

§ 2852. State allotments**(a) In general**

The Secretary shall—

(1) for each fiscal year in which the amount appropriated under section 2872(a) of this title exceeds \$1,000,000,000, reserve a portion determined under subsection (b)(1)(A) of this section of the amount appropriated under section 2872(a) of this title for use under sections 2912 (relating to migrant and seasonal farmworker programs) and 2914 (relating to youth opportunity grants) of this title; and

(2) use the remainder of the amount appropriated under section 2872(a) of this title for a fiscal year to make allotments and grants in accordance with subparagraphs (B) and (C) of subsection (b)(1) of this section and make funds available for use under section 2911 of this title (relating to Native American programs).

(b) Allotment among States**(1) Youth activities****(A) Youth opportunity grants****(i) In general**

For each fiscal year in which the amount appropriated under section 2872(a) of this title exceeds \$1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth opportunity grants and other activities under section 2914 of this title (relating to youth opportunity grants) and provide youth activities under section 2912 of this title (relating to migrant and seasonal farmworker programs).

(ii) Portion

The portion referred to in clause (i) shall equal, for a fiscal year—

(I) except as provided in subclause (II), the difference obtained by subtracting \$1,000,000,000 from the amount appropriated under section 2872(a) of this title for the fiscal year; or

(II) for any fiscal year in which the amount is \$1,250,000,000 or greater, \$250,000,000.

(iii) Youth activities for farmworkers

From the portion described in clause (i) for a fiscal year, the Secretary shall make available 4 percent of such portion to provide youth activities under section 2912 of this title.

(iv) Role model academy project

From the portion described in clause (i) for fiscal year 1999, the Secretary shall make available such sums as the Secretary determines to be appropriate to carry out section 2914(g) of this title.

(B) Outlying areas**(i) In general**

From the amount made available under subsection (a)(2) 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(a) of this title for the fiscal year—

(I) to provide assistance to the outlying areas to carry out youth activities and statewide workforce investment activities; and

(II) for each of fiscal years 1999, 2000, and 2001, to carry out the competition described in clause (ii), except that the funds reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1997, from amounts reserved under sections 252(a) and 262(a)(1) of the Job Training Partnership Act (as in effect on the day before August 7, 1998).

(ii) Limitation for Freely Associated States**(I) Competitive grants**

The Secretary shall use funds described in clause (i)(II) to award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States to carry out youth activities and statewide workforce investment activities.

(II) Award basis

The Secretary shall award grants pursuant to subclause (I) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(III) Assistance requirements

Any Freely Associated State that desires to receive assistance under this subparagraph shall submit an application to the Secretary and shall include in the application for assistance—

(aa) information demonstrating that the Freely Associated State will meet all conditions that apply to States under this chapter;

(bb) an assurance that, notwithstanding any other provision of this chapter, the Freely Associated State will use such assistance only for the direct provision of services; and

(cc) such other information and assurances as the Secretary may require.

(IV) Termination of eligibility

Notwithstanding any other provision of law, the Freely Associated States shall not receive any assistance under this subparagraph for any program year that begins after September 30, 2001.

(V) Administrative costs

The Secretary may provide not more than 5 percent of the funds made available for grants under subclause (I) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this clause.

(iii) Additional requirement

The provisions of Public Law 95-134, permitting the consolidation of grants by the outlying areas, shall not apply to assist-

ance provided to those areas, including the Freely Associated States, under this subparagraph.

(C) States

(i) In general

After determining the amounts to be reserved under subparagraph (A) (if any) and subparagraph (B), the Secretary shall—

(I) from the amount referred to in subsection (a)(2) of this section for a fiscal year, make available not more than 1.5 percent to provide youth activities under section 2911 of this title (relating to Native Americans); and

(II) allot the remainder of the amount referred to in subsection (a)(2) of this section for a fiscal year to the States pursuant to clause (i) for youth activities and statewide workforce investment activities.

(ii) Formula

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

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

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

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

(iii) Calculation

In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 2831(a)(2)(B) of this title (relating to the area served by a rural concentrated employment program grant recipient), the allotment shall be based on the higher of—

(I) the number of individuals who are age 16 through 21 in families with an income below the low-income level in such area; or

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

(iv) Minimum and maximum percentages and minimum allotments

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

(I) Minimum percentage and allotment

Subject to subclause (IV), the Secretary shall ensure that no State shall receive an allotment for a fiscal year that is less than the greater of—

(aa) an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year; or

(bb) 100 percent of the total of the allotments of the State under sections 252 and 262 of the Job Training Partnership Act (as in effect on the day before 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 \$1,000,000,000 of the remainder described in clause (i)(II) for the fiscal year; and

(bb) if the remainder described in clause (i)(II) for the fiscal year exceeds \$1,000,000,000, $\frac{2}{5}$ of 1 percent of the excess.

(III) Maximum percentage

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

(IV) Minimum funding

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

(2) Definitions

For the purpose of the formula specified in paragraph (1)(C):

(A) Allotment percentage

The term “allotment percentage”, used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i)(II) that is received through an allotment made under paragraph (1)(C) for the fiscal year. The term, used with respect to fiscal year 1998 or 1999, means the percentage of the amounts allotted to States under sections 252(b) and 262(a) of the Job Training Partnership Act (as in effect on the day before August 7, 1998) that is received under such sections by the State involved for fiscal year 1998 or 1999.

(B) Area of substantial unemployment

The term “area of substantial unemployment” means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this 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 subparagraph, determinations of areas of substantial unemployment shall be made once each fiscal year.

(C) Disadvantaged youth

Subject to paragraph (3), the term “disadvantaged youth” means an individual who

is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

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

(D) Excess number

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

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

(E) Low-income level

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

(3) Special rule

For the purpose of the formula specified in paragraph (1)(C), the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged youth.

(4) Definition

In this subsection, the term “Freely Associated State” means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(c) Reallocation

(1) In general

The Secretary shall, in accordance with this subsection, reallocate to eligible States amounts that are allotted under this section for youth activities and statewide workforce investment activities and that are available for reallocation.

(2) Amount

The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the State allotment under this section for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made, exceeds 20 percent of such allotment for the prior program year.

(3) Reallocation

In making reallocations to eligible States of amounts available pursuant to paragraph (2) for a program year, the Secretary shall allot to each eligible State an amount based on the relative amount allotted to such State under this section for such activities for the prior program year, 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 reallocation under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and local areas in the event that a State is required to make funds available for reallocation under this subsection.

(Pub. L. 105-220, title I, §127, Aug. 7, 1998, 112 Stat. 971.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b)(1)(B)(i)(II), (C)(iv)(I)(bb), (IV), (2)(A), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, 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. Parts B and C of title II of the Act were classified generally to parts B (§1630 et seq.) and C (§1641 et seq.) of subchapter II of chapter 19 of this title, respectively, prior to repeal by Pub. L. 105-220. Sections 252 and 262 of the Act were classified to sections 1631 and 1642 of this title, respectively, prior to repeal by Pub. L. 105-220. For complete classification of this Act to the Code, see Tables.

This chapter, referred to in subsec. (b)(1)(B)(ii)(III)(aa), (bb), was in the original “this title” meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, 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.

Public Law 95-134, referred to in subsec. (b)(1)(B)(iii), is Pub. L. 95-134, Oct. 15, 1977, 91 Stat. 1159. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95-134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

§ 2853. Within State allocations

(a) Reservations for State activities

(1) In general

The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under section 2852(b)(1)(C) of this title and paragraphs (1)(B) and (2)(B) of section 2862(b) of this title for a fiscal year for statewide workforce investment activities.

(2) Use of funds

Regardless of whether the reserved amounts were allotted under section 2852(b)(1)(C) of this