

“(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, 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.

“(b) Funds for the purpose of carrying out subsection (a) shall be derived only from amounts appropriated pursuant to the authorizations of appropriations in section 16. Not more than a total of \$25,000,000 of amounts so appropriated for fiscal years 1984 and 1985 shall be available for that purpose.

“EFFECTIVE DATE

“SEC. 19. This Act shall take effect on October 1, 1983.”

[Amendment of Pub. L. 98-77, set out above, by Pub. L. 100-323 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.]

[Pub. L. 99-238, title II, §201(f), Jan. 13, 1986, 99 Stat. 1768, provided that:

[“(1) Except as provided in paragraph (2), the amendments made by this section [amending Pub. L. 98-77 above] shall take effect on the date of the enactment of this Act [Jan. 13, 1986].

[“(2) The amendment made by subsection (e)(2) [amending section 17(a)(1) of Pub. L. 98-77 above] shall take effect on February 1, 1986.”]

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, set out above, see section 202 of Pub. L. 99-238, set out as a note under section 3116 of Title 38.

§ 3172. State allotments

(a) In general

The Secretary shall—

(1) make allotments and grants from the amount appropriated under section 3181(b) of this title for a fiscal year in accordance with subsection (b)(1); and

(2)(A) reserve 20 percent of the amount appropriated under section 3181(c) of this title for the fiscal year for use under subsection (b)(2)(A), and under sections 3223(b) (relating to dislocated worker technical assistance), 3224(c) (relating to dislocated worker projects), and 3225 of this title (relating to national dislocated worker grants); and

(B) make allotments from 80 percent of the amount appropriated under section 3181(c) of this title for the fiscal year in accordance with subsection (b)(2)(B).

(b) Allotment among States

(1) Adult employment and training activities

(A) Reservation for outlying areas

(i) In general

From the amount made available under subsection (a)(1) for a fiscal year, the Secretary shall reserve not more than $\frac{1}{4}$ of 1

percent of such amount to provide assistance to the outlying areas.

(ii) Applicability of additional requirements

From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for adult employment and training activities and statewide workforce investment activities in accordance with the requirements of section 3162(b)(1)(B) of this title.

(B) States

(i) In general

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

(ii) Formula

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

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

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

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

(iii) Calculation

In determining an allotment under clause (ii)(III) for any State in which there is an area that was designated as a local area as described in section 3122(c)(1)(C) of this title, the allotment shall be based on the higher of—

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

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

(iv) Minimum and maximum percentages and minimum allotments

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

(I) Minimum percentage and allotment

Subject to subclause (IV), the Secretary shall ensure that no State shall receive an allotment for a fiscal year that is less than an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year.

(II) Small State minimum allotment

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

(aa) $\frac{3}{10}$ of 1 percent of \$960,000,000 of the remainder described in clause (i) for the fiscal year; and

(bb) if the remainder described in clause (i) for the fiscal year exceeds \$960,000,000, $\frac{2}{5}$ of 1 percent of the excess.

(III) Maximum percentage

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

(IV) Minimum funding

In any fiscal year in which the remainder described in clause (i) does not exceed \$960,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology specified in section 132(b)(1)(B)(iv)(IV) of the Workforce Investment Act of 1998 [29 U.S.C. 2862(b)(1)(B)(iv)(IV)] (as in effect on the day before July 22, 2014).

(v) Definitions

For the purpose of the formula specified in this subparagraph:

(I) Adult

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

(II) Allotment percentage

The term “allotment percentage”, used with respect to fiscal year 2015 or a subsequent fiscal year, means a percentage of the remainder described in clause (i) that is received through an allotment made under this subparagraph for the fiscal year. The term, used with respect to fiscal year 2014, means the percentage of the amount allotted to States under section 132(b)(1)(B) of the Workforce Investment Act of 1998 [29 U.S.C. 2862(b)(1)(B)] (as in effect on the day before July 22, 2014) that is received under such section by the State involved for fiscal year 2014.

(III) Area of substantial unemployment

The term “area of substantial unemployment” means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this part and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subclause, determinations of areas of substantial unemployment shall be made once each fiscal year.

(IV) Disadvantaged adult

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

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(V) Disadvantaged adult special rule

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

(VI) Excess number

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

(aa) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

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

(VII) Low-income level

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

(2) Dislocated worker employment and training activities**(A) Reservation for outlying areas****(i) In general**

From the amount made available under subsection (a)(2)(A) for a fiscal year, the Secretary shall reserve not more than $\frac{1}{4}$ of 1 percent of the amount appropriated under section 3181(c) of this title for the fiscal year to provide assistance to the outlying areas.

(ii) Applicability of additional requirements

From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for dislocated worker employment and training activities and statewide workforce investment activities in accordance with the requirements of section 3162(b)(1)(B) of this title.

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

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

(ii) Formula

Subject to clause (iii), of the amount—

(I) 33 $\frac{1}{3}$ 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) Minimum and maximum percentages and minimum allotments

In making allotments under this subparagraph, for fiscal year 2016 and each subsequent fiscal year, the Secretary shall ensure the following:

(I) Minimum percentage and allotment

The Secretary shall ensure that no State shall receive an allotment for a fiscal year that is less than an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year.

(II) Maximum percentage

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

(iv) Definitions

For the purpose of the formula specified in this subparagraph:

(I) Allotment percentage

The term “allotment percentage”, used with respect to fiscal year 2015 or a subsequent fiscal year, means a percentage of the amount described in clause (i) that is received through an allotment made under this subparagraph for the fiscal year.

(II) Excess number

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

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

The Secretary shall, in accordance with this subsection, reallot to eligible States amounts that are made available to States from allotments made under this section or a corresponding provision of the Workforce Invest-

ment Act of 1998 for employment and training activities and statewide workforce investment activities (referred to individually in this subsection as a “State allotment”) and that are available for reallotment.

(2) Amount

The amount available for reallotment for a program year for programs funded under subsection (b)(1)(B) (relating to adult employment and training) or for programs funded under subsection (b)(2)(B) (relating to dislocated worker employment and training) is equal to the amount by which the unobligated balance of the State allotments for adult employment and training activities or dislocated worker employment and training activities, respectively, at the end of the program year prior to the program year for which the determination under this paragraph is made, exceeds 20 percent of such allotments for the prior program year.

(3) Reallotment

In making reallotments to eligible States of amounts available pursuant to paragraph (2) for a program year, the Secretary shall allot to each eligible State an amount based on the relative amount of the State allotment under paragraph (1)(B) or (2)(B), respectively, of subsection (b) for the program year for which the determination is made, as compared to the total amount of the State allotments under paragraph (1)(B) or (2)(B), respectively, of subsection (b) for all eligible States for such program year.

(4) Eligibility

For purposes of this subsection, an eligible State means—

(A) with respect to funds allotted through a State allotment for adult employment and training activities, a State that does not have an amount of such funds available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made; and

(B) with respect to funds allotted through a State allotment for dislocated worker employment and training activities, a State that does not have an amount of such funds available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made.

(5) Procedures

The Governor shall prescribe uniform procedures for the obligation of funds by local areas within the State in order to avoid the requirement that funds be made available for 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. 113–128, title I, §132, July 22, 2014, 128 Stat. 1511; Pub. L. 114–18, §2(d), May 22, 2015, 129 Stat. 213.)

Editorial Notes

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (c)(1), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113-128, title V, §§ 506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pursuant to section 3361(a) of this title, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. For complete classification of the Workforce Investment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

AMENDMENTS

2015—Subsec. (b)(1)(B)(iv)(I), (2)(B)(iii)(I). Pub. L. 114-18 inserted “less than” after “fiscal year that is”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-18 effective as if included in the Workforce Innovation and Opportunity Act [Pub. L. 113-128], see §2(f) of Pub. L. 114-18, set out as a note under section 3112 of this title.

EFFECTIVE DATE

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

§ 3173. Within State allocations**(a) Reservations for State activities****(1) Statewide workforce investment activities**

The Governor shall make the reservation required under section 3163(a) of this title.

(2) Statewide rapid response activities

The Governor shall reserve not more than 25 percent of the total amount allotted to the State under section 3172(b)(2)(B) of this title for a fiscal year for statewide rapid response activities described in section 3174(a)(2)(A) of this title.

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

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

(A) the funds that are allotted to the State for adult employment and training activities and statewide workforce investment activities under section 3172(b)(1)(B) of this title and are not reserved under subsection (a)(1), in accordance with paragraph (2) or (3); and

(B) the funds that are allotted to the State for dislocated worker employment and training activities and statewide workforce investment activities under section 3172(b)(2)(B) of this title and are not reserved under paragraph (1) or (2) of subsection (a), in accordance with paragraph (2).

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

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

(I) 33⅓ percent of the funds on the basis described in section 3172(b)(1)(B)(ii)(I) of this title;

(II) 33⅓ percent of the funds on the basis described in section 3172(b)(1)(B)(ii)(II) of this title; and

(III) 33⅓ percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 3172(b)(1)(B) of this title.

(ii) Minimum percentage

The local area shall not receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) Definition

In this subparagraph, the term “allocation percentage”, used with respect to fiscal year 2015 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year. The term, used with respect to fiscal year 2013 or 2014, means a percentage of the amount allocated to local areas under paragraphs (2)(A) and (3) of section 133(b) of the Workforce Investment Act of 1998 [29 U.S.C. 2863(b)] (as in effect on the day before July 22, 2014), received through an allocation made under paragraph (2)(A) or (3) of that section for fiscal year 2013 or 2014, respectively.

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

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

(ii) Information

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

(iii) Minimum percentage

The local area shall not receive an allocation percentage for fiscal year 2016 or a subsequent fiscal year that is less than 90 percent of the average allocation percentage of the local area for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to