

**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 L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub.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

comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

**(iv) 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 2014, means a percentage of the amount allocated to local areas under section 133(b)(2)(B) of the Workforce Investment Act of 1998 [29 U.S.C. 2863(b)(2)(B)] (as in effect on the day before July 22, 2014), received through an allocation made under that section for fiscal year 2014.

**(C) Application**

For purposes of carrying out subparagraph (A)—

(i) references in section 3172(b) of this title to a State shall be deemed to be references to a local area;

(ii) references in section 3172(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 3172(b)(1) of this title to the term “excess number” shall be considered to be references to the term as defined in section 3172(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, up to and including 100 percent of the funds allocated to the local area under paragraph (2)(A) or (3), and up to and including 100 percent of the funds allocated to the local area under paragraph (2)(B), for a fiscal year between—

(A) adult employment and training activities; and

(B) dislocated worker employment and training activities.

**(5) Allocation**

**(A) In general**

The Governor shall allocate the funds described in paragraph (1) to local areas under paragraphs (2) and (3) for the purpose of providing a single system of employment and training activities for adults and dislocated workers in accordance with subsections (c) and (d) of section 3174 of this title.

**(B) Additional requirements**

**(i) Adults**

Funds allocated under paragraph (2)(A) or (3) shall be used by a local area to contribute to the costs of the one-stop delivery system described in section 3151(e) of this title as determined under section 3151(h) of this title and to pay for employment and training activities provided to adults in the local area, consistent with section 3174 of this title.

**(ii) Dislocated workers**

Funds allocated under paragraph (2)(B) shall be used by a local area to contribute to the costs of the one-stop delivery system described in section 3151(e) of this title as determined under section 3151(h) of this title and to pay for employment and training activities provided to dislocated workers in the local area, consistent with section 3174 of this title.

**(c) Reallocation among local areas**

**(1) In general**

The Governor may, in accordance with this subsection and after consultation with the State board, reallocate to eligible local areas within the State amounts that are made available to local areas from allocations made under paragraph (2)(A) or (3) of subsection (b) or a corresponding provision of the Workforce Investment Act of 1998 for adult employment and training activities, or under subsection (b)(2)(B) or a corresponding provision of the Workforce Investment Act of 1998 for dislocated worker employment and training activities (referred to individually in this subsection as a “local allocation”) and that are available for reallocation.

**(2) Amount**

The amount available for reallocation for a program year—

(A) for adult employment and training activities is equal to the amount by which the unobligated balance of the local allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, at the end of the program year prior to the program year for which the determination under this subparagraph is made, exceeds 20 percent of such allocation for the prior program year; and

(B) for dislocated worker employment and training activities is equal to the amount by which the unobligated balance of the local allocation under subsection (b)(2)(B) for such activities, at the end of the program year prior to the program year for which the determination under this subparagraph is made, exceeds 20 percent of such allocation for the prior program year.

**(3) Reallocation**

In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State—

(A) with respect to such available amounts that were allocated under paragraph (2)(A) or (3) of subsection (b), an amount based on the relative amount of the local allocation under paragraph (2)(A) or (3) of subsection (b), as appropriate, for the program year for which the determination is made, as compared to the total amount of the local allocations under paragraph (2)(A) or (3) of subsection (b), as appropriate, for all eligible local areas in the State for such program year; and

(B) with respect to such available amounts that were allocated under subsection (b)(2)(B), an amount based on the relative amount of the local allocation under subsection (b)(2)(B) for the program year for which the determination is made, as compared to the total amount of the local allocations under subsection (b)(2)(B) for all eligible local areas in the State for such program year.

**(4) Eligibility**

For purposes of this subsection, an eligible local area means—

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

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

(Pub. L. 113-128, title I, §133, July 22, 2014, 128 Stat. 1516.)

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**Statutory Notes and Related Subsidiaries**

## 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.

**§ 3174. Use of funds for employment and training activities****(a) Statewide employment and training activities****(1) In general**

Funds reserved by a Governor—

(A) as described in section 3173(a)(2) of this title shall be used to carry out the statewide rapid response activities described in paragraph (2)(A); and

(B) as described in sections 3163(a) and 3173(a)(1) of this title—

(i) shall be used to carry out the statewide employment and training activities described in paragraph (2)(B); and

(ii) may be used to carry out any of the statewide employment and training activities described in paragraph (3),

regardless of whether the funds were allotted to the State under section 3162(b)(1) of this title or under paragraph (1) or (2) of section 3172(b) of this title.

**(2) Required statewide employment and training activities****(A) Statewide rapid response activities****(i) In general**

A State shall carry out statewide rapid response activities using funds reserved by the Governor for the State under section 3173(a)(2) of this title, which activities shall include—

(I) provision of rapid response activities, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials for the local areas; and

(II) provision of additional assistance to local areas that experience disasters, mass layoffs, or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in local areas by the State, working in conjunction with the local boards and the chief elected officials for the local areas.

**(ii) Use of unobligated funds**

Funds reserved by a Governor under section 3173(a)(2) of this title, and section 2863(a)(2) of this title (as in effect on the day before July 22, 2014), to carry out this subparagraph that remain unobligated after the first program year for which such funds were allotted may be used by the Governor to carry out statewide activities authorized under subparagraph (B) or paragraph (3)(A), in addition to activities under this subparagraph.

**(B) Statewide employment and training activities**

Funds reserved by a Governor under sections 3163(a)(1) and 3173(a)(1) of this title and not used under paragraph (1)(A) (regardless of whether the funds were allotted to the States under section 3162(b)(1)(C) of this title