an operating plan described in section 3201 of this title, or a plan, grant agreement, contract, application, or other agreement described in part D, as appropriate.

**(D) Funds for pay-for-performance contract strategies**

Funds used to carry out pay-for-performance contract strategies by local areas shall remain available until expended.

**(h) Enforcement of Military Selective Service Act**

The Secretary shall ensure that each individual participating in any program or activity established under this subchapter, or receiving any assistance or benefit under this subchapter, has not violated section 3 of the Military Selec-

tive Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.

**(i) Waivers**

**(1) Special rule regarding designated areas**

A State that has enacted, not later than December 31, 1997, a State law providing for the designation of service delivery areas for the delivery of workforce investment activities, may use such areas as local areas under this subchapter, notwithstanding section 3121 of this title.

**(2) Special rule regarding sanctions**

A State that has enacted, not later than December 31, 1997, a State law providing for the sanctioning of such service delivery areas for failure to meet performance accountability measures for workforce investment activities, may use the State law to sanction local areas for failure to meet State performance accountability measures under this subchapter.

**(3) 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) with a plan that meets the requirements of subparagraph (B)—

(i) any of the statutory or regulatory requirements of part A, part B, or this part (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 other requirements relating to the basic purposes of this subchapter); and

(ii) any of the statutory or regulatory requirements of sections 49g through 49i of this title (excluding requirements relating to the provision of services to unemployment insurance claimants and veterans, and requirements relating to universal access to basic labor exchange services without cost to jobseekers).

**(B) Requests**

A Governor requesting a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the statewide workforce development system that—

(i) identifies the statutory or regulatory requirements that are requested to be waived and the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver;

(ii) describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(iii) describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(iv) describes the individuals impacted by the waiver; and

(v) describes the process used to monitor the progress in implementing such a waiver, and the process by which notice and, in the case of a waiver for a local area, an opportunity to comment on such request has been provided to the local board for the local area for which the waiver is requested.

**(C) Conditions**

Not later than 90 days after the date of the original submission of a request for a waiver under subparagraph (A), the Secretary shall provide a waiver under this subsection if and only to the extent that—

(i) the Secretary determines that the requirements requested to be waived impede the ability of the State or local area, as appropriate, to implement the plan described in subparagraph (B); and

(ii) the State has executed a memorandum of understanding with the Secretary requiring such State to meet, or ensure that the local area for which the waiver is requested meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.

**(D) Expedited determination regarding provision of waivers**

If the Secretary has approved a waiver of statutory or regulatory requirements for a State or local area pursuant to this subsection, the Secretary shall expedite the determination regarding the provision of that waiver, for another State or local area if such waiver is in accordance with the approved State or local plan, as appropriate.

(Pub. L. 113–128, title I, §189, July 22, 2014, 128 Stat. 1599.)

**EFFECTIVE DATE**

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

**§ 3250. Workforce flexibility plans**

**(a) Plans**

A State may submit to the Secretary, and the Secretary may approve, a workforce flexibility plan under which the State is authorized to waive, in accordance with the plan—

(1) any of the statutory or regulatory requirements applicable under this subchapter to local areas, pursuant to applications for such waivers from the local areas, except for requirements relating to the basic purposes of this subchapter, wage and labor standards, grievance procedures and judicial review, nondiscrimination, eligibility of participants, allocation of funds to local areas, establishment

and functions of local areas and local boards, procedures for review and approval of local plans, and worker rights, participation, and protection;

(2) any of the statutory or regulatory requirements applicable under sections 49g through 49i of this title to the State (excluding requirements relating to the provision of services to unemployment insurance claimants and veterans, and requirements relating to universal access to basic labor exchange services without cost to jobseekers); and

(3) any of the statutory or regulatory requirements applicable under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) to State agencies on aging with respect to activities carried out using funds allotted under section 506(b) of such Act (42 U.S.C. 3056d(b)), except for requirements relating to the basic purposes of such Act, wage and labor standards, eligibility of participants in the activities, and standards for grant agreements.

**(b) Content of plans**

A workforce flexibility plan implemented by a State under subsection (a) shall include descriptions of—

(1)(A) the process by which local areas in the State may submit and obtain approval by the State of applications for waivers of requirements applicable under this subchapter; and

(B) the requirements described in subparagraph (A) that are likely to be waived by the State under the plan;

(2) the requirements applicable under sections 49g through 49i of this title that are proposed to be waived, if any;

(3) the requirements applicable under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.] that are proposed to be waived, if any;

(4) the outcomes to be achieved by the waivers described in paragraphs (1) through (3); and

(5) other measures to be taken to ensure appropriate accountability for Federal funds in connection with the waivers.

**(c) Periods**

The Secretary may approve a workforce flexibility plan for a period of not more than 5 years.

**(d) Opportunity for public comments**

Prior to submitting a workforce flexibility plan to the Secretary for approval, the State shall provide to all interested parties and to the general public adequate notice of and a reasonable opportunity for comment on the waiver requests proposed to be implemented pursuant to such plan.

(Pub. L. 113–128, title I, §190, July 22, 2014, 128 Stat. 1602.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in secs. (a)(3) and (b)(3), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 [probably July 1, 2015], see

section 506 of Pub. L. 113–128, set out as a note under section 3101 of this title.

**§ 3251. State legislative authority**

**(a) Authority of State legislature**

Nothing in this subchapter shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this subchapter, of the activities assisted under this subchapter. Any funds received by a State under this subchapter shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this subchapter.

**(b) Interstate compacts and cooperative agreements**

In the event that compliance with provisions of this subchapter would be enhanced by compacts and cooperative agreements between States, the consent of Congress is given to States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

(Pub. L. 113–128, title I, §191, July 22, 2014, 128 Stat. 1603.)

EFFECTIVE DATE

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

**§ 3252. 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 (29 U.S.C. 49 et seq.) 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 this Act, 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 this Act, title III of the Social Security Act, or the Wagner-Peyser Act.

**(b) Limitation on use**

A State shall not use funds awarded under this Act, 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 February 15, 2007.

(Pub. L. 113–128, title I, §192, July 22, 2014, 128 Stat. 1604.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title III of the Act is

classified generally to subchapter III (§501 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Wagner-Peyser Act, referred to in text, is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

This Act, referred to in text, is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

#### EFFECTIVE DATE

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

### § 3253. Continuation of State activities and policies

#### (a) In general

Notwithstanding any other provision of this subchapter, the Secretary may not deny approval of a State plan for a covered State, or an application of a covered State for financial assistance, under this subchapter, or find a covered State (including a State board or Governor), or a local area (including a local board or chief elected official) in a covered State, in violation of a provision of this subchapter, on the basis that—

(1)(A) the State proposes to allocate or disburse, allocates, or disburses, within the State, funds made available to the State under section 3162 or 3172 of this title in accordance with the allocation formula for the type of activities involved, or in accordance with a disbursement procedure or process, used by the State under prior consistent State laws; or

(B) a local board in the State proposes to disburse, or disburses, within the local area, funds made available to the State under section 3162 or 3172 of this title in accordance with a disbursement procedure or process used by a private industry council under prior consistent State law;

(2) the State proposes to carry out or carries out a State procedure through which local areas use, as fiscal agents for funds made available to the State under section 3162 or 3172 of this title and allocated within the State, fiscal agents selected in accordance with a process established under prior consistent State laws;

(3) the State proposes to carry out or carries out a State procedure through which the local boards in the State (or the local boards, the chief elected officials in the State, and the Governor) designate or select the one-stop partners and one-stop operators of the statewide system in the State under prior consistent State laws, in lieu of making the designation or certification described in section 3151 of this title (regardless of the date the one-stop delivery systems involved have been established);

(4) the State proposes to carry out or carries out a State procedure through which the persons responsible for selecting eligible providers for purposes of part B are permitted to determine that a provider shall not be selected to provide both intake services under section 3174(c)(2) of this title and training services under section 3174(c)(3) of this title, under prior consistent State laws;

(5) the State proposes to designate or designates a State board, or proposes to assign or assigns functions and roles of the State board (including determining the time periods for development and submission of a State plan required under section 3112 or 3113 of this title), for purposes of part A in accordance with prior consistent State laws; or

(6) a local board in the State proposes to use or carry out, uses, or carries out a local plan (including assigning functions and roles of the local board) for purposes of part A in accordance with the authorities and requirements applicable to local plans and private industry councils under prior consistent State laws.

#### (b) Definition

In this section:

##### (1) Covered State

The term “covered State” means a State that enacted State laws described in paragraph (2).

##### (2) Prior consistent State laws

The term “prior consistent State laws” means State laws, not inconsistent with the Job Training Partnership Act or any other applicable Federal law, that took effect on September 1, 1993, September 1, 1995, and September 1, 1997.

(Pub. L. 113-128, title I, §193, July 22, 2014, 128 Stat. 1604.)

#### REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b)(2), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, which was classified generally to chapter 19 (§1501 et seq.) of this title, prior to repeal by Pub. L. 105-220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. For complete classification of this Act to the Code, see Tables.

#### EFFECTIVE DATE

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

### § 3254. General program requirements

Except as otherwise provided in this subchapter, the following conditions apply to all programs under this subchapter:

(1) Each program under this subchapter shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities. In addition, the recipients of Federal funding for programs under this subchapter shall make efforts to develop programs that contribute to occupational development, upward mobility, development of new careers, and opportunities for nontraditional employment.

(2) Funds provided under this subchapter shall only be used for activities that are in addition to activities that would otherwise be available in the local area in the absence of such funds.

(3)(A) Any local area may enter into an agreement with another local area (including a local area that is a city or county within the same labor market) to pay or share the cost of educating, training, or placing individuals participating in programs assisted under this subchapter, including the provision of supportive services.

(B) Such agreement shall be approved by each local board for a local area entering into the agreement and shall be described in the local plan under section 3123 of this title.

(4) On-the-job training contracts under this subchapter, shall not be entered into with employers who have received payments under previous contracts under this Act or the Workforce Investment Act of 1998 and have exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(5) No person or organization may charge an individual a fee for the placement or referral of the individual in or to a workforce investment activity under this subchapter.

(6) The Secretary shall not provide financial assistance for any program under this subchapter that involves political activities.

(7)(A) Income under any program administered by a public or private nonprofit entity may be retained by such entity only if such income is used to continue to carry out the program.

(B) Income subject to the requirements of subparagraph (A) shall include—

- (i) receipts from goods or services (including conferences) provided as a result of activities funded under this subchapter;
- (ii) funds provided to a service provider under this subchapter that are in excess of the costs associated with the services provided; and
- (iii) interest income earned on funds received under this subchapter.

(C) For purposes of this paragraph, each entity receiving financial assistance under this subchapter shall maintain records sufficient to determine the amount of such income received and the purposes for which such income is expended.

(8)(A) The Secretary shall notify the Governor and the appropriate local board and chief elected official of, and consult with the Governor and such board and official concerning, any activity to be funded by the Secretary under this subchapter within the corresponding State or local area.

(B) The Governor shall notify the appropriate local board and chief elected official of, and consult with such board and official concerning, any activity to be funded by the Governor under this subchapter within the corresponding local area.

(9)(A) All education programs for youth supported with funds provided under subpart 2 of part B shall be consistent with applicable State and local educational standards.

(B) Standards and procedures with respect to awarding academic credit and certifying educational attainment in programs conducted under such subpart shall be consistent with the requirements of applicable State and local law, including regulation.

(10) No funds available under this subchapter may be used for public service employment except as specifically authorized under this subchapter.

(11) The Federal requirements governing the subchapter, use, and disposition of real property, equipment, and supplies purchased with funds provided under this subchapter shall be the corresponding Federal requirements generally applicable to such items purchased through Federal grants to States and local governments.

(12) Nothing in this subchapter shall be construed to provide an individual with an entitlement to a service under this subchapter.

(13) Services, facilities, or equipment funded under this subchapter may be used, as appropriate, on a fee-for-service basis, by employers in a local area in order to provide employment and training activities to incumbent workers—

(A) when such services, facilities, or equipment are not in use for the provision of services for eligible participants under this subchapter;

(B) if such use for incumbent workers would not have an adverse effect on the provision of services to eligible participants under this subchapter; and

(C) if the income derived from such fees is used to carry out the programs authorized under this subchapter.

(14) Funds provided under this subchapter shall not be used to establish or operate a stand-alone fee-for-service enterprise in a situation in which a private sector employment agency (as defined in section 2000e of title 42) is providing full access to similar or related services in such a manner as to fully meet the identified need. For purposes of this paragraph, such an enterprise does not include a one-stop delivery system described in section 3151(e) of this title.

(15)(A) None of the funds available under this subchapter shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of the annual rate of basic pay prescribed for level II of the Executive Schedule under section 5313 of title 5.

(B) The limitation described in subparagraph (A) shall not apply to vendors providing goods and services as defined in Office of Management and Budget Circular A-133. In a case in which a State is a recipient of such funds, the State may establish a lower limit than is provided in subparagraph (A) for salaries and bonuses of those receiving salaries and bonuses from a subrecipient of such funds, taking into account factors including the relative cost of

living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer the Federal programs involved.

(Pub. L. 113–128, title I, §194, July 22, 2014, 128 Stat. 1605.)

REFERENCES IN TEXT

This Act, referred to in par. (4), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Workforce Investment Act of 1998, referred to in par. (4), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

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

**§ 3255. Restrictions on lobbying activities**

**(a) Publicity restrictions**

**(1) In general**

No funds provided under this Act shall be used for—

- (A) publicity or propaganda purposes; or
- (B) the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat—
  - (i) the enactment of legislation before Congress or any State or local legislature or legislative body; or
  - (ii) any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.

**(2) Exception**

Paragraph (1) shall not apply to—

- (A) normal and recognized executive-legislative relationships;
- (B) the preparation, distribution, or use of the materials described in paragraph (1)(B) in presentation to Congress or any State or local legislature or legislative body; or
- (C) such preparation, distribution, or use of such materials in presentation to the executive branch of any State or local government.

**(b) Salary restrictions**

**(1) In general**

No funds provided under this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment or issuance of legislation, appropriations, regulations, administrative action, or an Executive order proposed or pending before Congress or any

State government, or a State or local legislature or legislative body.

**(2) Exception**

Paragraph (1) shall not apply to—

- (A) normal and recognized executive-legislative relationships; or
- (B) participation by an agency or officer of a State, local, or tribal government in policymaking and administrative processes within the executive branch of that government.

(Pub. L. 113–128, title I, §195, July 22, 2014, 128 Stat. 1607.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1) and (b)(1), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

EFFECTIVE DATE

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

SUBCHAPTER II—ADULT EDUCATION AND LITERACY

**§ 3271. Purpose**

It is the purpose of this subchapter to create a partnership among the Federal Government, States, and localities to provide, on a voluntary basis, adult education and literacy activities, in order to—

- (1) assist adults to become literate and obtain the knowledge and skills necessary for employment and economic self-sufficiency;
- (2) assist adults who are parents or family members to obtain the education and skills that—
  - (A) are necessary to becoming full partners in the educational development of their children; and
  - (B) lead to sustainable improvements in the economic opportunities for their family;
- (3) assist adults in attaining a secondary school diploma and in the transition to post-secondary education and training, including through career pathways; and
- (4) assist immigrants and other individuals who are English language learners in—
  - (A) improving their—
    - (i) reading, writing, speaking, and comprehension skills in English; and
    - (ii) mathematics skills; and
  - (B) acquiring an understanding of the American system of Government, individual freedom, and the responsibilities of citizenship.

(Pub. L. 113–128, title II, §202, July 22, 2014, 128 Stat. 1608.)

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 [probably July 1, 2015], see

section 506 of Pub. L. 113-128, set out as a note under section 3101 of this title.

#### SHORT TITLE

For short title of this subchapter as the “Adult Education and Family Literacy Act”, see section 201 of Pub. L. 113-128, set out as a note under section 3101 of this title.

### § 3272. Definitions

In this subchapter:

#### (1) Adult education

The term “adult education” means academic instruction and education services below the postsecondary level that increase an individual’s ability to—

- (A) read, write, and speak in English and perform mathematics or other activities necessary for the attainment of a secondary school diploma or its recognized equivalent;
- (B) transition to postsecondary education and training; and
- (C) obtain employment.

#### (2) Adult education and literacy activities

The term “adult education and literacy activities” means programs, activities, and services that include adult education, literacy, workplace adult education and literacy activities, family literacy activities, English language acquisition activities, integrated English literacy and civics education, workforce preparation activities, or integrated education and training.

#### (3) Eligible agency

The term “eligible agency” means the sole entity or agency in a State or an outlying area responsible for administering or supervising policy for adult education and literacy activities in the State or outlying area, respectively, consistent with the law of the State or outlying area, respectively.

#### (4) Eligible individual

The term “eligible individual” means an individual—

- (A) who has attained 16 years of age;
- (B) who is not enrolled or required to be enrolled in secondary school under State law; and
- (C) who—
  - (i) is basic skills deficient;
  - (ii) does not have a secondary school diploma or its recognized equivalent, and has not achieved an equivalent level of education; or
  - (iii) is an English language learner.

#### (5) Eligible provider

The term “eligible provider” means an organization that has demonstrated effectiveness in providing adult education and literacy activities that may include—

- (A) a local educational agency;
- (B) a community-based organization or faith-based organization;
- (C) a volunteer literacy organization;
- (D) an institution of higher education;
- (E) a public or private nonprofit agency;
- (F) a library;
- (G) a public housing authority;

(H) a nonprofit institution that is not described in any of subparagraphs (A) through (G) and has the ability to provide adult education and literacy activities to eligible individuals;

(I) a consortium or coalition of the agencies, organizations, institutions, libraries, or authorities described in any of subparagraphs (A) through (H); and

(J) a partnership between an employer and an entity described in any of subparagraphs (A) through (I).

#### (6) English language acquisition program

The term “English language acquisition program” means a program of instruction—

- (A) designed to help eligible individuals who are English language learners achieve competence in reading, writing, speaking, and comprehension of the English language; and
- (B) that leads to—
  - (i) attainment of a secondary school diploma or its recognized equivalent; and
  - (ii) transition to postsecondary education and training; or
  - (ii) employment.

#### (7) English language learner

The term “English language learner” when used with respect to an eligible individual, means an eligible individual who has limited ability in reading, writing, speaking, or comprehending 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.

#### (8) Essential components of reading instruction

The term “essential components of reading instruction” has the meaning given the term in section 6368 of title 20.

#### (9) Family literacy activities

The term “family literacy activities” means activities that are of sufficient intensity and quality, to make sustainable improvements in the economic prospects for a family and that better enable parents or family members to support their children’s learning needs, and that integrate all of the following activities:

- (A) Parent or family adult education and literacy activities that lead to readiness for postsecondary education or training, career advancement, and economic self-sufficiency.
- (B) Interactive literacy activities between parents or family members and their children.
- (C) Training for parents or family members regarding how to be the primary teacher for their children and full partners in the education of their children.
- (D) An age-appropriate education to prepare children for success in school and life experiences.

(C) Training for parents or family members regarding how to be the primary teacher for their children and full partners in the education of their children.

- (D) An age-appropriate education to prepare children for success in school and life experiences.

#### (10) Institution of higher education

The term “institution of higher education” has the meaning given the term in section 1001 of title 20.

**(11) Integrated education and training**

The term “integrated education and training” means a service approach that provides adult education and literacy activities concurrently and contextually with workforce preparation activities and workforce training for a specific occupation or occupational cluster for the purpose of educational and career advancement.

**(12) Integrated English literacy and civics education**

The term “integrated English literacy and civics education” means education services provided to English language learners who are adults, including professionals with degrees and credentials in their native countries, that enables such adults to achieve competency in the English language and acquire the basic and more advanced skills needed to function effectively as parents, workers, and citizens in the United States. Such services shall include instruction in literacy and English language acquisition and instruction on the rights and responsibilities of citizenship and civic participation, and may include workforce training.

**(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.

**(14) 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 college or university; or
- (C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

**(15) Secretary**

The term “Secretary” means the Secretary of Education.

**(16) Workplace adult education and literacy activities**

The term “workplace adult education and literacy activities” means adult education and literacy activities offered by an eligible provider in collaboration with an employer or employee organization at a workplace or an off-site location that is designed to improve the productivity of the workforce.

**(17) Workforce preparation activities**

The term “workforce preparation activities” means activities, programs, or services designed to help an individual acquire a combination of basic academic skills, critical thinking skills, digital literacy skills, and self-management skills, including competencies in utilizing resources, using information, working with others, understanding systems, and obtaining skills necessary for successful transition into and completion of postsecondary education or training, or employment.

(Pub. L. 113–128, title II, §203, July 22, 2014, 128 Stat. 1609.)

## EFFECTIVE DATE

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

**§ 3273. Home schools**

Nothing in this subchapter 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 or family member engaged in home schooling to participate in adult education and literacy activities.

(Pub. L. 113–128, title II, §204, July 22, 2014, 128 Stat. 1611.)

## EFFECTIVE DATE

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

**§ 3274. Rule of construction regarding postsecondary transition and concurrent enrollment activities**

Nothing in this subchapter shall be construed to prohibit or discourage the use of funds provided under this subchapter for adult education and literacy activities that help eligible individuals transition to postsecondary education and training or employment, or for concurrent enrollment activities.

(Pub. L. 113–128, title II, §205, July 22, 2014, 128 Stat. 1612.)

## EFFECTIVE DATE

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

**§ 3275. Authorization of appropriations**

There are authorized to be appropriated to carry out this subchapter \$577,667,000 for fiscal year 2015, \$622,286,000 for fiscal year 2016, \$635,198,000 for fiscal year 2017, \$649,287,000 for fiscal year 2018, \$664,552,000 for fiscal year 2019, and \$678,640,000 for fiscal year 2020.

(Pub. L. 113–128, title II, §206, July 22, 2014, 128 Stat. 1612.)

## EFFECTIVE DATE

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

## PART A—FEDERAL PROVISIONS

**§ 3291. Reservation of funds; grants to eligible agencies; allotments****(a) Reservation of funds**

From the sum appropriated under section 3275 of this title for a fiscal year, the Secretary—

- (1) shall reserve 2 percent to carry out section 3332 of this title, except that the amount so reserved shall not exceed \$15,000,000; and

(2) shall reserve 12 percent of the amount that remains after reserving funds under paragraph (1) to carry out section 3333 of this title.

**(b) Grants to eligible agencies**

**(1) In general**

From the sum appropriated under section 3275 of this title and not reserved under subsection (a) for a fiscal year, the Secretary shall award a grant to each eligible agency having a unified State plan approved under section 3112 of this title or a combined State plan approved under section 3113 of this title in an amount equal to the sum of the initial allotment under subsection (c)(1) and the additional allotment under subsection (c)(2) for the eligible agency for the fiscal year, subject to subsections (f) and (g), to enable the eligible agency to carry out the activities assisted under this subchapter.

**(2) Purpose of grants**

The Secretary may award a grant under paragraph (1) only if the eligible entity involved agrees to expend the grant for adult education and literacy activities in accordance with the provisions of this subchapter.

**(c) Allotments**

**(1) Initial allotments**

From the sum appropriated under section 3275 of this title and not reserved under subsection (a) for a fiscal year, the Secretary shall allot to each eligible agency having a unified State plan approved under section 3112 of this title or a combined State plan approved under section 3113 of this title—

(A) \$100,000, in the case of an eligible agency serving an outlying area; and

(B) \$250,000, in the case of any other eligible agency.

**(2) Additional allotments**

From the sum appropriated under section 3275 of this title, not reserved under subsection (a), and not allotted under paragraph (1), for a fiscal year, the Secretary shall allot to each eligible agency that receives an initial allotment under paragraph (1) an additional amount that bears the same relationship to such sum as the number of qualifying adults in the State or outlying area served by the eligible agency bears to the number of such adults in all States and outlying areas.

**(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.

**(e) Special rule**

**(1) In general**

From amounts made available under subsection (c) for the Republic of Palau, the Secretary shall award grants to Guam, American Samoa, the Commonwealth of the Northern

Mariana Islands, or the Republic of Palau to carry out activities described in this subchapter in accordance with the provisions of this subchapter, as determined by the Secretary.

**(2) Award basis**

The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to the recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

**(3) Termination of eligibility**

Notwithstanding any other provision of law, the Republic of Palau shall be eligible to receive a grant under this subchapter except during the period described in section 3102(45) of this title.

**(4) Administrative costs**

The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

**(f) Hold-harmless provisions**

**(1) In general**

Notwithstanding subsection (c), for fiscal year 2015 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) Ratable reduction**

If for any fiscal year the amount available for allotment under this subchapter is insufficient to satisfy the provisions of paragraph (1) the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.

**(g) Reallotment**

The portion of any eligible agency’s allotment under this subchapter for a fiscal year that the Secretary determines will not be required for the period such allotment is available for carrying out activities under this subchapter, shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other eligible agencies in proportion to the original allotments to such agencies under this subchapter for such year.

(Pub. L. 113–128, title II, §211, July 22, 2014, 128 Stat. 1612.)

EFFECTIVE DATE

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

**§ 3292. Performance accountability system**

Programs and activities authorized in this subchapter are subject to the performance accountability provisions described in section 3141 of this title.

(Pub. L. 113–128, title II, §212, July 22, 2014, 128 Stat. 1614.)

## EFFECTIVE DATE

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

## PART B—STATE PROVISIONS

**§ 3301. State administration**

Each eligible agency shall be responsible for the State or outlying area administration of activities under this subchapter, including—

- (1) the development, implementation, and monitoring of the relevant components of the unified State plan in section 3112 of this title or the combined State plan in section 3113 of this title;
- (2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities assisted under this subchapter; and
- (3) coordination and nonduplication with other Federal and State education, training, corrections, public housing, and social service programs.

(Pub. L. 113-128, title II, §221, July 22, 2014, 128 Stat. 1614.)

## EFFECTIVE DATE

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

**§ 3302. State distribution of funds; matching requirement****(a) State distribution of funds**

Each eligible agency receiving a grant under section 3291(b) of this title for a fiscal year—

- (1) shall use not less than 82.5 percent of the grant funds to award grants and contracts under section 3321 of this title and to carry out section 3305 of this title, of which not more than 20 percent of such amount shall be available to carry out section 3305 of this title;
- (2) shall use not more than 12.5 percent of the grant funds to carry out State leadership activities under section 3303 of this title; and
- (3) shall use not more than 5 percent of the grant funds, or \$85,000, 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 3291(b) of this title 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 that is not less than—

- (A) in the case of an eligible agency serving an outlying area, 12 percent of the total amount of funds expended for adult education and literacy activities in the outlying area, except that the Secretary may decrease the amount of funds required under this subparagraph for an eligible agency; and

(B) in the case of an eligible agency serving a State, 25 percent of the total amount of funds expended for adult education and literacy activities in the State.

**(2) Non-Federal contribution**

An eligible agency's non-Federal contribution required under paragraph (1) may be provided in cash or in kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of this subchapter.

(Pub. L. 113-128, title II, §222, July 22, 2014, 128 Stat. 1614.)

## EFFECTIVE DATE

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

**§ 3303. State leadership activities****(a) Activities****(1) Required**

Each eligible agency shall use funds made available under section 3302(a)(2) of this title for the following adult education and literacy activities to develop or enhance the adult education system of the State or outlying area:

(A) The alignment of adult education and literacy activities with other core programs and one-stop partners, including eligible providers, to implement the strategy identified in the unified State plan under section 3112 of this title or the combined State plan under section 3113 of this title, including the development of career pathways to provide access to employment and training services for individuals in adult education and literacy activities.

(B) The establishment or operation of high quality professional development programs to improve the instruction provided pursuant to local activities required under section 3321(b) of this title, including instruction incorporating the essential components of reading instruction as such components relate to adults, instruction related to the specific needs of adult learners, instruction provided by volunteers or by personnel of a State or outlying area, and dissemination of information about models and promising practices related to such programs.

(C) The provision of technical assistance to eligible providers of adult education and literacy activities receiving funds under this subchapter, including—

(i) the development and dissemination of instructional and programmatic practices based on the most rigorous or scientifically valid research available and appropriate, in reading, writing, speaking, mathematics, English language acquisition programs, distance education, and staff training;

(ii) the role of eligible providers as a one-stop partner to provide access to employment, education, and training services; and

(iii) assistance in the use of technology, including for staff training, to eligible providers, especially the use of technology to improve system efficiencies.

(D) The monitoring and evaluation of the quality of, and the improvement in, adult education and literacy activities and the dissemination of information about models and proven or promising practices within the State.

**(2) Permissible activities**

Each eligible agency may use funds made available under section 3302(a)(2) of this title for 1 or more of the following adult education and literacy activities:

(A) The support of State or regional networks of literacy resource centers.

(B) The development and implementation of technology applications, translation technology, or distance education, including professional development to support the use of instructional technology.

(C) Developing and disseminating curricula, including curricula incorporating the essential components of reading instruction as such components relate to adults.

(D) Developing content and models for integrated education and training and career pathways.

(E) The provision of assistance to eligible providers in developing and implementing programs that achieve the objectives of this subchapter and in measuring the progress of those programs in achieving such objectives, including meeting the State adjusted levels of performance described in section 3141(b)(3) of this title.

(F) The development and implementation of a system to assist in the transition from adult education to postsecondary education, including linkages with postsecondary educational institutions or institutions of higher education.

(G) Integration of literacy and English language instruction with occupational skill training, including promoting linkages with employers.

(H) Activities to promote workplace adult education and literacy activities.

(I) Identifying curriculum frameworks and aligning rigorous content standards that—

(i) 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

(ii) take into consideration the following:

(I) State adopted academic standards.

(II) The current adult skills and literacy assessments used in the State or outlying area.

(III) The primary indicators of performance described in section 3141 of this title.

(IV) Standards and academic requirements for enrollment in nonremedial, for-credit courses in postsecondary educational institutions or institutions of higher education supported by the State or outlying area.

(V) Where appropriate, the content of occupational and industry skill standards widely used by business and industry in the State or outlying area.

(J) Developing and piloting of strategies for improving teacher quality and retention.

(K) The development and implementation of programs and services to meet the needs of adult learners with learning disabilities or English language learners, which may include new and promising assessment tools and strategies that are based on scientifically valid research, where appropriate, and identify the needs and capture the gains of such students at the lowest achievement levels.

(L) Outreach to instructors, students, and employers.

(M) Other activities of statewide significance that promote the purpose of this subchapter.

**(b) Collaboration**

In carrying out this section, eligible agencies shall collaborate where possible, and avoid duplicating efforts, in order to maximize the impact of the activities described in subsection (a).

**(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 subchapter 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 imposed by the State or outlying area.

(Pub. L. 113-128, title II, §223, July 22, 2014, 128 Stat. 1615.)

EFFECTIVE DATE

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

**§ 3304. State plan**

Each State desiring to receive funds under this subchapter for any fiscal year shall submit and have approved a unified State plan in accordance with section 3112 of this title or a combined State plan in accordance with section 3113 of this title.

(Pub. L. 113-128, title II, §224, July 22, 2014, 128 Stat. 1617.)

EFFECTIVE DATE

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

**§ 3305. Programs for corrections education and other institutionalized individuals**

**(a) Program authorized**

From funds made available under section 3302(a)(1) of this title for a fiscal year, each eli-

gible agency shall carry out corrections education and education for other institutionalized individuals.

**(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) adult education and literacy activities;
- (2) special education, as determined by the eligible agency;
- (3) secondary school credit;
- (4) integrated education and training;
- (5) career pathways;
- (6) concurrent enrollment;
- (7) peer tutoring; and
- (8) transition to re-entry initiatives and other postrelease services with the goal of reducing recidivism.

**(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) Report**

In addition to any report required under section 3141 of this title, each eligible agency that receives assistance provided under this section shall annually prepare and submit to the Secretary a report on the progress, as described in section 3141 of this title, of the eligible agency with respect to the programs and activities carried out under this section, including the relative rate of recidivism for the criminal offenders served.

**(e) Definitions**

In this section:

**(1) Correctional institution**

The term “correctional institution” means any—

- (A) prison;
- (B) jail;
- (C) reformatory;
- (D) work farm;
- (E) detention center; or
- (F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

**(2) Criminal offender**

The term “criminal offender” means any individual who is charged with or convicted of any criminal offense.

(Pub. L. 113-128, title II, § 225, July 22, 2014, 128 Stat. 1617.)

**EFFECTIVE DATE**

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

**PART C—LOCAL PROVISIONS**

**§ 3321. Grants and contracts for eligible providers**

**(a) Grants and contracts**

From grant funds made available under section 3302(a)(1) of this title, each eligible agency shall award multiyear grants or contracts, on a competitive basis, to eligible providers within the State or outlying area to enable the eligible providers to develop, implement, and improve adult education and literacy activities within the State.

**(b) Required local activities**

The eligible agency shall require that each eligible provider receiving a grant or contract under subsection (a) use the grant or contract to establish or operate programs that provide adult education and literacy activities, including programs that provide such activities concurrently.

**(c) Direct and equitable access; same process**

Each eligible agency receiving funds under this subchapter shall ensure that—

- (1) all eligible providers have direct and equitable access to apply and compete for grants or contracts under this section; and
- (2) the same grant or contract announcement process and application process is used for all eligible providers in the State or outlying area.

**(d) Special rule**

Each eligible agency awarding a grant or contract under this section shall not use any funds made available under this subchapter for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who are not individuals described in subparagraphs (A) and (B) of section 3272(4) of this title, except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy activities. In providing family literacy activities under this subchapter, an eligible provider shall attempt to coordinate with programs and services that are not assisted under this subchapter prior to using funds for adult education and literacy activities under this subchapter for activities other than activities for eligible individuals.

**(e) Considerations**

In awarding grants or contracts under this section, the eligible agency shall consider—

- (1) the degree to which the eligible provider would be responsive to—
  - (A) regional needs as identified in the local plan under section 3123 of this title; and
  - (B) serving individuals in the community who were identified in such plan as most in need of adult education and literacy activities, including individuals—
    - (i) who have low levels of literacy skills; or
    - (ii) who are English language learners;
- (2) the ability of the eligible provider to serve eligible individuals with disabilities, including eligible individuals with learning disabilities;

(3) past effectiveness of the eligible provider in improving the literacy of eligible individuals, to meet State-adjusted levels of performance for the primary indicators of performance described in section 3141 of this title, especially with respect to eligible individuals who have low levels of literacy;

(4) the extent to which the eligible provider demonstrates alignment between proposed activities and services and the strategy and goals of the local plan under section 3123 of this title, as well as the activities and services of the one-stop partners;

(5) whether the eligible provider's program—  
(A) is of sufficient intensity and quality, and based on the most rigorous research available so that participants achieve substantial learning gains; and

(B) uses instructional practices that include the essential components of reading instruction;

(6) whether the eligible provider's activities, including whether reading, writing, speaking, mathematics, and English language acquisition instruction delivered by the eligible provider, are based on the best practices derived from the most rigorous research available and appropriate, including scientifically valid research and effective educational practice;

(7) whether the eligible provider's activities effectively use technology, services, and delivery systems, including distance education in a manner sufficient to increase the amount and quality of learning and how such technology, services, and systems lead to improved performance;

(8) whether the eligible provider's activities provide learning in context, including through integrated education and training, so that an individual acquires the skills needed to transition to and complete postsecondary education and training programs, obtain and advance in employment leading to economic self-sufficiency, and to exercise the rights and responsibilities of citizenship;

(9) whether the eligible provider's activities are delivered by well-trained instructors, counselors, and administrators who meet any minimum qualifications established by the State, where applicable, and who have access to high quality professional development, including through electronic means;

(10) whether the eligible provider's activities coordinate with other available education, training, and social service resources in the community, such as by establishing strong links with elementary schools and secondary schools, postsecondary educational institutions, institutions of higher education, local workforce investment boards, one-stop centers, job training programs, and social service agencies, business, industry, labor organizations, community-based organizations, non-profit organizations, and intermediaries, for the development of career pathways;

(11) whether the eligible provider's activities offer flexible schedules and coordination with Federal, State, and local support services (such as child care, transportation, mental health services, and career planning) that are necessary to enable individuals, including in-

dividuals with disabilities or other special needs, to attend and complete programs;

(12) whether the eligible provider maintains a high-quality information management system that has the capacity to report measurable participant outcomes (consistent with section 3141 of this title) and to monitor program performance; and

(13) whether the local areas in which the eligible provider is located have a demonstrated need for additional English language acquisition programs and civics education programs.

(Pub. L. 113-128, title II, §231, July 22, 2014, 128 Stat. 1618.)

#### EFFECTIVE DATE

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

### § 3322. Local application

Each eligible provider desiring a grant or contract from an eligible agency 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 subchapter will be spent consistent with the requirements of this subchapter;

(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;

(3) a description of how the eligible provider will provide services in alignment with the local plan under section 3123 of this title, including how such provider will promote concurrent enrollment in programs and activities under subchapter I, as appropriate;

(4) a description of how the eligible provider will meet the State adjusted levels of performance described in section 3141(b)(3) of this title, including how such provider will collect data to report on such performance indicators;

(5) a description of how the eligible provider will fulfill one-stop partner responsibilities as described in section 3151(b)(1)(A) of this title, as appropriate;

(6) a description of how the eligible provider will provide services in a manner that meets the needs of eligible individuals; and

(7) information that addresses the considerations described under section 3321(e) of this title, as applicable.

(Pub. L. 113-128, title II, §232, July 22, 2014, 128 Stat. 1620.)

#### EFFECTIVE DATE

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

### § 3323. Local administrative cost limits

#### (a) In general

Subject to subsection (b), of the amount that is made available under this subchapter 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 (including carrying out the requirements of section 3141 of this title), professional development, and the activities described in paragraphs (3) and (5) of section 3322 of this title.

**(b) Special rule**

In cases where the cost limits described in subsection (a) are too restrictive to allow for the activities described in subsection (a)(2), the eligible provider shall negotiate with the eligible agency in order to determine an adequate level of funds to be used for noninstructional purposes.

(Pub. L. 113–128, title II, § 233, July 22, 2014, 128 Stat. 1620.)

EFFECTIVE DATE

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

PART D—GENERAL PROVISIONS

**§ 3331. Administrative provisions**

**(a) Supplement not supplant**

Funds made available for adult education and literacy activities under this subchapter 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 subchapter for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for activities under this subchapter, in the second preceding fiscal year, were not less than 90 percent of the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities in the third preceding fiscal year.

**(B) Proportionate reduction**

Subject to paragraphs (2), (3), and (4), for any fiscal year with respect to which the Secretary determines under subparagraph (A) that the fiscal effort or the aggregate expenditures of an eligible agency for the preceding program year were less than such effort or expenditures for the second preceding program year, the Secretary—

(i) shall determine the percentage decreases in such effort or in such expenditures; and

(ii) shall decrease the payment made under this subchapter for such program year to the agency for adult education and literacy activities by the lesser of such percentages.

**(2) Computation**

In computing the fiscal effort and aggregate expenditures under paragraph (1), the Sec-

retary shall exclude capital expenditures and special one-time project costs.

**(3) Decrease in Federal support**

If the amount made available for adult education and literacy activities under this subchapter for a fiscal year is less than the amount made available for adult education and literacy activities under this subchapter for the preceding fiscal year, then the fiscal effort per student and the aggregate expenditures of an eligible agency required in order to avoid a reduction under paragraph (1)(B) shall be decreased by the same percentage as the percentage decrease in the amount so made available.

**(4) Waiver**

The Secretary may waive the requirements of this subsection for not more than 1 fiscal year, 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.

(Pub. L. 113–128, title II, § 241, July 22, 2014, 128 Stat. 1620.)

EFFECTIVE DATE

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

**§ 3332. National leadership activities**

**(a) In general**

The Secretary shall establish and carry out a program of national leadership activities to enhance the quality and outcomes of adult education and literacy activities and programs nationwide.

**(b) Required activities**

The national leadership activities described in subsection (a) shall include technical assistance, including—

(1) assistance to help States meet the requirements of section 3141 of this title;

(2) upon request by a State, assistance provided to eligible providers in using performance accountability measures based on indicators described in section 3141 of this title, and data systems for the improvement of adult education and literacy activities;

(3) carrying out rigorous research and evaluation on effective adult education and literacy activities, as well as estimating the number of adults functioning at the lowest levels of literacy proficiency, which shall be coordinated across relevant Federal agencies, including the Institute of Education Sciences; and

(4) carrying out an independent evaluation at least once every 4 years of the programs and activities under this subchapter, taking

into consideration the evaluation subjects referred to in section 3224(a)(2) of this title.

**(c) Allowable activities**

The national leadership activities described in subsection (a) may include the following:

(1) Technical assistance, including—

(A) 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, based on scientifically valid research where available;

(B) assistance in distance education and promoting and improving the use of technology in the classroom, including instruction in English language acquisition for English language learners;

(C) assistance in the development and dissemination of proven models for addressing the digital literacy needs of adults, including older adults; and

(D) supporting efforts aimed at strengthening programs at the State and local levels, such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this subchapter.

(2) Funding national leadership activities either directly or through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, institutions of higher education, public or private organizations or agencies (including public libraries), or consortia of such institutions, organizations, or agencies, which may include—

(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) supporting national, regional, or local networks of private nonprofit organizations, public libraries, or institutions of higher education to strengthen the ability of such networks' members to meet the performance requirements described in section 3141 of this title of eligible providers;

(C) increasing the effectiveness, and improving the quality, of adult education and literacy activities, which may include—

(i) carrying out rigorous research;

(ii) carrying out demonstration programs;

(iii) accelerating learning outcomes for eligible individuals with the lowest literacy levels;

(iv) developing and promoting career pathways for eligible individuals;

(v) promoting concurrent enrollment programs in adult education and credit bearing postsecondary coursework;

(vi) developing high-quality professional development activities for eligible providers; and

(vii) developing, replicating, and disseminating information on best practices and innovative programs, such as—

(I) the identification of effective strategies for working with adults with learning disabilities and with adults who are English language learners;

(II) integrated education and training programs;

(III) workplace adult education and literacy activities; and

(IV) postsecondary education and training transition programs;

(D) providing for the conduct of an independent evaluation and assessment of adult education and literacy activities through grants and contracts awarded on a competitive basis, which shall include descriptions of—

(i) the effect of performance accountability measures and other measures of accountability on the delivery of adult education and literacy activities;

(ii) the extent to which the adult education and literacy activities increase the literacy skills of eligible individuals, lead to involvement in education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as success in re-entry and 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 eligible individuals enrolled in adult education and literacy activities 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 eligible individuals in adult education and literacy activities;

(E) 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;

(F) determining how participation in adult education and literacy activities prepares eligible individuals for entry into postsecondary education and employment and, in the case of programs carried out in correctional institutions, has an effect on recidivism; and

(G) other activities designed to enhance the quality of adult education and literacy activities nationwide.

(Pub. L. 113-128, title II, §242, July 22, 2014, 128 Stat. 1621.)

EFFECTIVE DATE

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

**§3333. Integrated English literacy and civics education**

**(a) In general**

From funds made available under section 3291(a)(2) of this title for each fiscal year, the Secretary shall award grants to States, from al-

lotments under subsection (b), for integrated English literacy and civics education, in combination with integrated education and training activities.

**(b) Allotment**

**(1) In general**

Subject to paragraph (2), from amounts made available under section 3291(a)(2) of this title 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 data of the Office of Immigration Statistics of the Department of Homeland Security 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 the data of the Office of Immigration Statistics of the Department of Homeland Security 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.

**(c) Goal**

Each program that receives funding under this section shall be designed to—

(1) prepare adults who are English language learners for, and place such adults in, unsubsidized employment in in-demand industries and occupations that lead to economic self-sufficiency; and

(2) integrate with the local workforce development system and its functions to carry out the activities of the program.

**(d) Report**

The Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate and make available to the public, a report on the activities carried out under this section.

(Pub. L. 113-128, title II, § 243, July 22, 2014, 128 Stat. 1623.)

EFFECTIVE DATE

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

SUBCHAPTER III—GENERAL PROVISIONS

PART A—WORKFORCE INVESTMENT

**§ 3341. Privacy**

**(a) Section 1232g of title 20**

Nothing in this Act (including the amendments made by this Act) shall be construed to supersede the privacy protections afforded parents and students under section 1232g of title 20.

**(b) Prohibition on development of national database**

**(1) In general**

Nothing in this Act (including the amendments made by this Act) shall be construed to permit the development of a national database of personally identifiable information on individuals receiving services under subchapter I or under the amendments made by title IV.

**(2) Limitation**

Nothing in paragraph (1) shall be construed to prevent the proper administration of national programs under parts C and D of subchapter I, or the amendments made by title IV (as the case may be), or to carry out program management activities consistent with subchapter I or the amendments made by title IV (as the case may be).

(Pub. L. 113-128, title V, § 501, July 22, 2014, 128 Stat. 1700.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b)(1), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§ 2801 et seq.) of this title and chapter 73 (§ 9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The amendments made by title IV, referred to in subsec. (b), mean the amendments made by title IV of Pub. L. 113-128, which primarily amended the Rehabilitation Act of 1973, Pub. L. 93-112, which is classified generally to chapter 16 (§ 701 et seq.) of this title. For complete classification of title IV of Pub. L. 113-128 to the Code, see Tables.

EFFECTIVE DATE

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

**§ 3342. Buy-American requirements**

**(a) Compliance with Buy American Act**

None of the funds made available under subchapter I or II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 8301 through 8303 of title 41 (commonly known as the "Buy American Act").

**(b) Sense of Congress; requirement regarding notice**

**(1) Purchase of American-made equipment and products**

In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under subchapter I or II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

**(2) Notice to recipients of assistance**

In providing financial assistance using funds made available under subchapter I or II or

under the Wagner-Peyser Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

**(c) Prohibition of contracts with persons falsely labeling products as Made in America**

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available under subchapter I or II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations, as such sections were in effect on August 7, 1998, or pursuant to any successor regulations. (Pub. L. 113-128, title V, §502, July 22, 2014, 128 Stat. 1700.)

REFERENCES IN TEXT

The Wagner-Peyser Act, referred to in text, is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

EFFECTIVE DATE

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

**§ 3343. Transition provisions**

**(a) Workforce development systems and investment activities**

The Secretary of Labor and the Secretary of Education shall take such actions as the Secretaries determine to be appropriate to provide for the orderly transition from any authority under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) to any authority under part A of subchapter I. Such actions shall include the provision of guidance related to unified State planning, combined State planning, and the performance accountability system described in such part.

**(b) Workforce investment activities**

The Secretary of Labor shall take such actions as the Secretary determines to be appropriate to provide for the orderly transition from any authority under the Workforce Investment Act of 1998 to any authority under parts B through E of subchapter I.

**(c) Adult education and literacy programs**

The Secretary of Education shall take such actions as the Secretary determines to be appropriate to provide for the orderly transition from any authority under the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), as in effect on the day before July 22, 2014, to any authority under the Adult Education and Family Literacy Act, as amended by this Act.

**(d) Employment services activities**

The Secretary of Labor shall take such actions as the Secretary determines to be appro-

priate to provide for the orderly transition from any authority under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), as in effect on the day before July 22, 2014, to any authority under the Wagner-Peyser Act, as amended by this Act.

**(e) Vocational rehabilitation programs**

The Secretary of Education and the Secretary of Health and Human Services shall take such actions as the Secretaries determine to be appropriate to provide for the orderly transition from any authority under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), as in effect on the day before July 22, 2014, to any authority under the Rehabilitation Act of 1973, as amended by this Act.

**(f) Regulations**

**(1) Proposed regulations**

Not later than 180 days after July 22, 2014, the Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services, as appropriate, shall develop and publish in the Federal Register proposed regulations relating to the transition to, and implementation of, this Act (including the amendments made by this Act).

**(2) Final regulations**

Not later than 18 months after July 22, 2014, the Secretaries described in paragraph (1), as appropriate, shall develop and publish in the Federal Register final regulations relating to the transition to, and implementation of, this Act (including the amendments made by this Act).

**(g) Expenditure of funds during transition**

**(1) In general**

Subject to paragraph (2) and in accordance with regulations developed under subsection (f), States, grant recipients, administrative entities, and other recipients of financial assistance under the Workforce Investment Act of 1998 may expend funds received under such Act in order to plan and implement programs and activities authorized under this Act.

**(2) Additional requirements**

Not more than 2 percent of any allotment to any State from amounts appropriated under the Workforce Investment Act of 1998 for fiscal year 2014 may be made available to carry out activities authorized under paragraph (1) and not less than 50 percent of any amount used to carry out activities authorized under paragraph (1) shall be made available to local entities for the purposes of the activities described in such paragraph.

(Pub. L. 113-128, title V, §503, July 22, 2014, 128 Stat. 1701.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsecs. (a), (b), and (g), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113-128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pursuant to section 3361(a) of this title, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. For complete classification of the Workforce Invest-

ment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (c), was repealed, and a new Adult Education and Family Literacy Act was enacted, by Pub. L. 113-128. The former Act is title II of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 1059, which was classified principally to subchapter I (§9201 et seq.) of chapter 73 of Title 20, Education, prior to repeal by Pub. L. 113-128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. The new Act is title II of Pub. L. 113-128, July 22, 2014, 128 Stat. 1608, which is classified generally to subchapter II (§3271 et seq.) of this chapter. For complete classification of title II of Pub. L. 105-220 to the Code, see Tables. For complete classification of title II of Pub. L. 113-128 to the Code, see Short Title note set out under section 3101 of this title and Tables.

As in effect on the day before July 22, 2014, referred to in subsecs. (c) and (d), was in the original “as in effect on the day before the date of enactment of this Act”, meaning the date of enactment of Pub. L. 113-128, which was approved July 22, 2014. However, the repeal and reenactment of the Adult Education and Family Literacy Act, see note above, and the amendments to the Wagner-Peyser Act made by title III of Pub. L. 113-128 are effective on the first day of the first full program year after July 22, 2014, which is probably July 1, 2015. See section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of this title.

This Act, referred to in subsecs. (c) to (g)(1), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Wagner-Peyser Act, referred to in subsec. (d), is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (e), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

#### EFFECTIVE DATE

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

#### § 3344. Reduction of reporting burdens and requirements

In order to simplify reporting requirements and reduce reporting burdens, the Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services shall establish procedures and criteria under which a State board and local board may reduce reporting burdens and requirements under this Act (including the amendments made by this Act).

(Pub. L. 113-128, title V, §504, July 22, 2014, 128 Stat. 1702.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter,

repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

#### EFFECTIVE DATE

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

#### PART B—MISCELLANEOUS PROVISIONS

#### § 3361. References

##### (a) Workforce Investment Act of 1998 references

Except as otherwise specified, a reference in a Federal law to a provision of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) shall be deemed to refer to the corresponding provision of this Act.

##### (b) Wagner-Peyser Act references

Except as otherwise specified, a reference in a Federal law to a provision of the Wagner-Peyser Act (29 U.S.C. 49 et seq.) shall be deemed to refer to the corresponding provision of such Act, as amended by this Act.

##### (c) Disability-related references

Except as otherwise specified, a reference in a Federal law to a provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) shall be deemed to refer to the corresponding provision of such Act, as amended by this Act.

(Pub. L. 113-128, title V, §513, July 22, 2014, 128 Stat. 1722.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (a), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113-128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. For complete classification of this Act to the Code, see Tables.

The Wagner-Peyser Act, referred to in subsec. (b), is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of this title and was amended extensively by title III of Pub. L. 113-128. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (c), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of this title and was amended extensively by title IV of Pub. L. 113-128. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

#### EFFECTIVE DATE

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