

# Workforce Investment Act Title II

## Workforce Investment and Related Activities

### Summary of Key Provisions

June 2011

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#### **Subtitle B – Workforce Investment Activities and Providers**

##### **Sec. 211 Purpose**

The purpose of this subtitle is to provide workforce investment activities, through statewide and local workforce development systems, that lead to the attainment of recognized postsecondary credentials and increase the employment, retention, economic self-sufficiency, and earnings of participants. (pg. 1)

##### **Sec. 221 Establishment of One-Stop Delivery System**

- Requires that one-stop partners 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. (pg. 3)
- *Required One-Stop Partners* – Adds programs under the Second Chance Act and Temporary Assistance for Needy Families (unless governor makes written determination to exclude TANF). (pg. 5)
- *Additional Partners* – With the approval of the local board and chief elected official, other entities may be one-stop partners. Includes among others, employment and training programs administered by: the Social Security Administration, the Small Business Administration, and the Food and Nutrition Services. (pg. 6-8)
- *Memoranda of Understanding* – Between local boards and one-stop partners must include, among other things, description of services to be provided, provisions for funding of one-stop infrastructure costs, and method of referral between one-stop operator and one-stop partners for appropriate services. Requires that MOUs be reviewed not less than once every two years. (pg. 8-10)
- Requires state and local boards to ensure that one-stop operators do not establish practices that create disincentives to providing services to individuals with barriers to employment who may require longer-term services. (pg. 12)
- **Requires co-location of the employment services offices** in each state with one-stop centers. (pg. 15)



- Requires each one-stop delivery system to use on all products, activities, facilities, etc., a common one-stop delivery identifier to be developed by the Secretary of Labor. (pg. 15)
- Requires state board to establish objective criteria and processes to assess effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and the one-stop delivery system, including standards relating to service coordination achieved by the one-stop delivery system with respect to one-stop partner programs. A local board may develop additional criteria relating to service coordination. Criteria must be reviewed and updated by the State board as part of biennial plan review. (pg. 17-19)
- *Infrastructure Funding* – Local areas have option of funding infrastructure costs of one-stop centers through methods described under memoranda of understanding, or through a new state infrastructure funding method. (pg. 19)
  - In local areas unable to reach agreement through MOU method, required partner programs must provide to the governor a “covered portion” (as determined by the governor, based on proportionate use of one-stop centers) to assist with costs of one-stop infrastructure in all local areas in a state unable to reach agreement under MOU method. (pg. 21-23)
  - Funds provided for “covered portion” may only be provided from funds available for the costs of administration under each program (except for Title II programs under certain circumstances, and programs under Title V of the Older Americans Act), and are subject to that program’s limitations with respect to administrative costs. (pg. 24)
  - Contributions are capped at:
    - 3 percent of federal funds provided to a state for a fiscal year for WIA youth, adult, and dislocated worker programs, and the Employment Service; and
    - 1.5 percent of federal funds provided to a state for a fiscal year for all other required partners, although programs under Title I of the Rehabilitation Act phase in to maximum percentage over five years. (pg. 25-27)
  - Federal direct spending programs not required to provide more than the cost of the proportionate use of the one-stop centers for the program in the state. (pg. 27)
  - Contributions from Native American programs under section 266 may only be determined under the local MOU method. (pg. 27-28)
  - Governor required to establish an appeals process for one-stop partners regarding the portion of funds they must provide. (pg. 28)
  - Governor required to allocate funds to local areas not using the local MOU method, according to formula developed by state board and based on factors



including number of one-stop centers in the local area, populations served, and other factors. (pg. 29)

- *“Costs of Infrastructure”* – Defined to include non-personnel costs necessary for the general operation of the one-stop center, including rental costs, utilities and maintenance, and other expenses. (pg. 29-30)
- *Other Funds* – Provides that a portion of federal funds made available to both required and additional partners, or noncash resources available to such partners, must be used to pay for additional costs relating to the operation of the one-stop system that are not covered by funds provided for infrastructure. The method for determining the appropriate portion of resources shall be developed under the MOU for the one-stop center, with the state board providing guidance to facilitate the determination. (pg. 30-31)

## **Sec. 222 Identification of Eligible Providers of Training Services**

- *Eligibility* – Requires governor, in consultation with state board, to establish criteria, information requirements, and procedures regarding the eligibility of providers of adult and dislocated worker training services in local areas. (pg. 32)
- *Providers of Training Services* – Must be institutions of higher education providing programs leading to recognized postsecondary credentials; registered apprenticeship programs; or other public or private providers of training services, including joint labor-management organizations and eligible providers of adult education and literacy activities if such activities offered in combination with occupational skills training. (pg. 32)
- *Criteria and Information Requirements*
  - *State Criteria* – Requires governor, in developing criteria for eligible providers, to take into account a range of factors, including performance of training providers with respect to performance accountability measures, the need to ensure access to training throughout the state, ability of providers to offer programs leading to recognized postsecondary credentials, ability of providers to provide training to individuals who are employed and to those with barriers to employment, and program quality. (pg. 33-36)
  - *State Information Requirements* – Governor must require providers of training services to submit appropriate, accurate, and timely information to the state with respect to participants, including (A) information on provider performance with respect to performance accountability measures, and information specifying the percentage of participants entering unsubsidized employment in a related occupation; (B) information on recognized postsecondary credentials received by participants; (C) information on program costs; (D) information on program completion; and (E) information on state criteria. (pg. 36-37)



- *Local Criteria and Information Requirements* – Local areas may establish additional criteria and information requirements, or may require higher levels of performance than required under state criteria. (pg. 37)
- *Criteria and Information Requirements to Establish Initial Eligibility* – Providers who have not previously been eligible providers of training services (under this or prior WIA statute) may seek initial eligibility by providing verifiable program specific information to the governor and local board based on criteria established by the state. Criteria must include: a factor relating to the primary indicators under section 131; a factor concerning whether the provider is in partnership with business; other factors that indicate high-quality training services; and a factor concerning alignment of training services with industries projected to have potential for employment opportunities. (pg. 38-39)
- *Procedures* – The governor is required to establish an application process for providers to become eligible to receive funds for the provision of training services, including identifying the respective roles of the state and local areas in receiving and reviewing applications and making eligibility determinations, and appeals processes for providers. The governor must also establish procedures for biennial review and renewal of eligibility. (pg. 39-40)
- *List and Information to Assist Participants in Choosing Providers* – Requires governor to provide a list of eligible providers to the state one-stop delivery system, accompanied by appropriate information, and made available to participants and members of the public through the one-stop delivery system. (pg. 40-41)
- Expands current on-the-job and customized training ETP exception to include incumbent worker training, internships, paid and unpaid work experience opportunities, and transitional employment. (pg. 43)
- *Transition Period* – Requires governor and local boards to implement new eligibility requirements and procedures within 12 months of enactment. Authorizes governor to establish transition procedures under which adult and dislocated worker training providers eligible under current law may continue to be eligible until December 31, 2013, or an earlier date determined by the governor. (pg. 44-45)

## **Sec. 223 Eligible Providers of Youth Workforce Investment Activities**

- Requires local board to award grants and contracts to providers of youth workforce investment activities based on criteria set forth in the state plan, and to conduct oversight with respect to providers. Adds authorization for local boards to award grants or contracts on a sole-source basis if the local board determines there are insufficient providers to award grants or contracts on a competitive basis. (pg. 45)



## Chapter 2 – Youth Workforce Investment Activities

### Sec. 226 General Authorization

- Requires the Secretary of Labor to make state allotment of [funds under 227(b)(1)(C) to eligible states and grants to eligible outlying areas, to assist states and local areas in providing workforce investment activities for eligible youth. (pg. 45-46)

### Sec. 227 State Allotments

- *In General* – For fiscal years in which appropriations for youth activities are **equal to, or less than, the amount appropriated for youth activities in Fiscal Year 2010** (pg. 46), funds are allotted as follows:
  - Not more than 1.5 percent is reserved by the Secretary for youth workforce investment activities for Native Americans under sec. 266. (pg. 47)
  - Not more than 0.25 percent is reserved by the Secretary to award grants to outlying areas for youth activities. (pg. 47-48)
  - *State Formula* – Of the remainder, the Secretary must allot funds to states according to the following formula:
    - 1/3 on the basis of the relative number of individuals in the civilian labor force who are ages 16 to 21 in the state, relative to the total number of individuals ages 16 to 21 in the civilian labor force in all states;
    - 1/3 on the basis of the relative number of unemployed individuals in each state, compared to the total number of unemployed individuals in all states; and
    - 1/3 on the basis of the relative number of disadvantaged youth ages 16 to 21 in the state, compared to the total number of disadvantaged youth ages 16 to 21 in all states. (pg. 49-50)
  - *Minimum and Maximum Percentages* – As under current law, no state can receive an allotment that is less than 90 percent or more than 130 percent of their allotment percentage during the previous fiscal year. (pg. 50-51)
  - *Small State Minimum* – As under current law, no state may receive less than \$3 million and, in years in which the remainder (after the reservations for Native Americans and outlying areas) exceeds \$1 billion, 2/5 of 1 percent of that excess amount. (pg. 51)
  - *Years in which Appropriations Exceed FY 2010 Levels* – In years where youth appropriations exceed FY 2010 levels, the Secretary must (A) reserve the lesser of \$250 million, or 50 percent of the excess, for youth innovation and replication grants under sec. 143; (B) reserve the greater of \$10 million or 4 percent of the



excess for youth workforce investment activities for migrant and seasonal farmworkers under section 267; and allot the remained according to states according to the general formula above. (pg. 46-47)

- *Definitions* – Amends definition of ‘disadvantaged youth’ to mean an individual who is age 16 to 21 and who received an income, or is a member of a family with a total family income, that does not exceed 150 percent of poverty line (current law refers to ‘lower living standard income level’). (pg. 52)
- *Reallotment* –
  - Sets amount available for reallotment as the amount by which the **unobligated** balance of a state at the end of the program year prior to the program year for which the determination is made exceeds 10 percent (*current law is 20 percent*) of the total amount of funds available to that state for the prior program year. (pg. 53-54)
  - Provides that reallotment must be made according to the formula used during the program year for which the determination is made (*current law uses formula for prior year*). (pg. 54)
  - Provides that states eligible to receive reallotments are those that do not have an amount available for reallotment for the program year for which the determination is made (*current law defines as states that have obligated at least 80 percent of state allotment for the program year prior to the program year for which the determination is made*). (pg. 54)
  - Maintains current requirement that governor prescribe procedures for obligation of funds by local areas to avoid reallotment, and for making funds available if reallotment required. (pg. 54)

## Sec. 228 Within State Allocations

- *Reservations for Statewide Activities* – Maintains current requirement that governors reserve not more than 15 percent of adult, dislocated worker, and youth funding for statewide activities, and retains current language allowing statewide activities funds to be used for adult, dislocated worker, or youth activities regardless of funding source. (pg. 55)
- *Within State Allocations* – Of the remaining allotment, the Governor must allot to local areas:
  - Not less than 80 percent according to the following ‘established formula’:
    - 1/3 on the basis of the relative number of individuals in the civilian labor force who are ages 16 to 21 in each local area, relative to the total number of individuals ages 16 to 21 in the civilian labor force in the state;



- 1/3 on the basis of the relative number of unemployed individuals in each local , compared to the total number of unemployed individuals in the state; and
  - 1/3 on the basis of the relative number of disadvantaged youth ages 16 to 21 in each local area, compared to the total number of disadvantaged youth ages 16 to 21 in the state. (pg. 55-56)
- Not more than 20 percent as a ‘youth discretionary allocation’ to local areas where there are significant numbers of eligible youth, after consultation with state and local boards. (pg. 55 and 58-59)
- *Minimum and Maximum Percentages* – Provides that no local area can receive an amount less than 90 percent, or greater than 130 percent, of their allocation percentage for the preceding fiscal year. (pg. 57)
- To the extent practicable, governor must exclude college students and members of the Armed Forces from their calculation of disadvantaged youth. (pg. 58)
- *Local Administrative Cost Limit* – Maintains current local limit of 10 percent of allocations for administrative costs. (pg. 59)
- *Reallocation Among Local Areas* –
  - *Amount* – Provides that the amount available for reallocation is the amount by which the balance that is **unobligated and unencumbered** for training services at the end of the program year prior to the program year for which the determination is made exceeds 10 percent of the total amount available to a local area for that prior program year. (pg. 60)
  - *Balance of Funds* – Defines the balance that is unobligated and unencumbered as the difference between the total amount of funds available to a local area for a prior program year, and the amount of those funds that are obligated or encumbered (in accordance with “generally accepted accounting principles”) for training services during that prior program year. Encumbered funds can make up no more than 10 percent of the latter amount. (pg. 60-61)
  - *Reallocation* – Provides that reallocations are made to local areas based on the relative amount of the local allocation for the program year for which the determination is made, rather than the prior program year. (pg. 61)
- *Guidance and Technical Assistance* – Requires the Secretary of Labor to issue guidance regarding reallocation of local funds, including guidance on calculation unobligated and unencumbered funds. (pg. 62)



## Sec. 229 Use of Funds for Youth Workforce Investment Activities

- *Youth Participant Eligibility* – Requires that individuals be either an ‘out-of-school youth’ or ‘in-school youth’ to participate in youth activities. (pg. 62)
- Defines ‘**out-of-school**’ youth as an individual between the ages of 16-24 who is not attending school and who is one or more of the following: a school dropout; a youth within the age of compulsory school attendance but who has not attended school for at least the most recent complete school year calendar quarter; a recipient of a secondary school diploma or equivalent who is a low-income individual and is either basic skills deficient or an English language learner; an individual subject to the juvenile or adult justice system; homeless, a runaway, in or aged out of foster care; eligible for assistance under the federal foster care independence program; pregnant or parenting; an individual with a disability; or a low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment. (pg. 63-64)
- Defines ‘**in-school youth**’ as a low-income individual between the ages of 14-21 who is attending school and is one or more of the following: basic skills deficient; an English language learner; an offender; homeless, a runaway, in or aged out of foster care; eligible for assistance under the federal foster care independence program; in an out-of-home placement; pregnant or parenting; an individual with a disability; or an individual who requires additional assistance to complete an educational program or to secure or hold employment. (pg. 64-65)
- For the purposes of this subsection, a “low-income” individual includes a youth living in a high-poverty area. (pg. 65)
- *Exception and Limitation* – No more than 5 percent of individuals assisted in each local area may be individuals who are not low-income but who would otherwise qualify for assistance. Not more than 5 percent of in-school youth assisted may be individuals who require additional assistance to complete an educational program or to secure or hold employment. (pg. 66)
- *Out-of-School Priority* – Not less than 60 percent of youth funds available for both statewide activities and for local areas must be used to serve out-of-school youth, although states receiving a minimum allotment may decrease the percentage under certain conditions and approval by the Secretary of Labor. (pg. 66-67)
- *Statewide Activities* – No longer specifies required activities. Provides that the funds reserved by the governor for statewide activities may be used for, among other things: conducting evaluations, research, and demonstration projects; providing technical assistance to local areas; operating a fiscal and management accountability information system; supporting the provision of core services; and supporting financial literacy programs for participants. (pg. 68-71).



- *Limitation* – Not more than 5 percent of total state youth allotment can be used for administrative activities. (pg. 71)
- *Local Elements and Requirements* –
  - *Program Design* – Requires that funds allocated to local areas be used for youth programs that:
    - Provide an objective assessment of the academic levels, skill levels, and service needs of each participant;
    - Develop service strategies for each participant that are directly linked to 1 or more performance accountability measures (under Sec. 131), and that identify career pathways that include education and employment goals, appropriate achievement objectives, and appropriate services for the participant; and
    - Provide (i) activities leading to the attainment of a secondary school diploma or equivalent or a recognized postsecondary credential; (ii) preparation for postsecondary educational and training opportunities, if appropriate; (iii) strong linkages between academic instruction and occupational education that lead to the attainment of recognized postsecondary credential; (iv) preparation for unsubsidized employment opportunities, if appropriate; and (v) effective connections to employers, including small employers, in in-demand industry sectors and occupations. (pg. 72-74)
  - *Program Elements* – Requires that programs provide a broad range of elements, including, among others: tutoring and other services that lead to the completion of a secondary school diploma or equivalent, or a recognized postsecondary credential; paid or unpaid work experiences; occupational skills training; supportive services; and follow-up services for not less than 12 months after program completion, as appropriate. (pg. 74-76)
    - Providers must ensure that eligible applicants who do not meet enrollment requirements are referred to appropriate programs to meet their basic skills and training needs. (pg. 77)
    - Providers are required to offer some but not all of the elements in their programs. (pg. 78)
  - *Additional Requirements* – Maintains current law requirements relating to information and referrals, and involvement of parents, participants, and community members in the design and implementation of programs. (pg. 77-78)
  - *Priority* – Requires that not less than 20 percent of youth funds allocated to a local area be used for paid and unpaid work experiences, including summer youth



employment, pre-apprenticeship, internships, and on-the-job training opportunities. (pg. 78)

- *Prohibitions; Linkages; Volunteers* – Maintains current prohibitions against federal control of education and non-interference and non-replacement of regular academic requirements. Maintains current requirements relating to establishing linkages with educational agencies and providing volunteer mentoring and tutoring activities. (pg. 78-79)

### Chapter 3 – Adult and Dislocated Worker Employment and Training Activities

#### Sec. 231 General Authorization

- Requires the Secretary of Labor to make allotments to states and grants to outlying areas to assist states and local areas in providing workforce investment activities for adult and dislocated workers. (pg. 79-80)

#### Sec. 232 State Allotments

##### *Adults*

- For fiscal years in which appropriations for adult activities are equal to, or less than, the amount appropriated for such activities in FY 2010 (pg. 80), funds are allotted to states as follows:
  - 0.25 percent is reserved for outlying areas;
  - Of the remainder, the Secretary allots according to the following formula:
    - 40 percent on the basis of the relative number of unemployed individuals in areas of substantial unemployment in the state, relative to total number of unemployed individuals in areas of substantial unemployment in all states;
    - 25 percent on the basis of the relative number of individuals in the civilian labor force in each state, compared to the total number of such individuals in all states; and
    - 35 percent on the basis of the relative number of disadvantaged adults in each state, compared to the total number of disadvantaged adults in all states. (pg. 82-84)
- For fiscal years in which appropriations for adult workforce activities **exceed amounts appropriated in FY 2010**, the Secretary is required to reserve the lesser of \$250 million or 50 percent of the excess for workforce innovation and replication grants under section 142. The remaining funds must be allocated according to the regular formula. (pg. 80-81)



- *Minimum and Maximum Percentages* – Provides that no state may receive an allotment that is less than 90 percent, or greater than 130 percent, of the allotment percentage received for the preceding fiscal year. (pg. 85)
- *Small State Minimum* – Provides that no state shall receive an allotment of less than \$2.88 million and, if the amount available for allotment exceeds \$960 million, 2/5 of 1 percent of that excess amount.
- *Definitions* – Amends definition of ‘**disadvantaged adult**’ to mean an adult who received an income, or is a member of a family with a total family income, that does not exceed 150 percent of poverty line (current law refers to ‘lower living standard income level’). (pg. 87) To the extent practicable, governor must exclude college students and members of the Armed Forces from their calculation of disadvantaged adults. (pg. 87)

### *Dislocated Workers*

- For years in which the amount appropriated for dislocated worker activities is equal to, or less than, the amount appropriated for such activities in FY 2010, the Secretary must:
  - Reserve 20 percent of total appropriations for dislocated worker technical assistance, projects, and national grants; and
  - Allocate the remainder to states according to the following formula:
    - 1/3 on the basis of the relative number of unemployed individuals in the state, compared to the total number of unemployed individuals in all states;
    - 1/3 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
    - 1/3 on the basis of the relative number of individuals in each state who have been unemployed for 15 weeks or more in each state, compared to the total number of such individuals in all states. (pg. 89-90)
- For fiscal years in which dislocated worker appropriations exceed FY 2010 appropriations, the Secretary must reserve the lesser of \$250 million or 50 percent of the excess for workforce innovation and replication grants under sec. 142, reserve 20 percent of the remainder for dislocated worker technical assistance, projects, and national grants, and allot the remaining 80 percent to states according to the regular formula. (pg. 81-82)
- *Minimum and Maximum Percentages* – Provides that no state may receive an allotment that is less than 90 percent, or greater than 130 percent, of the allotment percentage received for the preceding fiscal year. (pg. 90)
- *Reallotment (Adult and Dislocated Worker funds)* –



- Sets amount available for reallocation as the amount by which the unobligated balance of adult or dislocated worker funds allotted to a state, at the end of the program year prior to the program year for which the determination is made exceeds 10 percent (current law is 20 percent) of the total amount of funds available to that state for the prior program year. (pg. 92)
- Provides that reallocation must be made according to the formula used during the program year for which the determination is made (current law uses formula for prior year). (pg. 93)
- Provides that states eligible to receive reallocations are those that do not have an amount available for reallocation for the program year for which the determination is made (current law defines as states that have obligated at least 80 percent of state allotment for the program year prior to the program year for which the determination is made). (pg. 93)
- Maintains current requirement that governor prescribe procedures for obligation of funds by local areas to avoid reallocation, and for making funds available if reallocation required. (pg. 94)

### **Sec. 233 Within State Allocations**

- *Reservations for Statewide Activities* – Maintains current requirement that governor reserve 15 percent of adult and dislocated worker allotments for statewide activities. (pg. 94) Maintains requirement that the governor reserve not more than 25 percent of dislocated worker allotment for statewide rapid response activities. (pg. 94)
- *Within State Allocations* –
  - *Adult Allocation Formula* – Adult funds are allocated by the governor to local areas according the same formula used by the Secretary to allocate such funds to the state under sec. 232. (pg. 95-96) Starting in the second full fiscal year after enactment, no local area may receive an allocation percentage that is less than 90 percent of the average allocation percentage for the local area during the two preceding fiscal years. (pg.96) States retain the option of allocating adult funds on the following basis: not less than 70 percent on the basis of the regular formula, and no more than 30 percent of funds on the basis of a formula developed by the state board and approved by the Secretary of Labor. (pg. 100)
  - *Dislocated Worker Allocation Formula* – States must allocate dislocated worker funds to local areas according to a formula, which may not be amended more than once for each program year, established by the governor. (pg. 97) The formula must be based on appropriate information available to the governor to help address the state’s worker readjustment needs, including insured unemployment data, plant closing and mass layoff data, and other data. Starting in the second full fiscal year after enactment, no local area may receive an



allocation percentage that is less than 90 percent of the average allocation percentage for the local area during the two preceding fiscal years. (pg. 98)

- *Transfer Authority* – A local board may transfer up to 100 percent of funds between adult and dislocated worker funds (20 percent under current statute), with approval of the governor. (pg. 101)
- *Allocation* – Maintains current requirements that adult and dislocated worker funds be allocated to local areas for the purpose of providing a single system of employment and training activities, and that local areas use such funds to contribute to the costs of the one-stop delivery system and to pay for employment and training activities for adults and dislocated workers. (pg. 101-102)
- *Reallocation Among Local Areas* –
  - *Amount* – provides that the amount available for reallocation is the amount by which the balance that is **unobligated and unencumbered** for training services at the end of the program year prior to the program year for which the determination is made exceeds 10 percent of the total amount available to a local area for that prior program year. (pg. 103)
  - *Balance of Funds* – Defines the balance that is unobligated and unencumbered as the difference between the total amount of funds available for adult and dislocated worker activities to a local area for a prior program year, and the amount of those funds that are obligated or encumbered for training services during that prior program year. Encumbered funds can make up no more than 10 percent of the latter amount. (pg. 104-105)
  - *Reallocation* – Provides that reallocations are made to local areas based on the relative amount of the local allocation for the program year for which the determination is made, (current law is the prior program year). (pg. 105-106)
  - *Eligibility* – Local areas are eligible to receive reallocations so long as they do not have funds available for reallocation for the program year for which the determination is made. (pg. 106)

## Sec. 234 Use of Funds for Employment and Training Activities

### *Statewide Employment and Training Activities*

- *Required Statewide Employment and Training Activities* – Requires that with funds reserved by a Governor a state:
  - Provide statewide rapid response activities from funds reserved for that purpose under sec. 233(a)(2). (pg. 107)



- Authorizes governor to use rapid response funds unobligated after the first program year for which the funds were allotted for general statewide activities. (pg. 108-109)
- From youth, adult, and dislocated worker funds reserved under sec. 228(a) and sec. 233(a)(1), provide other statewide employment and training activities, which must include:
  - Building capacity by providing assistance to (I) state entities and agencies, local areas, and one-stop partners in carrying out activities under the state plan, including alignment of data system; (II) local areas for regional planning and service delivery activities; and (III) local areas, one-stop operators and partners, and eligible providers through professional development and technical assistance;
  - Providing assistance to local areas relating to regional planning and program alignment;
  - Operating a fiscal and management accountability information system;
  - Carrying out monitoring and oversight of adult, dislocated worker, and youth activities;
  - Disseminating the state list of eligible providers; information on effective outreach to, partnerships with, and services for, businesses; and other information;
  - Conducting evaluations of adult, dislocated worker, and youth activities; and
  - Developing strategies for ensuring that adult and dislocated worker activities are leading to placements in jobs, training, and education that lead to comparable pay for men and women. (pg. 109-112)
- *Allowable Statewide Employment and Training Activities* – Provides that, from statewide funds not used for required activities, states may carry out additional statewide activities, which may include (but are not limited to):
  - Implementing innovative programs and strategies to meet the needs of businesses in the state, including incumbent worker training, customized training, “industry sector strategies,” career ladder and career pathway programs, microenterprise and entrepreneurial training, layoff aversion strategies, and other strategies;
  - Developing strategies for effectively serving individuals with barriers to employment and for coordinating programs and service among one-stop partners;
  - Implementing programs for displaced homemakers, including individuals within two years of exhausting lifetime TANF eligibility;



- Implementing programs to increase training for, and placement in, nontraditional employment;
  - Activities to facilitate remote access to services;
  - Supporting the provision of core services in the one-stop delivery system;
  - Coordinating services with the child welfare system to facilitate services for children in foster care;
  - Activities to improve coordination of workforce investment activities with economic development activities; develop and disseminate workforce and labor market information; and for other purposes;
  - Conducting research and demonstration projects;
  - Implementing promising services for workers and businesses, including activities to help employees become workplace learning advisors;
  - Providing incentive grants to local areas for performance on local performance accountability measures;
  - Adopting, calculating, or commissioning state economic self-sufficiency standards; and
  - Developing and disseminating common intake procedures and related items. (pg. 113-120)
- *Limitation* – Not more than 5 percent of funds reserved for statewide activities may be used for administration of such activities. Administrative funds may be used for costs related to youth, adult, or dislocated worker activities regardless of source of funds. (pg. 120-121)

### ***Local Employment and Training Activities***

- *Required Local Employment and Training Activities* – Provides that funds allocated to a local area for adult and dislocated worker activities must be used to establish a one-stop delivery system; provide core, intensive, and training services to adults and dislocated workers; and designate a dedicated business liaison in the local area to establish and develop relationships and networks with large and small employers and their intermediaries. (pg. 122-123)

Provides that a portion of the funds made available to required one-stop partners (as defined in sec. 221) must be used to support the establishment of the one-stop delivery system and for the provision of core services. (pg. 123)

- *Core Services* – Provides that adult and dislocated worker funds must be used to provide core services. Core services must at a minimum include, among other things: determinations of eligibility for assistance; outreach, intake, and orientation; initial assessments of skill levels; labor exchange services;



performance and program cost information for eligible providers of training services; assistance in establishing eligibility for financial assistance under other training and education programs; and other services. (pg. 123-128)

○ *Intensive Services* –

- *Eligibility* – Intensive services may be offered to adults or dislocated workers who: (I) are unemployed and, after an interview, evaluation, or assessment have been determined by a one-stop operator or partner to be unlikely or unable to obtain employment leading to economic self-sufficiency or wages comparable to or higher than previous employment through core services; and in need of intensive services to obtain such employment or wages; or (II) are employed, but who after an interview, evaluation, or assessment are determined to be in need of intensive services to obtain or retain employment leading to economic self-sufficiency. (pg. 128-129). Clarifies that individuals are not required to receive core services before receiving intensive services. (pg. 130)
- *Types of Services* – Provides that intensive services may include, but are not limited to: comprehensive and specialized assessments of skill levels and service needs; development of individual employment plans; group or individual counseling; career planning; short-term pre-vocational services; job search and relocation assistance; English language acquisition and integrated education and training programs; and other services. (pg. 130-132)

○ *Training Services* –

- *Eligibility* – Training services may be offered to adults or dislocated workers who:
  - After an interview, evaluation, or assessment have been determined by a one-stop operator or partner to be unlikely or unable to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment through intensive services; have need of training services to obtain such employment or wages; and have the skills and qualifications to successfully participate in the selected training program;
  - Select training programs directly linked to employment opportunities in the local area, or in another area to which the participant is willing to relocate;
  - Are unable to obtain other grant assistance for such services (including Pell Grants), or require assistance beyond the assistance provided under other programs; and



- Have been determined to be eligible under the priority system in the local area for recipients of public assistance, low-income individuals, and individuals who are basic skills deficient. (pg. 132-134)
- Clarifies that individuals are not required to receive intensive services before receiving training services. (pg. 134)
  - *Qualifications* – As under current law, provides that training services are limited to individuals who are unable to obtain other grant assistance for such services (including Pell Grants), or require assistance beyond the assistance provided under other programs. Training service may be funded for individuals with pending Pell Grant applications, with reimbursement provided to the local area if and when a Pell Grant is awarded. *Adds new language* authorizing one-stop operators to take into account the full cost of participating in training services (including dependent care and transportation) when determining whether individuals need assistance beyond that provided by other programs. (pg. 135-136)
  - *Training services* – Maintains training options under current law, but adds incumbent worker training and transitional jobs, subject to certain conditions; and expands current adult education and literacy option to include English language acquisition activities and integrated education and training programs. (pg. 136-137)
  - *Priority* – Requires that priority for intensive and training services in a local area be given to recipients of public assistance, low-income individuals, and individuals who are basic skills deficient. Local boards and the governor must direct one-stop operators regarding priority determinations. *Current law gives priority to recipients of public assistance and other low-income individuals only when funds are limited.* (pg. 138)
  - *Consumer choice requirements* – Largely maintains current requirements relating to maximizing consumer choice in training services, referral to training providers, and arranging for payment for training services through individual training accounts (ITAs) where practicable. Adds language allowing local boards to coordinate funding for ITAs with funding from other federal, state, local, or private sources. (pg. 138-139)
  - *Use of Individual Training Accounts* – Maintains general requirement that training services be provided through ITAs. Expands current list of exceptions where training may be provided through contracts for services to include:



- On-the-job training, customized training, incumbent worker training, or transitional employment (only OJT covered under current law);
  - The local board determines there are an insufficient number of eligible training providers in the local area to support a system of ITAs;
  - 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 other private organization to serve individuals with barriers to employment; or
  - The local board determines that it would be appropriate to award a contract to an institution of higher education or other eligible training provider to facilitate training of multiple individuals in in-demand industry sectors or occupations, so long as customer choice is not limited (pg. 140-141)
- Requires that training services be directly linked to in-demand industries or occupations in the local area or region, or another area if an individual is willing to relocate. A local board may approve training services for occupations determined by the local board to be in sectors that have high potential for sustained demand or growth in the local area. (pg. 141-142)
  - Adds language clarifying that local boards may combine the use of ITAs and training contracts, including arrangements where individuals receiving ITAs obtain training services paid for under contracts. (pg. 142)
- *Reimbursement for On-the-Job Training* – Authorizes the governor or a local board to increase the reimbursement percentage for OJT to 75 percent of a participant’s wage rate based on the characteristics of participants, the size of the employer, and other such factors as the governor or local board may determine to be appropriate. (pg. 142-144)
  - *Permissible Local Employment and Training Activities* – **Substantially expands the list of permissible activities** that may be supported using adult and dislocated worker funds including, among other activities: customized screening and referral of training participants to employers; customized employment-related services for employers, employer associations, or similar organizations on a fee-for-service basis; technical assistance and capacity building for one-stop operators and partners, and training providers; activities to provide business services and strategies that meet the workforce investment needs of area employers, which may include industry sector strategies and career ladders; and other workforce services and strategies. (pg. 144-153)
    - *Work Support Activities for Low-Wage Workers* – Allows local areas to provide work support activities to help low-wage workers retain and enhance employment, including activities that are provided during non-traditional hours and



providing onsite child care while such activities are provided. (*new provision*) (pg. 153-154)

- *Supportive Services* – Maintains current language permitting local areas to provide supportive services to individuals participating in core, intensive, or training services and who are unable to obtain such services through other programs. (pg. 154-155)
- *Needs-Related Payments* – Maintains current language allowing local areas to provide needs-related payments to adults or dislocated workers who are unemployed and do not qualify for unemployment compensation. Dislocated workers may only qualify for needs-related payments if the individual was enrolled in training services: (1) by the end of the 13<sup>th</sup> week after the most recent layoff, of (2) if later, by the end of the 8<sup>th</sup> week after the individual is informed that a short-term layoff will exceed 6 months. (pg. 155-156)
- *Incumbent Worker Training* – Authorizes local boards to reserve up to 15 percent of adult and dislocated worker funds for incumbent worker training (can be increased to 20 percent upon determination by local board that the use of such funds led to employee retention or job creation). (*new provision*) (pg. 156-157)
  - *Employer eligibility* – The local board must determine employer eligibility for incumbent worker training programs based on characteristics of participants, the relationship of the training to the competitiveness of the participant and the employer; and such other factors as the local board may determine are appropriate (pg. 157-158);
  - *Training Activities* – the training program must be carried out by the local board in conjunction with employers or groups of employers for the purposes of helping workers obtain the skills necessary to retain employment or avert layoffs (pg. 158-159);
  - *Employer Payment of Non-Federal Share* – Requires employers to pay the non-federal share of training costs as established by the local board. Cannot be less than 10 percent for employers with fifty employees or less; 25 percent for employers with 50-100 employees; and 50 percent for larger employers. Non-federal share may include wages. (pg. 159-160)
- *Transitional Jobs* – Authorizes local board to use not more than 10 percent of adult and dislocated worker funds to provide time-limited, subsidized work experiences for individuals with barriers to employment who are chronically unemployed or have inconsistent work histories. (*new provision*) (pg. 160-161)



## Chapter 4 – General Workforce Investment Provisions

### Sec. 236 Authorization of Appropriations

- Authorizes appropriations for youth workforce investment activities and adult and dislocated worker employment and training activities for each of Fiscal Years 2012-2016. Does not specify funding levels. (pg. 161-162)

### Subtitle C – Job Corps

- Reauthorizes the Job Corps program. (pg. 162-206)

### Subtitle D – National Programs

#### Sec. 266 Native American Programs

- Largely retains provisions under current law, with the following exceptions:
  - Secretary may waive requirement that grants, contracts or agreements be competed only once in any 4-year period with respect to any recipient (*current law allows every two years with respect to recipients that have performed satisfactorily and submit an appropriate program plan*). (pg. 208-209)
  - Requires applicants for grants, contracts or cooperative agreements to submit plans that include, among other factors, performance measures to be used to assess performance of the entity. Such performance measures must incorporate the primary indicators of performance under sec. 131. (pg. 211)
  - Secretary and recipient must reach agreement on adjusted levels of performance for each of the primary indicators of performance. (*new provision*) (pg. 213)
  - Secretary, in consultation with the Native American Employment and Training Council, must develop a set of performance indicators and standards in addition to the primary indicators of performance, taking into account the purposes of the program, the needs of groups served by the program, and the economic circumstances of communities served. (*new provision*) (pg. 212)
  - Using funds available to carry out this section, the Secretary shall establish a Native American Employment and Training Council. (pg. 215)
  - Authorizes appropriations for Fiscal Years 2012-2016. (pg. 218)



### Sec. 267 Migrant and Seasonal Farmworker Programs

- Largely retains provisions under current law, with the following exceptions:
  - Requires entities seeking grants or contracts to submit a two-year plan to the Secretary. Amends current requirements relating to performance measures described in the plan to require that such measures include expected levels of performance for the primary indicators of performance under sec. 131; adds requirements that plans describe availability and accessibility of local resources, such as supportive services, and describe the plan for providing services. (pg. 219-220)
  - Requires that entities reach agreement on adjusted levels of performance for each of the primary indicators of performance under sec. 131. (*new provision*) (pg. 220)
  - Adds customized career and technical education to list of authorized activities. (pg. 222)
  - Secretary must consult with Governors and local boards when making grants and entering into contracts under this section. (pg. 222)
  - Authorizes the Secretary of Labor to reserve up to 1 percent of funds appropriated for this program for discretionary purposes, including technical assistance. (pg. 223)
  - Adds extensive definition of “dependent.” (pg. 223)
  - Under definition of “eligible seasonal farmworker,” amends the term “disadvantaged person” to “low-income individual.” (pg. 225)

### Sec. 268 Veterans’ Workforce Investment Programs

- Largely retains provisions under current law. Adds new provision requiring that performance accountability measures for grant and contract recipients include the primary indicators of performance under section 131, and agreements on adjusted levels of performance with respect to those indicators. (pg. 229)

### Sec. 269 Technical Assistance

- Largely retains provision under current law, with the following exceptions:
  - Adds training of staff providing rapid response services, staff of other recipients of Title II funds, training of state and local board members, and peer review activities to list of technical assistance activities that may be provided by the Secretary. (pg. 229-230)



- Adds requirement that the Secretary ensure the Department has sufficient capacity to provide technical assistance to states and certain national grantees. (pg. 230)
- Requires Secretary to reserve not more than 5 percent of funds reserved for dislocated worker national activities under sec. 232(a)(2)(A) to provide technical assistance to States that fail to meet the State performance accountability measures [in sec. 131(b)(2)(A)(i)]. (pg. 231)
- Clarifies that dislocated worker technical assistance funds used for rapid response staff training must be administered through the Employment and Training Administration. (pg. 231)
- Adds new requirement that the Secretary establish a system through which states can share information on promising and proven practices with regard to workforce investment activities; evaluate and disseminate information regarding promising and proven practices and identifying knowledge gaps; and commission research to address such knowledge gaps. (pg. 232)

### **Sec. 270 Demonstration, Pilot, Research, and Multistate Projects**

- *Strategic Plan* – Current law requires the Secretary to publish a strategic plan every two years describing demonstration and pilot, multiservice, research, and multistate project priorities of the Department for the five years following submission of the plan.
  - Removes reference to multiservice projects;
  - Plan must be consistent with purposes of Title I and II, including purpose of aligning core programs with other one-stop partner programs (*new provision*) (pg. 233);
  - Plan must contain strategies to address nation employment and training problems and take into account: the availability of existing research; interstate validity of results; benefits of economies of scale and the efficiency of proposed projects; and the likelihood that the results of such projects will be of value to policymakers. (pg. 233-234)
  - Plan must be transmitted to Department of Education and other relevant federal agencies. (*new provision*) (pg. 233)
- *Demonstration and Pilot Projects* – Maintains requirement that Secretary carry out demonstration and pilot projects.
  - Requires that projects be subject to measures of performance that include the primary indicators of performance under sec. 131 and other appropriate indicators. (*new requirement*) (p.234)



- *Project Types* – Largely replaces existing list of eligible project types; enumerates fifteen eligible projects types, including, among others: projects that assist employers in connecting with the workforce development system in order to facilitate the recruitment, employment, and retention of workers for jobs with career ladders; projects that focus on opportunities for employment in industries and sectors experiencing (or likely to experience) high rates of growth, and have jobs with wages and benefits leading to economic self-sufficiency; projects to promote opportunities for dislocated workers and jobseekers to receive training for employment and access to career ladders in the health care sector; projects to examine measurement of participant compensation using data other than, or in addition to, wage data; projects that provide retention grants; projects that utilize pay-for-performance approaches for providers of education, training, and employments services; and other strategies. (pg. 234-239)
- Removes current language that defined *eligible entities* as (i) entities with recognized expertise in conducting national demonstration projects; utilizing state-of-the-art demonstration methods; or conducting evaluations of workforce investment projects; or (ii) state and local entities with expertise in operating or overseeing workforce investment programs. [29 USC 2916 (b)(2)(B)]
- *Research Projects, Studies and Reports, and Multistate Projects* – Current subsection refers to “multiservice projects, research projects, and multistate projects.” Omits current provision addressing multiservice projects. [29 USC 2916 (c)(1)] (pg. 240)
  - *Research Projects* – Maintains current language requiring the Secretary to carry out research projects that contribute to the solution of employment and training problems in the United States, adds requirement that such projects be consistent with priorities under the strategic plan. Omits current requirement that Secretary conduct two-year study on improvement of the adult, dislocated worker, and youth formulas. [29 USC 2916 (c)(2)(B)]. (pg. 240)
  - *Studies and Reports* – Adds new section authorizing the Secretary to carry out three types of studies:
    - *Net Impact Studies and Reports* – In coordination with the Secretary of Education and other relevant agencies, studies to determine the net impact and best practices of programs, services, and activities carried out under the Act. Requires Secretary to prepare and disseminate public reports on the results of such studies (pg. 240-241)
    - *Study on Resources Available to Assist Disconnected Youth* – In coordination with the Secretary of Education, a study examining the characteristics of eligible youth that result in disconnection 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 for economic self-sufficiency. (pg. 241)

- *Study of Effectiveness of Workforce Development System in Meeting Business Needs* – in coordination with the Departments of Commerce and Education and the Small Business Administration, a study of the effectiveness of the workforce development system in meeting the needs of business, particularly small business. Study may examine issues such as methods for identifying the workforce needs of large and small businesses; business satisfaction with the workforce development system; the extent to which business is engaged as a collaborative partner in the workforce development system; and other issues. Requires Congressional report. (pg. 241-245)
- *Multistate Projects* – Largely maintains current law authorizing Secretary to carry out multistate projects to effectively disseminate best practices and models for implementing employment and training services, addressing the specialized employment and training needs of particular service populations, or addressing industry-wide skill shortages. (pg. 245-246)
  - *Limitations* – Maintains current language relating to competition requirements for projects above \$100,000, time limits for grants or contracts, and peer review. (pg. 246-247)
  - *Priority* – Maintains current language giving priority to entities with recognized expertise in the methods, techniques, and knowledge of workforce investment activities. (pg. 247)
- *Dislocated Worker Projects* – Largely maintains current law requiring the Secretary to use not more than 10 percent of funds reserved at the national level for dislocated worker activities (sec. 232 (a)(2)(A) – see pg. 81) for demonstration and pilot, multiservice, and multistate projects relating to the employment and training needs of dislocated workers. (pg. 247-248)
- *Energy Efficiency and Renewable Energy Worker Training Program (Green Jobs Act)* – Largely maintains current law requiring Secretary to establish an energy efficiency and renewable energy worker training program, with the following exceptions:
  - Requires that a state or local board be a partner in partnerships receiving Pathways Out of Poverty grants. (pg. 259)
  - Requires that performance accountability measures used for grants under this subsection include the primary indicators of performance under sec. 131. (pg. 266)
- *Integrated Workforce Training Programs for Adults who are English Language Learners* – Requires the Secretary to establish and implement a national demonstration project



designed to analyze and provide data on workforce training programs that integrate English language acquisition and occupational training. (*new provision*) (pg. 269-270)

- *Grants* – Requires Secretary to make not less than 10 grants of 24-48 months to eligible entities to provide integrated workforce training programs, with consideration given to awarding grants to entities from diverse geographic areas. (p. 270)
- *Eligible Entities* – Eligible entities must include as a “principal participant” one or more of the following: an employer or employer association; a nonprofit provider of English language instruction; a provider of occupational skills training; a community-based organization; an institution of higher education (including 2-year and 4-year institutions and postsecondary vocational institutions; or a labor organization. (pg. 270-271) The eligible entity must work in partnership with a local board (pg. 270) and must have proven expertise in serving individuals who are English language learners (including individuals with lower levels of oral and written English) and expertise in providing workforce programs with training and English language instruction. (pg. 271).
- *Applications* – Requires that applications include, at a minimum: information on the eligible entity’s expertise; and assurances that supported program will establish a generalized adult bilingual workforce training and education model; establish a framework by which employers, employees, and the eligible entity can create career development and training plans; ensure that the framework takes into consideration the knowledge, skills and abilities of employees; and establish identifiable performance accountability measures that include the primary indicators of performance under sec. 131. (pg. 272-273)
- *Integrated Workforce Training Programs* –
  - *Program Components* – Requires that programs (I) test an individual’s English language proficiency levels to assess oral and literacy gains from entry into the program and throughout program enrollment; (II) combine occupational training with English language instruction, basic skills instruction, and supportive services; (III) effectively integrate public and private sector entities, including the local workforce development system, to achieve program goals; and (IV) provide a cash or in-kind match from private or nonprofit sources. May offer other services as necessary. (pg. 273-275)
  - *Goal* – Requires that programs be designed to prepare adults who are English language learners for, and place such adults in, employment in growing industries with identifiable career pathways leading to economic self-sufficiency. (pg. 275)
  - *Program Types* – Requires that programs be one or more of the following: (i) a program that serves unemployed English language learners with



significant work experience or substantial education that prepares participants for higher paying employment; (ii) a program that serves English language learners with lower levels of oral and written fluency, who are working at persistently low wages, and prepares participants for higher paying employment through service at the worksite or central to multiple worksites; or (iii) a program serving unemployed English language learners with lower levels of oral and written fluency, and little or no work experience, and prepares participant for employment, including subsidized employment. (pg. 275-277)

- *Program Approaches* – Requires Secretary to select program with different approaches to integrated workforce training in order to obtain comparative data on multiple approaches, ensure programs are tailored to characteristics of individuals of varying skill levels, and assess how different curricula work for English language learner populations. (pg. 277) Provides that approaches may include bilingual programs; integrated programs that combine basic skills, language instruction, and job specific skills training; or sequential programs that provide a progression of skills, language, and training. (p.278)
- *Evaluation by Eligible Entity* – Requires each eligible entity to carry out a continuous evaluation of the program, and an evaluation specific to the last phase of the program. (pg. 278)
- *Evaluation by Secretary* – Requires the Secretary to conduct an evaluation of program impacts of funded programs, using an impact study with a random assignment experimental design at each worksite where a program is carried out. Requires the Secretary to collect and analyze data to determine the effectiveness of the project, and to submit a report to Congress on the projects. (pg. 278-279)
- *Technical Assistance* – Requires the Secretary to provide technical assistance to grant recipients. (p.279)
- (11) – NOTE: Referenced on pg. 269 – “from funds appropriated pursuant to paragraph (11)” – but there is no (11). (See pg. 279)
- *Community-Based Job Training* – Authorizes the Secretary, in collaboration with the Secretary of Education, to establish and implement a national demonstration project designed (A) to develop local innovative solutions to the workforce challenges facing in-demand industry sectors with labor shortages; and (B) to increase employment opportunities for workers by establishing partnerships among education entities, state workforce development systems, and businesses in in-demand industry sectors. (*new provision*) (pg. 281)
  - *Eligible Entity* – defined as a partnership between a local board and a community college, a consortium of community colleges or a consortium of a community



college and at least one institution of higher education, that is working with (i) a business, consortium of businesses, or industry association in an identified in-demand industry sector; and (ii) an economic development entity with expertise relevant to the qualified industry. (pg. 280-281)

- *Grants* – authorizes competitive 2-, 3-, or 4-year grants to eligible entities. (pg. 282)
- *Applications* – requires application to include (A) a description of the entity offering training under the grant; (B) a justification of the need for funding; (C) an economic analysis of the local labor market to identify in-demand industry sectors and occupations, the workforce issues faced by such industries, and potential participants; (D) a description of the in-demand industry for which training will occur, the availability of competencies on which training will be based, and how the grant will help workers acquire competencies and skills; (E) a description of the involvement of the local board and local businesses; (F) performance accountability measures, including the primary indicators of performance under sec. 131 and other appropriate indicators; (G) a description of how grant activities will be coordinated with activities provided by local one-stop centers; and (H) a description of local or private resources that will support project activities during and after the grant period. (pg. 282-284)
- *Factors for Award of Grant* – In awarding grants, requires Secretary to consider (i) the extent to which grant activities align with the local plan for the area served; (ii) the extent of public and private collaboration, including existing partnerships among the in-demand industry sectors, the eligible entity, and the public workforce development system; (iii) the extent to which the grant will provide job seekers with high-quality training for employment in in-demand occupations; (iv) the extent to which the grant will expand the eligible entity and the capacity of the local one-stop center to be demand-driven and responsive to local economic needs; (v) the extent to which local businesses commit to hire, retain, or advance training participants; and (vi) the extent to which the eligible entity commits to make newly developed products (such as skill standards, assessments, or curricula) available for dissemination nationally. (pg. 284-285)

Also requires Secretary to consider extent to which local or private resources will be leveraged, both during and after the grant period; and to ensure distribution of grants across diverse industries and geographical areas. (pg. 285-286)

- *Use of Funds* –
  - *Mandatory* – Funds must be used to (i) support the development of rigorous training and education programs leading to a recognized postsecondary credential and employment in the in-demand industry sector, including work-based programs that incorporate earn-and-learn strategies (programs must be developed by the community college); and



- (ii) train adults, incumbent workers, dislocated worker, or out-of-school youth in the skills and competencies needed to obtain or upgrade employment in an in-demand industry sector. (pg. 286-287)
- *Optional* – Funds may be used to (i) disseminate information on training available for in-demand occupations in in-demand industry sectors; (ii) referring training participants for employment in in-demand industry sectors; (iii) enhancing the integration of community colleges, training and education with businesses and the local one-stop delivery system; (iv) providing training and relevant job skills to small business owners or operators to facilitate small business development in in-demand industry sectors; or (v) expanding or creating programs for distance, evening, weekend, modular, or compressed learning opportunities. (pg. 287-288)
- *Authority to Require Non-Federal Share* – Authorizes Secretary to require a non-federal share from cash or in-kind resources. (pg. 288)
- *Performance Accountability Measures* – Requires eligible entities to submit interim and final reports to the Secretary on performance outcomes for the project, using performance accountability measures identified in the grant application. Requires eligible entities to participate in an evaluation. (pg. 288-289)

## Sec. 271 Evaluations

- Largely maintains current law, with the following exceptions:
  - Updates requirement that the Secretary conduct at least one multisite control evaluation by the end of Fiscal Year 2016 (*FY 2005 under current law*). (pg. 291)
  - Authorizes entities that conduct evaluations of programs and activities to publish a report resulting from the evaluation with permission of the Secretary. (pg. 291)

## Sec. 272 National Dislocated Worker Grants (*Currently “National Emergency Grants”*)

- Defines “emergency or disaster” and “disaster area.” (*new provision*) (pg. 292)
- Adds two new circumstances under which the Secretary may award grants:
  - To provide additional assistance to state or local boards serving an area where higher-than-average demand for employment and training activities for dislocated members of the Armed Forces or spouses exceeds state and local resources for providing such activities, and activities will be carried out in partnership with transition assistance programs under the Department of Defense and Veterans Affairs. (pg. 293-294)



- To carry out activities relating to health insurance coverage assistance and interim health insurance coverage and other assistance. (pg. 294)
- Requires that the Secretary issue a final decision on an application for a national dislocated worker grant within 45 days of receipt of the application, and issue a notice of obligation not later than 10 days after awarding the grant. (*new provision*) (pg. 294-295)
- *Disaster Relief Employment Assistance Requirements* –
  - Maintains current limit of six months for disaster relief employment funded under a grant, but adds authorization for Secretary to extend for an additional six months. (pg. 299)
  - Adds “Use of Funds” provision, which authorizes states, upon notification to the Secretary, to use any national dislocated worker grant funds available for expenditure for disaster relief employment assistance. (pg. 300)
  - Adds “Liability and Reimbursement” provision, which clarifies that nothing in the Act can be construed to relive the liability by a responsible party for any costs incurred by the United States for disaster relief assistance under this Act. (pg. 300)
- Omits current “Additional Assistance” provision [29 U.S.C. 2918(e)], requiring the Secretary to make not more than \$15 million in grants to not more than 8 states for state and local employment and training activities.

### **Sec. 273 YouthBuild Program**

- Largely maintains current law, with the following exceptions:
  - Adds new purpose “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.” (pg. 316)
  - Applications for YouthBuild funds must include a description of levels to be achieved with respect to the primary indicators of performance for eligible youth under sec. 131. (*new provision*) (pg. 327)
  - Secretary may reserve not less than 3 percent, and not more than 5 percent, of YouthBuild appropriations for a fiscal year for technical assistance (*current law does not include minimum percentage*). (pg. 337)
  - Authorizes appropriations for each of Fiscal Years 2012-2016. (pg. 338)



## Sec. 274 Authorization of Appropriations

- *Native American Programs; Migrant and Seasonal Farmworker Programs; Veteran's Workforce Investment Programs* – Authorizes such sums as may be necessary for each of Fiscal Years 2012-2016. Of the amount appropriated for each fiscal year, requires the Secretary to reserve not less than \$55 million for Native American programs; not less than \$70 million for migrant and seasonal farmworker programs; and not less than \$7.3 million for veteran's programs. (pg. 338-339)
- *Technical Assistance; Demonstration and Pilot Projects; Evaluations* – Authorizes such sums as may be necessary for each of fiscal years 2012-2016.
- *Assistance for Eligible Workers* – [NOTE: Relates to health insurance coverage under the National Dislocated Worker program; it appears that the discussion draft contains typographical errors relating to the fiscal years covered.] (See pg. 339-340)

## Subtitle E – Administration

NOTE: This section provides a brief description of a number of administrative provisions. Please read the bill language for additional details.

## Sec 281. Requirements and Restrictions

- *Wages* – Individuals employed in programs under this Title I or II must be compensated at the same rate as other similar employees. (pg. 341)
- *Labor Standards* – Prohibits: use of funds to pay the salary of incumbent workers; displacement of current workers; impairment of existing contracts; employment of program participant if any other employee is on layoff from same or substantially similar job, or the employer has terminated any regular employee or reduced their workforce with the intent of filling the vacancy with the participant, or the job interferes with the promotional opportunities of current employees; health and safety standards are applicable; benefits and employment conditions must be at the same level and to the same extent as similar employees; no funds under this title may be used to assist, promote, or deter union organizing; each state must establish a grievance procedure for program participants or other interested or affected parties. (pg. 342-347)
- *Relocation* – Prohibits the use of funds to encourage or induce relocation of a business if such relocation would result in the loss of employment for any individual in the original location. No funds may be used to provide services or activities for any business or part of a business that has relocated for 120 days after the business commences operations at the new location. (pg. 347)



- *Testing for Use of Controlled Substance* – A State shall not be prohibited from testing program participants for the use of controlled substances, and sanctioning participants who test positive. (pg. 349)

### **Sec. 282 Prompt Allocation of Funds**

- Covers a variety of issues related to the allocation of formula funds. (pg. 350-352)

### **Sec. 283 Monitoring**

- The Secretary is authorized to monitor all recipients of financial assistance under this title. (pg. 352-353)

### **Sec. 284 Fiscal Controls; Sanctions**

- Requires each State to establish fiscal control and fund accounting procedures as necessary to assure proper disbursement of, and accounting for, Federal funds allocated under this title. (pg. 353) Governors must monitor local areas; if a Governor determines that a local area is out of compliance, the Governor must require corrective action to secure prompt compliance, and impose sanctions if the local area fails to take corrective action. (pg. 355)

### **Sec. 285 Reports; Recordkeeping; Investigations**

- Describes requirements related to recordkeeping and reports. (pg. 363-370)

### **Sec. 286 Administrative Adjudication**

- Any applicant for financial assistance under this title who is dissatisfied because the Secretary has made a determination not to award financial assistance (in whole or in part) may request a hearing before an administrative law judge of the Department of Labor. (pg. 370-372)

### **Sec. 287 Judicial Review**

- Any party to proceedings that resulted in a final order under which the Secretary declines to award, or only conditionally awards, financial assistance under this title, or with respect to any sanction or corrective order, may obtain review of such final order in the U.S. Court of Appeals that has jurisdiction over the applicant by filing a review petition within 30 days of the issuance of such final order. (pg. 372-373)



### **Sec. 288 Nondiscrimination**

- Prohibits: discrimination regarding participation, benefits, and employment; use of assistance for facilities for sectarian instruction or religious worship; discrimination on the basis of participant status; discrimination against certain noncitizens. The Secretary must notify a State if it is out of compliance, and request that it comply with nondiscrimination requirements. If a State fails to do so within 60 days, the Secretary may refer the matter to the Attorney General. (pg. 373-377)

### **Sec. 289 Secretarial Administrative Authorities and Responsibilities**

- The Secretary may prescribe rules and regulations to carry out this title (and certain provisions under Title I) only to the extent necessary to administer and ensure compliance with the requirements of this title. (pg. 377) Grants significant waiver authority to the Secretary. (pg. 383-387)

### **Sec. 290 Workforce Flexibility Plans**

- States may submit to the Secretary, and the Secretary may approve, a “workforce flexibility plan” under which the State may waive: (1) any of the statutory or regulatory requirements under this title and subtitles A and B of title I to local areas, except for requirements relating to, among other things: wage and labor standards, grievance procedures and judicial review, nondiscrimination, and worker rights, participation, and protection; (2) any statutory or regulatory requirements under sections 8-10 of the Wagner-Peyser Act, excluding requirements relating to the provision of services to UI claimants and veterans, and to basic labor exchange services without cost to jobseekers; (3) any of the statutory or regulatory requirements applicable under the Older Americans Act with respect to activities carried out under section 506(b) of the Act, with the exception requirements relating to the basic purpose of the Act, wage and labor standards, participant eligibility, and standards for grant agreements. (pg. 387-389)

### **Sec. 291 State Legislative Authority**

- Nothing in this title or subtitle A or B of title I shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this title, of the activities funded under this title. (pg. 389-390)



### **Sec. 292 Transfer of Federal Equity in State Employment Security Agency Real Property to the States**

- Any Federal equity acquired in real property through grants to States awarded under Title III of the Social Security Act or under the Wagner-Peyser Act is transferred to the States that used the grants for the acquisition of such equity. (pg. 390-391)

### **Sec. 293 Continuation of State Activities and Policies**

- In general, the Secretary may not deny a State plan or otherwise penalize a State for actions it takes under prior consistent State laws. (pg. 391-394)

### **Sec. 294 General Program Requirements**

- Among other things:
  - Each program under this title and title I shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities. Recipients of federal funding under this title or title I shall make efforts to develop programs that contribute to the occupational development, upward mobility, development of new careers, and opportunities for nontraditional employment. (pg. 394)
  - Supplement not supplant. (pg. 395)
  - OJT contracts shall not be entered into with employers who have previously demonstrated a pattern of failing to provide OJT participants with long-term employment as regular employees with the same benefits and working conditions as similar employees. (pg. 395)
  - 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 title. (pg. 396)
  - Services, facilities, or equipment funded under this title may be used on a fee-for-service basis by employers in a local area in order to provide employment and training activities to incumbent workers: (1) when such services, facilities, or equipment are not in use for the provision of services for eligible participants under this title; (2) if such use would not have an adverse effect of the provision of services to eligible participants under this title; and if the income derived for such fees is used to carry out the programs authorized under this title. (pg. 398-399)