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UNITED STATES CODE ANNOTATED

Title 29
Labor
§ 1501 to End

1992
Cumulative Annual Pocket Part

Replacing 1991 pocket part in back of 1985 bound volume

Includes the Laws of the
102nd CONGRESS, FIRST SESSION (1991)

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¹ Effective until program years beginning on or after July 1, 1989.

² So in original probably should be "on".

§ 1501. Congressional declaration of purpose

HISTORICAL AND STATUTORY NOTES

Short Title of 1991 Amendment

Pub.L. 102-235, § 1, Dec. 12, 1991, 105 Stat. 1806, provided that: "This Act [enacting section 1737 of this title, amending sections 1503, 1514, 1531, 1532, 1533, and 1604 of this title, and enacting provisions set out as notes under this section and sections 1514 and 1737 of this title] may be cited as the 'Nontraditional Employment for Women Act'."

Short Title of 1988 Amendments

Pub.L. 100-628, Title VII, § 711, Nov. 7, 1988, 102 Stat. 3248, provided that: "This subtitle [enacting sections 1583 and 1791 to 1791j of this title, amending sections 49, 49a, 49b, 49d, 49e, 49f, 49g, 49h, 49i, 49j, 49l, 49l-1, 1502, 1504, 1505, 1514, 1516, 1531 and 1602 of this title and section 602 of Title 42, The Public Health and Welfare] may be cited as the 'Jobs for Employable Dependent Individuals Act'."

Pub.L. 100-418, Title VI, § 6301, Aug. 23, 1988, 102 Stat. 1524, provided that: "This title [probably means 'This subtitle', which is subtitle D of Title VI of Pub.L. 100-418, which enacted sections 565, 1505, 1651 to 1653, 1661 to 1661f, and 1662 to 1662c of this title, amended sections 1502, 1516, 1532, and 1752 of this title, omitted sections 1651 to 1658 of this title, and enacted provisions set out as notes under section 1651 of this title] may be cited as the 'Economic Dislocation and Worker Adjustment Assistance Act'."

Short Title of 1986 Amendment

Pub.L. 99-496, § 1, Oct. 16, 1986, 100 Stat. 1261, provided that: "This Act [enacting sections 1582, 1630 and 1736 of this title and amending sections 1503, 1511, 1516, 1518, 1531, 1533, 1534, 1602, 1603, 1631, 1632, 1633, 1634, 1651, 1652, 1707 and 1733 of this title] may be cited as the 'Job Training Partnership Act Amendments of 1986'."

Congressional Findings and Statement of Purposes Relating to Nontraditional Employment for Women

Pub.L. 102-235, § 2, Dec. 12, 1991, 105 Stat. 1806, provided that:

- Sec.
1791h. Information and data collection.
(a) Technical assistance.
(b) Regulations.
(c) Annual survey.
- 1791i. Start-up costs.
(a) Application.
(b) Contents.
(c) Determinations of awards.
(d) Allocation.
(e) Notice of proposed rulemaking.
- 1791j. Evaluation and performance standards.
(a) Evaluation.
(b) Report to Congress.
(c) Performance standard.

"(a) Findings.—The Congress finds that—

"(1) over 7,000,000 families in the United States live in poverty, and over half of those families are single parent households headed by women;

"(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act [section 1501 et seq. of this title];

"(3) women participating under the Job Training Partnership Act [section 1501 et seq. of this title] tend to be enrolled in programs for traditionally female occupations;

"(4) many of the Job Training Partnership Act [section 1501 et seq. of this title] programs that have low female enrollment levels are in fields of work that are nontraditional for women;

"(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

"(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

"(7) older women reentering the work force may have special needs in obtaining training and placement in occupations providing economic security.

"(b) Statement of purpose.—The purposes of this Act [see Short Title of 1991 Amendment note set out under this section] are—

"(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act [section 1501 et seq. of this title];

"(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

"(3) to facilitate coordination between the Job Training Partnership Act [section 1501 et seq. of this title] and the Carl D. Perkins Vocational and Applied Technology Education

Act [section 2301 et seq. of Title 20, Education] to maximize the effectiveness of resources available for training and placing women in nontraditional employment."

Non discriminatory Nature of Nontraditional Employment for Women Provisions

Pub.L. 102-235, § 11, Dec. 12, 1991, 105 Stat. 1811, provided that:

"(a) For purposes of this legislation, nothing in this Act [see Short Title of 1991 Amendment note set out under this section] shall be construed to mean that Congress is taking a position on the issue of comparable worth.

"(b) Nothing in this Act shall be construed to require, sanction or authorize discrimination in violation of title VII of the Civil Rights Act of

1964 [section 2000e et seq. of Title 42, The Public Health and Welfare] or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, age, handicap, political affiliation or belief. Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 [section 2000e et seq. of Title 42, The Public Health and Welfare] or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age."

LAW REVIEW COMMENTARIES

Federal tort claims at the agency level: The FTCA administrative process. George A. Bermann, 35 Case W.Rev.L.Rev. 509 (1984-85).

NOTES OF DECISIONS

1. Private right of action

Job Training Partnership Act did not give either State of West Virginia or Governor of West Virginia private federal cause of action against employers whose employees had been allocated

job training funds under the Act, precluding district court from exercising federal question jurisdiction. State of W. Va. v. Anchor Hocking Corp., N.D.W.Va.1987, 681 F.Supp. 1175, review denied 857 F.2d 1469.

§ 1502. Authorization of appropriations

[See main volume for text of (a) and (b)]

(c) There are authorized to be appropriated to carry out subchapter III of this chapter (other than section 1662e of this title)—

- (1) \$980,000,000 for fiscal year 1989; and
- (2) such sums as may be necessary for each succeeding fiscal year.

[See main volume for text of (d)]

(e)(1) Subject to paragraph (2), there are authorized to be appropriated for each of fiscal years 1990 through 1994 such sums as may be necessary to carry out subchapter V of this chapter.

(2) No funds appropriated pursuant to this chapter may be used to carry out such subchapter for any fiscal year unless funds appropriated to carry out part A of subchapter II of this chapter exceed any change in the consumer price index from the amounts appropriated for the previous fiscal year to carry out such part.

(3) From amounts authorized to be appropriated for subchapter V of this chapter pursuant to paragraph (1), not more than \$5,000,000 may be used for purposes of section 1791i of this title.

(f) The authorizations of appropriations contained in this section are subject to the program year provisions of section 1571 of this title.

(As amended Pub.L. 100-418, Title VI, § 6303, Aug. 23, 1988, 102 Stat. 1538; Pub.L. 100-628, Title VII, § 714(d), Nov. 7, 1988, 102 Stat. 3256; Pub.L. 101-549, Title XI, § 1101(b), Nov. 15, 1990, 104 Stat. 2712.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in subsec. (e)(2), was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete classification of

this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

1990 Amendment

Subsec. (c). Pub.L. 101-549, § 1101(b)(2), inserted "(other than section 1662e of this title thereof)" following "subchapter III of this chapter".

1988 Amendments

Subsec. (c). Pub.L. 100-418, § 6303, substituted provisions authorizing specific appropriation for fiscal year 1989 and such sums as necessary for succeeding years, for provisions authorizing such sums as necessary for fiscal year 1983 and for succeeding years.

Subsec. (e). Pub.L. 100-628, § 714(d), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub.L. 100-628, § 714(d)(1), redesignated former subsec. (e) as (f).

Effective Date of 1990 Amendment

Amendment by Pub.L. 101-549 effective Nov. 15, 1990, except as otherwise provided, see section 711(b) of Pub.L. 101-549, set out as a note under section 7401 of Title 42, The Public Health and Welfare.

Savings Provisions

Suits, actions or proceedings commenced under chapter 85 (section 7401 et seq.) of Title 42, The Public Health and Welfare, as in effect prior to Nov. 15, 1990, not to abate by reason of the taking effect of amendments by Pub.L. 101-549, except as otherwise provided for, see section 711(a) of Pub.L. 101-549, set out as a note under section 7401 of Title 42.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547. See, also, Pub.L. 100-628, 1988 U.S. Code Cong. and Adm. News, p. 4395; Pub.L. 101-549, 1990 U.S. Code Cong. and Adm. News, p. 3385.

§ 1503. Definitions

For the purposes of this chapter, the following definitions apply:

[See main volume for text of (1) to (4)]

(5) The term "community-based organizations" means private nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, National Council of La Raza, 70,001, Jobs for Youth, organizations operating career intern programs, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973 [29 U.S.C. 706(10)]), agencies serving youth, agencies serving the handicapped, including disabled veterans, agencies serving displaced homemakers, union-related organizations, and employer-related nonprofit organizations), and organizations serving nonreservation Indians (including the National Urban Indian Council), as well as tribal governments and Native Alaskan groups.

[See main volume for text of (6) and (7)]

(8) The term "economically disadvantaged" means an individual who (A) receives, or is a member of a family which receives, cash welfare payments under a Federal, State, or local welfare program; (B) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level; (C) is receiving food stamps pursuant to the Food Stamp Act of 1977 [7 U.S.C.A. § 2011 et seq.]; (D) qualifies as a homeless individual under section 103 of the Stewart B. McKinney Homeless Assistance Act [42 U.S.C.A. § 11302]; (E) is a foster child on behalf of whom State or local government payments are made; or (F) in cases permitted by regulations of the Secretary, is an adult handicapped individual whose own income meets the requirements of clause (A) or (B), but who is a member of a family whose income does not meet such requirements.

[See main volume for text of (9) to (13)]

(14) The term "local educational agency" means such an agency as defined in section 521(19) of the Carl D. Perkins Vocational Education Act [20 U.S.C.A. § 2471(19)].

[See main volume for text of (15) to (26)]

(27)(A) The term "veteran" means an individual who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

(B) The term "disabled veteran" means (i) a veteran who is entitled to compensation under laws administered by the Secretary of Veterans Affairs, or (ii) an individual who was discharged or released from active duty because of service-connected disability.

(C) The term "recently separated veteran" means any veteran who applies for participation under any subchapter of this chapter within 48 months of the discharge or release from active military, naval, or air service.

(D) The term "Vietnam era veteran" means a veteran any part of whose active military service occurred between August 5, 1964, and May 7, 1975.

[See main volume for text of (28)]

(29) The term "displaced homemaker" means an individual who—

(A) was a full-time homemaker for a substantial number of years; and

(B) derived the substantial share of his or her support from—

(i) a spouse and no longer receives such support due to the death, divorce, permanent disability of, or permanent separation from the spouse; or

(ii) public assistance on account of dependents in the home and no longer receives such support.

(30) The term "nontraditional employment" as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work.

(As amended Pub.L. 99-159, Title VII, § 713(b)(1), Nov. 22, 1985, 99 Stat. 907; Pub.L. 99-496, §§ 14(b)(1), 15(a), Oct. 16, 1986, 100 Stat. 1265; Pub.L. 100-77, Title VII, § 740(a), July 22, 1987, 101 Stat. 531; Pub.L. 102-54, § 13(k)(2)(A), June 13, 1991, 105 Stat. 277; Pub.L. 102-235, § 3, Dec. 12, 1991, 105 Stat. 1807.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in provision preceding par. (1) and in pars. (17), (24) and (27)(C), was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

1991 Amendment

Par. (27)(B). Pub.L. 102-54 substituted "Secretary of Veterans Affairs" for "Veterans' Administration".

1987 Amendment

Par. (8). Pub.L. 100-77 added cl. (D) and redesignated former cl. (D) and (E) as (E) and (F), respectively.

1986 Amendment

Par. (5). Pub.L. 99-496, § 15(a)(1), inserted "including disabled veterans" following "serving the handicapped".

Par. (27)(C). Pub.L. 99-496, § 15(a)(2), added subpar. (C).

Par. (27)(D). Pub.L. 99-496, § 15(a)(2), added subpar. (D).

Par. (29). Pub.L. 99-496, § 14(b)(1), added par. (29).

1985 Amendment

Par. (14). Pub.L. 99-159 substituted "521(19)" for "4(15)", which for purposes of codification required no further translation in text.

Effective Date of 1985 Amendment

Amendment by Pub.L. 99-159 effective July 1, 1985, see section 714 of Pub.L. 99-159, set out as a note under section 2311 of Title 20, Education.

Effective Date of 1991 Amendment

Amendment by Pub.L. 102-235 effective Dec. 12, 1991, see section 12 of Pub.L. 102-235, set out as a note under section 1514 of this title.

Nondiscriminatory Nature of Nontraditional Employment for Women Provisions

Nothing in Pub.L. 102-235 to be construed to require, sanction, or authorize discrimination on the basis of race, color, religion, sex, national origin, handicap, or age in relation to nontraditional employment of women, see section 11 of Pub.L. 102-235, set out as a note under section 1501 of this title.

Legislative History

For legislative history and purpose of Pub.L. 99-159, see 1985 U.S. Code Cong. and Adm. News, p. 754. See, also, Pub.L. 99-496, 1986 U.S. Code Cong. and Adm. News, p. 2552; Pub.L. 100-77, 1987 U.S. Code Cong. and Adm. News, p. 362; Pub.L. 102-54, 1991 U.S. Code Cong. and Adm. News, p. 128; Pub.L. 102-235, 1991 U.S. Code Cong. and Adm. News, p. —

LAW REVIEW COMMENTARIES

Comparable worth—The theory, its legal foundation, and the feasibility of implementation. *Carin Ann Claus*, 20 U.Mich.J.L.Rev. 7 (1986).

§ 1504. Enforcement of Military Selective Service Act

[See main volume for text of section]

(Pub.L. 97-300, Title VI, § 604, formerly Title V, § 504, Oct. 13, 1982, 96 Stat. 1399; renumbered Pub.L. 100-628, Title VII, § 712(a)(1), (2), Nov. 7, 1988, 102 Stat. 3248.)

LAW REVIEW COMMENTARIES

Conscientious objection: A constitutional right. *Chael D. Kohn*, 21 New Eng.L.Rev. 545 (1985-1986).

§ 1505. State job banks systems

(a) Funding authorities; authorization of appropriations

(1) The Secretary shall carry out the purposes of this section with sums appropriated pursuant to paragraph (2) for any fiscal year.

(2) There are authorized to be appropriated to carry out this section \$50,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year.

(b) Availability of funds; purposes of systems

The Secretary shall make such sums available through the United States Employment Service for the development and implementation of job bank systems in each State. Such systems shall be designed to use computerized electronic data processing and telecommunications systems for such purposes as—

(1) identifying job openings and referring jobseekers to job openings, with continual updating of such information;

(2) providing information on occupational supply and demand; and

(3) utilization of such systems by career information delivery systems (including career counseling programs in schools).

(c) Software capability and compatibility of systems; development of systems

Wherever possible, computerized data systems developed with assistance under this section shall be capable of utilizing software compatible with other systems (including management information systems and unemployment insurance and other income maintenance programs) used in the administration of employment and training programs. In developing such systems, special consideration shall be given to the advice and recommendations of the State occupational information coordinating committees (established under section 2422(b) of Title 20), and other users of such systems for the various purposes described in subsection (b) of this section.

(Pub.L. 97-300, Title VI, § 505, formerly Title V, § 505, as added Pub.L. 100-418, Title VI, § 6307(a), Aug. 23, 1988, 102 Stat. 1541; renumbered Pub.L. 100-628, Title VII, § 712(a)(1), Nov. 7, 1988, 102 Stat. 3248.)

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

§ 1506. Educational assistance and training

(a) Use of fund

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

(b) Allocation of funds

Within the purposes described in subsection (a) of this section, funds in the account used under this section shall be allocated among the States based on a

formula, established jointly by the Secretaries of Labor and Education, that takes into consideration—

- (1) the location of foreign workers admitted into the United States,
- (2) the location of individuals in the United States requiring and desiring the educational assistance and training for which the funds can be applied, and
- (3) the location of unemployed and underemployed United States workers.

(c) Disbursement to States

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

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

(d) Limitation on Federal overhead

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

(e) Annual report

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

(f) State defined

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

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

HISTORICAL AND STATUTORY NOTES

Codification

Section was enacted as part of the Immigration Act of 1990 and not as part of the Job Training Partnership Act, which comprises this chapter.

Legislative History

For legislative history and purpose of Pub.L. 101-649, see 1990 U.S. Code Cong. and Adm. News, p. 6710.

LIBRARY REFERENCES

Schools ⇐ 16 et seq.

WESTLAW Topic No. 345.

C.J.S. Schools and School Districts § 17.

SUBCHAPTER I—JOB TRAINING AND EMPLOYMENT ASSISTANCE SYSTEM

PART A—SERVICE DELIVERY SYSTEM

§ 1511. Establishment of service delivery areas

(a) Proposals; proposed designations; requests

[See main volume for text of (1) to (3)]

(4)(A) The Governor shall approve any request to be a service delivery area from—

- (i) any unit of general local government with a population of 200,000 or more;
- (ii) any consortium of contiguous units of general local government with an aggregate population of 200,000 or more which serves a substantial part of one or more labor market areas; and

(iii) any concentrated employment program grantee for a rural area which served as a prime sponsor under the Comprehensive Employment and Training Act.

[See main volume for text of (B) and (C); (b) and (c)]

(As amended Pub.L. 99-496, § 2, Oct. 16, 1986, 100 Stat. 1261.)

HISTORICAL AND STATUTORY NOTES

1986 Amendment

Subsec. (a)(4)(A)(ii). Pub.L. 99-496, § 2 substituted "one or more labor market areas" for "a labor market area".

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552.

NOTES OF DECISIONS

2. Service delivery area—Generally

Municipalities seeking designation as unified service delivery area, for federal job training program purposes, were entitled to such designation where they met federal statutory criteria for mandatory designation, even if municipalities failed to comply with Puerto Rico law regulating formation of "intermunicipal bodies"; local law was preempted where it interfered with federal scheme requiring service delivery area designation to qualified local governments. *Hernandez-Colon v. Secretary of Labor*, C.A.1, 1988, 835 F.2d 958.

Governor's designation of county as service delivery area, and refusal to designate consortium composed of five cities within county as service delivery area under Job Training Partnership Act,

was proper exercise of his authority, and Secretary of Labor did not act unreasonably in upholding it. *Consortium of Cities of Chino, Montclair, Ontario, Rancho Cucamonga, and Upland, Cal., Mun. Corporations v. Department of Labor*, C.A.9, 1987, 811 F.2d 1316.

Evidence was sufficient to support finding by Secretary of Labor that aggregate population of three town consortium in Puerto Rico was less than 200,000, and that towns were therefore not big enough to qualify automatically as "Service Delivery Areas" under the Job Training Partnership Act, § 101(a)(4)(A)(ii), 29 U.S.C.A. § 1511(a)(4)(A)(ii). *Cruz v. Brock*, C.A.1, 1985, 778 F.2d 62.

§ 1512. Private industry councils

NOTES OF DECISIONS

1. Jurisdiction

District court had federal question jurisdiction over action brought by city against governor, county executive, and county, seeking declaratory judgment that appointments to private industry council for eastern portion of county made by mayor pro tempore and city council complied with Job Training Partnership Act, that governor

did not have authority to make other appointments, and that city's appointments should be certified by the governor, since action did not seek redress for breach of contract between county and city regarding appointment of members to council but, instead, called for the construction of the Job Training Partnership Act. *City of Independence, Mo. v. Bond*, C.A.8 (Mo.) 1985, 756 F.2d 615.

§ 1513. Functions of private industry councils

NOTES OF DECISIONS

Submission of plan 1

1. Submission of plan

Requirement of the Job Training Partnership Act that a job training plan be submitted jointly

by private industry counsel and the appropriate chief elected officials was not complied with when it was submitted after one city had withdrawn from the board which was submitting the plan. *Alameda County Training and Employment Bd. v. U.S. Dept. of Labor*, C.A.9, 1991, 930 F.2d 1440.

§ 1514. Job training plan

[See main volume for text of (a)]

(b) Contents of plan

Each job training plan shall contain—

[See main volume for text of (1) to (4)]

(5) goals for—

- (A) the training of women in nontraditional employment; and
- (B) the training-related placement of women in non-traditional employment and apprenticeships;

and a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities;

(6) procedures, consistent with section 1517 of this title, for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

(7) the budget for two program years and any proposed expenditures for the succeeding two program years, in such detail as is determined necessary by the entity selected to prepare this portion of the plan pursuant to section 1513(b)(1)(B) of this title and to meet the requirements of section 1518 of this title;

(8) a description of the procedures and methods of carrying out subchapter V of this chapter, relating to incentive bonus payments for the placement of individuals eligible under such subchapter;

(9) a description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan;

(10) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of individual service delivery area programs, including—

(A) assessments of needs and problems in the labor market that form the basis for program planning;

(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

(11) fiscal control, accounting, audit and debt collection procedures to assure the proper disbursement of, and accounting for, funds received under this subchapter; and

(12) procedures for the preparation and submission of an annual report to the Governor which shall include—

(A) a description of activities conducted during the program year;

(B) characteristics of participants;

(C) the extent to which the activities exceeded or failed to meet relevant performance standards;

(D) the extent to which the service delivery area has met its goals for the training and training-related placement of women in nontraditional employment and apprenticeships; and

(E) a statistical breakdown of women trained and placed in nontraditional occupations, including—

(i) the type of training received, by occupation;

(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

(iii) the participant's age;

(iv) the participant's race; and

(v) information on retention of the participant in nontraditional employment.

[See main volume for text of (c)]

(As amended Pub.L. 100-628, Title VII, § 714(a)(1), Nov. 7, 1988, 102 Stat. 3255; Pub.L. 102-235, § 4, Dec. 12, 1991, 105 Stat. 1807.)

HISTORICAL AND STATUTORY NOTES

Codification

Directory language of section 714(a)(1) of Pub.L. 100-628 calling for the redesignation of par. (11) of subsec. (b) of this section as par. (12) was incapable of literal execution since subsec. (b) of this section had no par. (11).

1988 Amendment

Subsec. (b)(7) to (12). Pub.L. 100-628 added par. (7) and redesignated former pars. (7) to (11) as (8) to (12), respectively.

Effective Date of 1991 Amendment

Section 12 of Pub.L. 102-235 provided that: "This Act and the amendments made by this Act

[enacting section 1737 of this title, amending sections 1503, 1531, 1532, 1533, and 1604 of this title, and enacting provisions set out as notes under sections 1501 and 1737 of this title] shall take effect upon the date of enactment of this Act [Dec. 12, 1991], except that the requirements imposed by sections 4 [amending this section], 5 [amending section 1531 of this title], and 6 [amending section 1532 of this title] of this Act shall apply to the plan or report filed or reviewed for program years beginning on or after July 1, 1992."

Nondiscriminatory Nature of Nontraditional Employment for Women Provisions

Nothing in Pub.L. 102-235 to be construed to require, sanction, or authorize discrimination on

the basis of race, color, religion, sex, national origin, handicap, or age in relation to nontraditional employment of women, see section 11 of Pub.L. 102-235, set out as a note under section 1501 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395. See, also, Pub.L. 102-235, 1991 U.S. Code Cong. and Adm. News, p. —

LIBRARY REFERENCES

Social Security and Public Welfare ◊351.

United States ◊82(2).

C.J.S. Social Security and Public Welfare § 186.

C.J.S. United States § 122.

§ 1516. Performance standards

[See main volume for text of (a)]

(b) Performance criteria for adult training programs, youth programs; general standards; standards relating expenditure to performance

[See main volume for text of (1) to (4)]

(5) The Secretary shall prescribe performance standards under this section for programs authorized by subchapter V of this chapter, relating to the placement of individuals eligible under such subchapter in accordance with the criteria specified in section 1791(j)(c) of this title.

[See main volume for text of (c)]

(d) Later performance standards; report to Congress; variations for special populations and report

[See main volume for text of (1) and (2)]

(3) The Secretary shall prescribe variations in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964, and May 7, 1975, and offenders, taking into account their special circumstances.

[See main volume for text of (4)]

(e) Parameters for variations prescribed by Governor

(1) Each Governor may prescribe, within parameters established by the Secretary, variations in the standards under this subsection and subsection (g) of this section based upon specific economic, geographic, and demographic factors in the State and in substate areas and in service delivery areas within the State, the characteristics of the population to be served, and the type of services to be provided.

(2) The Secretary shall—

(A) provide improved information and technical assistance on performance standards adjustments;

(B) collect data that better specifies hard-to-serve individuals and long-term welfare dependency; and

(C) provide guidance on setting performance goals at the service provider level that encourages increased service to the hard-to-serve, particularly long-term welfare recipients, including title IV of the Social Security Act [42 U.S.C.A. § 601 et seq.] relating to aid to families with dependent children, and title XVI of such Act [42 U.S.C.A. § 1381 et seq.] relating to supplemental security income.

The Secretary shall also reexamine performance standards to ensure that such standards provide maximum flexibility in serving the hard-to-serve, particularly long-term welfare recipients, including title IV of the Social Security Act [42 U.S.C.A. § 601 et seq.] relating to aid to families with dependent children, and title XVI of such Act [42 U.S.C.A. § 1381 et seq.] relating to supplemental security income.

[See main volume for text of (f)]

(g) Performance standards

(1) The Secretary shall prescribe performance standards for programs under subchapter III of this chapter based on placement and retention in unsubsidized employment.

(2) Any performance standard that may be prescribed under paragraph (1) of this subsection shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 1661(c)(e) of this title.

[See main volume for text of (h)]

(As amended Pub.L. 99-496, § 15(b), Oct. 16, 1986, 100 Stat. 1266; Pub.L. 100-628, Title VII, §§ 713(b), 714(b), Nov. 7, 1988, 102 Stat. 3255; Pub.L. 100-418, Title VI, § 6304(a), Aug. 23, 1988, 102 Stat. 1538.)

HISTORICAL AND STATUTORY NOTES

Codification

Pub.L. 100-418, § 6304(a), in subsec. (c)(1) of this section inserted "and in substate areas" following "State" which amendment has been made to "State" the first place it appears to reflect the probable intent of Congress.

1988 Amendments

Subsec. (b)(5). Pub.L. 100-628, § 714(b), added par. (5).

Subsec. (c). Pub.L. 100-628, § 713(b), designated existing provision as par. (1) and added par. (2).

Subsec. (e). Pub.L. 100-418, § 6304(a)(1), added references to subsec. (g) of this section, and substate areas.

Subsec. (g). Pub.L. 100-418, § 6304(a)(2), designated existing provisions as par. (1) and added par. (2).

§ 1517. Selection of service providers

NOTES OF DECISIONS

1. Demonstrated performance

Determination by commissioner of city department of employment to exclude all proprietary institutions from eligibility to receive grants under Job Training Partnership Act, due to alleged abusive practices of proprietary institutions, without reviewing each institution's past performances and

otherwise considering merits of their applications was arbitrary as an abuse of discretion vested in commissioner, and was contrary to Act, which stated that primary consideration in selecting agencies should be "demonstrated performance." SCS Business & Technical Institute, Inc. v. Barrios-Paoli, 1989, 542 N.Y.S.2d 965.

§ 1518. Limitation on certain costs

[See main volume for text of (a) and (b)]

(c) Exceptions: private industry council requests for special circumstances; inclusion in plan; not reviewable by Governor

(1) Notwithstanding subsection (b) of this section, expenditures may be made in excess of the limitation contained in such subsection if such expenditures are made in accordance with the requirements of this subsection.

(2) Expenditures may be made in excess of the limitation contained in subsection (b) of this section in any service delivery area if—

(A) the private industry council for such area initiates a request for such excess costs; and

(B) excess costs are due to one or more of the following conditions in such area:

[See main volume for text of (i)]

(ii) the job training plan for such area proposes to serve a disproportionately high number of participants from groups requiring exceptional supportive service costs, such as handicapped individuals, including disabled veterans, offenders, and single heads of households with dependent children;

[See main volume for text of (iii) to (v), (3) to (5); (d) and (e)]

(As amended Pub.L. 99-496, § 15(c), Oct. 16, 1986, 100 Stat. 1266.)

HISTORICAL AND STATUTORY NOTES

1986 Amendment

Subsec. (c)(2)(B)(ii). Pub.L. 99-496, § 15(c), inserted "; including disabled veterans" after "handicapped individuals".

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552.

PART B—ADDITIONAL STATE RESPONSIBILITIES

§ 1531. Governor's coordination and special services plan

[See main volume for text of (a)]

(b) Plan coordination with State and local services and resources; State goals and criteria; reports of modifications to Secretary

(1) The plan shall establish criteria for coordinating activities under this chapter (including subchapter III of this chapter) with programs and services provided by State and local education and training agencies (including vocational education agencies), public assistance agencies, the employment service, rehabilitation agencies, programs for the homeless, postsecondary institutions, economic development agencies, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State. Such criteria shall not affect local discretion concerning the selection of eligible participants or service providers in accordance with the provisions of sections 1517 and 1603 of this title.

[See main volume for text of (2)]

(3) The plan shall include goals for—

(A) the training of women in nontraditional employment through funds available under this chapter, the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C.A. § 2301 et seq.], and other sources of Federal and State support;

(B) the training-related placement of women in nontraditional employment and apprenticeships;

(C) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities; and

(D) a description of efforts to coordinate activities provided pursuant to this chapter and the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C.A. § 2301 et seq.] to train and place women in nontraditional employment.

(4) The State plan shall include a description of the manner in which the State will encourage the successful carrying out of—

(A) training activities for eligible individuals whose placement is the basis for the payment to the State of the incentive bonus authorized by subchapter V of this chapter; and

(B) the training services, outreach activities, and pre-employment supportive services furnished to such individuals.

(5) The Governor shall report to the Secretary the adjustments made in the performance standards and the factors that are used in making the adjustments.

(6) If major changes occur in labor market conditions, funding, or other factors during the two-year period covered by the plan, the State shall submit a modification to the Secretary describing these changes.

(c) Governor's coordination and special services activities

Governor's coordination and special services activities may include—

[See main volume for text of (1) and (2)]

(3) providing programs and related services for offenders, homeless individuals and other individuals whom the Governor determines require special assistance;

[See main volume for text of (4) to (8)]

(9) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment;

(10) providing preservice and inservice training for planning, management, and delivery staffs of administrative entities and private industry councils, as well as contractors for State supported programs; and

(11) providing statewide programs which provide for joint funding of activities under this chapter with services and activities under other Federal, State, or local employment-related programs, including programs of the Department of Veterans Affairs.

[See main volume for text of (d)]

(As amended Pub.L. 99-496, § 15(d), Oct. 16, 1986, 100 Stat. 1266; Pub.L. 99-570, Title XI, § 11004(a), Oct. 27, 1986, 100 Stat. 3207-168; Pub.L. 100-628, Title VII, § 714(c), Nov. 7, 1988, 102 Stat. 3256; Pub.L. 102-64, § 13(k)(2)(B), June 13, 1991, 105 Stat. 277; Pub.L. 102-235, § 5, Dec. 12, 1991, 105 Stat. 1807.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in subsecs. (a)(2), (b)(1), (3)(A), (D), (c)(10), and (d), was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (b)(3)(A) and (D), is Pub.L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub.L. 98-524, § 1, Oct. 19, 1984, 98 Stat. 2435, which is classified generally to chapter 44 (section 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.

1991 Amendment

Subsec. (c)(10). Pub.L. 102-54 substituted "programs of the Department of Veterans Administration" for "Veterans' Administration programs".

1988 Amendment

Subsec. (b)(3) to (5). Pub.L. 100-628 added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

1986 Amendments

Subsec. (b)(1). Pub.L. 99-570, § 11004(a)(1), added provision relating to programs for the homeless.

Subsec. (c)(3). Pub.L. 99-570, § 11004(a)(2), added reference to homeless individuals.

Subsec. (c)(10). Pub.L. 99-496, added reference to Veterans' Administration programs.

Effective Date of 1991 Amendment

Amendment by section 5 of Pub.L. 102-235 effective Dec. 12, 1991, except that the requirements imposed by section 5 of Pub.L. 102-235 not to apply to the plan or report filed or reviewed for program years beginning on or after July 1, 1992, see section 12 of Pub.L. 102-235, set out as a note under section 1514 of this title.

Nondiscriminatory Nature of Nontraditional Employment for Women Provisions

Nothing in Pub.L. 102-235 to be construed to require, sanction, or authorize discrimination on the basis of race, color, religion, sex, national origin, handicap, or age in relation to nontraditional employment of women, see section 11 of Pub.L. 102-235, set out as a note under section 1501 of this title.

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm.

News, p. 2552. See, also, Pub.L. 100-628, 1988 U.S. Code Cong. and Adm. News, p. 4395; Pub.L. 102-54, 1991 U.S. Code Cong. and Adm. News, p. 128; Pub.L. 102-235, 1991 U.S. Code Cong. and Adm. News, p. —

CODE OF FEDERAL REGULATIONS

State planning procedures and statewide programs, see 29 CFR 627.1 et seq.

§ 1532. State job training coordinating council

(a) Requirement; appointments; composition; meetings; support personnel; limitations; approval by Governor; State Employment and Training and State Manpower Services Councils

[See main volume for text of (1) and (2)]

(3) The State job training coordinating council shall be composed as follows:

(A) Thirty percent of the membership of the State council shall be representatives of business and industry (including agriculture, where appropriate), including individuals who are representatives of business and industry on private industry councils within the State.

(B) Thirty percent of the membership of the State council shall be—

(i) representatives of the State legislature, and State agencies and organizations, such as the State educational agency, the State vocational education board, the State advisory council on vocational education, the State board of education (when not otherwise represented), State public assistance agencies, the State employment security agency, the State rehabilitation agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, State veterans' affairs agencies or equivalent, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State; and

(ii) representatives of the units or consortia of general local government in the State who shall be nominated by the chief elected officials of the units or consortia of units of general local government, and the representatives of local educational agencies who shall be nominated by local educational agencies.

(C) Thirty percent of the membership of the State council shall be representatives of organized labor and representatives of community-based organizations in the State.

(D) Ten percent of the membership of the State council shall be appointed from the general public by the Governor of the State.

[See main volume for text of (4) to (7)]

(b) Duties

The State council shall—

[See main volume for text of (1) to (4)]

(5) review the reports made pursuant to subparagraphs (D) and (E) of section 1514(b)(12) of this title and make recommendations for technical assistance and corrective action, based on the results of such reports;

(6) prepare a summary of the reports made pursuant to subparagraphs (D) and (E) of section 1514(b)(12) of this title detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

(7) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 1533 of this title, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

(8) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C.A. § 2321(b)], obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C.A. § 2301 et seq.], and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

(9) review and comment on the State plan developed for the State employment service agency;

(10) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist service delivery areas in carrying out the purposes of this chapter;

(11)(A) identify, in coordination with the appropriate State agencies, the employment and training and vocational education needs throughout the State, and assess the extent to which employment and training, vocational education, rehabilitation services, public assistance, economic development, and other Federal, State, and local programs and services represent a consistent, integrated, and coordinated approach to meeting such needs; and

(B) comment at least once annually on the the¹ measures taken pursuant to section 113(b)(9) of the Carl D. Perkins Vocational Education Act [20 U.S.C.A. § 2323(b)(9)]; and

(12) review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, the State legislature, the State agencies, and the appropriate Federal agencies on the relevancy and effectiveness of employment and training and related service delivery systems in the State.

[See main volume for text of (c)]

(As amended Pub.L. 100-418, Title VI, § 6304(b), Aug. 23, 1988, 102 Stat. 1538; Pub.L. 102-235, § 6, Dec. 12, 1991, 105 Stat. 1808.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in subsecs. (a)(1), (3)(C), (5), (b)(3), (10), and (c), was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsecs. (b)(8), (11)(B), is Pub.L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub.L. 98-524, § 1, Oct. 19, 1984, 98 Stat. 2435, which is classified generally to chapter 44 (section 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.

1988 Amendment

Subsec. (a)(3). Pub.L. 100-418, § 6304(b), in subpar. (A) decreased percent from one-third to thirty percent and struck out "in the State" following "appropriate"; in subpar. (B) increased percent from not less than 20 percent to thirty percent and restructured provisions into cls. (i) and (ii) and, as so restructured, substantially revised membership requirements, in subpar. (C) increased percent from not less than 20 percent to thirty percent and substituted membership from labor, etc., organizations, for membership from

units of general local government, etc., and in subpar. (D) decreased percent from not less than 20 percent to ten percent and substituted membership from public appointees, for membership out of representatives of the eligible population, and general public, organized labor, etc.

Effective Date of 1991 Amendment

Amendment by section 6 of Pub.L. 102-235 effective Dec. 12, 1991, except that the requirements imposed by section 6 of Pub.L. 102-235 not to apply to the plan or report filed or reviewed for program years beginning on or after July 1, 1992, see section 12 of Pub.L. 102-235, set out as a note under section 1514 of this title.

Effective Date of 1988 Amendment; Transition Provisions

Amendment of section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Nondiscriminatory Nature of Nontraditional Employment for Women Provisions

Nothing in Pub.L. 102-235 to be construed to require, sanction, or authorize discrimination on the basis of race, color, religion, sex, national origin, handicap, or age in relation to nontraditional employment of women, see section 11 of Pub.L. 102-235, set out as a note under section 1501 of this title.

Legislative History

For legislative history and purpose of Pub.L. 102-235, see 1991 U.S. Code Cong. and Adm. News, p. —

§ 1533. State education coordination and grants

(a) Financial assistance to State education agency for services through cooperative agreements

The sums available for this section pursuant to section 1602(b)(1) of this title shall be used by the Governor to provide financial assistance to any State education agency responsible for education and training—

(1) to provide services for eligible participants through cooperative agreements between such State education agency or agencies, administrative entities in service delivery areas in the State, and (where appropriate) local educational agencies;

(2) to facilitate coordination of education and training services for eligible participants through such cooperative agreements;

(3) to provide—

(A) literacy training to youth and adults;

(B) dropout prevention and reenrollment services to youth, giving priority to youth who are at risk of becoming dropouts;

(C) a State-wide school-to-work transition program operated in a manner consistent with section 1605(e) of this title; or

(D) any combination of the activities described in subparagraphs (A), (B), and (C) of this paragraph; and

(4) to provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.

[See main volume for text of (b)]

(c) Required proportions of contribution use

(1) Funds available under this section may be used to provide education and training, including vocational education services, and related services to participants under subchapter II of this chapter. Such services may include services for offenders, veterans, and other individuals whom the Governor determines require special assistance.

(2)(A) Not more than 20 percent of the funds available under this section may be spent for activities described in clause (2) of subsection (a) of this section.

(B) At least 80 percent of the funds available under this section shall be used for clauses (1), (3), and (4) of subsection (a) of this section for the Federal share of the cost of carrying out activities described in such clauses. For the purpose of this subparagraph, the Federal share shall be the amount provided for in the cooperative agreements in subsection (b) of this section.

(3) Not less than 75 percent of the funds available for activities under clauses (1), (3), and (4) of subsection (a) of this section shall be expended for activities for economically disadvantaged individuals.

[See main volume for text of (d)]

(e) Additional funding for programs under other qualifying statutes

(1) Sums available for this section pursuant to section 1602(b)(1) of this title may be used to provide additional funds under an applicable program if—

(A) such programs otherwise meets the requirements of this chapter and the requirements of the applicable program;

(B) such program serves the same individuals that are served under this section;

(C) such program provides services in a coordinated manner with services provided under this section; and

(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources

(2) For purposes of this subsection, the term "applicable program" means any program under any of the following provisions of law:

(A) The Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C.A. § 2301 et seq.].

(B) The Wagner-Peyser Act [29 U.S.C.A. § 49 et seq.].

(As amended Pub.L. 99-496, §§ 3, 15(e), Oct. 16, 1986, 100 Stat. 1261, 1266; Pub.L. 101-392, § 5(a)(1), Sept. 25, 1990, 104 Stat. 758; Pub.L. 102-235, § 7, Dec. 12, 1991, 105 Stat. 1808.)

HISTORICAL AND STATUTORY NOTES

References in Text

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (e)(2), is Pub.L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub.L. 98-524, § 1, Oct. 19, 1984, 98 Stat. 2435, 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 Wagner-Peyser Act, referred to in subsec. (e)(2), is Act June 6, 1933, c.49, 48 Stat. 113, as amended, which is classified principally 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.

1990 Amendment

Subsec. (e). Pub.L. 101-392 added subsec. (e).

1986 Amendment

Subsec. (a)(3). Pub.L. 99-496, § 3(1), added par. (3).

Subsec. (c)(1). Pub.L. 99-496, § 15(e), added reference to veterans.

Subsec. (c)(2)(B). Pub.L. 99-496, § 3(2)(A), inserted reference to cl. (3) of subsec. (a) of this section.

§ 1534. Training programs for older individuals

[See main volume for text of (a)]

(b) Consultations and agreements with Governor

In carrying out this section, the Governor shall, after consultation with appropriate private industry councils and chief elected officials, enter into agreements with public agencies, nonprofit private organizations, including veterans organizations, and private business concerns.

[See main volume for text of (c) and (d)]

(As amended Pub.L. 99-496, § 15(f), Oct. 16, 1986, 100 Stat. 1266.)

HISTORICAL AND STATUTORY NOTES

1986 Amendment

Subsec. (b). Pub.L. 99-496, § 15(f), inserted "including veterans organizations" after "nonprofit private organizations".

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552.

PART C—PROGRAM REQUIREMENTS FOR SERVICE DELIVERY SYSTEM

§ 1551. General program requirements

[See main volume for text of (a) to (d)]

(e) Area eligibility; limited exceptions

Only eligible individuals residing in the service delivery area may be served by employment and training activities funded under subchapter II of this chapter,

Subsec. (c)(3). Pub.L. 99-496, § 3(2)(B), substituted "clauses (1) and (3)" for "clause (1)".

Effective Date of 1991 Amendment

Amendment by Pub.L. 102-235 effective Dec. 12, 1991, see section 12 of Pub.L. 102-235, set out as a note under section 1514 of this title.

Effective Date of 1990 Amendment

Amendment by Pub.L. 101-392 effective July 1, 1991, see section 702(a) of Pub.L. 101-392, set out as a note under section 2301 of Title 20, Education.

Nondiscriminatory Nature of Nontraditional Employment for Women Provisions

Nothing in Pub.L. 102-235 to be construed to require, sanction, or authorize discrimination on the basis of race, color, religion, sex, national origin, handicap, or age in relation to nontraditional employment of women, see section 11 of Pub.L. 102-235, set out as a note under section 1501 of this title.

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 25. See, also, Pub.L. 101-392, 1990 U.S. Code Cong. and Adm. News, p. 1182; Pub.L. 102-235, 1991 U.S. Code Cong. and Adm. News, p. —.

except that the job training plan may provide for limited exceptions to this requirement, including exceptions necessary to permit services to homeless individuals who cannot prove residence within the service delivery area.

[See main volume for text of (f) to (p)]

(As amended Pub.L. 100-77, Title VII, § 740(b), July 22, 1987, 101 Stat. 531.)

HISTORICAL AND STATUTORY NOTES

1987 Amendment

Subsec. (e). Pub.L. 100-77 inserted "including exceptions necessary to permit services to homeless individuals who cannot prove residence within the service delivery area" after "requirement".

Legislative History

For legislative history and purpose of Pub.L. 100-77, see 1987 U.S. Code Cong. and Adm. News, p. 362.

NOTES OF DECISIONS

1. Income

Subsec. (m) of this section authorized retention of income generated under Job Corps program. 1986, 65 Op.Comp.Gen. 666.

§ 1553. Labor standards

LIBRARY REFERENCES

Labor Relations ¶9.5.

C.J.S. Labor Relations § 2.

NOTES OF DECISIONS

Intentional reduction of work force. 1

1. Intentional reduction of work force

Fact that regular work in street department of city could not be met by its single employee, together with city's request for 12 youth training program employees to be assigned to that depart-

ment supported finding that city intentionally reduced its work force in street department through attrition in order to use training program employees to perform regular city services which was violation of JTPA. American Federation of State, County, and Mun. Employees Local 506 v. Private Industry Council of Trumbull County, N.D. Ohio 1990, 748 F.Supp. 1232.

§ 1554. Grievance procedure

CODE OF FEDERAL REGULATIONS

Complaints, investigations and hearings, see 29 CFR 636.1 et seq.

NOTES OF DECISIONS

Private right of action 2 Remedies 1

1. Remedies

City which received financial assistance under Job Training Partnership Act in form of federally subsidized participants who worked in city service departments was a "recipient" under Act subsection requiring each recipient to financial assistance which is an employer of participants to operate or establish or maintain grievance procedure relating to terms and conditions of employment. American Federation of State, County and Mun. Employees Local 506 v. Private Industry Council of Trumbull County, C.A.6 (Ohio) 1991, 942 F.2d 376.

Employee's exclusive remedy against employer based upon alleged breach of duty of good faith and fair dealing was governed by agreement signed by employee, which expressly provided grievance procedure adopted by employer pursuant to Job Training Partnership Act. Clinch v.

Montana AFL-CIO, D.Mont.1986, 633 F.Supp. 872.

2. Private right of action

There is no implied private right of action under Job Training Partnership Act for alleged violations of subsection which protects regular employees from being displaced by Act participants. American Federation of State, County and Mun. Employees Local 506 v. Private Industry Council of Trumbull County, C.A.6 (Ohio) 1991, 942 F.2d 376.

Purpose of Job Training Partnership Act (JTPA) was to provide federal funds to prepare and train youth and unskilled adults for entry into labor force, and, thus, union had implied private right of action to bring suit against city in federal court for alleged use of participants in summer work program authorized by JTPA as substitute for city employees rendering necessary services to city citizens. American Federation of State, County, and Mun. Employees Local 506 v. Pri-

vate Industry Council of Trumbull County,
N.D. Ohio 1990, 748 F.Supp. 1232.

PART D—FEDERAL AND FISCAL ADMINISTRATIVE PROVISIONS

§ 1571. Program year

[See main volume for text of (a)]

(b) Expending of obligated funds

(1) Funds obligated for any program year may be expended by each recipient during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the job training plan.

(2) Notwithstanding paragraph (1), funds obligated for any program year for programs authorized by sections 1732 through 1735 of this title shall remain available until expended.

[See main volume for text of (c)]

(As amended Pub.L. 100-495, § 1, Oct. 17, 1988, 102 Stat. 2454.)

HISTORICAL AND STATUTORY NOTES

1988 Amendment

Subsec. (b). Pub.L. 100-495 designated existing provision as par. (1) and added par. (2).

Effective Date of 1988 Amendment

Section 2 of Pub.L. 100-495 provided that: "The amendments made by this Act [amending

subsec. (b) of this section] shall apply with respect to funds available for expenditure on or after June 30, 1988."

§ 1576. Administrative adjudication

NOTES OF DECISIONS

Applicants entitled to hearing 2
Rules and regulations 1

1. Rules and regulations

Statute, which establishes administrative procedures for review of corrective action or sanction imposed on recipient of Job Training Partnership Act funds and for determination not to award financial assistance to any applicant for financial assistance, was not inconsistent with regulation setting forth requirements for affected party to intervene as of right in administrative proceeding. County of Los Angeles, Service Delivery Area v. U.S. Dept. of Labor, C.A.9, 1989, 891 F.2d 1390.

2. Applicants entitled to hearing

County service delivery area (CSDA) was not entitled to hearing, under statute governing ad-

ministrative adjudication, after grant officer of the Department of Labor disallowed \$3,403,488 of Job Training Partnership Act (JTPA) costs incurred by the CSDA, rejected stand-in costs of \$773,386, and held the state of California liable for repayment of \$1,548,322 in disallowed costs, notwithstanding CSDA's claim that imposition of sanctions on the state was indirect method of imposing sanctions on CSDA and that the implementing regulations required the state to take aggressive debt collection action against subrecipient in the event that subrecipient has misspent JTPA funds; the sanction and request for repayment were directed at the state, and only recipient against whom corrective action or sanction has been imposed was entitled to hearing under the statute. County of Los Angeles, Service Delivery Area v. U.S. Dept. of Labor, C.A.9, 1989, 891 F.2d 1390.

§ 1578. Judicial review

WEST'S FEDERAL FORMS

Supreme Court jurisdiction on certificate, see
§ 321 et seq.

NOTES OF DECISIONS

Determination awarding financial assistance 1
Intervention, persons entitled to 2

1. Determination awarding financial assistance
Tennessee Department of Employment Security, which challenged Secretary of Labor's refusal to grant further funds to complete activities incident to closing out Comprehensive Education and

Training Act program, was "applicant for financial assistance" was given Secretary's "determination not to award financial assistance," and within meaning of statute which limits judicial review of final order by Secretary not to award financial assistance to Court of Appeals. Tennessee Dept. of Employment Sec. v. Secretary of Labor, C.A.6 (Tenn.) 1986, 801 F.2d 170.

2. Intervention, persons entitled to

County service delivery area (CSDA) was entitled to intervene in California's administrative appeal from determination that California was

liable for \$1,548,322 in disallowed Job Training Partnership Act costs incurred by CSDA; CSDA would be directly and adversely affected by California's appeal in that California would seek repayment from the CSDA for funds that the Department of Labor concluded had been misspent by the CSDA, and CSDA would contribute materially to disposition of the proceeding in that virtually all testimony and evidence would be from CSDA records and employees. County of Los Angeles, Service Delivery Area v. U.S. Dept. of Labor, C.A.9, 1989, 891 F.2d 1390.

§ 1579. Administrative provisions

NOTES OF DECISIONS

1. Construction with other laws

Section of Job Training Partnership Act prescribing general procedure for Secretary of Labor to follow in publishing rules did not supersede and negate Administrative Procedure Act provision exempting rules concerning grants from its proce-

dural rule-making requirements; accordingly, JTPA did not require Bureau of Labor Statistics to publish changes in statistical methodology used to determine number of unemployed in county. City of Los Angeles v. McLaughlin, C.A.9 (Cal.) 1989, 865 F.2d 1084.

§ 1580. Utilization of services and facilities

NOTES OF DECISIONS

1. Payments

Since this section authorizes utilization of state services and facilities, payments under agreements

concerning Job Corps programs could properly be made through use of like services or property. 1986, 65 Op.Comp.Gen. 666.

§ 1582. Presidential awards for outstanding private sector involvement in job training programs

(a)(1)(A) The President is authorized to make Presidential awards for outstanding achievement by the private sector in the job training partnership program authorized by this chapter. The President is authorized to make such awards to individuals who, and organizations which, have demonstrated outstanding achievement in planning and administering job training partnership programs or in contributing to the success of the job training partnership program.

(B) In making the awards pursuant to subparagraph (A) of this paragraph, the President shall consider the effectiveness of the program for which the award is made.

(2) The President is authorized to make Presidential awards for model programs in the job training partnership program authorized by this chapter which demonstrate effectiveness in addressing the job training needs of groups of individuals with multiple barriers to employment.

(b)(1) Each year the President is authorized to make such awards under subsection (a) of this section as the President determines will carry out the objectives of this chapter.

(2) The President shall establish such selection procedures, after consultation with the Secretary and the Governors of the States, as may be necessary.

(Pub.L. 97-300, Title I, § 172, as added Pub.L. 99-496, § 4, Oct. 16, 1986, 100 Stat. 1262.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in subsecs. (a)(1)(A), (2) and (b)(1), was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete

classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552.

LIBRARY REFERENCES

- Social Security and Public Welfare ¶241.55 et seq.
 United States ¶82(2).
 WESTLAW Topic Nos. 356A, 393.
- C.J.S. Social Security and Public Welfare § 132.
 C.J.S. United States § 122.

§ 1583. Construction

(a) Eligibility

Nothing in this chapter shall be construed to limit the right of persons to remain eligible for assistance under title XIX of the Social Security Act [42 U.S.C.A. § 1346 et seq.], relating to Medicaid pursuant to section 1619(b) of such Act.

(b) Use of funds

Nothing in this chapter shall be construed to authorize the use of funds under this chapter for the ongoing support services provided to handicapped individuals placed in supported employment, as such term is defined in section 706(18) of this title. (Pub.L. 97-300, Title I, § 172, as added Pub.L. 100-628, Title VII, § 714(e)(1), Nov. 7, 1988, 102 Stat. 3256.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in text, was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

The Social Security Act, referred to in subsec. (a), is Act Aug. 14, 1935, c. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (section 301 et seq.) of Title 42, The Public Health and Welfare. Title XIX of the Social Security Act is classified generally to subchapter XIX (section 1396 et seq.) of chapter 7 of Title 42, and

section 1619(b) of such Act is classified to section 1382h of Title 42. For complete classification of that Act to the Code, see section 1305 of Title 42, and Tables.

Codification

Another section 172 of Pub.L. 97-300, The Job Training Partnership Act, was added by Pub.L. 99-496, § 4, Oct. 16, 1986, 100 Stat. 1262, and has been classified to section 1582 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

LIBRARY REFERENCES

- Social Security and Public Welfare ¶241.55 et seq.
 WESTLAW Topic No. 356A.
- C.J.S. Social Security and Public Welfare §§ 132 to 138.

PART E—MISCELLANEOUS PROVISIONS

§ 1591. Transition

NOTES OF DECISIONS

- Attorney fees 6
 Civil service positions, transfers of 5
 Completion of CETA projects 4
 Savings clause application 7

2. Disallowance of payments

Administrative law judge's dismissal of Indian tribe's request for hearing on final determination that the tribe had misspent or improperly documented CETA program funds, on ground that the motion was untimely, was not an abuse of discretion; the tribe had been given a 30-day period to contest Department of Labor's initial determination and had been informed of 10-day deadline to contest the final determination, yet filed its request for a hearing almost three years

late. *Santee Sioux Tribe of Nebraska v. U.S. Dept. of Labor*, C.A.8, 1985, 780 F.2d 1356.

3. Repayment of funds

Proceedings to recoup mispent CETA funds are not barred if commenced after September 30, 1984; proceedings brought after that date are merely subject to remedial and jurisdictional provisions of JTPA rather than CETA. *Inland Manpower Ass'n v. U.S. Dept. of Labor*, C.A.9, 1989, 882 F.2d 343.

Delay of six years by Secretary of Labor in ordering repayment of mispent Comprehensive Employment and Training Act funds did not require that Secretary's repayment order be overturned; Secretary has wide latitude to recoup CETA funds and city failed to demonstrate that delay prejudiced its ability to defend merits of its

position. *City of Camden, N.J. v. U.S. Dept. of Labor*, C.A.3, 1987, 831 F.2d 449.

4. Completion of CETA projects

Tennessee Department of Employment Security's action, which was brought against Secretary of Labor for refusal to grant further funds to complete activities incident to closing Comprehensive Education and Training Act program and which was brought after effective date of Job Training Partnership Act and after effective date provided for in savings clause of Partnership Act that permits actions brought under Training Act within certain time period to be governed by Training Act, was not governed by Training Act statute which confers exclusive jurisdiction on Courts of Appeals. *Tennessee Dept. of Employment Sec. v. Secretary of Labor*, C.A.6 (Tenn.) 1986, 801 F.2d 170.

5. Civil service positions, transfers of

Finding of bad faith in abolishment of civil service positions under federal Comprehensive Employment and Training Act was not required to be predicated upon political or personal motivation, if all procedural steps were properly taken, and so, finding by hearing officer that Bureau of Employment Services had made transfers, promotions, and lateral transfers to move selected personnel to safety positions prior to effecting job abolishments upon termination of CETA program for replacement by Job Training Partnership Act, unaltered by State Personnel Board of Review, was sufficient for finding of such bad faith. *Blian*

v. Ohio Bureau of Employment Services, 1985, 502 N.E.2d 665, 29 Ohio App.3d 77, 29 O.B.R. 88.

6. Attorney fees

County, which was a grantee of funds under Comprehensive Employment and Training Act, could not use grant funds to pay attorney fees incurred in contesting Secretary of Labor's determination that certain funds paid to county under CETA were subject to recoupment; attorney fees incurred by county during time between grant officer's issuance of final determination on recoupment issue and Secretary's final action were not incurred in administration of grant, but were costs incurred in prosecution of claim against Government. *Oakland County Bd. of Com'rs v. U.S. Dept. of Labor*, C.A.6, 1988, 853 F.2d 439.

7. Savings clause application

Savings clause for continuation of judicial proceedings during period of transition between termination of the Comprehensive Employment and Training Act (CETA) and effective date of the Job Training Partnership Act (JTPA) did not apply to challenge of denial by Department of Labor of administrative costs incurred in resolution of CETA audits and thus, JTPA's 30-day appeal limitation barred judicial review; administrative or judicial proceeding did not begin until nearly six months after cutoff date for application of clause. *Oakland County Bd. of Com'rs v. U.S. Dept. of Labor*, C.A.6, 1991, 926 F.2d 580.

SUBCHAPTER II—TRAINING SERVICES FOR THE DISADVANTAGED

PART A—ADULT AND YOUTH PROGRAMS

§ 1602. Within State allocation

- (a) Percentages of unemployed and economically disadvantaged as share criteria; minimum allocation; definitions

[See main volume for text of (1)]

- (2) Subject to the provisions of paragraph (3), of the amount allocated under this subsection—

[See main volume for text of (A) to (C)]

(3) For fiscal years beginning after September 30, 1986, no service delivery area within any State shall be allocated an amount equal to less than 90 percent of the average of its allocation percentage for the two preceding fiscal years preceding the fiscal year for which the determination is made. The allocation percentage for a service delivery area is the percentage which the service delivery area received of the total amount allocated pursuant to this subsection to all service delivery areas within the State for each preceding fiscal year. If the amounts appropriated pursuant to section 1502(a) and (b) of this title are not sufficient to provide an amount equal to at least 90 percent of such allocation percentages to each such area, the amounts allocated to each area shall be ratably reduced.

- (4) For the purpose of this section—

(A) the term "excess number" means the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area or the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such service delivery area; and

(B) the term "economically disadvantaged" means an individual who has, or is a member of a family which has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level.

- (b) Minimum shares: State education programs, programs relating to training older individuals, incentive grants for programs exceeding performance standards and serving hard-to-serve individuals, data collection system to track postprogram experience, auditing and administration

[See main volume for text of (1) and (2)]

(3)(A) Six percent of such allotment of each State for each fiscal year shall be available to carry out subparagraph (B) of this paragraph.

(B) The amount reserved under subparagraph (A) of this paragraph shall be used by the Governor to provide incentive grants for programs exceeding performance standards, and incentives for serving increased numbers of hard-to-serve individuals, particularly long-term welfare recipients, including title IV of the Social Security Act [42 U.S.C.A. § 601 et seq.], relating to aid to families with dependent children, and title XVI of such Act [42 U.S.C.A. § 1381 et seq.], relating to supplemental security income. The incentive grants made under this subparagraph shall be distributed among service delivery areas within the State exceeding their performance standards in an equitable proportion based on the degree by which the service delivery areas exceed their performance standards. If the full amount reserved under subparagraph (A) of this paragraph is not needed to make incentive grants under this subparagraph, the Governor shall use the amount not so needed for technical assistance to service delivery areas in the State. Funds available under this subparagraph may, without regard to section 1518(a) of this title, be used by the Governor or a service delivery area during not more than two program years to develop and implement a data collection system to track the postprogram experience of participants under this part.

(As amended Pub.L. 99-496, §§ 5(a), 6, Oct. 16, 1986, 100 Stat. 1262; Pub.L. 100-628, Title VII, § 713(a), Nov. 7, 1988, 102 Stat. 3255.)

HISTORICAL AND STATUTORY NOTES

References in Text

The Social Security Act, referred to in subsec. (b)(3)(B), is Act Aug. 14, 1935, c. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (section 301 et seq.) of Title 42, The Public Health and Welfare. Title IV of the Social Security Act is classified generally to subchapter IV (section 601 et seq.) of chapter 7 of Title 42. Title XVI of the Social Security Act is classified generally to subchapter XVI (section 1381 et seq.) of chapter 7 of Title 42. For complete classification of that Act to the Code, see section 1305 of Title 42, and Tables.

1988 Amendment

Subsec. (b)(3)(B). Pub.L. 100-628 substituted "and incentives for serving increased numbers of hard-to-serve individuals, particularly long-term welfare recipients, including title IV of the Social Security Act, relating to aid to families with dependent children, and title XVI of such Act, relating to supplemental security income" for "including incentives for serving hard-to-serve individuals".

1986 Amendment

Subsec. (a)(2). Pub.L. 99-496, § 5(a)(1), substituted "Subject to the provisions of paragraph (3), or" for "Of".

Subsec. (a)(3). Pub.L. 99-496, § 5(a)(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (a)(4). Pub.L. 99-496, § 5(a)(2), redesignated former par. (3) as (4).

Subsec. (b)(3)(B). Pub.L. 99-496, § 6, struck out "which do not qualify for incentive grants under this subparagraph" after "areas in the State" and inserted provision permitting funds available under this subparagraph to be used by the Governor or a service delivery area during not more than two program years to develop and implement a data collection system to track the postprogram experience of participants under this part.

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552. See, also, Pub.L. 100-628, 1988 U.S. Code Cong. and Adm. News, p. 4395.

§ 1603. Eligibility for services

(a) Economic disadvantage or employment barriers as participation requirements

(1) Except as provided in paragraph (2), an individual shall be eligible to participate in programs receiving assistance under this subchapter only if such individual is economically disadvantaged.

(2) Up to 10 percent of the participants in all programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged if such individuals have encountered barriers to employment. Such individuals may include, but are not limited to, those who have limited English-language proficiency, or are displaced homemakers, school dropouts, teenage parents, handicapped, older workers, veterans, offenders, alcoholics, addicts, or homeless.

(b) Youth services minimum; ratio to disadvantaged adults; equitable treatment for recipients of aid to families with dependent children and eligible school dropouts; proportion of public to private sector employment

(1) Funds provided under this part shall be used in accordance with the job training plan to provide authorized services to disadvantaged youth and adults. Except as provided in paragraph (2), not less than 40 percent of the funds available for such services shall be expended to provide such services to eligible youth. For the purpose of the preceding sentence, the term "eligible youth" includes individuals who are 14 and 15 years of age and enrolled in pre-employment skills training.

[See main volume for text of (2) to (4); (c)]

(As amended Pub.L. 99-496, § 7, Oct. 16, 1986, 100 Stat. 1263; Pub.L. 99-570, Title XI, § 11004(b), Oct. 27, 1986, 100 Stat. 3207-169.)

HISTORICAL AND STATUTORY NOTES

1986 Amendments

Subsec. (a)(2). Pub.L. 99-570, § 11004(b), added reference to homeless persons.

Subsec. (b)(1). Pub.L. 99-496, § 7, inserted provision defining the term "eligible youth".

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552.

LAW REVIEW COMMENTARIES

Child care and the law. Kathleen A. Murray.
25 Santa Clara L.Rev. 261 (1985).

LIBRARY REFERENCES

United States ☞82(4).
C.J.S. United States § 122.

§ 1604. Use of funds

(a) Services which may be made available to youth and adults with funds provided under this subchapter may include, but need not be limited to—

- (1) job search assistance,
- (2) job counseling,
- (3) remedial education and basic skills training,
- (4) institutional skill training,
- (5) on-the-job training,

(6) programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment,

(7) training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply,

(8) outreach to make individuals aware of, and encourage the use of employment and training services,

(9) specialized surveys not available through other labor market information sources,

(10) programs to develop work habits and other services to individuals to help them obtain and retain employment,

(11) supportive services necessary to enable individuals to participate in the program and to assist them in retaining employment for not to exceed 6 months following completion of training,

(12) upgrading and retraining,

(13) education-to-work transition activities,

(14) literacy training and bilingual training,

(15) work experience,

(16) vocational exploration,

(17) attainment of certificates of high school equivalency,

(18) job development,

(19) employment generating activities to increase job opportunities for eligible individuals in the area,

(20) pre-apprenticeship programs,

(21) disseminating information on program activities to employers,

(22) use of advanced learning technology for education, job preparation, and skills training,

(23) development of job openings,

(24) on-site industry-specific training programs supportive of industrial and economic development,

(25) followup services with participants placed in unsubsidized employment,

(26) coordinated programs with other Federal employment-related activities,

(27) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment,

(28) needs-based payments necessary to participation in accordance with a locally developed formula or procedure, and

(29) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training.

(b)(1) Funds provided under this subchapter may be used to provide additional funds under an applicable program if—

(A) such program otherwise meets the requirements of this chapter and the requirements of the applicable program;

(B) such program serves the same individuals that are served under this subchapter;

(C) such program provides services in a coordinated manner with services provided under this subchapter; and

(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

(2) For purposes of this subsection, the term "applicable program" means any program under any of the following provisions of law:

(A) The Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C.A. § 2301 et seq.].

(B) The Wagner-Peyser Act [29 U.S.C.A. § 49 et seq.].

(As amended Pub.L. 101-392, § 5(a)(2), Sept. 25, 1990, 104 Stat. 758; Pub.L. 102-235, § 8, Dec. 12, 1991, 105 Stat. 1809.)

HISTORICAL AND STATUTORY NOTES

References in Text

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec.

(b)(2), is Pub.L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub.L. 98-524, § 1, Oct. 19, 1984, 98 Stat. 2435, 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 Wagner-Peyser Act, referred to in subsec. (b)(2), is Act June 6, 1933, c.49, 48 Stat. 113, as amended, which is classified principally 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.

Codification

Amendment by section 8 of Pub.L. 102-235 was executed to subsec. (a) of this section as the probable intent of Congress, despite lack of subsection specification in language directing that such amendment be made to this section.

1990 Amendment

Subsec. (a). Pub.L. 101-392, § 5(a)(2)(A), designated existing provisions as subsec. (a).

Subsec. (b). Pub.L. 101-392, § 5(a)(2)(B), added subsec. (b).

Effective Date of 1991 Amendment

Amendment by Pub.L. 102-235 effective Dec. 12, 1991, see section 12 of Pub.L. 102-235, set out as a note under section 1514 of this title.

Effective Date of 1990 Amendment

Amendment by Pub.L. 101-392 effective July 1, 1991, see section 702(a) of Pub.L. 101-392, set out as a note under section 2301 of Title 20, Education.

Nondiscriminatory Nature of Nontraditional Employment for Women Provisions

Nothing in Pub.L. 102-235 to be construed to require, sanction, or authorize discrimination on the basis of race, color, religion, sex, national origin, handicap, or age in relation to nontraditional employment of women, see section 11 of Pub.L. 102-235, set out as a note under section 1501 of this title.

Legislative History

For legislative history and purpose of Pub.L. 101-392, see 1990 U.S. Code Cong. and Adm. News, p. 1182. See, also, Pub.L. 102-235, 1991 U.S. Code Cong. and Adm. News, p. —

PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

§ 1630. Purpose

The purpose of programs assisted under this part is to—

(1) enhance the basic educational skills of youth;

(2) encourage school completion, or enrollment in supplementary or alternative school programs; and

(3) provide eligible youth with exposure to the world of work.

(Pub.L. 97-300, Title II, § 251, as added Pub.L. 99-496, § 8(a)(2), Oct. 16, 1986, 100 Stat. 1263.)

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552.

§ 1631. Funding

[See main volume for text of (a)]

(b) Allotment among States; allocation among service delivery areas

The remainder of sums appropriated pursuant to section 1502(b) of this title shall be allotted among States in accordance with section 1601(b) of this title and allocated among service delivery areas within States in accordance with section 1602(a)(2), (3), and (4) of this title.

(Pub.L. 97-300, Title II, § 252, formerly § 251, Oct. 13, 1982, 96 Stat. 1364, renumbered § 252 and amended Pub.L. 99-496, §§ 5(b), 8(a)(1), Oct. 16, 1986, 100 Stat. 1262, 1263.)

HISTORICAL AND STATUTORY NOTES

1986 Amendment

Subsec. (b). Pub.L. 99-496, § 5(b), substituted "section 1602(a)(2), (3), and (4)" for "section 1602(a)(2) and (3)".

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552.

§ 1632. Use of funds

(a) Funds available under this part may be used for—

[See main volume for text of (1) and (9)]

(b) A service delivery area shall assess the reading and mathematics skill levels of eligible participants in programs funded by this part and shall expend funds (from this chapter or otherwise available to the service delivery area, or both) for basic and remedial education as described in the job training plan under section 1514 of this title.

(Pub.L. 97-300, Title II, § 253, formerly § 252, Oct. 13, 1982, 96 Stat. 1364, renumbered § 253 and amended Pub.L. 99-496, § 8(a)(1), (b), Oct. 16, 1986, 100 Stat. 1263.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in subsec. (b)(1), was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

§ 1633. Limitations

(a) Summer operation; availability during nonsummer months

Programs under this part shall be conducted during the summer months, except that a service delivery area may, within the jurisdiction of any local educational agency that operates its schools on a year-round, full-time basis, offer the programs under this part to participants during a vacation period treated as the equivalent of a summer vacation.

[See main volume for text of (b) and (c)]

(Pub.L. 97-300, Title II, § 254, formerly § 253, Oct. 13, 1982, 96 Stat. 1364, renumbered § 254 and amended Pub.L. 99-496, §§ 8(a)(1), 9, Oct. 16, 1986, 100 Stat. 1263, 1264.)

HISTORICAL AND STATUTORY NOTES

1986 Amendment

Subsec. (a). Pub.L. 99-496, added provision authorizing the availability of summer youth programs during nonsummer months for participants having a vacation during such period.

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552.

§ 1634. Private industry councils; service delivery areas

(a) Private industry councils established under subchapter I of this chapter, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as private industry councils, chief elected officials, State job training coordinating councils, and Governors have for funds available under part A of this subchapter.

(b) In accordance with the provisions of subsection (a) of this section, each service delivery area shall establish written program goals and objectives which shall be used for evaluating the effectiveness of programs conducted under this part. Such goals and objectives may include—

- (1) improvement in school retention and completion;
- (2) improvement in academic performance, including mathematics and reading comprehension;
- (3) improvement in employability skills; and
- (4) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol prevention and treatment programs.

(Pub.L. 97-300, Title II, § 255, formerly § 254, Oct. 13, 1982, 96 Stat. 1364, renumbered § 255 and amended Pub.L. 99-496, § 8(a)(1), (c), Oct. 16, 1986, 100 Stat. 1263.)

HISTORICAL AND STATUTORY NOTES

Codification

Amendment by section 8(c)(1) of Pub.L. 99-496, designating existing provisions as subsec. (a), has been executed by inserting the designation "(a)" before "Private" rather than "private" as the probable intent of Congress, notwithstanding directory language which, if executed literally, would have required insertion of "(a)" preceding "private industry councils."

1986 Amendment

Subsec. (a). Pub.L. 99-496, § 8(c)(1), designated existing provisions as subsec. (a).

Subsec. (b). Pub.L. 99-496, § 8(c)(2), added subsec. (b).

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552.

SUBCHAPTER III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

§ 1651. Definitions

(a) Dislocated workers

(1) For purposes of this subchapter, the term "eligible dislocated workers" means individuals who—

(A) have been terminated or laid off or who have received a notice of termination or layoff from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

(B) have been terminated or have received a notice of termination of employment, as a result of any permanent closure of or any substantial layoff at a plant, facility, or enterprise;

(C) are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including older individuals who may have substantial barriers to employment by reason of age; or

(D) were self-employed (including farmers and ranchers) and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters, subject to regulations prescribed by the Secretary.

(2) For purposes of this subchapter the term "additional dislocated worker" means a displaced homemaker as that term is defined in section 1503(29) of this title.

(3) The Secretary shall establish categories of self-employed individuals and of economic conditions and natural disasters to which paragraph (1)(D) applies.

(b) Additional definitions

For the purposes of this subchapter—

(1) The term "labor-management committees" means committees voluntarily established to respond to actual or prospective worker dislocation, which ordinarily include (but are not limited to) the following—

(A) shared and equal participation by workers and management;

(B) shared financial participation between the company and the State, using funds provided under this subchapter, in paying for the operating expenses of the committee;

(C) a chairperson, to oversee and guide the activities of the committee, (i) who shall be jointly selected by the labor and management members of the committee, (ii) who is not employed by or under contract with labor or management at the site, and (iii) who shall provide advice and leadership to the committee and prepare a report on its activities;

(D) the ability to respond flexibly to the needs of affected workers by devising and implementing a strategy for assessing the employment and training needs of each dislocated worker and for obtaining the services and assistance necessary to meet those needs;

(E) a formal agreement, terminable at will by the workers or the company management, and terminable for cause by the Governor; and

(F) local job identification activities by the chairman and members of the committee on behalf of the affected workers.

(2) The term "local elected official" means the chief elected executive officer of a unit of general local government in a substate area.

(3) The term "service provider" means a public agency, private nonprofit organization, or private-for-profit entity that delivers educational, training or employment services.

(4) The term "substate area" means that geographic area in a State established pursuant to section 1661a(a) of this title.

(5) The term "substate grantee" means that agency or organization selected to administer programs pursuant to section 1661a(b) of this title.

(6) The term "State" means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub.L. 97-300, Title III, § 301, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1524.)

HISTORICAL AND STATUTORY NOTES

Effective Date; Transition Provisions

Section 6305 of Pub.L. 100-418 provided that:

"(a) General rule.—Except as otherwise provided in this section, the amendments made by sections 6302 [enacting this subchapter and omitting former provisions of this subchapter] and 6304 [amending sections 1516 and 1532 of this title] shall be effective for program years beginning on or after July 1, 1989.

"(b) Program year 1988-1989.—The Secretary of Labor and Governors shall, during the program year beginning July 1, 1988, continue to administer title III of the Job Training Partnership Act [sections 1651 to 1658 of this title] in the same manner as such title was administered during prior program years, except to the extent necessary to provide for an orderly transition to and implementation of the amendments made by this subtitle [see Short Title of 1988 Amendment note set out under section 1501 of this title]. The Secretary and Governors may, for such purposes, use funds appropriated for fiscal year 1989 or any preceding fiscal year to carry out appropriate transition and implementation activities. Such activities may include—

"(1) activities to prevent disruption in the delivery of services to program participants; and

"(2) planning for and implementation of such amendments.

"(c) State job training coordinating council.—A State job training coordinating council shall comply with the changes in membership required by the amendment made by section 6304(b) [amending section 1532(a)(3) of this title] not later than January 1, 1989. Upon certification by the Governor to the Secretary that such changes in membership have been accomplished, such council shall begin to perform the functions specified by section 317 of the Job Training Partnership Act (as amended by this subtitle) [section 1661f of this title].

"(d) Substate areas and grantees.—The designation of substate areas and substate grantees required by the amendment to title III of such Act [this subchapter] shall be completed not later than March 1, 1989.

"(e) Limitation on carry-over of funds.—The provisions of section 303 of such Act (as amended) [section 1653 of this title] shall apply to the program year beginning July 1, 1988, except that, for such program year—

"(1) subsection (b)(1) of such section [section 1653(b)(1) of this title] shall be applied by substituting '30 percent' for '20 percent'; and

"(2) subsection (e) of such section [section 1653(e) of this title] shall be applied by substituting '70 percent' for '80 percent'.

"(f) Regulations.—The Secretary of Labor shall prescribe such regulations as may be required to implement the amendments made by this subtitle not later than November 1, 1988."

Prior Provisions

A prior section, Pub.L. 97-300, Title III, § 301, Oct. 13, 1982, 96 Stat. 1364; Pub.L. 99-496, § 10, Oct. 16, 1986, 100 Stat. 1264, which related to allocation of funds, was omitted in the general revision of this subchapter by Pub.L. 100-418.

Additional Studies

Section 6306(c) of Pub.L. 100-418 provided that:

"The National Commission for Employment Policy shall conduct research related to the provisions of this title [Title VI of Pub.L. 100-418, § 6001 et seq., Aug. 23, 1988, 102 Stat. 1468, for distribution of which see Tables]. Such research shall include examinations of—

"(1) the role of the employment services in implementing programs to enhance services provided under this title, and

"(2) alternative techniques for managing production cutbacks without permanently reducing workforces.

A report on the research conducted under this subsection shall be submitted to the Congress not later than 18 months after the date of enactment of this Act [Aug. 23, 1988]."

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

§ 1652. Allotment

(a) Allotment of funds

From the funds appropriated pursuant to section 1502(c) of this title for any fiscal year, the Secretary shall—

(1) allot 80 percent of such funds in accordance with the provisions of subsection (b) of this section; and

(2) reserve 20 percent for use under part B of this subchapter, subject to the reservation required by subsection (e) of this section.

(b) Allotment among states

(1) Subject to the provisions of paragraph (2), the Secretary shall allot the amount available in each fiscal year under subsection (a)(1) of this section on the basis of the following factors:

(A) One-third of such amount shall be allotted among the States on the basis of the relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

(B) One-third of such amount shall be allotted among the States on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States. For purposes of this paragraph, the term "excess number" means the number which represents unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

(C) One-third of such amount shall be allotted among the States on the basis of the relative number of individuals who have been unemployed for 15 weeks or more and who reside in each State as compared to the total number of such individuals in all the States.

(2) As soon as satisfactory data are available under section 1752(e) of this title, the Secretary shall allot amounts appropriated to carry out part B of this subchapter and this part for any fiscal year to each State so that—

(A) 25 percent of such amount shall be allotted on the basis of each of the factors described in subparagraphs (A), (B), and (C) of paragraph (1), respectively, for a total of 75 percent of the amount allotted; and

(B) 25 percent of such amount shall be allotted among the States on the basis of the relative number of dislocated workers in such State in the most recent period for which satisfactory data are available under section 1752(e) of this title and, when available, under section 1752(f) of this title.

(c) Reservations for state activities and for substate grantees in need

(1) The Governor may reserve not more than 40 percent of the amount allotted to the State under subsection (a)(1) of this section for—

(A) State administration, technical assistance, and coordination of the programs authorized under this subchapter;

(B) statewide, regional, or industrywide projects;

(C) rapid response activities as described in section 1661c(b) of this title;

(D) establishment of coordination between the unemployment compensation system and the worker adjustment program system; and

(E) discretionary allocation for basic readjustment and retraining services to provide additional assistance to areas that experience substantial increases in the number of dislocated workers, to be expended in accordance with the substate plan or modification thereof.

(2) In addition, the Governor may reserve not more than 10 percent of the amount allotted to the State under subsection (a)(1) of this section for allocation among substate grantees. The amount so reserved shall be allocated on the basis of need

and distributed to such grantees not later than 9 months after the beginning of the program year for which the allotment was made.

(d) Within state distribution

The Governor shall allocate the remainder of the amount allotted to the State under this part to substate areas for services authorized in this part, based on an allocation formula prescribed by the Governor. 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. Such information shall include (but is not limited to)—

- (1) insured unemployment data;
- (2) unemployment concentrations;
- (3) plant closing and mass layoff data;
- (4) declining industries data;
- (5) farmer-rancher economic hardship data; and
- (6) long-term unemployment data.

(e) Reservation for the territories

Not more than 0.3 percent of the amounts appropriated pursuant to section 1502(c) of this title and available under subsection (a)(2) of this section for any fiscal year shall be allocated among the Commonwealth of the Northern Mariana Islands and the other territories and possessions of the United States.

(Pub.L. 97-300, Title III, § 302, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1525.)

HISTORICAL AND STATUTORY NOTES

Effective Date; Transition Provisions

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Prior Provisions

A prior section, Pub.L. 97-300, Title III, § 302, Oct. 13, 1982, 96 Stat. 1365; Pub.L.

99-496, § 11, Oct. 16, 1986, 100 Stat. 1264, which related to identification of dislocated workers, was omitted in the general revision of this subchapter by Pub.L. 100-418.

§ 1653. Recapture and reallocation of unexpended funds

(a) General reallocation authority

For program years beginning July 1, 1989, and thereafter, the Secretary shall, in accordance with the requirements of this section, reallocate to eligible States the funds allotted to States from funds appropriated for such program year that are available for reallocation.

(b) Amount available for reallocation

The amount available for reallocation is equal to—

- (1) the amount by which the unexpended balance of the State allotment at the end of the program year prior to the program year for which the determination under this section is made exceeds 20 percent of such allotment for that prior program year; plus
- (2) the unexpended balance of the State allotment from any program year prior to the program year in which there is such excess.

(c) Method of reallocation

(1) The Secretary shall determine the amount that would be allotted to each eligible State by using the factors described in section 1652(b) of this title to allocate among eligible States the amount available pursuant to subsection (b) of this section.

(2) The Secretary shall allot to each eligible high unemployment State the amount determined for that State under the procedure in paragraph (1) of this subsection.

(3) The Secretary shall, by using the factors described in section 1652(b) of this title, allot to eligible States the amount available that remains after the allotment required by paragraph (2) of this subsection.

(d) State procedures with respect to reallocation

The Governor of each State shall prescribe uniform procedures for the expenditure of funds by substate grantees in order to avoid the requirement that funds be made available for reallocation under subsection (b) of this section. The Governor shall further prescribe equitable procedures for making funds available from the State and substate grantees in the event that a State is required to make funds available for reallocation under such subsection.

(e) Definitions

(1) For the purpose of this section, an eligible State means a State which has expended at least 80 percent of its allotment for the program year prior to the program year for which the determination under this section is made.

(2) For the purpose of this section, an eligible high unemployment State means a State—

(A) which meets the requirement in subsection (c)(1) of this section, and

(B) which is among the States which has an unemployment rate greater than the national average unemployment for the most recent 12 months for which satisfactory data are available.

(3) For purposes of this section, funds awarded from discretionary funds of the Secretary shall not be included in calculating any of the reallocations described in this section.

(Pub.L. 97-300, Title III, § 303, as added and amended Pub.L. 100-418, Title VI, §§ 6302(a), 6305(e), Aug. 23, 1988, 102 Stat. 1527, 1540.)

HISTORICAL AND STATUTORY NOTES

Effective Date; Transition Provisions

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Prior Provisions

A prior section 1653, Pub.L. 97-300, Title III, § 303, Oct. 13, 1982, 96 Stat. 1366, related to authorized activities under provisions of former subchapter, and was omitted in the general revision of this subchapter by Pub.L. 100-418.

A prior section 1654, Pub.L. 97-300, Title III, § 304, Oct. 13, 1982, 96 Stat. 1366, related to matching requirements for funds, and was omitted in the general revision of this subchapter by Pub.L. 100-418.

A prior section 1655 Pub.L. 97-300, Title III, § 305, Oct. 13, 1982, 96 Stat. 1367, related to program review, and was omitted in the general revision of this subchapter by Pub.L. 100-418.

A prior section 1656 Pub.L. 97-300, Title III, § 306, Oct. 13, 1982, 96 Stat. 1367, related to consultation with labor organizations, and was omitted in the general revision of this subchapter by Pub.L. 100-418.

A prior section 1657, Pub.L. 97-300, Title III, § 307, Oct. 13, 1982, 96 Stat. 1367, related to limitations on availability of funds, and was omitted in the general revision of this subchapter by Pub.L. 100-418.

A prior section 1658, Pub.L. 97-300, Title III, § 308, Oct. 13, 1982, 96 Stat. 1367, Pub.L. 97-404, § 3, Dec. 31, 1982, 96 Stat. 2026, related to State plans and coordination with other programs, and was omitted in the general revision of this subchapter by Pub.L. 100-418.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

PART A—STATE DELIVERY OF SERVICES

§ 1661. State plan

(a) State plan required

In order to receive an allotment of funds under section 1652(b) of this title, the Governor of a State shall submit to the Secretary, on a biennial basis, a State plan describing in detail the programs and activities that will be assisted with funds provided under this subchapter. The State plan shall be submitted on or before the first day of May immediately preceding the program year for which funds are first to be made available under this subchapter. Such plan shall include incentives to

provide training of greater duration for those who require it, consistent with section 1516(g) of this title.

(b) Contents of plan

Each State plan shall contain provisions demonstrating to the satisfaction of the Secretary that the State will comply with the requirements of this subchapter and that—

(1) services under this subchapter—

(A) will, except as provided in paragraph (4), only be provided to eligible dislocated workers;

(B) will not be denied to an eligible dislocated worker displaced by a permanent closure or substantial layoff within the State, regardless of the State of residence of such worker; and

(C) may be provided to other eligible dislocated workers regardless of the State of residence of such worker;

(2) the State will designate or create an identifiable State dislocated worker unit or office with the capability to respond rapidly, on site, to permanent closures and substantial layoffs throughout the State in order to assess the need for, and initially to provide for, appropriate basic readjustment services;

(3) the State unit will—

(A) make appropriate retraining and basic readjustment services available to eligible dislocated workers through the use of rapid response teams, substate grantees, and other appropriate organizations;

(B) work with employers and labor organizations in promoting labor-management cooperation to achieve the goals of this subchapter;

(C) operate a monitoring, reporting, and management system which provides an adequate information base for effective program management, review, and evaluation; and

(D) provide technical assistance and advice to substate grantees;

(4) the State will provide to additional dislocated workers (as defined in section 1651(a)(2) of this title) the services available under this subchapter to eligible dislocated workers only if the Governor of such State determines that such services may be provided to additional dislocated workers without adversely affecting the delivery of such services to eligible dislocated workers;

(5) the State unit will exchange information and coordinate programs with—

(A) the appropriate economic development agency, for the purpose of developing strategies to avert plant closings or mass layoffs and to accelerate the reemployment of affected individuals;

(B) State education, training, and social services programs; and

(C) all other programs available to assist dislocated workers (including the Job Service and the unemployment insurance system);

(6) the State unit will disseminate throughout the State information on the availability of services and activities under this subchapter;

(7) any program conducted with funds made available under this subchapter which will provide services to a substantial number of members of a labor organization will be established only after full consultation with such labor organization;

(8) the State will not prescribe any standard for the operation of programs under this part that is inconsistent with section 1516(g) of this title;

(9) the State job training coordinating council has reviewed and commented in writing on the plan; and

(10) the delivery of services with funds made available under this subchapter will be integrated or coordinated with services or payments made available under chapter 2 of title II of the Trade Act of 1974 [19 U.S.C.A. § 2771 et seq.] and provided by any State or local agencies designated under section 239 of the Trade Act of 1974 [19 U.S.C.A. § 2311].

(c) Review and approval of state plans

The Secretary shall review any plan submitted under subsection (a) of this section, and any comments thereon submitted by the State job training coordinating council pursuant to subsection (b)(9) of this section, and shall notify a State as to any deficiencies in such plan within 30 days after submission. Unless a State has been so notified, the Secretary shall approve the plan within 45 days after submission. The Secretary shall not finally disapprove the plan of any State except after notice and opportunity for a hearing.

(d) Modifications

Any plan submitted under subsection (a) of this section may be modified to describe changes in or additions to the programs and activities set forth in the plan, except that no such modification shall be effective unless reviewed and approved in accordance with subsection (c) of this section.

(e) Complaint, investigation, penalty

(1) Whenever the Secretary receives a complaint or a report from an aggrieved party or a public official that a State is not complying with the provisions of the State plan required by this section, the Secretary shall investigate such report or complaint.

(2)(A) Whenever the Secretary determines that there has been such a failure to comply and that other remedies under this chapter are not available or are not adequate to achieve compliance, the Secretary may withhold an amount not to exceed 10 percent of the allotment of the State for the fiscal year in which the determination is made for each such violation.

(B) No determination may be made under this paragraph until the State affected is afforded adequate notice and opportunity for a hearing.

(f) Special rule

The provisions of section 1512(h) and 1515(d) of this title, relating to cases in which a service delivery area is a State, shall apply to this subchapter.

(Pub.L. 97-300, Title III, § 311, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1527.)

HISTORICAL AND STATUTORY NOTES

References in Text

The Trade Act of 1974, referred to in subsec. (b)(10), is Pub.L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is classified principally to chapter 12 (section 2101 et seq.) of Title 19, Customs Duties. Chapter 2 of title II and section 239 of the Trade Act of 1974 are classified to sections 2271 et seq. and 2311, respectively, of Title 19. For complete classification of this Act to the Code, see References in Text note set under section 2101 of Title 19 and Tables.

This chapter, referred to in subsec. (c)(2)(A), was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act,

which is classified principally to this chapter (section 1501 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

Effective Date; Transition Provisions

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

LIBRARY REFERENCES

United States ⇐82(4).
C.J.S. United States § 122.

§ 1661a. Substate grantees

(a) Designation of substate areas

(1) The Governor of each State shall, after receiving any recommendations from the State job training coordinating council, designate substate areas for the State.

(2) Each service delivery area within a State shall be included within a substate area and no service delivery area shall be divided among two or more substate areas.

- (3) In making designations of substate areas, the Governor shall consider—
- (A) the availability of services throughout the State;
 - (B) the capability to coordinate the delivery of services with other human services and economic development programs; and
 - (C) the geographic boundaries of labor market areas within the State.
- (4) Subject to paragraphs (2) and (3), the Governor—
- (A) shall designate as a substate area any single service delivery area that has a population of 200,000 or more;
 - (B) shall designate as a substate area any two or more contiguous service delivery areas—
 - (i) that in the aggregate have a population of 200,000 or more; and
 - (ii) that request such designation; and
 - (C) shall designate as a substate area any concentrated employment program grantee for a rural area described in section 1511(a)(4)(A)(iii) of this title.
- (5) The Governor may deny a request for designation under paragraph (4)(B) if the Governor determines that such designation would not be consistent with the effective delivery of services to eligible dislocated workers in various labor market areas (including urban and rural areas) within the State, or would not otherwise be appropriate to carry out the purposes of this subchapter.
- (6) The designations made under this section may not be revised more than once each two years, in accordance with the requirements of this section.

(b) Designation of substate grantees

A substate grantee shall be designated, on a biennial basis, for each substate area. Such substate grantee shall be designated in accordance with an agreement among the Governor, the local elected official or officials of such area, and the private industry council or councils of such area. Whenever a substate area is represented by more than one such official or council, the respective officials and councils shall each designate representatives, in accordance with procedures established by the Governor (after consultation with the State job training coordinating council), to negotiate such agreement. In the event agreement cannot be reached on the selection of a substate grantee, the Governor shall select the substate grantee.

(c) Eligibility

Entities eligible for designation as substate grantees include—

- (1) private industry councils in the substate area;
- (2) service delivery area grant recipients or administrative entities;
- (3) private nonprofit organizations;
- (4) units of general local government in the substate area, or agencies thereof;
- (5) local offices of State agencies; and
- (6) other public agencies, such as community colleges and area vocational schools.

(d) Functions of substate grantees

The substate grantee shall be responsible for providing, within such substate area, services described in section 1661c(c), (d), and (e) of this title pursuant to an agreement with the Governor and in accordance with the State plan under section 1661 of this title and the substate plan under section 1661b of this title. The substate grantee may provide such services directly or through contract, grant, or agreement with service providers.

(e) Applicability of general administrative provisions to substate grantees

The requirements of parts C and D of subchapter I of this chapter that apply to an administrative entity or a recipient of financial assistance under this chapter shall also apply to substate grantees under this subchapter.

(Pub.L. 97-300, Title III, § 312, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1529.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in text, was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

Effective Date; Transition Provisions

Section effective for program years beginning on or after July 1, 1989, except as provided for

therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

§ 1661b. Substate plan

(a) General rule

No amounts appropriated for any fiscal year may be provided to a substate grantee unless the Governor (after considering the recommendations of the State job training coordinating council) has approved a substate plan, or modification thereof, submitted by the substate grantee describing the manner in which activities will be conducted within the substate area. Prior to the submission to the Governor, the plan shall be submitted for review and comment to the other parties to the agreement described in section 1661a(b) of this title.

(b) Contents of substate plan

The substate plan shall contain a statement of—

- (1) the means for delivering services described in section 1661c of this title to eligible dislocated workers;
- (2) the means to be used to identify, select, and verify the eligibility of program participants;
- (3) the means for implementing the requirements of section 1661c(f) of this title;
- (4) the means for involving labor organizations in the development and implementation of services;
- (5) the performance goals to be achieved consistent with the performance goals contained in the State plan pursuant to section 1661(b)(8) of this title;
- (6) procedures, consistent with section 1517 of this title, for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;
- (7) a description of the methods by which the substate grantee will respond expeditiously to worker dislocation where the rapid response assistance required by section 1661c(b) of this title is inappropriate, including worker dislocation in sparsely populated areas, which methods may include (but are not limited to)—
 - (A) development and delivery of widespread outreach mechanisms;
 - (B) provision of financial evaluation and counseling (where appropriate) to assist in determining eligibility for services and the type of services needed;
 - (C) initial assessment and referral for further basic adjustment and training services; and
 - (D) establishment of regional centers for the purpose of providing such outreach, assessment, and early readjustment assistance;
- (8) a description of the methods by which the other parties to the agreement described in section 1661a(b) of this title may be involved in activities of the substate grantee;
- (9) a description of training services to be provided, including—
 - (A) procedures to assess participants' current education skill levels and occupational abilities;
 - (B) procedures to assess participants' needs, including educational, training, employment, and social services;

(C) methods for allocating resources to provide the services recommended by rapid response teams for eligible dislocated workers within the substate area; and

(D) a description of services and activities to be provided in the substate area;

(10) the means whereby coordination with other appropriate programs, services, and systems will be effected, particularly where such coordination is intended to provide access to the services of such other systems for program participants at no cost to the worker readjustment program; and

(11) a detailed budget, as required by the State.

(c) Plan approval

The Governor shall approve or disapprove the plan of a substate grantee in the manner required by section 1515(b)(1), (2), and (3) of this title. If a substate grantee fails to submit a plan, or submits a plan that is not approved by the Governor in accordance with such section, the Governor may direct the expenditure of funds allocated to the substate area until such time as a plan is submitted and approved or a new substate grantee is designated under section 1661a of this title.

(d) By-pass authority

If a substate grantee fails to expend funds allocated to it in accordance with its plan, the Governor may, subject to appropriate notice and opportunity for comment in the manner required by section 1515(b)(1), (2), and (3) of this title, direct the expenditure of funds in accordance with the substate plan until—

(1) the substate grantee corrects the failure,

(2) the substate grantee submits an acceptable modification to its plan pursuant to subsection (a) of this section, or

(3) a new substate grantee is designated under section 1661a of this title.

(Pub.L. 97-800, Title III, § 313, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1531.)

HISTORICAL AND STATUTORY NOTES

Effective Date; Transition Provisions

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

§ 1661c. Use of funds; services to be provided

(a) In general

Funds allotted under section 1652 of this title may be used—

(1) to provide rapid response assistance in accordance with subsection (b) of this section;

(2) to deliver, coordinate, and integrate basic readjustment services and support services in accordance with subsection (c) of this section;

(3) to provide retraining services in accordance with subsection (d) of this section;

(4) to provide needs-related payments in accordance with subsection (e) of this section; and

(5) to provide for coordination with the unemployment compensation system in accordance with subsection (f) of this section.

(b) Rapid response assistance

(1) The dislocated worker unit required by section 1661(b)(2) of this title shall include specialists who may use funds available under this subchapter—

(A) to establish on-site contact with employer and employee representatives within a short period of time (preferably 48 hours or less) after becoming aware of a current or projected permanent closure or substantial layoff in order to—

(i) provide information on and facilitate access to available public programs and services; and

(ii) provide emergency assistance adapted to the particular closure or layoff;

(B) to promote the formation of labor-management committees, by providing—

(i) immediate assistance in the establishment of the labor-management committee, including providing immediate financial assistance to cover the start-up costs of the committee;

(ii) a list of individuals from which the chairperson of the committee may be selected;

(iii) technical advice as well as information on sources of assistance, and liaison with other public and private services and programs; and

(iv) assistance in the selection of worker representatives in the event no union is present;

(C) to collect information related to—

(i) economic dislocation (including potential closings or layoffs); and

(ii) all available resources within the State for displaced workers, which information shall be made available on a regular basis to the Governor and the State job training coordinating council to assist in providing an adequate information base for effective program management, review, and evaluation;

(D) to provide or obtain appropriate financial and technical advice and liaison with economic development agencies and other organizations to assist in efforts to avert worker dislocations;

(E) to disseminate information throughout the State on the availability of services and activities carried out by the dislocated worker unit or office; and

(F) to assist the local community in developing its own coordinated response and in obtaining access to State economic development assistance.

(2) In a situation involving an impending permanent closure or substantial layoff, a State may provide funds, where other public or private resources are not expeditiously available, for a preliminary assessment of the advisability of conducting a comprehensive study exploring the feasibility of having a company or group, including the workers, purchase the plant and continue it in operation.

(c) Basic readjustment services

Funds allotted under section 1652 of this title may be used to provide basic readjustment services to eligible dislocated workers. Subject to limitations set forth in subsection (e) of this section and section 1661d(a) of this title, the services may include (but are not limited to)—

(1) development of individual readjustment plans for participants in programs under this subchapter;

(2) outreach and intake;

(3) early readjustment assistance;

(4) job or career counseling;

(5) testing;

(6) orientation;

(7) assessment, including evaluation of educational attainment and participant interests and aptitudes;

(8) determination of occupational skills;

(9) provision of future world-of-work and occupational information;

(10) job placement assistance;

(11) labor market information;

(12) job clubs;

(13) job search;

(14) job development;

(15) supportive services, including child care, commuting assistance, and financial and personal counseling which shall terminate not later than the 90th

day after the participant has completed other services under this part, except that counseling necessary to assist participants to retain employment shall terminate not later than 6 months following the completion of training;

(16) prelayoff assistance;

(17) relocation assistance; and

(18) programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of closures of plants or facilities.

(d) Retraining services

(1) Funds allotted under section 1652 of this title may be used to provide training services under this part to eligible dislocated workers. Such services may include (but are not limited to)—

(A) classroom training;

(B) occupational skill training;

(C) on-the-job training;

(D) out-of-area job search;

(E) relocation;

(F) basic and remedial education;

(G) literacy and English for non-English speakers training;

(H) entrepreneurial training; and

(I) other appropriate training activities directly related to appropriate employment opportunities in the substate area.

(2) No funds under this part may be expended to provide wages for public service employment.

(e) Needs-related payments

(1) Funds allocated to a substate grantee under section 1652(d) of this title may be used pursuant to a substate plan under section 1661b of this title to provide needs-related payments to an eligible dislocated worker who does not qualify or has ceased to qualify for unemployment compensation, in order to enable such worker to participate in training or education programs under this subchapter. To be eligible for such payments, an eligible dislocated worker who has ceased to qualify for unemployment compensation must have been enrolled in training by the end of the 13th week of the worker's initial unemployment compensation benefit period, or, if later, the end of the 8th week after an employee is informed that a short-term layoff will in fact exceed 6 months.

(2) The level of needs-related payments shall be made available at a level not greater than the higher of—

(A) the applicable level of unemployment compensation; or

(B) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

(f) Coordination with unemployment compensation

Funds allocated to a State under section 1652 of this title may be used for coordination of worker readjustment programs and the unemployment compensation system, consistent with the limitation on administrative expenses in section 1661d of this title. Each State shall be responsible for coordinating the unemployment compensation system and worker readjustment programs within such State.

(g) Joint funding

(1) Funds allotted under section 1652 of this title may be used to provide additional funds under an applicable program if—

(A) such program otherwise meets the requirements of this chapter and the requirements of the applicable program;

(B) such program serves the same individuals that are served under this subchapter;

(C) such program provides services in a coordinated manner with services provided under this subchapter; and

(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

(2) For purposes of this subsection, the term "applicable program" means any program under any of the following provisions of law:

(A) The Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C.A. § 2301 et seq.].

(B) The Wagner-Peyser Act [29 U.S.C.A. § 49 et seq.].

(Pub.L. 97-300, Title III, § 314, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1532, and amended Pub.L. 101-392, § 5(a)(3), Sept. 25, 1990, 104 Stat. 759.)

HISTORICAL AND STATUTORY NOTES

References in Text

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (g)(2), is Pub.L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub.L. 98-524, § 1, Oct. 19, 1984, 98 Stat. 2435, which is classified generally to chapter 44 (§ 2301 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Wagner-Peyser Act, referred to in subsec. (g)(2), is Act June 6, 1933, c.49, 48 Stat. 113, as amended, which is classified principally 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.

1990 Amendment

Subsec. (g). Pub.L. 101-392 added subsec. (g).

Effective Date of 1990 Amendment

Amendment by Pub.L. 101-392 effective July 1, 1991, see section 702(a) of Pub.L. 101-392, set out as a note under section 2301 of Title 20, Education.

Effective Date; Transition Provisions

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547. See, also, Pub.L. 101-392, 1990 U.S. Code Cong. and Adm. News, p. 1182.

§ 1661d. Limitations on uses of funds

(a) Use of funds for retraining services

(1) Not less than 50 percent of the funds expended under this subchapter by any substate grantee shall be expended for retraining services specified under section 1661c(d) of this title.

(2) A substate grantee may apply to the Governor for a waiver of the requirement in paragraph (1). Such waiver may not permit less than 30 percent of the funds to be spent for such retraining services. The waiver may be granted in whole or in part if the substate grantee demonstrates that the worker readjustment program in the area will be consistent with the principle that dislocated workers be prepared for occupations or industries with long-term potential. The Governor shall prescribe criteria for the demonstration required by the previous sentence.

(3) An application for such a waiver shall be submitted at such time and in such form as the Governor may prescribe. The Governor shall provide an opportunity for public comment on the application.

(b) Needs-related payments and supportive services limitation

Not more than 25 percent of the funds expended under this subchapter by any substate grantee or by the Governor may be used to provide needs-related payments and other supportive services.

(c) Administrative cost limitation

Not more than 15 percent of the funds expended under this subchapter by any substate grantee or by the Governor may be expended to cover the administrative cost of programs under this subchapter. For purposes of this subsection, administrative cost does not include the cost of activities under section 1661c(b) of this title.

(Pub.L. 97-300, Title III, § 315, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1535.)

HISTORICAL AND STATUTORY NOTES

Effective Date; Transition Provisions

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

§ 1661e. Retraining services availability

(a) Alternative methods of providing retraining services

A substate grantee may provide retraining services described in section 1661c(d) of this title to an eligible dislocated worker—

- (1) by beginning such services promptly upon the worker's application for the program under this subchapter;
- (2) by deferring the beginning of such services and providing the worker with a certificate of continuing eligibility in accordance with subsection (b)(1) and (2) of this section; or
- (3) by permitting the worker to obtain such services from a service provider using such certificate in accordance with subsection (b)(3) of this section.

(b) Certification of continuing eligibility

(1) A substate grantee may issue to any eligible dislocated worker who has applied for the program authorized in this part a certificate of continuing eligibility. Such a certificate of continuing eligibility may be effective for periods not to exceed 104 weeks. No such certificate shall include any reference to any specific amount of funds. Any such certificate shall state that it is subject to the availability of funds at the time that any such training services are to be provided. Acceptance of such a certificate shall not be deemed to be enrollment in training.

(2) Any individual to whom a certificate of continuing eligibility has been issued under paragraph (1) of this subsection shall remain eligible for the program authorized under this part for the period specified in the certificate, notwithstanding section 1651(a) of this title, and may use the certificate in order to receive the retraining services, subject to the limitations contained in the certificate.

(3) A substate grantee may provide training services through systems that permit eligible dislocated workers to use certificates of continuing eligibility to seek out and arrange their own retraining with service providers approved by that substate grantee. Retraining provided pursuant to the certificate shall be conducted under a grant, contract, or other arrangement between the substate grantee and the service provider.

(Pub.L. 97-300, Title III, § 316, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1535.)

HISTORICAL AND STATUTORY NOTES

Effective Date; Transition Provisions

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

§ 1661f. Functions of State job training coordinating council

For purposes of this subchapter, the State job training coordinating council shall—

- (1) provide advice to the Governor regarding the use of funds under this subchapter, including advice on—
 - (A) the designation of substate areas and substate grantees, and the procedures for the selection of representatives within such areas under section 1661a of this title; and
 - (B) the methods for allocation and reallocation of funds, including the method for distribution of funds reserved under section 1652(c)(2) of this title and funds subject to reallocation under section 1653(d) of this title;
- (2) submit comments to the Governor and the Secretary on the basis of review of the State and substate programs under this subchapter;

(3) review, and submit written comments on, the State plan (and any modification thereof) before its submission under section 1661 of this title;

(4) review, and submit written comments on, each substate plan submitted to the Governor under section 1661b of this title; and

(5) provide advice to the Governor regarding performance standards.

(Pub.L. 97-300, Title III, § 317, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1536.)

HISTORICAL AND STATUTORY NOTES

Effective Date; Transition Provisions

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

PART B—FEDERAL RESPONSIBILITIES

§ 1662. Federal administration

(a) Standards

The Secretary shall promulgate standards for the conduct and evaluation of programs under this subchapter.

(b) By-pass authority

In the event that any State fails to submit a plan that is approved under section 1661 of this title, the Secretary shall use the amount that would be allotted to that State to provide for the delivery in that State of the programs, activities, and services authorized by this subchapter until the State plan is submitted and approved under that section.

(Pub.L. 97-300, Title III, § 321, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1536.)

HISTORICAL AND STATUTORY NOTES

Effective Date; Transition Provisions

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

LIBRARY REFERENCES

United States 41, 82(4).

C.J.S. United States §§ 41, 122.

§ 1662a. Federal delivery of dislocated worker services

(a) General authority

The Secretary shall, with respect to programs required by this subchapter—

- (1) distribute funds to States in accordance with the requirements of section 1652 of this title;
- (2) provide funds to exemplary and demonstration programs on plant closings and worker dislocation;
- (3) otherwise allocate discretionary funds to projects serving workers affected by multi-State or industry-wide dislocations and to areas of special need in a manner that efficiently targets resources to areas of most need, encourages a rapid response to economic dislocations, and promotes the effective use of funds;
- (4) monitor performance and expenditures and annually certify compliance with standards prescribed by the Secretary under section 1516(g) of this title;
- (5) conduct research and serve as a national clearinghouse for gathering and disseminating information on plant closings and worker dislocation; and
- (6) provide technical assistance and staff training services to States, communities, businesses, and unions, as appropriate.

(b) Administrative provisions

The Secretary shall designate or create an identifiable dislocated workers unit or office to coordinate the functions of the Secretary under this subchapter.

(Pub.L. 97-300, Title III, § 322, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1536.)

HISTORICAL AND STATUTORY NOTES**Effective Date; Transition Provisions**

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

§ 1662b. Allowable activities**(a) Circumstances and activities for use of funds**

Amounts reserved for this part under section 1652(a)(2) of this title may be used to provide services of the type described in section 1661c of this title in the following circumstances:

- (1) mass layoffs, including mass layoffs caused by natural disasters or Federal actions (such as relocations of Federal facilities) when the workers are not expected to return to their previous occupations;
- (2) industrywide projects;
- (3) multistate projects;
- (4) special projects carried out through agreements with Indian tribal entities;
- (5) special projects to address national or regional concerns;
- (6) demonstration projects, including the projects described in section 1662c of this title;
- (7) to provide additional financial assistance to programs and activities provided by States and substate grantees under part A of this subchapter; and
- (8) to provide additional assistance under proposals for financial assistance that are submitted to the Secretary and approved by the Secretary after consultation with the Governor of the State in which the project is to operate.

(b) Use of funds in emergencies

Amounts reserved for this part under section 1652(a)(2) of this title may also be used to provide services of the type described in section 1661c of this title whenever the Secretary (with agreement of the Governor) determines that an emergency exists with respect to any particular distressed industry or any particularly distressed area to provide emergency financial assistance to dislocated workers. The Secretary may make arrangements for the immediate provision of such emergency financial assistance for the purposes of this section with any necessary supportive documentation to be submitted at a date agreed to by the Governor and the Secretary.

(c) Staff training and technical assistance

(1) Amounts reserved for this part under section 1652(a)(2) of this title may be used to provide staff training and technical assistance services to States, communities, businesses and labor organizations, and other entities involved in providing adjustment assistance to workers. Applications for technical assistance funds shall be submitted in accordance with procedures issued by the Secretary.

(2) Not more than 5 percent of the funds reserved for this part in any fiscal year shall be used for the purpose of this subsection.

(d) Training of rapid response staffs

Amounts reserved for this part under section 1652(a)(2) of this title shall be used to provide training of staff, including specialists, providing rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees.

(Pub.L. 97-300, Title III, § 323, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1537.)

HISTORICAL AND STATUTORY NOTES**Effective Date; Transition Provisions**

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

§ 1662c. Demonstration programs**(a) Authorized programs**

From the amount reserved for this part under section 1652(a)(2) of this title for the fiscal years 1989, 1990, and 1991, not less than 10 percent of such amount shall be used for demonstration programs. Such demonstration programs may be up to three years in length, and shall include (but not need be limited to) at least two of the following demonstration programs:

- (1) self-employment opportunity demonstration program;
- (2) public works employment demonstration program;
- (3) dislocated farmer demonstration program; and
- (4) job creation demonstration program.

(b) Evaluation and report

The Secretary shall conduct or provide for an evaluation of the success of each demonstration program, and shall prepare and submit to the Congress a report of the evaluation not later than October 1, 1992, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

(Pub.L. 97-300, Title III, § 324, as added Pub.L. 100-418, Title VI, § 6302(a), Aug. 23, 1988, 102 Stat. 1538.)

HISTORICAL AND STATUTORY NOTES**Effective Date; Transition Provisions**

Section effective for program years beginning on or after July 1, 1989, except as provided for therein, see section 6305 of Pub.L. 100-418, set out as a note under section 1651 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

§ 1662d. Defense conversion adjustment program**(a) In general**

From the amount appropriated pursuant to section 4203 of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 [10 U.S.C.A. § 2391 note], the Secretary may make grants to States, substate grantees, employers, employer associations, and representatives of employees to provide training, adjustment assistance, and employment services to eligible employees adversely affected by reductions in expenditures by the United States for defense or by closures of United States military facilities. For purposes of this section, an eligible employee is an eligible dislocated worker as defined in section 1651(a) of this title who has been terminated or laid off, or has received a notice of termination or lay off, as a consequence of reductions in expenditures by the United States for defense or by closures of United States military facilities as determined in accordance with regulations of the Secretary.

(b) Application

In reviewing applications for grants under subsection (a) of this section, the Secretary shall give priority to applications from areas which have the greatest number of eligible employees.

(c) Use of funds

Grants under subsection (a) of this section may be used for any purpose for which funds may be used under section 1661c of this title or this part.

(d) Demonstration projects

In carrying out the grant program established under subsection (a) of this section, the Secretary may make grants to entities referred to in that subsection for the

purpose of developing demonstration projects to encourage and promote innovative responses to the dislocation resulting from reductions in expenditures by the United States for defense or by the closure of United States military installations. Such demonstration projects may include—

- (1) projects to facilitate the placement of eligible employees in occupations experiencing skill shortages that will make use of the skills acquired by the eligible employees during their employment;
- (2) projects to assist in retraining and reorganization efforts designed to avert layoffs that would otherwise occur as a result of such reductions or closures; and
- (3) projects to assist communities in addressing and reducing the impact of such economic dislocation.

(Pub.L. 97-300, Title III, § 325, as added Pub.L. 101-510, Div. D, Title XLII, § 4202, Nov. 5, 1990, 104 Stat. 1852.)

HISTORICAL AND STATUTORY NOTES

References in Text

Section 4203 of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, referred to in subsec. (a), is section 4203 of Pub.L. 101-510, Div. D, Title XLII, Nov. 5, 1990, 104 Stat. 1852, which is set

out as a note under section 2391 of Title 10, Armed Forces.

Legislative History

For legislative history and purpose of Pub.L. 101-510, see 1990 U.S. Code Cong. and Adm. News, p. 2931.

§ 1662e. Clean air employment transition assistance

(a) Determination of eligibility

(1) Definitions

For purposes of this section, the term "eligible individual" means an individual who—

(A) is an eligible dislocated worker, as that term is defined in section 1651(a) of this title, and

(B) has been terminated or laid off, or has received a notice of termination or lay off, as a consequence of compliance with the Clean Air Act [42 U.S.C.A. § 7401 et seq.].

(2) Determinations

The determination of eligibility under paragraph (1)(B) of this subsection shall be made by the Secretary of Labor, pursuant to criteria established by the Secretary, in consultation with the Administrator of the Environmental Protection Agency.

(b) Grants authorized

The Secretary may make grants to States, substate grantees (as defined in section 1661a(c) of this title), employers, employer associations, and representatives of employees—

- (1) to provide training, adjustment assistance, and employment services to eligible individuals adversely affected by compliance with the Clean Air Act [42 U.S.C.A. § 7401 et seq.]; and
- (2) to make needs-related payments to such individuals in accordance with subsection (f) of this section.

(c) Priority and approval

(1) Priority

In reviewing applications for grants under subsection (b) of this section, the Secretary shall give priority to applications proposing to provide training, adjustment assistance, and services in areas which have the greatest number of eligible individuals.

(2) Needs-related payments required

The Secretary shall not approve an application for a grant under subsection (b) of this section unless the application contains assurances that the applicant will use grant funds to provide needs-related payments in accordance with subsection (f) of this section.

(d) Use of funds

Subject to the requirements of subsections (e) and (f) of this section, grants under subsection (b) of this section may be used for any purpose for which funds may be used under section 1661c of this title.

(e) Adjustment assistance

(1) Job search allowance

(A) In general

Grants under subsection (b) of this section for adjustment assistance may be used to provide job search allowances to eligible individuals. Such allowance, if granted, shall provide reimbursement to the individual of not more than 90 percent of the cost of necessary job search expenses, as prescribed by regulations of the Secretary, but may not exceed \$800 unless the need for a greater amount is justified in the application and approved by the Secretary.

(B) Criteria for granting job search allowances

A job search allowance may be granted only—

- (i) to assist an eligible individual who has been totally separated in securing a job within the United States; and
- (ii) where the Secretary determines that such employee cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

(2) Relocation allowance

(A) In general

Grants under subsection (b) of this section for adjustment assistance may be used to provide relocation allowances to eligible individuals. Such an allowance may only be granted to assist an eligible individual in relocating within the United States and only if the Secretary determines that—

- (i) such employee cannot reasonably be expected to secure suitable employment in the commuting area in which the employee resides; and
- (ii) such employee—
 - (I) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the employee wishes to relocate, or has obtained a bona fide offer of such employment, and
 - (II) is totally separated from employment at the time relocation commences.

(B) Amount of relocation allowance

The amount of any relocation allowance for any eligible individual may not exceed the amount which is equal to the sum of—

- (i) 90 percent of the reasonable and necessary expenses, specified in regulations prescribed by the Secretary, incurred in transporting an individual and the individual's family, if any, and household effects, and
- (ii) a lump sum equivalent to 3 times the employee's average weekly wage, up to a maximum payment of \$800, unless the need for a greater amount is justified in the application and approved by the Secretary.

(f) Needs-related payments

The Secretary shall prescribe regulations with respect to the use of funds from grants under subsection (b) of this section for needs-related payments in order to

enable eligible individuals to complete training or education programs under this section. Such regulations shall—

(1) require that such payments shall be provided to an eligible individual only if such individual—

(A) does not qualify or has ceased to qualify for unemployment compensation;

(B) has been enrolled in training by the end of the 13th week of the individual's initial unemployment compensation benefit period, or, if later, the end of the 8th week after an individual is informed that a short-term layoff will in fact exceed 6 months; and

(C) is participating in training or education programs under this section, except that such regulations shall protect an individual from being disqualified pursuant to this clause for a failure to participate that is not the fault of the individual;

(2) provide that to qualify for such payments the individual currently receives, or is a member of a family which currently receives, a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, is not in excess of the lower living standard income level;

(3) provide that the levels of such payments shall be equal to the higher of—

(A) the applicable level of unemployment compensation; or

(B) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget;

(4) provide for the adjustment of payments to reflect changes in total family income; and

(5) provide that the grantee shall obtain information with respect to such income, and changes therein, from the eligible individual.

(g) Administrative expenses

The Secretary of Labor may reserve not more than 5 percent of the funds appropriated under this section for the administration of activities authorized under this section, including the provision of technical assistance for the preparation of grant applications.

(h) Authorization of appropriations

In addition to amounts authorized to be appropriated by section 1502(c) of this title, there are authorized to be appropriated \$50,000,000 for fiscal year 1991, and such sums as may be necessary for each of fiscal years 1992, 1993, 1994, and 1995 to carry out this section. The total amount appropriated for all 5 such fiscal years shall not exceed \$250,000,000. Amounts appropriated pursuant to this subsection shall remain available until expended.

(i) Regulations

The Secretary shall prescribe regulations to carry out this section not later than 180 days after November 15, 1990.

(j) GAO Assessment of effects of Clean Air Act compliance of employment

The Comptroller General of the United States shall—

(1) identify and assess, to the extent possible, the effects on employment that are attributable to compliance with the provisions of the Clean Air Act [42 U.S.C.A. § 7401 et seq.]; and

(2) submit to the Congress on the 4th anniversary of the date of the enactment of this subtitle a written report on the assessments required under paragraph (1).

(Pub.L. 97-300, Title III, § 326, as added Pub.L. 101-549, Title XI, § 1101(a), Nov. 15, 1990, 104 Stat. 2709.)

1. So in original. Probably should be "on".

HISTORICAL AND STATUTORY NOTES

References in Text

The Clean Air Act, referred to in (a)(1)(B), (b)(1)(j) (heading) and (j)(1), is Act July 14, 1955, c. 360, as amended generally by Pub.L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub.L. 95-95, Aug. 7, 1977, 91 Stat. 685 and Pub.L. 101-549, Nov. 15, 1990, 104 Stat. 2399. The Clean Air Act was originally classified to chapter 15B (section 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub.L. 95-95, the Act was reclassified to chapter 85 (section 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

"The date of the enactment of this subtitle", referred to in subsec. (j)(2), probably means the date of the enactment of subtitle D of Pub.L. 100-418, Aug. 23, 1988, 102 Stat. 1524, which enacted this subchapter. Pub.L. 100-418 was approved Aug. 23, 1988.

Effective Date

Section to take effect Nov. 15, 1990, except as otherwise provided, see section 711(b) of Pub.L. 101-549, set out as a note under section 7401 of Title 42, The Public Health and Welfare.

Savings Provisions

Suits, actions or proceedings commenced under chapter 85 (section 7401 et seq.) of Title 42, The Public Health and Welfare, as in effect prior to Nov. 15, 1990, not to abate by reason of the taking effect of amendments by Pub.L. 101-549, except as otherwise provided for, see section 711(a) of Pub.L. 101-549, set out as a note under section 7401 of Title 42.

Legislative History

For legislative history and purpose of Pub.L. 101-549, see 1990 U.S. Code Cong. and Adm. News, p. 3385.

SUBCHAPTER IV—FEDERALLY ADMINISTERED PROGRAMS

PART A—EMPLOYMENT AND TRAINING PROGRAMS FOR NATIVE AMERICANS AND MIGRANT AND SEASONAL FARMWORKERS

§ 1671. Native American programs

LIBRARY REFERENCES

Indians §-6.

C.J.S. Indians § 20 et seq.

§ 1672. Migrant and seasonal farmworker programs

HISTORICAL AND STATUTORY NOTES

Assistance to Low-Income Agricultural Workers

Pub.L. 100-387, Title V, § 503, Aug. 11, 1988, 102 Stat. 960, provided that: "Notwithstanding any other provision of law, for necessary services to be provided by agencies that have received funds under the Job Training Partnership Act [this chapter] to low-income agricultural workers who have been adversely affected by the drought of 1988, not to exceed \$5,000,000 shall be made available to be derived by transfer from the Disaster Relief Program of the Federal Emergency Management Agency. The funds shall be distributed by the Secretary of Labor within 30 days after the date of the enactment of this Act [Aug.

11, 1988] based on an assessment of the number of low-income agricultural workers in each grantee's service delivery area who have lost income or are unable to work due to the drought, including those workers who have stayed at home in anticipation of work shortages. Emergency services to be provided under this section may include all types of assistance that the Secretary determines to be necessary. For the purposes of this section, a low-income agricultural worker receiving assistance must meet the income eligibility requirements of the section 402 program under the Job Training Partnership Act [this section]."

CODE OF FEDERAL REGULATIONS

Financial assistance to state educational agencies, see 34 CFR 201.1 et seq.

NOTES OF DECISIONS

Allocation of funds 1

Arbitrary and capricious determinations 5

Damages 3

Expiration of grant 6

Previous service providers 4

Time of award 2

1. Allocation of funds

Department of Labor's formula for allocating funds under the Job Training Partnership Act among the states to support programs servicing migrant and seasonal farmworkers, which was based on 1980 Census occupational data rather than social security data, conformed to the relevant statutes and to the agency's own regulations and therefore was valid. *California Human De-*

velopment Corp. v. Brock, 1985, 762 F.2d 1044, 246 U.S.App.D.C. 65.

2. — Time of award

Rural development corporations's petition for review of denial of federal grant under Job Training Partnership Act, by Department of Labor, was rendered moot by imminent expiration of grant year, notwithstanding corporation's claim that vindication of its reputation within Department was still open and prevented mootness. North Dakota Rural Development Corp. v. U.S. Dept. of Labor, C.A.8, 1987, 819 F.2d 199.

Even if Department of Labor violated its own regulations in awarding grant for provision of job training services for State's migrant and seasonal farm workers, unsuccessful applicant was not entitled to relief, in that grant period had expired, and Department had policy against providing relief to one improperly denied a grant once the grant period had ended. State of Me. v. U.S. Dept. of Labor, C.A.1, 1985, 770 F.2d 236.

3. Damages

Unsuccessful applicant, which contended its bid to receive grant to provide job training services for State's migrant and seasonal farm workers was improperly denied, was not entitled to receive a special monetary damages remedy, since Court of Appeals had no authority to create such a remedy, alleged improper denial was based on relatively minor violations of Department of Labor regulations, and any damages would likely have to be paid at expense of migrant and seasonal farm workers whom grants were intended to help. State of Me. v. U.S. Dept. of Labor, C.A.1, 1985, 770 F.2d 236.

4. Previous service providers

Neither Job Training Partnership Act, § 402, 29 U.S.C.A. § 1672, nor procedures of Department

of Labor precluded Department, in future close cases, from awarding grant for provision of job training services for State's migrant and seasonal farm workers to bidder which did not achieve highest score given by review panel but had certain advantages as an incumbent service provider. State of Me. v. U.S. Dept. of Labor, C.A.1, 1985, 770 F.2d 236.

5. Arbitrary and capricious determinations

Policy of Department of Labor, denying relief to an applicant who was improperly denied a grant to provide job training services for State's migrant and seasonal farm workers once grant period had ended, was neither arbitrary nor capricious. State of Me. v. U.S. Dept. of Labor, C.A.1, 1985, 770 F.2d 236.

6. Expiration of grant

Regulation promulgated by Department of Labor under Job Training Partnership Act, governing relief for applicant which has been improperly denied funding for employment and training programs for migrant and seasonal farm workers, embodies rational policy against providing relief to an applicant improperly denied a grant once the two-year grant period in question has ended. Campesinos Unidos, Inc. v. U.S. Dept. of Labor, C.A.9 (Cal.) 1986, 803 F.2d 1063.

Court of Appeals could not create some kind of advantage or a direct award in a later grant period, following expiration of subject grant period, for applicant which alleged that its bid to receive grant to provide job training services for State's migrant and seasonal farm workers was denied in violation of Department of Labor regulations, since policy of Department to deny relief to applicant improperly denied a grant once grant period had ended was reasonable and entitled to judicial respect. State of Me. v. U.S. Dept. of Labor, C.A.1, 1985, 770 F.2d 236.

PART B—JOB CORPS

§ 1695. Screening and selection: special limitations

[See main volume for text of (a)]

(b) Enrollees on probation, parole, or supervised release; contact with criminal justice system no bar

An individual on probation, parole, or supervised release may be selected only if release from the supervision of the probation or parole officials is satisfactory to those officials and the Secretary and does not violate applicable laws or regulations. No individual shall be denied a position in the Job Corps solely on the basis of that individual's contact with the criminal justice system.

(As amended Pub.L. 98-473, Title II, § 231, Oct. 12, 1984, 98 Stat. 2031.)

Subsec. (b) of this Section Applicable to Offenses Committed Prior to Nov. 1, 1987

Subsec. (b) of this section as in effect prior to amendment by Pub.L. 98-473 read as follows:

(b) Enrollees on probation or parole; contact with criminal justice system no bar

An individual on probation or parole may be selected only if release from the supervision of the probation or parole officials is satisfactory to those

officials and the Secretary and does not violate applicable laws or regulations. No individual shall be denied a position in the Job Corps solely on the basis of that individual's contact with the criminal justice system.

For applicability of sentencing provisions to offenses, see Effective Date and Savings Provisions, etc., note, section 235 of Pub.L. 98-473 as

amended, set out under section 3551 of Title 18, Crimes and Criminal Procedure.

HISTORICAL AND STATUTORY NOTES

1984 Amendment

Subsec. (b). Pub.L. 98-473 added reference to supervised release.

Effective Date and Savings Provisions of 1984 Amendment

Amendment by Pub.L. 98-473 effective on the first day of first calendar month beginning thirty

six months after Oct. 12, 1984, applicable only to offenses committed after taking effect of sections 211 to 239 of Pub.L. 98-473, and except as otherwise provided for therein, see section 235 of Pub.L. 98-473, as amended, set out as a note under section 3551 of Title 18, Crimes and Criminal Procedure.

§ 1697. Job Corps centers

HISTORICAL AND STATUTORY NOTES

Closing of Job Corps Center

Pub.L. 99-349, Title I, c. VIII, July 2, 1986, 100 Stat. 741, provided that: "No Job Corps

Center operating under part B of title IV of the Job Training Partnership Act [this part] shall be closed prior to July 1, 1987."

§ 1703a. Job Corps centers for homeless families

(a) Authorization

Subject to the availability of appropriations therefor, the Secretary is authorized, in accordance with section 1697 of this title, to provide services and facilities in accordance with this section to eligible homeless individuals and their families at Job Corps centers. Job Corps centers serving homeless individuals and their families shall—

- (1) be residential;
- (2) be operated under a project agreement with one or more State or local agencies that complies with subsection (b) of this section;
- (3) provide room and board for enrollees and their dependents and child care to the extent practicable for dependent children of enrollees; and
- (4) provide enrollees—

(A) program activities that include both activities to sustain the operation of the center and regular Job Corps activities required under section 1698 of this title; and

(B) the benefits and services given to any other enrollee under this part.

(b) Project agreements

Each Job Corps center providing services and facilities to homeless individuals under this section shall provide such services and facilities under a project agreement with one or more State or local agencies that—

- (1) requires such State and local agencies to provide, in the aggregate, not less than 50 percent of the cost of such services and facilities;
- (2) contains provisions to ensure that enrollees and their families are effectively assisted in obtaining all necessary health, education, and social services provided by existing Federal, State, and local programs in such State or locality;
- (3) require such State and local agencies to provide such transitional assistance, including housing, necessary to effect successful job placements for enrollees; and
- (4) contains or is accompanied by such other information and assurances as the Secretary may require.

(c) Eligibility for enrollment

To become an enrollee in the Job Corps at a center established providing services and facilities to homeless individuals under this section, an individual—

- (1) shall qualify as a homeless individual under section 11302 of Title 42;
- (2) may be over the maximum age permitted by section 1693(1) of this title, but shall have not attained the age of 25 at the time of enrollment; and

(3) shall meet the requirements of paragraphs (2) through (5) of section 1693 of this title.

(d) Screening standards

The Secretary shall prescribe special screening standards under sections 1694 and 1695 of this title to identify and select enrollees for purposes of this section.

(e) Evaluation of centers

The Secretary shall, pursuant to section 1734 of this title, conduct evaluations of the centers providing services and facilities to homeless individuals under this section. The Secretary shall submit to the Congress a report on the results of such evaluations, together with the Secretary's recommendations concerning such centers, not later than 3 years after November 29, 1990.

(f) "Family" defined

As used in the section, the term "family" may include, at a minimum, dependent children, and the brothers, sisters and parents of those dependent children.

(Pub.L. 97-300, Title IV, § 433A, as added Pub.L. 101-645, Title IV, § 622, Nov. 29, 1990, 104 Stat. 4744.)

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 101-645, see 1990 U.S. Code Cong. and Adm. News, p. 6398.

LIBRARY REFERENCES

United States ¶82(3.2).
WESTLAW Topic No. 393.
C.J.S. United States § 122.

§ 1707. Special provisions

[See main volume for text of (a) and (b)]

(c) Taxation of Job Corps operations prohibited

Transactions conducted by a private for-profit contractor or a nonprofit contractor in connection with the contractor's operation of a Job Corps Center, program, or activity shall not be considered as generating gross receipts. Such contractors shall not be liable, directly or indirectly, to any State or subdivision thereof (nor to any person acting on behalf thereof) 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 contractor for operating a Job Corps Center, program, or activity. Such contractors shall not be liable to any State or subdivision thereof to collect or pay any sales, excise, use, or similar tax imposed upon the sale to or use by such contractors of any property, service, or other item in connection with the operation of a Job Corps Center, program, or activity.

(As amended Pub.L. 99-496, § 12, Oct. 16, 1986, 100 Stat. 1264.)

HISTORICAL AND STATUTORY NOTES

1986 Amendment

Subsec. (c). Pub.L. 99-496, § 12, expanded provisions to include operation by private for-profit contractors and nonprofit contractors of Job Corps Centers, programs and activities and added provisions prohibiting most State and local taxation of such contractors.

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552.

PART C—VETERANS' EMPLOYMENT PROGRAMS

§ 1721. Programs authorized

[See main volume for text of (a)]

(b) Administration through Assistant Secretary for Veterans Employment and Training; fiscal management; consultation with Secretary of Veterans Affairs and coordination with related programs

(1) The Secretary shall administer programs supported under this part through the Assistant Secretary for Veterans' Employment and Training.

(2) In carrying out responsibilities under this part, the Assistant Secretary for Veterans' Employment and Training shall—

[See main volume for text of (A)]

(B) consult with the Secretary of Veterans Affairs and take steps to ensure that programs supported under this part are coordinated, to the maximum extent feasible, with related programs and activities conducted under Title 38, including programs and activities conducted under subchapter IV of chapter 3 of such title, chapters 31 and 34 of such title, and sections 1712A, 1720A, 3687, and 4103A of such title.

(As amended Pub.L. 99-619, § 2(b)(3), Nov. 6, 1986, 100 Stat. 3491; Pub.L. 102-54, § 13(k)(2)(C), June 13, 1991, 105 Stat. 277; Pub.L. 102-83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406.)

HISTORICAL AND STATUTORY NOTES

1991 Amendments

Subsec. (b)(2)(B). Pub.L. 102-83 substituted "1712A, 1720A, 3687, and 4103A" for "612A, 620A, 1787, and 2003A".

Subsec. (b)(2)(B). Pub.L. 102-54 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

1986 Amendment

Subsec. (b)(1), (2). Pub.L. 99-619, substituted "Assistant Secretary of Labor for Veterans' Employment and Training" for "Assistant Secretary of Labor for Veterans' Employment".

Change of Name

Reference to Administrator of Veterans' Affairs or Veterans' Administration are to be deemed reference to Secretary of Veterans Affairs or Department of Veterans Affairs, as appropriate, pursuant to Pub.L. 100-527, § 10, Oct. 25, 1988, 102 Stat. 2640.

In subsec. (b) "Assistant Secretary for Veterans' Employment" was redesignated "Assistant Secretary for Veterans' Employment and Training" pursuant to Pub.L. 99-619, § 2(b)(3), Nov. 6, 1986, 100 Stat. 3491.

Coordination of Information and Assistance

Pub.L. 100-689, Title IV, § 402, Nov. 18, 1988, 102 Stat. 4178, provided that:

"(a) Purpose.—It is the purpose of this section to ensure that veterans who are dislocated workers eligible for assistance under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or are otherwise unemployed receive, to the extent feasible, assistance (including information on vocational guidance or vocational counseling, or information on both vocational guidance or vocational counseling), including information on counseling, needed by such veterans—

"(1) to apply for services and benefits for which they are eligible as veterans, dislocated workers, or unemployed persons;

"(2) to obtain resolution of questions and problems relating to such services and benefit; and

"(3) to initiate any authorized administrative appeals of determinations or other actions relating to such services and benefits.

"(b) Memorandum of understanding.—(1) Not later than one year after the date of the enactment of this Act [Nov. 18, 1988], the Secretary of Labor and the Administrator of Veterans' Affairs shall enter into a memorandum of understanding to carry out the purpose of this section. The memorandum shall include provisions that define the relationships and responsibilities of the Veterans' Administration, the Department of Labor, and State and local agencies with respect to the provision of the following information, forms, and assistance:

"(A) Information on services and benefits referred to in subsection (d).

"(B) All application forms and related forms necessary for individuals to apply for such services and to claim such benefits.

"(C) Assistance in resolving questions and problems relating to receipt of such services and benefits.

"(D) Assistance in contacting other Federal Government offices and State offices where such services or benefits are provided or administered.

"(2) The memorandum of understanding entered into pursuant to paragraph (1) shall include a provision for the periodic evaluation, by the Secretary of Labor and the Administrator of Veterans' Affairs, of the implementation of their respective responsibilities under such memorandum.

"(c) Coordination of Department of Labor Activities.—The Assistant Secretary of Labor for

Veterans' Employment and Training, in consultation with the office designated or created under section 322(b) of the Job Training Partnership Act [29 U.S.C.A. § 1662a(b)], shall, except as the Secretary of Labor may otherwise direct, coordinate the activities of the components of the Department of Labor performing the responsibilities of the Secretary of Labor under this section.

"(d) **Covered Services and Benefits.**—This section applies with respect to the following services and benefits:

"(1) Employment assistance under—

"(A) part C of title IV of the Job Training Partnership Act (96 Stat. 1380; 29 U.S.C. 1721 et seq.); and

"(B) the Veterans' Job Training Act (97 Stat. 443; 29 U.S.C. 1721 note).

"(2) Employment and training assistance for dislocated workers under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.).

"(3) Employment assistance and unemployment compensation under the trade adjustment assistance program provided in chapter 2 of title II of the Trade Act of 1974 (29 U.S.C. 2271 et seq.) and under any other program administered by the Employment and Training Administration of the Department of Labor.

"(4) Educational assistance under—

"(A) the Adult Education Act (20 U.S.C. 1201 et seq.); and

"(B) chapters 30, 31, 32, 34, and 35 of title 38, United States Code, and chapter 106 of title 10, United States Code.

"(5) Certification of a veteran as a member of a targeted group eligible for the targeted jobs credit determined under section 51 of the Internal Revenue Code of 1986 [26 U.S.C.A. § 51].

"(e) **Definition.**—In this section, the term 'veteran' has the meaning given such term in section 101(2) of title 38, United States Code."

Veterans' Job Training Act

Pub.L. 98-77, Aug. 15, 1983, 97 Stat. 443, as amended by Pub.L. 98-160, Title VII, § 704, Nov. 21, 1983, 97 Stat. 1011; Pub.L. 98-543, Title II, § 212, Oct. 24, 1984, 98 Stat. 2744; Pub.L. 99-108, § 4, Sept. 30, 1985, 99 Stat. 481; Pub.L. 99-238, Title II, § 201(a)(1), (b) to (e), Jan. 13, 1986, 99 Stat. 1767, 1768; Pub.L. 99-619, § 2(b)(3), Nov. 6, 1986, 100 Stat. 3491; Pub.L. 100-77, Title IX, § 901, July 22, 1987, 101 Stat. 538; Pub.L. 100-227, Title II, § 201, Dec. 31, 1987, 101 Stat. 1555; Pub.L. 100-323, §§ 11(a)(1), (2), (3)(B), (4), (b) to (f), 15(b)(2), (c)(2), May 20, 1988, 102 Stat. 567-570, 574; Pub.L. 102-40, Title IV, § 402(d)(2), May 7, 1991, 105 Stat. 239; Pub.L. 102-83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that:

"SHORT TITLE; TABLE OF CONTENTS

"Section 1. This Act [this note] may be cited as the 'Veterans' Job Training Act'.

[See main volume for text of Secs. 2 and 3]

"ESTABLISHMENT OF PROGRAM

"Sec. 4. (a) The Administrator and, to the extent specifically provided by this Act, the Secretary shall carry out a program in accordance with this Act to assist eligible veterans in obtaining

employment through training for employment in stable and permanent positions that involve significant training. The program shall be carried out through payments to employers who employ and train eligible veterans in such jobs in order to assist such employers in defraying the costs of necessary training.

"(b) The Secretary shall carry out the Secretary's responsibilities under this Act through the Assistant Secretary of Labor for Veterans' Employment and Training established under section 4102A of title 38, United States Code [section 4102A of Title 38].

"ELIGIBILITY FOR PROGRAM; DURATION OF ASSISTANCE

"Sec. 5. (a)(1) To be eligible for participation in a job training program under this Act, a veteran must be a Korean conflict or Vietnam-era veteran who—

"(A) is unemployed at the time of applying for participation in a program under this Act; and

"(B) has been unemployed for at least 10 of the 15 weeks immediately preceding the date of such veteran's application for participation in a program under this Act.

[See main volume for text of (2) and (3)]

"(b)(1) A veteran who desires to participate in a program of job training under this Act shall submit to the Administrator an application for participation in such a program. Such an application—

[See main volume for text of (A) and (B), (2)]

"(3)(A) Subject to section 14(c), the Administrator shall certify as eligible for participation under this Act a veteran whose application is approved under this subsection and shall furnish the veteran with a certificate of that veteran's eligibility for presentation to an employer offering a program of job training under this Act. Any such certificate shall expire 90 days after it is furnished to the veteran. The date on which a certificate is furnished to a veteran under this paragraph shall be stated on the certificate.

[See main volume for text of (B)]

"(c) The maximum period of training for which assistance may be provided on behalf of a veteran under this Act is—

"(1) fifteen months in the case of—

"(A) a veteran with a service-connected disability rated at 30 percent or more; or

"(B) a veteran with a service-connected disability rated at 10 percent or 20 percent who has been determined under section 3106 of title 38, United States Code [section 3106 of Title 38], to have a serious employment handicap; and

[See main volume for text of (c)(2); Sec. 6]

"APPROVAL OF EMPLOYER PROGRAMS

[See main volume for text of Sec. 7(a) to (c)]

"(d) An application under subsection (c) shall include a certification by the employer of the following:

[See main volume for text of (1) to (11)]

"(12) That, as applicable, the employer will provide each participating veteran with the full opportunity to participate in a personal interview pursuant to section 14(b)(1)(A) during the veteran's normal workday.

"(13) That the program meets such other criteria as the Administrator may determine are essential for the effective implementation of the program established by this Act.

[See main volume for text of (e) to (g)]

"(h) For the purposes of this section, approval of a program of apprenticeship or other on-job training for the purposes of section 3687 of title 38, United States Code [section 3687 of Title 38], shall be considered to meet all requirements established under the provisions of this Act (other than subsections (b) and (d)(3)) for approval of a program of job training.

"PAYMENTS TO EMPLOYERS; OVERPAYMENT

"Sec. 8. (a)(1) Except as provided in paragraph (3) and subsection (b) and subject to the provisions of section 9, the Administrator shall make quarterly payments to an employer of a veteran participating in an approved program of job training under this Act. Subject to section 5(c) and paragraph (2), the amount paid to an employer on behalf of a veteran for any period of time shall be 50 percent of the product of (A) the starting hourly rate of wages paid to the veteran by the employer (without regard to overtime or premium pay), and (B) the number of hours worked by the veteran during that period.

[See main volume for text of (2) and (3), (b)]

"(c)(1)(A) Whenever the Administrator finds that an overpayment under this Act has been made to an employer on behalf of a veteran as a result of a certification, or information contained in an application, submitted by an employer which was false in any material respect, the amount of such overpayment shall constitute a liability of the employer to the United States.

[See main volume for text of (B), (2) and (3)]

"(4) Any overpayment referred to in paragraph (1) or (2) may be waived, in whole or in part, in accordance with the terms and conditions set forth in section 5302 of title 38, United States Code [section 5302 of Title 38].

[See main volume for text of Sec. 9]

"PROVISION OF TRAINING THROUGH EDUCATIONAL INSTITUTIONS

"Sec. 10. An employer may enter into an agreement with an educational institution that has been approved for the enrollment of veterans under chapter 34 of title 38, United States Code [section 3451 et seq. of Title 38], in order that such institution may provide a program of job training (or a portion of such a program) under this Act. When such an agreement has been

entered into, the application of the employer under section 7 shall so state and shall include a description of the training to be provided under the agreement.

"DISCONTINUANCE OF APPROVAL OF PARTICIPATION IN CERTAIN EMPLOYER PROGRAMS

"Sec. 11. (a) If the Administrator finds at any time that a program of job training previously approved by the Administrator for the purposes of this Act thereafter fails to meet any of the requirements established under this Act, the Administrator may immediately disapprove further participation by veterans in that program. The Administrator shall provide to the employer concerned, and to each veteran participating in the employer's program, a statement of the reasons for, and an opportunity for a hearing with respect to, such disapproval. The employer and each such veteran shall be notified of such disapproval, the reasons for such disapproval, and the opportunity for a hearing. Notification shall be by a certified or registered letter, and a return receipt shall be secured.

"(b)(1) If the Administrator determines that the rate of veterans' successful completion of an employer's programs of job training previously approved by the Administrator for the purposes of this Act is disproportionately low because of deficiencies in the quality of such programs, the Administrator shall disapprove participation in such programs on the part of veterans who had not begun such participation on the date that the employer is notified of the disapproval. In determining whether any such rate is disproportionately low because of such deficiencies, the Administrator shall take into account appropriate data, including—

"(A) the quarterly data provided by the Secretary with respect to the number of veterans who receive counseling in connection with training under this Act, are referred to employers under this Act, participate in job training under this Act, complete such training or do not complete such training, and the reasons for noncompletion; and

"(B) data compiled through the particular employer's compliance surveys.

"(2) With respect to a disapproval under paragraph (1), the Administrator shall provide to the employer concerned the kind of statement, opportunity for hearing, and notice described in subsection (a).

"(3) A disapproval under paragraph (1) shall remain in effect until such time as the Administrator determines that adequate remedial action has been taken.

[See main volume for text of Sec. 12]

"COORDINATION WITH OTHER PROGRAMS

"Sec. 13. (a)(1) Assistance may not be paid under this Act to an employer on behalf of a veteran for any period of time described in paragraph (2) and to such veteran under chapter 31, 32, 34, 35, or 36 of title 38, United States Code [sections 3100 et seq., 3201 et seq., 3451 et seq.,

3500 et seq., or 3670 et seq. of Title 38], for the same period of time.

[See main volume for text of (2); (b) and (c)]

"COUNSELING

"Sec. 14. (a)(1) The Administrator and the Secretary may, upon request, provide employment counseling services to any veteran eligible to participate under this Act in order to assist such veteran in selecting a suitable program of job training under this Act.

"(2) The Administrator shall, after consultation with the Secretary, provide a program of job-readiness skills development and counseling services designed to assist veterans in need of such assistance in finding, applying for, and successfully participating in a suitable program of job training under this Act. As part of providing such services, the Administrator shall coordinate activities, to the extent practicable, with the readjustment counseling program described in section 1712A of title 38, United States Code [section 1712A of Title 38]. The Administrator shall advise veterans participating under this Act of the availability of such services and encourage them to request such services whenever appropriate.

"(b)(1) The Secretary shall provide for a program under which—

"(A) except as provided in paragraph (2), a disabled veteran's outreach program specialist appointed under section 4103A(a) of title 38, United States Code [section 4103A(a) of Title 38], is assigned as a case manager for each veteran participating in a program of job training under this Act;

"(B) the veteran has an in-person interview with the case manager not later than 60 days after entering into a program of training under this Act; and

"(C) periodic (not less frequent than monthly) contact is maintained with each such veteran for the purpose of (i) avoiding unnecessary termination of employment, (ii) referring the veteran to appropriate counseling, if necessary, (iii) facilitating the veteran's successful completion of such program, and (iv) following up with the employer and the veteran in order to determine the veteran's progress in the program and the outcome regarding the veteran's participation in and successful completion of the program.

"(2) No case manager shall be assigned pursuant to paragraph (1)(A)—

"(A) for a veteran if, on the basis of a recommendation made by a disabled veterans' outreach program specialist, the Secretary determines that there is no need for a case manager for such veteran; or

"(B) in the case of the employees of an employer, if the Secretary determines that—

"(i) the employer has an appropriate and effective employee assistance program that is available to all veterans participating in the employer's programs of job training under this Act; or

"(ii) the rate of veterans' successful completion of the employer's programs of job training under this Act, either cumulatively or during the previous program year, is 60 percent or higher.

"(3) The Secretary and the Administrator shall jointly provide, to the extent feasible—

"(A) a program of counseling or other services (to be provided pursuant to subchapter IV of chapter 3 of title 38, United States Code [section 240 et seq. of Title 38], and sections 1712A, 4103A, and 4104 of such title [sections 1712A, 4103A, and 4104 of Title 38]) designed to resolve difficulties that may be encountered by veterans during their training under this Act; and

"(B) a program of information services under which—

"(i) each veteran who enters into a program of job training under this Act and each employer participating under this Act is informed of the supportive services and resources available to the veteran (1) under clauses (A) and (B), (II) through Veterans' Administration counseling and career-development activities (especially, in the case of a Vietnam-era veteran, readjustment counseling services under section 612A of such title) and under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.) [this section], and (III) through other appropriate agencies in the community; and

"(ii) veterans and employers are encouraged to request such services whenever appropriate.

"(c) Before a veteran who voluntarily terminates from a program of job training under this Act or is involuntarily terminated from such program by the employer may be eligible to be provided with a further certificate, or renewal of certification, of eligibility for participation under this Act, such veteran must be provided by the Secretary, after consultation with the Administrator, with a case manager.

"(d) Payments made under this Act pursuant to contracts entered into for the provision of job-readiness skills development and counseling services under subsection (a)(2) may only be paid out of the same account used to make payments under section 3104(a)(7) of title 38, United States Code [section 3104(a)(7) of Title 38], and the amount paid out of such account in any fiscal year for such services shall not exceed an amount equal to 5 percent of the amount obligated to carry out this Act for such fiscal year, except that for fiscal year 1988 the amount shall not exceed 5 percent of the amount available to carry out this Act on October 1, 1987.

"INFORMATION AND OUTREACH; USE OF AGENCY RESOURCES

"Sec. 15. (a)(1) The Administrator and the Secretary shall jointly provide for an outreach and public information program—

"(A) to inform veterans about the employment and job training opportunities available under this Act, under chapters 31, 34, 36, 41, and 42 of title 38, United States Code [sections 3100 et seq., 3451 et seq., 3670 et seq., 4100 et seq., and 4211 et seq. of Title 38], and under other provisions of law; and

[See main volume for text of (B)]

"(2) The Secretary, in consultation with the Administrator, shall promote the development of

employment and job training opportunities for veterans by encouraging potential employers to make programs of job training under this Act available for eligible veterans, by advising other appropriate Federal departments and agencies of the program established by this Act, and by advising employers of applicable responsibilities under chapters 41 and 42 of title 38, United States Code [sections 4100 et seq. and 4211 et seq. of Title 38], with respect to veterans.

"(b) The Administrator and the Secretary shall coordinate the outreach and public information program under subsection (a)(1), and job development activities under subsection (a)(2), with job counseling, placement, job development, and other services provided for under chapters 41 and 42 of title 38, United States Code [sections 4100 et seq. and 4211 et seq. of Title 38], and with other similar services offered by other public agencies and organizations.

[See main volume for text of (c)(1)]

"(2) In carrying out the responsibilities of the Secretary under this Act, the Secretary shall make maximum use of the services of Directors and Assistant Directors for Veterans' Employment and Training, disabled veterans' outreach program specialists, and employees of local offices appointed pursuant to sections 4103, 4103A, and 4104 of title 38, United States Code [sections 4103, 4103A, and 4104 of Title 38]. The Secretary shall also use such resources as are available under part C of title IV [this part] of the Job Training Partnership Act (29 U.S.C. 1501 et seq.) [section 1501 et seq. of this title]. To the extent that the Administrator withholds approval of veterans' applications under this Act pursuant to section 5(b)(2)(B), the Secretary shall take steps to assist such veterans in taking advantage of opportunities that may be available to them under title III of that Act [section 1651 et seq. of this title] or under any other program carried out with funds provided by the Secretary.

[See main volume for text of (d) and (e)]

"(f) The Secretary shall, on a not less frequent than quarterly basis, collect and compile from the heads of State employment services and Directors for Veterans' Employment and Training for each State information available to such heads and Directors, and derived from programs carried out in their respective States, with respect to the numbers of veterans who receive counseling services pursuant to section 14, who are referred to employers participating under this Act, who participate in programs of job training under this Act, and who complete such programs, and the reasons for veterans' noncompletion.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 16. (a) There is authorized to be appropriated to the Veterans' Administration (1) \$150,000,000 for each of fiscal years 1984 and 1985, (2) a total of \$65,000,000 for fiscal years 1986, and 1987, and (3) \$60,000,000 for each of the fiscal years 1988 and 1989 for the purpose of making payments to employers under this Act and for the purpose of section 18 of this Act. Amounts appropriated pursuant to this section shall remain available until September 30, 1991.

"(b) Notwithstanding any other provision of law, any funds appropriated under subsection (a) for any fiscal year which are obligated for the purpose of making payments under section 8 on behalf of a veteran (including funds so obligated which previously had been obligated for such purpose on behalf of another veteran and were thereafter deobligated) and are later deobligated shall immediately upon deobligation become available to the Administrator for obligation for such purpose. The further obligation of such funds by the Administrator for such purpose shall not be delayed, directly or indirectly, in any manner by any officer or employee in the executive branch.

"TIME PERIODS FOR APPLICATION AND INITIATION OF TRAINING

"Sec. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who initially applies for a program of job training under this Act after September 30, 1989; or

"(2) for any such program which begins after March 31, 1990.

"EXPANSION OF TARGETED DELIMITING DATE EXTENSION

"Sec. 18. (a) Subject to the limitation on the availability of funds set forth in subsection (b), an associate degree program which is predominantly vocational in content may be considered by the Administrator, for the purposes of section 3462(a)(3) of title 38, United States Code [section 3462(a)(3) of Title 38], to be a course with an approved vocational objective if such degree program meets the requirements established in such title for approval of such program.

[See main volume for text of (b)]

"EFFECTIVE DATE

[See main volume for text of Sec. 19]

[Section 201(f) of Pub.L. 99-238 provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [amending this note] shall take effect on the date of the enactment of this Act [Jan. 13, 1986].

"(2) The amendment made by subsection (c)(2) [amending section 17(1) of this note] shall take effect on February 1, 1986."

[Amendment by Pub.L. 100-323, § 11, effective on 60th day after May 20, 1988, see section 16(b)(2) of Pub.L. 100-323, set out as a note under section 3104 of Title 38, Veterans' Benefits]

Training and Employment Study and Report

Pub.L. 100-323, § 12, May 20, 1988, 102 Stat. 570, provided that:

"The Administrator of Veterans' Affairs shall provide for a study, based on valid statistical samplings, of the implementation of the Veterans' Job Training Act [this section] and shall transmit, not later than one year after the date of the enactment of this Act [May 20, 1988], a report to the Committees on Veterans' Affairs of the Senate and the House of Representatives containing the findings and conclusions of such study, including, to the extent feasible—

"(1) a listing, by regional office and by State, of the number of veterans placed in a program of job training under the Veterans' Job Training Act [this section] and the percentage that this number represents of the total number of veterans certified (not including renewal of certifications), by regional office and by State, as eligible for participation under such Act;

"(2) a description, by regional office and by State, of the demographic nature (including race, sex, age, educational level, service-connected disability status, income before placement, and income after placement) of veterans placed in a program of job training under such Act;

"(3) a description, by regional office and by State, of the demographic nature (including race, sex, age, educational level, service-connected disability status, and income) of veterans certified as eligible for participation under such Act but not placed in a job training program;

"(4) an analysis of the reasons that veterans certified as eligible for participation have not been placed in a program of job training under such Act;

"(5) a listing, by regional office and by State, of the number of veterans who were certified as eligible for participation under such Act and were not placed in a program of job training under such Act but were later placed in another job training program or employment;

"(6) a description, by regional office and by State, of the rate at which veterans have discontinued participation in, without completing, a

program of job training under such Act, with a separate rate stated for those who discontinued within 3 months after beginning such a program, those who discontinued within 3 to 6 months after such beginning, and those who discontinued within 6 to 9 months after such beginning;

"(7) an analysis of the major reasons for veterans failing to complete such a training program;

"(8) a ranking of the twenty-five categories of employment (by types of business or industry and trade) for which programs of job training have most frequently been denied approval under such Act, with such ranking being made on the basis of the number of denials for each such category; and

"(9) a ranking of the twenty-five categories of employment (by types of business or industry and trade) for which veterans have most frequently received employment as a result of a program of job training under such Act, with such ranking being made on the basis of the number of jobs provided in each such category."

Coordination with Programs Under Other Laws

For provisions requiring coordination of programs under section 3116(b) of Title 38, Veterans' Benefits, with programs under the Veterans' Job Training Act [Pub.L. 98-77, as amended, set out as a note under this section], see section 202 of Pub.L. 99-238, set out as a note under section 3116 of Title 38.

PART D—NATIONAL ACTIVITIES

§ 1733. Pilot projects

(a) Projects for persons requiring special assistance; projects addressing skill shortages affecting critical national objectives; projects for training individuals threatened with loss of jobs due to technological changes, international economic policies or general economic conditions

(1) From funds made available under this part, the Secretary may provide financial assistance for pilot projects which meet the employment-related needs of persons including the handicapped and displaced homemakers who face particular disadvantages in specific and general labor markets or occupations and other persons whom the Secretary determines require special assistance, and projects designed to address skill shortages that affect other critical national objectives, including national security.

(2) From funds made available under this part, the Secretary may provide financial assistance for pilot projects for the training of individuals who are threatened with loss of their jobs due to technological changes, international economic policies or,¹ general economic conditions.

[See main volume for text of (b) to (d)]

(As amended Pub.L. 99-496, § 13, Oct. 16, 1986, 100 Stat. 1265.)

¹ So in original. Comma probably unnecessary.

HISTORICAL AND STATUTORY NOTES

1986 Amendment

Subsec. (a)(1). Pub.L. 99-496, § 13(1), designated existing provisions as par. (1).

Subsec. (a)(2). Pub.L. 99-496, § 13(2), added par. (2).

Legislative History

For legislative history and purpose of Pub.L. 99-496, see 1986 U.S. Code Cong. and Adm. News, p. 2552.

§ 1736. Projects for special populations

In carrying out this part, the Secretary shall include projects designed to serve populations with multiple barriers to employment, such as individuals listed in section 1603(a)(2) of this title and individuals not otherwise targeted for assistance under this chapter with special consideration for displaced homemakers and the handicapped.

(Pub.L. 97-300, Title IV, § 456, as added Pub.L. 99-496, § 14(a), Oct. 16, 1986, 100 Stat. 1265.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the

Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

LIBRARY REFERENCES

United States ⇐82(4).

C.J.S. United States § 122.

§ 1737. Demonstration programs

(a) Placement of women in nontraditional employment; grants

(1) From funds available under this part for each of the fiscal years 1992, 1993, 1994, and 1995, the Secretary shall use \$1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

(2) The Secretary may award no more than 6 grants in each fiscal year.

(b) Factors considered in awarding grants

In awarding grants pursuant to subsection (a) of this section, the Secretary shall consider—

(1) the level of coordination between this chapter and other resources available for training women in nontraditional employment;

(2) the extent of private sector involvement in the development and implementation of training programs under this chapter;

(3) the extent to which the initiatives proposed by a State supplement or build upon existing efforts in a State to train and place women in nontraditional employment;

(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

(6) the extent to which a State is prepared to produce materials that allow for replication of such State's demonstration training programs.

(c) Uses for funds; restriction on award of grant

(1) Each State receiving financial assistance pursuant to this section may use such funds to—

(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontraditional employment.

(2) Each State receiving financial assistance pursuant to subsection (c)(1)(A) of this section may only award grants to—

(A) community based organizations,

(B) educational institutions, or

(C) other service providers.

that have demonstrated success in occupational skills training.

(3) Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

(4) Each State receiving financial assistance pursuant to subsection (c)(1)(B) or (c)(1)(C) of this section may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds under subsection (c)(1)(A) of this section.

(d) Administrative expenses; technical assistance

In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

- (1) pay administrative costs,
- (2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment, or
- (3) provide technical assistance to service providers.

(e) Evaluation

The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the demonstration programs' effectiveness in—

- (1) preparing women for nontraditional employment, and
- (2) developing and replicating approaches to train and place women in nontraditional employment.

(Pub.L. 97-300, Title IV, § 457, as added Pub.L. 102-235, § 9, Dec. 12, 1991, 105 Stat. 1809.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in subsec. (b)(1) and (2), was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq). For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

Effective Date

Section effective Dec. 12, 1991, see section 12 of Pub.L. 102-235, set out as a note under section 1514 of this title.

Nondiscriminatory Nature of Nontraditional Employment for Women Provisions

Nothing in Pub.L. 102-235 to be construed to require, sanction, or authorize discrimination on the basis of race, color, religion, sex, national origin, handicap, or age in relation to nontraditional employment of women, see section 11 of Pub.L. 102-235, set out as a note under section 1501 of this title.

Report and recommendations

Pub.L. 102-235, § 10, Dec. 12, 1991, 105 Stat. 1810, provided that:

"(a) Report.—The Secretary of Labor shall report to the Congress within 5 years of the date of enactment of this Act [Dec. 12, 1991] on—

"(1) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

"(2) the effectiveness of the demonstration programs established by section 457 of the Job Training Partnership Act [this section] in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration programs authorized by section 457 of the Job Training Partnership Act [this section].

"(b) Recommendations.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 457 of the Job Training Partnership Act [this section], as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act [this chapter].

Legislative History

For legislative history and purpose of Pub.L. 102-235, see 1991 U.S. Code Cong. and Adm. News, p. —

PART E—LABOR MARKET INFORMATION

§ 1752. Cooperative labor market information program

[See main volume for text of (a) to (e)]

(f) Data on displaced farmers and ranchers; scope of data; reporting requirements

(1) The Secretary shall develop, in coordination with the Secretary of Agriculture, statistical data relating to permanent dislocation of farmers and ranchers due to farm and ranch failures. Among the data to be included are—

- (A) the number of such farm and ranch failures;
- (B) the number of farmers and ranchers displaced;
- (C) the location of the affected farms and ranches;
- (D) the types of farms and ranches involved; and
- (E) the identification of farm family members, including spouses, and farm workers working the equivalent of a full-time job on the farm who are dislocated by such farm and ranch failures.

(2) The Secretary shall publish a report based upon such data as soon as practicable after the end of each calendar year. Such report shall include a comparison of data contained therein with data currently used by the Bureau of Labor Statistics in determining the Nation's annual employment and unemployment rates and an analysis of whether farmers and ranchers are being adequately counted in such employment statistics. Such report shall also include an analysis of alternative methods for reducing the adverse effects of displacements of farmers and ranchers, not only on the individual farmer or rancher, but on the surrounding community.

(As amended Pub.L. 100-418, Title VI, § 6306(a), Aug. 23, 1988, 102 Stat. 1540.)

HISTORICAL AND STATUTORY NOTES

1988 Amendment

Subsec. (f). Pub.L. 100-418, § 6306(a), added subsec. (f).

Legislative History

For legislative history and purpose of Pub.L. 100-418, see 1988 U.S. Code Cong. and Adm. News, p. 1547.

§ 1753. Special Federal Responsibilities

[See main volume for text of section]

(As amended Pub.L. 99-159, Title VII, § 713(b)(2), Nov. 22, 1985, 99 Stat. 907.)

HISTORICAL AND STATUTORY NOTES

1985 Amendment

Subsec. (a). Pub.L. 99-159 struck out section 4(a)(6)(D) of Pub.L. 98-524 which made an identical amendment to subsec. (a) as section 4(a)(6)(A) of Pub.L. 98-524, thereby requiring no change in text.

Legislative History

For legislative history and purpose of Pub.L. 99-159, see 1985 U.S. Code Cong. and Adm. News, p. 754.

Effective Date of 1985 Amendment

Amendment by Pub.L. 99-159 effective July 1, 1985, see section 714 of Pub.L. 99-159, set out as a note under section 2311 of Title 20, Education.

§ 1755. Job bank program

HISTORICAL AND STATUTORY NOTES

References in Text

References in text to section 2012 of Title 38 to be deemed a reference to section 4212 of Title 38,

pursuant to section 5(c)(2) of Pub.L. 102-83, Aug. 6, 1991, 105 Stat. 406.

PART G—TRAINING TO FULFILL AFFIRMATIVE ACTION OBLIGATIONS

§ 1781. Affirmative action

LIBRARY REFERENCES

Civil Rights ⇨ 9.10.
C.J.S. Civil Rights § 59 et seq.

SUBCHAPTER V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

§ 1791. Statement of purpose

It is the purpose of this subchapter to entitle each State to the payment of a bonus for the successful job placement of certain employable dependent individuals.

(Pub.L. 97-300, Title V, § 501, as added Pub.L. 100-628, Title VII, § 712(a)(3), Nov. 7, 1988, 102 Stat. 3248.)

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

LAW REVIEW COMMENTARIES

AIDS epidemic and the issues in the workplace.
Mary Ann E. Rousseau, 72 Mass.L.Rev. 51 (1987).

§ 1791a. Definitions

For the purpose of this title—

- (1) the term "welfare assistance" means—

(A) cash payments made pursuant to part A of title IV of the Social Security Act [42 U.S.C.A. § 601 et seq.] (relating to the aid to families with dependent children program);

(B) general welfare assistance to Indians, as provided pursuant to the Act of November 2, 1921 (25 U.S.C. (13)), commonly referred to as the Snyder Act; or

(C) cash assistance and medical assistance for refugees made available pursuant to 1522(e) of Title 8;

(2) the term "disability assistance" means benefits offered pursuant to title XVI of the Social Security Act [42 U.S.C.A. § 1381 et seq.] (relating to the supplemental security income program);

(3) the term "long-term recipient" means an individual who has received the benefits described in paragraphs (1) and (2) for 24 months during the 28-month period immediately preceding application for programs offered under this subchapter;

(4) the term "continuous employment" means gainful employment under which wages or salaries are reportable for unemployment insurance purposes, and such wages or salaries are earned during a total of 4 out of 5 consecutive calendar quarters;

(5) the term "supported employment" has the meaning given such term by section 706(18) of this title; and

(6) the term "Federal contribution" means the amount of the Federal component of cash payments to individuals within the participating State under the programs described in this section, including part A of title IV of the Social Security Act.

(Pub.L. 97-300, Title V, § 502, as added Pub.L. 100-628, Title VII, § 712(a)(3), Nov. 7, 1988, 102 Stat. 3248.)

HISTORICAL AND STATUTORY NOTES

References in Text

The Social Security Act, referred to in pars. (1)(A), (2), (6), is Act Aug. 14, 1935, c. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (section 301 et seq.) of Title 42, The Public Health and Welfare. Part A of title IV of the Social Security Act is classified generally to part A (section 601 et seq.) of subchapter IV of chapter 7 of Title 42. Title XVI of the Social Security Act is classified generally to subchapter XVI (section 1381 et seq.) of chapter 7 of Title 42.

For complete classification of that Act to the Code, see section 1305 of Title 42, and Tables.

The Act of November 2, 1921, referred to in par. (1)(B), is Act Nov. 2, 1921, c. 115, 42 Stat. 208, which is classified to section 13 of Title 25, Indians.

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

LIBRARY REFERENCES

Indians ⇨ 7.

Social Security and Public Welfare ⇨ 194 et seq.

United States ⇨ 82(2).

WESTLAW Topic Nos. 209, 356A, 393.

C.J.S. Indians § 22.

C.J.S. Social Security and Public Welfare §§ 113, 114.

C.J.S. United States § 122.

§ 1791b. Eligibility for incentive bonuses

(a) In general

An individual shall be eligible to be counted for the purpose of this subchapter if—

- (1) the individual is—

(A) an eligible long-term recipient described in subsection (b) of this subsection;

(B) an eligible young recipient described in subsection (c) of this subsection;

(C) an eligible blind or disabled recipient described in subsection (d) of this subsection; or

(D) an eligible young blind or disabled recipient described in subsection (e) of this subsection; and

- (2) the individual has met the requirements of section 1791c of this title.

(b) Long-term recipient

An eligible long-term recipient is an individual who—

- (1) is a long-term recipient of welfare assistance;

(2) is the head of a household; and

(3) had no marketable or significant work experience during the year preceding determination of eligibility for programs under this chapter.

(c) Young recipient

An eligible young recipient is an individual who—

- (1) is receiving welfare assistance at the time determination of eligibility is made for programs under this chapter;

(2) is the head of a household;

(3) has not attained 22 years of age;

(4) has not completed secondary school or its equivalent; and

(5) had no marketable or significant work experience during the year preceding determination of eligibility for programs under this chapter.

(d) Blind or disabled recipient

An eligible blind or disabled recipient is an individual who—

- (1) is blind or disabled;

(2) is a long-term recipient of disability assistance; and

(3) had no marketable or significant work experience during the year preceding determination of eligibility for programs offered under this chapter.

(e) Young blind or disabled recipient

An eligible young blind or disabled recipient is an individual who—

- (1) is blind or disabled;
- (2) is receiving disability assistance at the time determination of eligibility is made for programs under this chapter;
- (3) has not attained 22 years of age; and
- (4) had no marketable or significant work experience during the year preceding such determination of eligibility.

(Pub.L. 97-300, Title V, § 503, as added Pub.L. 100-628, Title VII, § 712(a)(3), Nov. 7, 1988, 102 Stat. 3249.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in text, was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete classification of this Act to the

Code, see Short Title note set out under section 1501 of this title and Tables.

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

§ 1791c. Additional eligibility requirements

(a) In general

An individual described in section 1791b of this title may not be considered eligible to be counted for the purpose of payment of an incentive bonus under this subchapter unless such individual—

- (1) has successfully participated in education, training, or other activities offered under this chapter;
- (2) has been placed in (A) unsubsidized, continuous employment or (B) supported employment following such participation;
- (3) receives from such employment a wage or income which is greater than or equal to such individual's placement bonus base; and
- (4) no longer receives cash benefits provided under the assistance programs described in paragraphs (1) and (2) of section 1791a of this title, unless receipt of such benefits—

(A) is limited to 1 calendar quarter (or an equivalent period) during the 5 calendar quarters used to determine continuous employment; and

(B) is caused by a termination of employment due to—

- (i) a layoff or permanent closure of a plant or facility;
- (ii) a relocation of Federal facilities; or
- (iii) a natural disaster.

(b) Qualified earnings

An individual shall be considered to be earning a wage or income which meets the requirements of subsection (a)(3) of this section if, during a period of continuous employment, the individual earns an income reportable for unemployment insurance purposes and does not receive cash benefits under the programs described in section 1791a of this title.

(c) Educational requirements

An individual described in section 1791b(c) or (e) of this title shall be considered to have met the requirements of subsection (a)(1) of this section if the individual no longer receives welfare assistance and—

- (1) reenrolls in secondary school or its equivalent and matriculates to the next grade level or its equivalent within 1 year of enrollment;
- (2) enrolls in an accredited vocational or technical school not less than full time and is making satisfactory progress in a course of study which can reasonably be expected to lead to employment; or

CA

(3) obtains the equivalent of a secondary school diploma within 12 months following the individual's determination of eligibility for programs offered under this subchapter.

(Pub.L. 97-300, Title V, § 504, as added Pub.L. 100-628, Title VII, § 712(a)(3), Nov. 7, 1988, 102 Stat. 3249.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete classification of

this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

§ 1791d. Amount of incentive bonus

(a) In general

The amount of the incentive bonus paid to each State shall be equal to the sum of—

- (1) 75 percent of the placement bonus base for each successful placement in employment of an individual described in section 1791b of this title;
- (2) 75 percent of the placement bonus base for the second continuous year of such employment; and
- (3) 75 percent of the placement bonus base for the third continuous year of such employment,

in excess of the number of such placements made in program year 1987 or such other base period as provided by agreement between the Governor and the Secretary.

(b) Placement bonus base for purposes of section 1791b(b) and (c)

For the purpose of this section, the placement bonus base—

- (1) for an individual who qualifies under section 1791b(b) of this title is equal to the sum of the Federal contribution to amounts received by the individual and the family of such individual under a State plan approved under part A of title IV of the Social Security Act [42 U.S.C.A. § 601 et seq.], relating to aid to families with dependent children, or under section 1522(e) of Title 8, relating to cash assistance and medical assistance to refugees, or both, for the 2 fiscal years prior to the determination made under section 1791b of this title divided by 2; and

- (2) for an individual who qualifies under section 1791b(c) of this title shall be the annual amount to which such individual would have been entitled for 1 year at the time of the determination of eligibility of the individual, if such individual has not received the benefits described in section 1791a(1)(A) of this title for the prior year, under part A of title IV of the Social Security Act [42 U.S.C.A. § 601 et seq.], relating to the aid to families with dependent children program, or section 1522(e) of Title 8 relating to cash assistance and medical assistance to refugees.

(c) Placement bonus base for purposes of section 1791b(d) and (e)

For the purpose of this section, the placement bonus base—

- (1) for an individual who qualifies under section 1791b(d) of this title is equal to the sum of the Federal contribution to amounts received by the individual under title XVI of the Social Security Act [42 U.S.C.A. § 1381 et seq.] relating to supplemental security income for the 2 fiscal years prior to the determination made under section 1791b of this title divided by 2; and

- (2) for an individual who qualifies under section 1791b(e) of this title shall be the annual amount to which such individual would have been entitled for 1 year at the time of the determination of eligibility of the individual, if such individual has not received the benefits described in section 1791a(2) of this title for the

prior year under title XVI of the Social Security Act [42 U.S.C.A. § 1381 et seq.], relating to supplemental security income.

(Pub.L. 97-300, Title V, § 505, as added Pub.L. 100-628, Title VII, § 712(a)(3), Nov. 7, 1988, 102 Stat. 3250.)

HISTORICAL AND STATUTORY NOTES

References in Text

The Social Security Act, referred to in subsecs. (b) and (c), is Act Aug. 14, 1935, c. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (section 301 et seq.) of Title 42, The Public Health and Welfare. Part A of Title IV of the Social Security Act is classified generally to part A (section 601 et seq.) of subchapter IV of chapter 7 of Title 42. Title XVI of the Social Security Act is classified generally to subchapter XVI (section 1381 et seq.) of chapter 7 of Title 42. For complete classification of that Act to the Code, see section 1305 of Title 42, and Tables.

Codification

A prior section 505 of Pub.L. 97-300, The Job Training Partnership Act, was added by Pub.L. 100-418, Title VI, § 6307(a), Aug. 23, 1988, 102 Stat. 1541, which was classified to section 1505 of this title.

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

§ 1791e. Applications and verification required

(a) Notice of intent to participate

Any State seeking to participate in the incentive bonus program established under this subchapter shall notify the Secretary of its intent to do so not later than 30 days before the beginning of its first program year of participation.

(b) Application

(1) Any State seeking to receive an incentive bonus under this subchapter shall submit an application to the Secretary. Such application shall contain or be accompanied by such information and assurances as the Secretary may reasonably require in order to ensure compliance with this subchapter. Each application shall contain, at a minimum—

(A) the placement bonus base for eligible individuals who serve to qualify the State for an incentive bonus; and

(B)(i) a brief description of the unsubsidized employment or supported employment of such individuals; or

(ii) a description of participation in educational activities, as permitted under section 1791c of this title, by such individuals.

(2) The application to participate in the incentive bonus program shall be submitted to the Secretary according to a schedule established by the Secretary in order to facilitate and expedite the processing, verification, and prompt payment of incentive bonuses.

(c) Notice of approval or denial

The Secretary shall inform a State within 60 days after receipt of the application as to whether or not its application has been approved. The Secretary may not approve an application for payment of an incentive bonus without adequately verifying the accuracy of the information contained in the application. There shall be a rebuttable presumption that an individual is eligible to be counted for the purpose of payment of an incentive bonus under this subchapter. When appropriate, the Secretary may use a sampling methodology for such verifications in a manner approved by the Comptroller General of the United States.

(d) Service delivery area participation

Participation by a State in the incentive bonus program established under this subchapter shall not prevent any service delivery area within the State from refusing to participate in such program.

(Pub.L. 97-300, Title V, § 506, as added Pub.L. 100-628, Title VII, § 712(a)(3), Nov. 7, 1988, 102 Stat. 3251.)

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

§ 1791f. Payments

(a) In general

For each program year for which funds are appropriated to carry out this subchapter, the Secretary shall pay to each participating State the amount that State is eligible to receive under this section.

(b) Ratable reductions

If the amount so appropriated is not sufficient to pay to each State the amount each State is eligible to receive, the Secretary shall ratably reduce the amount paid to each State.

(c) Ratable increases

If any additional amount is made available for carrying out this subchapter for any program year after the application of the preceding sentence, such additional amount shall be allocated among the States by increasing such payments in the same manner as they were reduced, except that no such State shall be paid an amount which exceeds the amount which it is eligible to receive under this section.

(Pub.L. 97-300, Title V, § 507, as added Pub.L. 100-628, Title VII, § 712(a)(3), Nov. 7, 1988, 102 Stat. 3252.)

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

§ 1791g. Use of incentive bonus funds

(a) Use of incentive bonus funds

After submission and approval of an application for an incentive bonus payment and before receipt of such payment, the Governor of such State may reserve from State funds an amount equal to the amount of a bonus incentive requested in the application for the purpose of making expenditures in accordance with this subchapter. Bonus payments received thereafter may be used for reimbursement of such expenditures.

(b) Limitations

(1)(A) During any program year, the Governor may use an amount not to exceed 15 percent of the State's total bonus payments or amounts reserved under subsection (a) of this section for administrative costs incurred under this subchapter, including data and information collection and compilation, recordkeeping, or the preparation of applications for incentive bonuses.

(B) The amount of incentive bonus payments or the amounts reserved under subsection (a) of this section which remain after the deduction of administrative expenses under paragraph (1) shall be distributed to service delivery areas within the State in accordance with an agreement between the Governor and representatives of such areas. Such agreement shall reflect an equitable method of distribution which is based on the degree to which the efforts of such area contributed to the State's qualification for an incentive bonus payment under this subchapter.

(2)(A) Subject to subparagraph (B), a maximum of 10 percent of the amounts received under this subchapter in any program year by each service delivery area may be used for the administrative costs of establishing and maintaining systems necessary for operation of programs under this subchapter, including incentive payments described in subsection (c) of this section, technical assistance, data and information collection and compilation, management information systems, post-

program followup activities, and research and evaluation activities. The balance of funds not so expended shall be used for activities similar to activities described in section 1604 of this title.

(B) If a service delivery area determines that administrative costs under this subchapter will exceed the 10 percent administrative allocation, such area may use an additional 5 percent allocation of bonus payments or amounts reserved under subsection (a) of this section for such activities if such area demonstrates to the Governor that the administering agency in the area needs additional funds to continue administrative activities under this subchapter.

(c) **Incentive payments to service providers**

Each service delivery area may make incentive payments to service providers within its service delivery area, including participating State and local agencies, and community-based organizations, that demonstrate effectiveness in delivering employment and training services to individuals such as those described in section 1791b of this title.

(d) **Application of section relating to administrative adjudications**

Section 1576 of this title, relating to administrative adjudication, shall apply to the distribution of incentive bonus payments under this section.

(Pub.L. 97-300, Title V, § 508, as added Pub.L. 100-628, Title VII, § 712(a)(3), Nov. 7, 1988, 102 Stat. 3252.)

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

§ 1791h. Information and data collection

(a) Technical assistance

In order to facilitate the collection, exchange, and compilation of data and information required by this subchapter, the Secretary shall, within 90 days after November 7, 1988, begin providing, on an ongoing basis, technical assistance to the States. Such assistance shall include, at a minimum, cost-effective methods for using State and Federal records to which the Secretary has lawful access.

(b) Regulations

The Secretary, the Secretary of Health and Human Services, and the Secretary of the Interior jointly shall issue regulations regarding the sharing, among States participating in the programs under this subchapter, of the data and information necessary to fulfill the requirements of this subchapter. Such regulations shall provide for—

- (1) the maintenance of confidentiality of the information so shared, in accordance with Federal and State privacy laws, and
- (2) penalties for any violation of such regulations.

(c) Annual survey

The Secretary shall conduct an annual survey of States participating in programs under this subchapter and shall report to the Congress concerning—

- (1) the success of such States in gathering the data and information required under this subchapter; and
- (2) methods for improving and refining the ability of such States to gather the data and information required under this subchapter.

(Pub.L. 97-300, Title V, § 509, as added Pub.L. 100-628, Title VII, § 712(a)(3), Nov. 7, 1988, 102 Stat. 3253.)

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

§ 1791i. Start-up costs

(a) Application

Before notifying the Secretary of an intent to participate in the incentive bonus program established under this subchapter, a State may apply to the Secretary for financial assistance in accordance with this section. Such application shall be submitted to the Secretary not later than 120 days before the beginning of the program year.

(b) Contents

Applications submitted under this section shall contain such information as the Secretary may reasonably require.

(c) Determinations of awards

(1) The Secretary shall determine the amounts to be awarded based on the need demonstrated in the application submitted by the State.

(2) The Secretary shall notify the State of the determination made under this section no later than 60 days after receiving such State's application.

(3)(A) Funds received by a State under this section shall be available for expenditure for the first 2 program years of such State's participation under this subchapter, beginning with the program year following the program year in which a determination under this section is made. Expenditure of such funds (or any portion thereof) shall be considered an agreement by the State to participate in accordance with this subchapter for a period of not less than 2 consecutive program years, beginning with the first program year in which such funds become available for expenditure.

(B) Funds awarded to the State which remain unexpended at the end of such 2 program years shall be reallocated by the Secretary to other participating States.

(C) Funds received under this section by the State shall be used for activities such as those described in section 1791g of this title and for higher costs incurred in overcoming the substantial barriers to employment experienced by individuals eligible under this subchapter.

(d) Allocation

Funds received under this section may be allocated to State agencies or service delivery areas within the State for expenditure in accordance with this subchapter.

(e) Notice of proposed rulemaking

Not later than 3 months after November 7, 1988, the Secretary shall issue a notice of proposed rulemaking with respect to this subchapter and shall allow not less than 60 days for public comment. Final regulations shall be issued not later than 7 months following November 7, 1988.

(Pub.L. 97-300, Title V, § 510, as added Pub.L. 100-628, Title VII, § 712(a)(3), Nov. 7, 1988, 102 Stat. 3253.)

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

§ 1791j. Evaluation and performance standards

(a) Evaluation

The Secretary shall conduct or provide for an evaluation of the incentive bonus program authorized under this subchapter. The Secretary shall consider—

- (1) whether the program results in increased service under this chapter to long-term welfare recipients and other hard-to-serve individuals;
- (2) whether the program results in sustained employment of such welfare recipients and individuals, with resultant welfare and other cost savings to the Federal Government;
- (3) whether the program is administratively feasible and cost effective;
- (4) whether the services provided to other eligible participants under part A of subchapter II of this chapter are affected by the implementation and operation of the incentive bonus program; and
- (5) such other factors as the Secretary deems appropriate.

(b) Report to Congress

Not later than January 1, 1996, the Secretary shall report to the Congress on the effectiveness of the incentive bonus program authorized under this subchapter. Such report shall include an analysis of the costs of such program and the results of such activities.

(c) Performance standard

The Secretary shall establish a performance standard which weights performance outcomes under this subchapter to reflect the higher costs incurred in overcoming the substantial barriers to employment experienced by individuals eligible under this subchapter. Not later than 2 years after the first program year, the Secretary shall prepare and submit to the Congress a report on the effect of such standard. (Pub.L. 97-300, Title V, § 511, as added Pub.L. 100-628, Title VII, § 712(a)(3), Nov. 7, 1988, 102 Stat. 3254.)

HISTORICAL AND STATUTORY NOTES

References in Text

This chapter, referred to in subsec. (a)(1) was in the original "this Act", meaning Pub.L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, known as the Job Training Partnership Act, which is classified principally to this chapter (section 1501 et seq.). For complete classification of this Act to

the Code, see Short Title note set out under section 1501 of this title and Tables.

Legislative History

For legislative history and purpose of Pub.L. 100-628, see 1988 U.S. Code Cong. and Adm. News, p. 4395.

CHAPTER 20—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

LAW REVIEW COMMENTARIES

Joint employer doctrine under the Federal Migrant and Seasonal Agricultural Workers' Protection Act. 18 Rutgers L.J. 863 (1987).

§ 1802. Definitions

As used in this chapter—

[See main volume for text of (1) to (7)]

(8)(A) Except as provided in subparagraph (B), the term "migrant agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence.

(B) The term "migrant agricultural worker" does not include—

- (i) any immediate family member of an agricultural employer or a farm labor contractor; or
- (ii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 1101(a)(15)(H)(ii)(a) and 1184(c) of Title 8.

[See main volume for text of (9)]

(10)(A) Except as provided in subparagraph (B), the term "seasonal agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence—

[See main volume for text of (i) and (ii)]

(B) The term "seasonal agricultural worker" does not include—

- (i) any migrant agricultural worker;
- (ii) any immediate family member of an agricultural employer or a farm labor contractor; or
- (iii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 1101(a)(15)(H)(ii)(a) and 1184(c) of Title 8.

[See main volume for text of (11) and (12)]

(As amended Pub.L. 99-603, Title I, § 101(b)(1)(A), Nov. 6, 1986, 100 Stat. 3372.)

HISTORICAL AND STATUTORY NOTES

1986 Amendment

Par. (8)(B)(ii). Pub.L. 99-603, § 101(b)(1)(A), substituted "1101(a)(15)(H)(ii)(a)" for "1101(a)(15)(ii)(a)".

Par. (10)(B)(iii). Pub.L. 99-603, § 101(b)(1)(A), substituted "1101(a)(15)(H)(ii)(a)" for "1101(a)(15)(H)(ii)".

Effective Date of 1986 Amendment

Section 101(b)(2) of Pub.L. 99-603, as amended Pub.L. 100-525, § 2(a)(2), Oct. 24, 1988, 102 Stat. 2610, provided that: "The amendments made by paragraph (1) [amending this section and sections 1813 and 1851 of this title and repealing section 1816 of this title] shall apply to the em-

ployment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act [Nov. 6, 1986]; except that if the provisions of section 274A of the Immigration and Nationality Act [section 1324a of Title 8, Aliens and Nationality] are terminated as of a date under subsection (f) of such section, then such amendments shall no longer apply as of such date".

Legislative History

For legislative history and purpose of Pub.L. 99-603, see 1986 U.S. Code Cong. and Adm. News, p. 5649.

LAW REVIEW COMMENTARIES

Joint employer doctrine under the Federal Migrant and Seasonal Agricultural Workers Protection Act. Note, 18 Rutgers L.J. 863 (1987).

LIBRARY REFERENCES

Licenses ¶11(5).
C.J.S. Agriculture § 4.5.
C.J.S. Licenses § 34.

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1. Agricultural employers

Grower was not "employer" of farm workers within meaning of Migrant and Seasonal Agricultural Worker Protection Act, where farm labor contractor, hired by grower, was responsible for welfare of crew, contractor recruited crew and arranged for their housing and transportation, contractor separately determined wages for crew, and crew was hired to perform skilled work of operating mule train. Howard v. Malcolm, C.A.4 (N.C.) 1988, 852 F.2d 101.

Vineyard management companies, which did not own the vineyards but which did operate

them, were included within the "agricultural employer" exemption from the Migrant and Seasonal Agricultural Worker Protection Act's registration requirement for "farm labor contractors." Mendoza v. Wight Vineyard Management, C.A.9 (Cal.) 1986, 783 F.2d 941.

Buyer of grower's cucumbers was not "employer" of workers, who were hired to pick cucumbers by licensed crew leader engaged in business of hand-harvest labor, within meaning of Fair Labor Standards Act and buyer was not "agricultural employer" within meaning of Migrant and Seasonal Agricultural Worker Protection Act; employment of workers took place at grower's farms, buyer did not exercise control over workers, and crew leader was solely in charge of hiring and firing workers. Gonzalez v. Puente, W.D.Tex. 1988, 705 F.Supp. 331.

Fact that migrant workers and farm labor contractors worked only for owners of farms on seasonal basis did not vitiate essential permanency