

cation. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 20 and Tables.

PART E—ADULT AND DISLOCATED WORKER
EMPLOYMENT AND TRAINING ACTIVITIES

§ 2861. General authorization

The Secretary shall make allotments under paragraphs (1)(B) and (2)(B) of section 2862(b) of this title to each State that meets the requirements of section 2822 of this title and a grant to each outlying area that complies with the requirements of this chapter, to assist the State or outlying area, and to enable the State or outlying area to assist local areas, for the purpose of providing workforce investment activities for adults, and dislocated workers, in the State or outlying area and in the local areas.

(Pub. L. 105-220, title I, §131, Aug. 7, 1998, 112 Stat. 982.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title" meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, as amended, which enacted this chapter, repealed sections 1501 to 1505, 1511 to 1583, 1592 to 1735, 1737 to 1791h, 1792 to 1792b, 2301 to 2314 of this title, section 211 of former Title 40, Appendix, Public Buildings, Property, and Works, sections 11421, 11441 to 11447, 11449, 11450, 11461 to 11466, 11471, and 11472 of Title 42, The Public Health and Welfare, and sections 42101 to 42106 of Title 49, Transportation, enacted provisions set out as notes under sections 1501, 2301, and 2940 of this title and section 11421 of Title 42, and repealed provisions set out as notes under sections 801 and 2301 of this title and section 1255a of Title 8, Aliens and Nationality. For complete classification of title I to the Code, see Tables.

§ 2862. State allotments

(a) In general

The Secretary shall—

(1) make allotments and grants from the total amount appropriated under section 2872(b) of this title for a fiscal year in accordance with subsection (b)(1) of this section; and

(2)(A) reserve 20 percent of the amount appropriated under section 2872(c) of this title for a fiscal year for use under subsection (b)(2)(A) of this section, and under sections 2915(b) (relating to dislocated worker technical assistance), 2916(d) (relating to dislocated worker projects), and 2918 (relating to national emergency grants, other than under subsection¹ (a)(4), (f), and (g)) of this title; and

(B) make allotments from 80 percent of the amount appropriated under section 2872(c) of this title for a fiscal year in accordance with subsection (b)(2)(B) of this section.

(b) Allotment among States

(1) Adult employment and training activities

(A) Reservation for outlying areas

(i) In general

From the amount made available under subsection (a)(1) of this section for a fiscal year, the Secretary shall reserve not more than $\frac{1}{4}$ of 1 percent to provide assistance to the outlying areas.

(ii) Applicability of additional requirements

From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for adult employment and training activities and statewide workforce investment activities in accordance with the requirements of section 2852(b)(1)(B) of this title, except that the reference in section 2852(b)(1)(B)(i)(II) of this title to sections 252(d) and 262(a)(1) of the Job Training Partnership Act shall be deemed to be a reference to section 202(a)(1) of the Job Training Partnership Act (as in effect on the day before August 7, 1998).

(B) States

(i) In general

After determining the amount to be reserved under subparagraph (A), the Secretary shall allot the remainder of the amount referred to in subsection (a)(1) of this section for a fiscal year to the States pursuant to clause (ii) for adult employment and training activities and statewide workforce investment activities.

(ii) Formula

Subject to clauses (iii) and (iv), of the remainder—

(I) $33\frac{1}{3}$ percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II) $33\frac{1}{3}$ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) $33\frac{1}{3}$ percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).

(iii) Calculation

In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 2831(a)(2)(B) of this title, the allotment shall be based on the higher of—

(I) the number of adults in families with an income below the low-income level in such area; or

(II) the number of disadvantaged adults in such area.

(iv) Minimum and maximum percentages and minimum allotments

In making allotments under this subparagraph, the Secretary shall ensure the following:

(I) Minimum percentage and allotment

Subject to subclause (IV), the Secretary shall ensure that no State shall

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

receive an allotment for a fiscal year that is less than the greater of—

- (aa) an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year; or
- (bb) 100 percent of the allotment of the State under section 202 of the Job Training Partnership Act (as in effect on the day before August 7, 1998) for fiscal year 1998.

(II) Small State minimum allotment

Subject to subclauses (I), (III), and (IV), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

- (aa) $\frac{3}{10}$ of 1 percent of \$960,000,000 of the remainder described in clause (i) for the fiscal year; and
- (bb) if the remainder described in clause (i) for the fiscal year exceeds \$960,000,000, $\frac{2}{3}$ of 1 percent of the excess.

(III) Maximum percentage

Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(IV) Minimum funding

In any fiscal year in which the remainder described in clause (i) does not exceed \$960,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology for calculating the corresponding allotments under part A of title II of the Job Training Partnership Act, as in effect on July 1, 1998.

(v) Definitions

For the purpose of the formula specified in this subparagraph:

(I) Adult

The term “adult” means an individual who is not less than age 22 and not more than age 72.

(II) Allotment percentage

The term “allotment percentage”, used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the remainder described in clause (i) that is received through an allotment made under this subparagraph for the fiscal year. The term, used with respect to fiscal year 1998 or 1999, means the percentage of the amounts allotted to States under section 202(a) of the Job Training Partnership Act (as in effect on the day before August 7, 1998) that is received under such section by the State involved for fiscal year 1998 or 1999.

(III) Area of substantial unemployment

The term “area of substantial unemployment” means any area that is of sufficient size and scope to sustain a pro-

gram of workforce investment activities carried out under this subchapter and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subclause, determinations of areas of substantial unemployment shall be made once each fiscal year.

(IV) Disadvantaged adult

Subject to subclause (V), the term “disadvantaged adult” means an adult who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

- (aa) the poverty line; or
- (bb) 70 percent of the lower living standard income level.

(V) Disadvantaged adult special rule

The Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged adults.

(VI) Excess number

The term “excess number” means, used with respect to the excess number of unemployed individuals within a State, the higher of—

- (aa) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or
- (bb) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

(2) Dislocated worker employment and training

(A) Reservation for outlying areas

(i) In general

From the amount made available under subsection (a)(2)(A) of this section for a fiscal year, the Secretary shall reserve not more than $\frac{1}{4}$ of 1 percent of the amount appropriated under section 2872(c) of this title for the fiscal year to provide assistance to the outlying areas.

(ii) Applicability of additional requirements

From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for dislocated worker employment and training activities and statewide workforce investment activities in accordance with the requirements of section 2852(b)(1)(B) of this title, except that the reference in section 2852(b)(1)(B)(i)(II) of this title to sections 252(a) and 262(a)(1) of the Job Training Partnership Act shall be deemed to be a reference to section 302(e) of the Job Training Partnership Act (as in effect on the day before August 7, 1998).

(B) States**(i) In general**

The Secretary shall allot the amount referred to in subsection (a)(2)(B) of this section for a fiscal year to the States pursuant to clause (ii) for dislocated worker employment and training activities and statewide workforce investment activities.

(ii) Formula

Of the amount—

(I) 33 $\frac{1}{3}$ percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States;

(II) 33 $\frac{1}{3}$ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33 $\frac{1}{3}$ percent shall be allotted on the basis of the relative number of individuals in each State who have been unemployed for 15 weeks or more, compared to the total number of individuals in all States who have been unemployed for 15 weeks or more.

(iii) Definition

In this subparagraph, the term “excess number” means, used with respect to the excess number of unemployed individuals within a State, the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

(3) Definitions

For the purpose of the formulas specified in this subsection:

(A) Freely Associated States

The term “Freely Associated States” means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) Low-income level

The term “low-income level” means \$7,000 with respect to income in 1969, and for any later year means that amount that bears the same relationship to \$7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest \$1,000.

(c) Reallotment**(1) In general**

The Secretary shall, in accordance with this subsection, reallot to eligible States amounts that are allotted under this section for employment and training activities and statewide workforce investment activities and that are available for reallotment.

(2) Amount

The amount available for reallotment for a program year is equal to the amount by which the unobligated balance of the State allotments under this section for such activities, at

the end of the program year prior to the program year for which the determination under this paragraph is made, exceeds 20 percent of such allotments for the prior program year.

(3) Reallotment

In making reallotments to eligible States of amounts available pursuant to paragraph (2) for a program year, the Secretary shall allot to each eligible State an amount based on the relative amount allotted to such State under this section for such activities for the prior program year, as compared to the total amount allotted to all eligible States under this section for such activities for such prior program year.

(4) Eligibility

For purposes of this subsection, an eligible State means a State that has obligated at least 80 percent of the State allotment under this section for such activities for the program year prior to the program year for which the determination under paragraph (2) is made.

(5) Procedures

The Governor of each State shall prescribe uniform procedures for the obligation of funds by local areas within the State in order to avoid the requirement that funds be made available for reallotment under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and local areas in the event that a State is required to make funds available for reallotment under this subsection.

(Pub. L. 105-220, title I, §132, Aug. 7, 1998, 112 Stat. 983; Pub. L. 107-210, div. A, title II, §203(d), Aug. 6, 2002, 116 Stat. 969.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b)(1)(A)(ii), (B)(iv)(I)(bb), (IV), (v)(II), (2)(A)(ii), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was repealed by Pub. L. 105-220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Part A of title II of the Act was classified generally to part A (§1601 et seq.) of subchapter II of chapter 19 of this title, prior to repeal by Pub. L. 105-220. Sections 202, 252, 262, and 302 of the Act were classified to sections 1602, 1631, 1642, and 1652 of this title, respectively, prior to repeal by Pub. L. 105-220. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2002—Subsec. (a)(2)(A). Pub. L. 107-210 inserted “, other than under subsection (a)(4), (f), and (g)” after “national emergency grants”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under part 2 or 3 of subchapter II of chapter 12 of Title 19, Customs Duties, on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of Title 19.

CONSTRUCTION OF 2002 AMENDMENT

Nothing in amendment by Pub. L. 107-210, other than provisions relating to COBRA continuation coverage and reporting requirements, to be construed as creating new mandate on any party regarding health insurance coverage, see section 203(f) of Pub. L. 107-210, set out as a note under section 2918 of this title.

§ 2863. Within State allocations**(a) Reservations for State activities****(1) Statewide workforce investment activities**

The Governor of a State shall make the reservation required under section 2853(a) of this title.

(2) Statewide rapid response activities

The Governor of the State shall reserve not more than 25 percent of the total amount allotted to the State under section 2862(b)(2)(B) of this title for a fiscal year for statewide rapid response activities described in section 2864(a)(2)(A) of this title.

(b) Within State allocation**(1) Methods**

The Governor, acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate—

(A) the funds that are allotted to the State for adult employment and training activities and statewide workforce investment activities under section 2862(b)(1)(B) of this title and are not reserved under subsection (a)(1) of this section, in accordance with paragraph (2) or (3); and

(B) the funds that are allotted to the State for dislocated worker employment and training activities under section 2862(b)(2)(B) of this title and are not reserved under paragraph (1) or (2) of subsection (a) of this section, in accordance with paragraph (2).

(2) Formula allocations**(A) Adult employment and training activities****(i) Allocation**

In allocating the funds described in paragraph (1)(A) to local areas, a State may allocate—

(I) 33½ percent of the funds on the basis described in section 2862(b)(1)(B)(ii)(I) of this title;

(II) 33½ percent of the funds on the basis described in section 2862(b)(1)(B)(ii)(II) of this title; and

(III) 33½ percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 2862(b)(1)(B) of this title.

(ii) Minimum percentage

Effective at the end of the second full fiscal year after the date on which a local area is designated under section 2831 of this title, the local area shall not receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) Definition

The term “allocation percentage”, used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of

the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year.

(B) Dislocated worker employment and training activities**(i) Formula**

In allocating the funds described in paragraph (1)(B) to local areas, a State shall allocate the funds based on an allocation formula prescribed by the Governor of the State. Such formula may be amended by the Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State’s worker readjustment assistance needs.

(ii) Information

The information described in clause (i) shall include insured unemployment data, unemployment concentrations, plant closing and mass layoff data, declining industries data, farmer-rancher economic hardship data, and long-term unemployment data.

(C) Application

For purposes of carrying out subparagraph (A)—

(i) references in section 2862(b) of this title to a State shall be deemed to be references to a local area;

(ii) references in section 2862(b) of this title to all States shall be deemed to be references to all local areas in the State involved; and

(iii) except as described in clause (i), references in section 2862(b)(1) of this title to the term “excess number” shall be considered to be references to the term as defined in section 2862(b)(1) of this title.

(3) Adult employment and training discretionary allocations

In lieu of making the allocation described in paragraph (2)(A), in allocating the funds described in paragraph (1)(A) to local areas, a State may distribute—

(A) a portion equal to not less than 70 percent of the funds in accordance with paragraph (2)(A); and

(B) the remaining portion of the funds on the basis of a formula that—

(i) incorporates additional factors (other than the factors described in paragraph (2)(A)) relating to—

(I) excess poverty in urban, rural, and suburban local areas; and

(II) excess unemployment above the State average in urban, rural, and suburban local areas; and

(ii) was developed by the State board and approved by the Secretary as part of the State plan.

(4) Transfer authority

A local board may transfer, if such a transfer is approved by the Governor, not more than 20 percent of the funds allocated to the local area under paragraph (2)(A) or (3), and 20