PUBLIC LAW 97–300—OCT. 13, 1982 96 STAT. 1327

executives of such employers who have substantial management or policy responsibility.
(20) The term "public assistance" means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.
(21) The term "Secretary" means the Secretary of Labor.
(22) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.
(23) The term "State educational agency" means such an agency as defined in section 195(11) of the Vocational Education Act of 1963.
(24) The term "supportive services" means services which are necessary to enable an individual eligible for training under this Act, but who cannot afford to pay for such services, to participate in a training program funded under this Act. Such supportive services may include transportation, health care, special services and materials for the handicapped, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the training program and may be provided in-kind or through cash assistance.
(25) The term "unemployed individuals" means individuals who are out of work and who want and are available for work. The determination of whether individuals are out of work shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed.
(26) The term "unit of general local government" means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers.
(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 Veterans' Administration, or (ii) an individual who was discharged or released from active duty because of service-connected disability.
(28) The term "vocational education" has the meaning provided in section 195(1) of the Vocational Education Act of 1963.

TITLE I—JOB TRAINING PARTNERSHIP

PART A—SERVICE DELIVERY SYSTEM

ESTABLISHMENT OF SERVICE DELIVERY AREAS

Sec. 101. (a)(1) The Governor shall, after receiving the proposal of the State job training coordinating council, publish a proposed designation of service delivery areas for the State each of which—
(A) is comprised of the State or one or more units of general local government;
(B) will promote effective delivery of job training services; and
(C)(i) is consistent with labor market areas or standard metropolitan statistical areas, but this clause shall not be construed to require designation of an entire labor market area; or

(ii) is consistent with areas in which related services are provided under other State or Federal programs.

(2) The Council shall include in its proposal a written explanation of the reasons for designating each service delivery area.

(3) Units of general local government (and combinations thereof), business organizations, and other affected persons or organizations shall be given an opportunity to comment on the proposed designation of service delivery areas and to request revisions thereof.

(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 a labor market area; and

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

(B) The Governor may approve a request to be a service delivery area from any unit of general local government or consortium of contiguous units of general local government, without regard to population, which serves a substantial portion of a labor market area.

(C) If the Governor denies a request submitted under subparagraph (A) and the entity making such request alleges that the decision of the Governor is contrary to the provisions of this section, such entity may appeal the decision to the Secretary, who shall make a final decision within 30 days after such appeal is received.

(b) The Governor shall make a final designation of service delivery areas within the State. Before making a final designation of service delivery areas for the State, the Governor shall review the comments submitted under subsection (a)(3) and requests submitted under subsection (a)(4).

(c)(1) In accordance with subsection (a), the Governor may redesignate service delivery areas no more frequently than every two years. Such redesignations shall be made not later than 4 months before the beginning of a program year.

(2) Subject to paragraph (1), the Governor shall make such a redesignation if a petition to do so is filed by an entity specified in subsection (a)(4)(A).

(3) The provisions of this subsection are subject to section 105(c).

ESTABLISHMENT OF PRIVATE INDUSTRY COUNCIL

Sec. 102. (a) There shall be a private industry council for every service delivery area established under section 101, to be selected in accordance with this subsection. Each council shall consist of—

(1) representatives of the private sector, who shall constitute a majority of the membership of the council and who shall be owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibility; and
as or standard metropolitan statistical area; or

(b) The Chairman of the council shall be selected from among members of the council who are representatives of the private sector.

(c)(1)(A) Private sector representatives on the council shall be selected from among individuals nominated by general purpose business organizations after consulting with, and receiving recommendations from, other business organizations in the service delivery area. The number of such nominations shall be at least 150 percent of the number of individuals to be appointed under subsection (a)(1). Such nominations, and the individuals selected from such nominations, shall reasonably represent the industrial and demographic composition of the business community. Whenever possible, at least one-half of such business and industry representatives shall be representatives of small business, including minority business.

(B) For the purpose of this paragraph, the term—

(i) "general purpose business organizations" means organizations which admit to membership any for-profit business operating within the service delivery area; and

(ii) "small business" means private for-profit enterprises employing 500 or fewer employees.

(2) Education representatives on the council shall be selected from among individuals nominated by local educational agencies, vocational education institutions, institutions of higher education, or general organizations of such agencies or institutions, and by private and proprietary schools or general organizations of such schools, within the service delivery area.

(3) The remaining members of the council shall be selected from individuals recommended by interested organizations. Labor representatives shall be recommended by recognized State and local labor organizations or appropriate building trades councils.

(d)(1) In any case in which there is only one unit of general local government with experience in administering job training programs within the service delivery area, the chief elected official of that unit shall appoint members to the council from the individuals nominated or recommended under subsection (c).

(2) In any case in which there are two or more such units of general local government in the service delivery area, the chief elected officials of such units shall appoint members to the council from the individuals so nominated or recommended in accordance with an agreement entered into by such units of general local government. In the absence of such an agreement, the appointments shall be made by the Governor from the individuals so nominated or recommended.

(e) The initial number of members of the council shall be determined—

(1) by the chief elected official in the case described in subsection (d)(1),

(2) by the chief elected officials in accordance with the agreement in the case described in subsection (d)(2), or

(3) by the Governor in the absence of such agreement.

Thereafter, the number of members of the council shall be determined by the council.
(f) Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

(g) The Governor shall certify a private industry council if the Governor determines that its composition and appointments are consistent with the provisions of this subsection. Such certification shall be made or denied within 30 days after the date on which a list of members and necessary supporting documentation are submitted to the Governor. When the Governor certifies the council, it shall be convened within 30 days by the official or officials who made the appointments to such council under subsection (d).

(h) In any case in which the service delivery area is a State, the State job training coordinating council or a portion of such council may be reconstituted to meet the requirements of this section.

FUNCTIONS OF PRIVATE INDUSTRY COUNCIL

29 USC 1513.

SEC. 103. (a) It shall be the responsibility of the private industry council to provide policy guidance for, and exercise oversight with respect to, activities under the job training plan for its service delivery area in partnership with the unit or units of general local government within its service delivery area.

(b)(1) The council, in accordance with an agreement or agreements with the appropriate chief elected official or officials specified in subsection (c), shall—

(A) determine procedures for the development of the job training plan, which may provide for the preparation of all or any part of the plan (i) by the council, (ii) by any unit of general local government in the service delivery area, or by an agency thereof, or (iii) by such other methods or institutions as may be provided in such agreement; and

(B) select as a grant recipient and entity to administer the job training plan (which may be separate entities), (i) the council, (ii) a unit of general local government in its service delivery area, or an agency thereof, (iii) a nonprofit private organization or corporation, or (iv) any other agreed upon entity or entities.

(2) The council is authorized to provide oversight of the programs conducted under the job training plan in accordance with procedures established by the council. In order to carry out this paragraph, the council shall have access to such information concerning the operations of such programs as is necessary.

(c) For purposes of subsection (b), the appropriate chief elected official or officials means—

(1) the chief elected official of the sole unit of general local government in the service delivery area,

(2) the individual or individuals selected by the chief elected officials of all units of general local government in such area as their authorized representative, or

(3) in the case of a service delivery area designated under section 104(a)(4)(A)(iii), the representative of the chief elected official for such area (as defined in section 4(4)(C)).

(d) No job training plan prepared under section 104 may be submitted to the Governor unless (1) the plan has been approved by the council and by the appropriate chief elected official or officials
PUBLIC LAW 97–300—OCT. 13, 1982

PUBLIC LAW 97–300—OCT. 13, 1982

PUBLIC LAW 97–300—OCT. 13, 1982

PUBLIC LAW 97–300—OCT. 13, 1982

PUBLIC LAW 97–300—OCT. 13, 1982

specifies in subsection (c), and (2) the plan is submitted jointly by the council and such official or officials.

(c) In order to carry out its functions under this Act, the council—

(f) As used in this section, the term “oversight” means reviewing, monitoring, and evaluating.

J O B T R A I N I N G P L A N

SEC. 104. (a) No funds appropriated for any fiscal year may be provided to any service delivery area under this Act except pursuant to a job training plan for two program years which is prepared in accordance with section 103 and which meets the requirements of this section.

(b) Each job training plan shall contain—

1. identification of the entity or entities which will administer the program and be the grant recipient of funds from the State;

2. a description of the services to be provided, including the estimated duration of service and the estimated training cost per participant;

3. procedures for identifying and selecting participants and for eligibility determination and verification;

4. performance goals established in accordance with standards prescribed under section 106;

5. procedures, consistent with section 107, for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

6. 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 103(b)(1)(B) and to meet the requirements of section 108;

7. a description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan;

8. 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;

9. fiscal control, accounting, audit and debt collection procedures to assure the proper disbursement of, and accounting for, funds received under this title; and

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

(c) If changes in labor market conditions, funding, or other factors require substantial deviation from an approved job training plan, the private industry council and the appropriate chief elected official or officials (as described in section 105(c)) shall submit a modification of such plan (including modification of the budget under subsection (b)(6)), which shall be subject to review in accordance with section 105.

REVIEW AND APPROVAL OF PLAN

Sec. 105. (a)(1) Not less than 120 days before the beginning of the first of the two program years covered by the job training plan—
(A) the proposed plan or summary thereof shall be published; and
(B) such plan shall be made available for review and comment to—
(i) each house of the State legislature for appropriate referral;
(ii) appropriate local educational and other public agencies in the service delivery area; and
(iii) labor organizations in the area which represent employees having the skills in which training is proposed; and
(C) such plan shall be reasonably available to the general public through such means as public hearings and local news facilities.

(2) The final plan, or a summary thereof, shall be published not later than 80 days before the first of the two program years and shall be submitted to the Governor in accordance with section 103(d)(2). Any modification shall be published not later than 80 days before it is effective and shall be submitted to the Governor in accordance with such section.

(b)(1) The Governor shall approve the job training plan or modification thereof unless he finds that—
(A) corrective measures for deficiencies found in audits or in meeting performance standards from previous years have not been taken or are not acceptably underway;
(B) the entity proposed to administer the program does not have the capacity to administer the funds;
(C) there are inadequate safeguards for the protection of funds received;
(D) the plan (or modification) does not comply with a particular provision or provisions of this Act or of regulations of the Secretary under this Act; or
(E) the plan (or modification) does not comply with the criteria under section 121(b) for coordinating activities under this Act with related program activities.

(2) The Governor shall approve or disapprove a job training plan (or modification) within 30 days after the date that the plan (or modification) is submitted, except that if a petition is filed under paragraph (3) such period shall be extended to 45 days. Any disapproval by the Governor may be appealed to the Secretary, who shall
PUBLIC LAW 97-300—OCT. 13, 1982

make a final decision of whether the Governor's disapproval complies with paragraph (1) of this subsection within 45 days after receipt of the appeal.

(3)(A) Interested parties may petition the Governor within 15 days of the date of submission for disapproval of the plan or modification thereof if—

(i) the party can demonstrate that it represents a substantial client interest,

(ii) the party took appropriate steps to present its views and seek resolution of disputed issues prior to submission of the plan to the Governor, and

(iii) the request for disapproval is based on a violation of statutory requirements.

(B) If the Governor approves the plan (or modification), the Governor shall notify the petitioner in writing of such decision and the reasons therefor.

(c)(1) If a private industry council and the appropriate chief elected official fail to reach the agreement required under section 103 (b) or (d) and, as a consequence, funds for a service delivery area may not be made available under section 104, then the Governor shall redesignate, without regard to sections 101 (a)(4) and (c)(1), the service delivery areas in the State to merge the affected area into one or more other service delivery areas, in order to promote the reaching of agreement.

(2) In any State in which service delivery areas are redesignated under paragraph (1), private industry councils shall, to the extent necessary for the redesignation, be reconstituted and job training plans modified as required to comply with sections 102 and 103. Services under an approved plan shall not be suspended while the council is reconstituted and the plan is modified.

(d) In any case in which the service delivery area is a State, the plan (or modification) shall be submitted to the Secretary for approval. For the purpose of this subsection, the Secretary shall have the same authority as the Governor has under this section.

PERFORMANCE STANDARDS

SEC. 106. (a) The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

(1) it is essential that criteria for measuring the return on this investment be developed; and

(2) the basic return on the investment is to be measured by the increased employment and earnings of participants and the reductions in welfare dependency.

(b)(1) The basic measure of performance for adult training programs under title II is the increase in employment and earnings and the reductions in welfare dependency resulting from participation in the program. In order to determine whether these basic measures are achieved, the Secretary shall prescribe standards on the basis of appropriate factors which may include (A) placement in unsubsidized employment, (B) retention in unsubsidized employment, (C) the increase in earnings, including hourly wages, and (D) reduction in the number of individuals and families receiving cash welfare payments and the amounts of such payments.
2. In prescribing standards under this section the Secretary shall also designate factors for evaluating the performance of youth programs which, in addition to appropriate utilization of the factors described in paragraph (1), shall be (A) attainment of recognized employment competencies recognized by the private industry council, (B) elementary, secondary, and postsecondary school completion, or the equivalent thereof, and (C) enrollment in other training programs or apprenticeships, or enlistment in the Armed Forces.

3. The standards shall include provisions governing—
   (A) the base period prior to program participation that will be used;
   (B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payment reductions; and
   (C) cost-effective methods for obtaining such data as is necessary to carry out this section, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures.

4. The Secretary shall prescribe performance standards relating gross program expenditures to various performance measures.

(c) Within six months after the date of the enactment of this Act, the Secretary shall establish initial performance standards which are designed to contribute to the achievement of the performance goals set forth in subsection (b)(1), based upon data accumulated under the Comprehensive Employment and Training Act, from the National Commission for Employment Policy, and from other appropriate sources. In the development of the initial standards under this subsection, the Secretary shall relate gross program expenditures to the accomplishment of program goals set forth in subsection (b)(1).

(d)(1) The Secretary shall, not later than January 31, 1984, prescribe performance standards for the first program year under this Act to measure the results of the participation in the program to achieve the goals set forth in subsection (b)(1) based upon the initial standards established in subsection (c).

2. The Secretary, not later than six months after the completion of the first two program years, shall prepare and submit a report to the Congress containing the performance standards established under paragraph (1) of this subsection, together with an analysis of the manner in which the performance standards contribute to the achievement of the goals set forth in subsection (b)(1), including the relative importance of each standard to the accomplishment of such goals.

3. The Secretary shall prescribe variations in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, and ex-offenders, taking into account their special circumstances.

(A) The Secretary may modify the performance standards under this subsection not more often than once every two program years and such modifications shall not be retroactive.

(B) The Secretary shall prepare and submit a report to the Congress containing any modifications established under subparagraph (A), and the reasons for such modifications.
(e) Each Governor may prescribe, within parameters established by the Secretary, variations in the standards under this subsection based upon specific economic, geographic, and demographic factors in the State and in service delivery areas within the State, the characteristics of the population to be served, and the type of services to be provided.

(f) The National Commission for Employment Policy shall (1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (e), (2) evaluate the usefulness of such standards as measures of desired performance, and (3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

(g) The Secretary shall prescribe performance standards for programs under title III based on placement and retention in unsubsidized employment.

(h)(1) The Governor shall provide technical assistance to programs which do not meet performance criteria. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated service providers or make such other changes as the Governor deems necessary to improve performance. The Governor may also select an alternate entity to administer the program for the service delivery area.

(2) The alternate administrative entity may be a newly formed private industry council or any agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area.

(3) No change may be made under this subsection without an opportunity for a hearing before a hearing officer.

(4) The decision of the Governor may be appealed to the Secretary, which shall make a final decision within 60 days of the receipt of the appeal.

SELECTION OF SERVICE PROVIDERS

Sec. 107. (a) The primary consideration in selecting agencies or organizations to deliver services within a service delivery area shall be the effectiveness of the agency or organization in delivering comparable or related services based on demonstrated performance, in terms of the likelihood of meeting performance goals, cost, quality of training, and characteristics of participants. In complying with this subsection, proper consideration shall be given to community-based organizations as service providers.

(b) Funds provided under this Act shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless it is demonstrated that alternative services or facilities would be more effective or more likely to achieve the service delivery area's performance goals.

(c) Appropriate education agencies in the service delivery area shall be provided the opportunity to provide educational services, unless the administrative entity demonstrates that alternative agencies or organizations would be more effective or would have greater...
potential to enhance the participants' continued occupational and career growth.

(d) The administrative entity shall not fund any occupational skills training program unless the level of skills provided in the program are in accordance with guidelines established by the private industry council.

LIMITATION ON CERTAIN COSTS

Sec. 108. (a) Not more than 15 percent of the funds available to a service delivery area for any fiscal year for programs under part A of title II may be expended for the cost of administration. For purposes of this paragraph, costs of program support (such as counseling) which are directly related to the provision of education or training and such additional costs as may be attributable to the development of training described in section 204(28) shall not be counted as part of the cost of administration.

(b)(1) Not more than 30 percent of the funds available to a service delivery area for any fiscal year for programs under part A of title II may be expended for administrative costs (as defined under subsection (a)) and costs specified in paragraph (2).

(2)(A) For purposes of paragraph (1), the costs specified in this paragraph are—

(i) 50 percent of any work experience expenditures which meet the requirements of paragraph (3);

(ii) 100 percent of the cost of any work experience program expenditures which do not meet the requirements of paragraph (3);

(iii) supportive services; and

(iv) needs-based projects described in section 204(27).

(B) For purposes of paragraph (1), the costs specified in this paragraph do not include expenditures for tryout employment which meets the requirements of section 205(d)(3)(B).

(3) For purposes of paragraph (2), a work experience expenditure meets the requirements of this paragraph if—

(A) the work experience is of not more than 6 months' duration and is combined with a classroom or other training program;

(B) an individual participant is prohibited from participating in any other work experience program following participation in a program meeting the requirements of this paragraph;

(C) the classroom or other training program component is specified in a preemployment contract or meets established academic standards; and

(D) wages paid in the work experience program do not exceed the prevailing entry-level wage for the same occupation in the same labor market area.

(c)(1) Notwithstanding subsection (b), 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) 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:
PUBLIC LAW 97-300—OCT. 13, 1982
96 STAT. 1337

(i) an unemployment rate (in the service delivery area or that portion within which services resulting in excess costs are to be provided) which exceeds the national average unemployment rate by at least 3 percentage points, and the ratio of current private employment to population in such area or portion is less than the national average of such ratio;

(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, offenders, and single heads of households with dependent children;

(iii) the cost of providing necessary child care exceeds one-half of the costs specified in paragraph (2) of subsection (b);

(iv) the costs of providing necessary transportation exceeds one-third of the costs specified in paragraph (2) of subsection (b); or

(v) a substantial portion of the participants in programs in the service delivery area are in training programs of 9 months’ duration or more.

(3) Expenditures may be made in excess of the limitation contained in subsection (b) if the need for and the amount of the excess is stated in the job training plan (or modification thereof) for the service delivery area and such plan demonstrates that administrative costs comply with subsection (a) of this section.

(4) The provisions of this subsection shall not be available to the extent that supportive services provided under the job training plan duplicate services provided by any other public or private source that are available to participants without cost.

(5) The Governor shall not disapprove any plan (or modification thereof) on the basis of any statement of the need for and amount of excess costs in the job training plan if such plan or modification meets the requirements of this subsection.

(6) The provisions of this section do not apply to any service delivery area designated pursuant to section 101(a)(4)(A)(ii).

(e) This section shall not be construed to exempt programs under an approved plan from the performance standards established under section 106.

PART B—ADDITIONAL STATE RESPONSIBILITIES

GOVERNOR’S COORDINATION AND SPECIAL SERVICES PLAN

SEC. 121. (a)(1) The Governor shall annually prepare a statement of goals and objectives for job training and placement programs within the State to assist in the preparation of the plans required under section 104 of this Act and section 8 of the Act of June 6, 1933 (known as the Wagner-Peyser Act).

(2) Any State seeking financial assistance under this Act shall submit a Governor’s coordination and special services plan for two program years to the Secretary describing the use of all resources provided to the State and its service delivery areas under this Act and evaluating the experience over the preceding two years.

(b)(1) The plan shall establish criteria for coordinating activities under this Act (including title III) 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, 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 107 and 203.

(2) The plan shall describe the projected use of resources, including oversight and support activities, priorities and criteria for State incentive grants, and performance goals for State supported programs.

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

(4) 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 may include—

(1) making available to service delivery areas, with or without reimbursement and upon request, appropriate information and technical assistance to assist in developing and implementing plans and programs;

(2) carrying out special model training and employment programs and related services (including programs receiving financial assistance from private sources);

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

(4) providing financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(5) providing training opportunities in the conservation and efficient use of energy, and the development of solar energy sources as defined in section 3 of the Solar Energy Research, Development and Demonstration Act of 1974;

(6) industry-wide training;

(7) activities under title III of this Act;

(8) developing and providing to service delivery areas information on a State and local area basis regarding economic, industrial, and labor market conditions;

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

(10) providing statewide programs which provide for joint funding of activities under this Act with services and activities under other Federal, State, or local employment-related programs.

(d) A Governor's coordination and special services plan shall be approved by the Secretary unless the Secretary determines that the plan does not comply with specific provisions of this Act.
PUBLIC LAW 97–300—OCT. 13, 1982

STATE JOBS TRAINING COORDINATING COUNCIL

SEC. 122. (a)(1) Any State which desires to receive financial assistance under this Act shall establish a State job training coordinating council (hereinafter in this section referred to as the “State council”). Funding for the council shall be provided pursuant to section 202(b)(4).

(2) The State council shall be appointed by the Governor, who shall designate one nongovernmental member thereof to be chairperson. In making appointments to the State council, the Governor shall ensure that the membership of the State council reasonably represents the population of the State.

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

(A) One-third of the membership of the State council shall be representatives of business and industry (including agriculture, where appropriate) in the State, including individuals who are representatives of business and industry on private industry councils in the State.

(B) Not less than 20 percent of the membership of the State council shall be 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.

(C) Not less than 20 percent of the membership of the State council shall be representatives of the units or consortia of units of general local government in such State (including those which are administrative entities or grantees under this Act) which shall be nominated by the chief executive officers of the units or consortia of units of general local government; and

(D) Not less than 20 percent of the membership of the State council shall be representatives of the eligible population and of the general public, representatives of organized labor, representatives of community-based organizations, and representatives of local educational agencies (nominated by local educational agencies).

(4) The State council shall meet at such times and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(5) The State council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this Act.

(6) In order to assure objective management and oversight, the State council shall not operate programs or provide services directly to eligible participants, but shall exist solely to plan, coordinate, and monitor the provision of such programs and services.

(7) The plans and decisions of the State council shall be subject to approval by the Governor.
(8) For purposes of section 105 of the Vocational Education Act of 1968, the State council shall be considered to be the same as either the State Manpower Services Council referred to in that section or the State Employment and Training Council authorized under the Comprehensive Employment and Training Act.

(b) The State council shall—

(1) recommend a Governor's coordination and special services plan;

(2) recommend to the Governor state service delivery areas, plan resource allocations not subject to section 202(a), provide management guidance and review for all programs in the State, develop appropriate linkages with other programs, coordinate activities with private industry councils, and develop the Governor's coordination and special services plan and recommend variations in performance standards;

(3) advise the Governor and local entities on job training plans and certify the consistency of such plans with criteria under the Governor's coordination and special services plan for coordination of activities under this Act with other Federal, State, and local employment-related programs, including programs operated in designated enterprise zones;

(4) review the operation of programs conducted in each service delivery area, and the availability, responsiveness, and adequacy of State services, and make recommendations to the Governor, appropriate chief elected officials, and private industry councils, service providers, the State legislature, and the general public with respect to ways to improve the effectiveness of such programs or services;

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

(6) 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 Act;

(7)(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 reports required pursuant to section 105(d)(3) of the Vocational Education Act of 1968; and

(8) 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.

(c) In addition to the functions described in subsection (b), the Governor may, to the extent permitted by applicable law, transfer functions which are related to functions under this Act to the council established under this section from any State coordinating committee for the work incentive program under title IV of the
PUBLICATION 97–300—OCT. 13, 1982

Social Security Act or any advisory council established under the Wagner-Peyser Act.

STATE EDUCATION COORDINATION AND GRANTS

Sec. 123. (a) The sums available for this section pursuant to section 202(b)(1) 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; and

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

(b) The cooperative agreements described in subsection (a) shall provide for the contribution by the State agency or agencies, and the local educational agency (if any), of a total amount equal to the amount provided, pursuant to subsection (a)(1), in the grant subject to such agreement. Such matching amount shall not be provided from funds available under this Act, but may include the direct cost of employment or training services provided by State or local programs.

(c)(1) Funds available under this section may be used to provide education and training, including vocational education services, and related services to participants under title II. Such services may include services for offenders 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).

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

(3) Not less than 75 percent of the funds available for activities under clause (1) of subsection (a) shall be expended for activities for economically disadvantaged individuals.

(d) If no cooperative agreement is reached on the use of funds under this section, the funds shall be available to the Governor for use in accordance with section 121.

TRAINING PROGRAMS FOR OLDER INDIVIDUALS

Sec. 124. (a) From funds available for use under section 202(b)(2), the Governor is authorized to provide for job training programs which are developed in conjunction with service delivery areas within the State and which are consistent with the plan for the service delivery area prepared and submitted in accordance with the provisions in section 104, and designed to assure the training and placement of older individuals in employment opportunities with private business concerns.

(b) 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, and private business concerns.

42 USC 601.
29 USC 49 note.

29 USC 1533.

Post, p. 1358.

29 USC 1534.
(c) The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

(d) An individual shall be eligible to participate in a job training program under this section only if the individual is economically disadvantaged and has attained 55 years of age.

STATE LABOR MARKET INFORMATION PROGRAMS

Sec. 125. (a) In order to be eligible for Federal financial assistance for State labor market information programs under this Act from funds made available under section 202(b)(4) and section 461(b), the Governor shall designate the State occupational information coordinating committee or other organizational unit to be responsible for oversight and management of a statewide comprehensive labor market and occupational supply and demand information system, which shall—

(1) design a comprehensive cost-efficient labor market and occupational supply and demand information system which—

(A) is responsive to the economic demand and education and training supply support needs of the State and areas within the State, and

(B) meets the Federal standards under chapter 35 of title 44, United States Code, and other appropriate Federal standards established by the Bureau of Labor Statistics;

(2) standardize available Federal and State multi-agency administrative records and direct survey data sources to produce an employment and economic analysis with a published set of projections for the State and designated areas within the State which, at the minimum, includes—

(A) identification of geographic and occupational areas of potential growth or decline; and

(B) an assessment of the potential impact of such growth or decline on individuals, industries, and communities, including occupational supply and demand characteristics data;

(3) assure, to the extent feasible, that—

(A) automated technology will be used by the State;

(B) administrative records have been designed to reduce paperwork; and

(C) multiple survey burdens on the employers of the State have been reduced;

(4) publish and disseminate labor market and occupational supply and demand information and individualized career information to State agencies, area public agencies, libraries, and private not-for-profit users, and individuals who are in the process of making career decision choices; and

(5) conduct research and demonstration projects designed to improve any aspect of the statewide information system.

(b)(1) The analysis required under clause (2) of subsection (a) shall be used to contribute in carrying out the provisions of this Act, the Vocational Education Act of 1963, and the Act of June 6, 1938, known as the Wagner-Peyser Act.

(2) The assurance required by clause (3) of subsection (a) shall also include that the State will, to the maximum extent possible, assure consolidation of available administrative data and surveys to reduce duplication of record-keeping of State and local agencies, including secondary and postsecondary educational institutions.
PUBLIC LAW 97-300—OCT. 13, 1982

except as otherwise provided, the following conditions
are applicable to all programs under this Act:
(a) Each job training plan shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities and shall make efforts to provide equitable services among substantial segments of the eligible population.
(b) Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be available in the area in the absence of such funds.
(c) No funds may be used to assist in relocating establishments, or parts thereof, from one area to another unless such relocation will not result in an increase in unemployment in the area of original location or in any other area.
(d) Training provided with funds made available under this Act shall be only for occupations for which there is a demand in the area served or in another area to which the participant is willing to relocate, and consideration in the selection of training programs

AUTHORITY OF STATE LEGISLATURE

SEC. 126. Nothing in this Act shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this Act, of the programs assisted under this Act.

INTERSTATE AGREEMENTS

SEC. 127. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

PART C—PROGRAM REQUIREMENTS FOR SERVICE DELIVERY SYSTEM

GENERAL PROGRAM REQUIREMENTS

SEC. 141. Except as otherwise provided, the following conditions

Restrictions.
may be given to training in occupations determined to be in sectors of the economy which have a high potential for sustained demand or growth.

(2) Efforts shall be made to develop programs which contribute to occupational development, upward mobility, development of new careers, and overcoming sex-stereotyping in occupations traditional for the other sex.

(3) Commercially available training packages, including advanced learning technology, may be purchased for off-the-shelf prices and without requiring a breakdown of the cost components of the package if such packages are purchased competitively and include performance criteria.

(e) Only eligible individuals residing in the service delivery area may be served by employment and training activities funded under title II, except that the job training plan may provide for limited exceptions to this requirement.

(f) No member of any council under this Act shall cast a vote on the provision of services by that member (or any organization which that member directly represents) or vote on any manner which would provide direct financial benefit to that member.

(g) Payments to employers for on-the-job training which shall not, during the period of such training, average more than 50 percent of the wages paid by the employer to such participants, and payments in such amount shall be deemed to be in compensation for the extraordinary costs associated with training participants under this title and in compensation for the costs associated with the lower productivity of such participants.

(h) Funds provided under this Act shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless the plan establishes that alternative services or facilities would be more effective or more likely to achieve performance goals.

(i) Each administrative entity shall be responsible for the allocation of funds and the eligibility of those enrolled in its programs and shall have responsibility to take action against its subcontractors, subgrantees, and other recipients to eliminate abuses in the programs they are carrying out, and to prevent any misuse of funds by such subcontractors, subgrantees, and other recipients. Administrative entities may delegate the responsibility for determination of eligibility under reasonable safeguards, including provisions for reimbursement of cost incurred because of erroneous determinations made with insufficient care, if such an arrangement is included in an approved job training plan.

(j) No person or organization may charge an individual a fee for the placement or referral of such individual in or to a training program under this Act.

(k) No funds may be provided under this Act for any subsidized employment with any private for-profit employer unless the individual employed is a youth aged 16 to 21, inclusive, who is economically disadvantaged and the employment is provided in accordance with section 205(d)(3)(B).

(l) The Secretary shall not provide financial assistance for any program under this Act which involves political activities.

(m) Pursuant to regulations of the Secretary, income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of financial assistance for that program.
PUBLIC LAW 97-300—OCT. 13, 1982
96 STAT. 1345

(n) The Secretary shall notify the Governor and the appropriate private industry councils and chief elected officials of, and consult with the Governor and such councils and officials concerning, any activity to be funded by the Secretary under this Act within the State or service delivery area; and the Governor shall notify the appropriate private industry councils and chief elected officials of, and consult with such concerning, any activity to be funded by the Governor under this Act within the service delivery area.

(o)(1) All education programs for youth supported with funds provided under title II shall be consistent with applicable State and local educational standards.

(2) Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in programs conducted under such title shall be consistent with the requirements of applicable State and local law and regulation.

(p) No funds available under part B of this title or part A of title II may be used for public service employment.

BENEFITS

Sec. 142. (a) Except as otherwise provided in this Act, the following provisions shall apply to all activities financed under this Act:

(1) A trainee shall receive no payments for training activities in which the trainee fails to participate without good cause.

(2) Individuals in on-the-job training shall be compensated by the employer at the same rates, including periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

(3) Individuals employed in activities authorized under this Act shall be paid wages which shall not be less than the highest of (A) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, (B) the minimum wage under the applicable State or local minimum wage law, or (C) the prevailing rates of pay for individuals employed in similar occupations by the same employer.

(b) Allowances, earnings and payments to individuals participating in programs under this Act shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid, other than programs under the Social Security Act.

LABOR STANDARDS

Sec. 143. (a)(1) Conditions of employment and training shall be appropriate and reasonable in light of such factors as the type of work, geographical region, and proficiency of the participant.

(2) Health and safety standards established under State and Federal law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of participants. With respect to any participant in a program conducted under this Act who is engaged in activities which are not covered by health and safety standards under the Occupational Safety and Health Act of 1970, the Secretary shall prescribe, by regulation, such standards as may be necessary to protect the health and safety of such participants.
(3) To the extent that a State workers' compensation law is applicable, workers' compensation benefits in accordance with such law shall be available with respect to injuries suffered by participants. To the extent that such law is not applicable, each recipient of funds under this Act shall secure insurance coverage for injuries suffered by such participants, in accordance with regulations prescribed by the Secretary.

(4) All individuals employed in subsidized jobs shall be provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(5) No funds available under this Act may be used for contributions on behalf of any participant to retirement systems or plans.

(b)(1) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) No program shall impair existing contracts for services or collective bargaining agreements, except that no program under this Act which would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) No participant shall be employed or job opening filled (A) when any other individual is on layoff from the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this Act.

(4) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.

(c)(1) Each recipient of funds under this Act shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(2) Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the same area as that proposed to be funded under this Act, an opportunity shall be provided for such organization to submit comments with respect to such proposal.

(d) All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Act of March 3, 1921 (40 U.S.C. 276a-276a-5), popularly known as the Davis-Bacon Act. The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1287) and section 2 of the Act of June 1, 1984, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)). The provisions of this subsection shall not apply to a bona fide trainee in a training program under this Act. The provisions of section 167(a)(4) shall apply to such trainees.

GRIEVANCE PROCEDURE

SEC. 144. (a) Each administrative entity, contractor, and grantee under this Act shall establish and maintain a grievance procedure.
compensation law is provided. In accordance with such
applicable, each recipient
coverage for injuries
with regulations pre-
jobs shall be provided
to the same
level and to the same
length of time and
be used for contribu-
tion systems or plans.
be displaced by any
such as a reduction in
program under this
of a collective
without the written
employer concerned.
opening filled (A) when
any substantially
eliminated the
workforce
created by hiring a
Act.
line that will infringe
opportunities of currently
shall provide to the
will be used to assist,
substantial number of
or training in the same
An opportunity
shall submit comments with
contractors or subcon-
repair, including paint-
and works which are
paid wages at rates not
the Act of March 3,
such labor standards,
organization Plan Num-
section 2 of the Act
shall not apply to a bona
Act. The provisions of
for grievances or complaints about its programs and activities from
participants, subgrantees, subcontractors, and other interested per-
Hearings.
(b) Each recipient of financial assistance under this Act which is
an employer of participants under this Act shall continue to operate
or establish and maintain a grievance procedure relating to the
terms and conditions of employment.
(c) Upon exhaustion of a recipient's grievance procedure without
decision, or where the Secretary has reason to believe that the
recipient is failing to comply with the requirements of this Act or
the terms of the job training plan, the Secretary shall investigate
the allegation or belief and determine within 120 days after receiv-
ing the complaint whether such allegation or complaint is true.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

Sec. 145. No provision of this Act shall be construed to authorize
any department, agency, officer, or employee of the United States to
exercise any direction, supervision, or control over the curriculum,
program of instruction, administration, or personnel of any educa-
tional institution, school, or school system, or over the selection of
library resources, textbooks, or other printed or published instruc-
tional materials by any educational institution or school system.

PART D—FEDERAL AND FISCAL ADMINISTRATIVE PROVISIONS

PROGRAM YEAR

Sec. 161. (a) Beginning with fiscal year 1985 and thereafter,
appropriations for any fiscal year for programs and activities under
this Act shall be available for obligation only on the basis of a
program year. The program year shall begin on July 1 in the fiscal
year for which the appropriation is made.
(b) 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.
(c)(1) Appropriations for fiscal year 1984 shall be available both to
fund activities for the period between October 1, 1983, and July 1,
1984, and for the program year beginning July 1, 1984.
29 USC 1572.
(2) There are authorized to be appropriated such additional sums
as may be necessary to carry out the provisions of this subsection for
the transition to program year funding.

PROMPT ALLOCATION OF FUNDS

Sec. 162. (a) All allotments and allocations under this Act shall be
based on the latest available data and estimates satisfactory to the
Secretary. All data relating to economically disadvantaged and low-
income persons shall be based on 1980 Census or later data.
(b) Whenever the Secretary allots and allocates funds required to
be allotted or allocated by formula under this Act, the Secretary
Publication in
Federal
Register.
shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient.

(c) All funds required to be distributed by formula under this Act shall be allotted within 45 days after enactment of the appropriations, except that, if such funds are appropriated in advance as authorized by section 161, such funds shall be allotted not later than the March 31 preceding the program year for which such funds are to be available for obligation.

(d) Whenever the Secretary utilizes a formula to allot or allocate funds made available for distribution at the Secretary’s discretion under this Act, the Secretary shall, not later than 30 days prior to such allotment or allocation, publish such formula in the Federal Register for comments along with the rationale for the formula and the proposed amounts to be distributed to each State and area. After consideration of any comments received, the Secretary shall publish final allotments and allocations in the Federal Register.

(e) Funds shall be made available to the grant recipient for the service delivery area not later than 30 days after the date they are made available to the Governor or 7 days after the date the plan is approved, whichever is later.

MONITORING

29 USC 1573.

Sec. 163. (a) The Secretary is authorized to monitor all recipients of financial assistance under this Act to determine whether they are complying with the provisions of this Act and the regulations issued under this Act.

(b) The Secretary may investigate any matter the Secretary deems necessary to determine compliance with this Act and regulations issued under this Act. The investigations authorized by this subsection may include examining records (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of a program of a recipient is conducted or in which any of the records of the recipient are kept.

(c) For the purpose of any investigation or hearing under this Act, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the Secretary.

FISCAL CONTROLS; SANCTIONS

Sec. 164. (a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidance for the proper performance of audits. Such guidance shall include a review of fiscal controls and fund accounting procedures established by States under this section.

(2) At least once every two years, the State shall prepare or have prepared an independent financial and compliance audit of each recipient of funds under titles II and III of this Act. Under criteria established by the Director of the Office of Management and Budget, and upon application by the Governor, the Secretary may exempt designated recipients from all or part of the requirements of this
section, except that any such exemption shall not apply to the State administering agency, the entity which is the administrative entity for the job training plan for a service delivery area, or a private industry council. Any exemption under this section may be withdrawn by the Secretary in consultation with the Director of the Office of Management and Budget.

(b)(1) Whenever, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this Act or the regulations, and corrective action has not been taken, the Governor may issue a notice of intent to revoke approval of all or part of the plan affected. Such notice may be appealed to the Secretary under the same terms and conditions as the disapproval of the plan and shall not become effective until (A) the time for appeal has expired or (B) the Secretary has issued a decision.

(2) The Governor shall withdraw the notice if the appropriate corrective action has been taken.

(c)(1) The Comptroller General of the United States shall, on a selective basis, evaluate the expenditures by the recipients of grants under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of each recipient in accomplishing the purposes of this Act. The Comptroller General shall conduct the evaluations whenever he determines it necessary and he shall periodically report to the Congress on the findings of such evaluations.

(2) Nothing in this Act shall be deemed to relieve the Inspector General of the Department of Labor of his responsibilities under the Inspector General Act.

(3) For the purpose of evaluating and reviewing programs established or provided for by this Act, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs that are in the possession, custody, or control of the State, a private industry council established under section 102 of this Act, any recipient of funds under this Act, or any subgrantee or contractor of such recipients.

(d) Every recipient shall repay to the United States amounts found not to have been expended in accordance with this Act. The Secretary may offset such amounts against any other amount to which the recipient is or may be entitled under this Act unless he determines that such recipient should be held liable pursuant to subsection (e). No such action shall be taken except after notice and opportunity for a hearing have been given to the recipient.

(e)(1) Each recipient shall be liable to repay such amounts, from funds other than funds received under this Act, upon a determination that the misexpenditure of funds was due to willful disregard of the requirements of this Act, gross negligence, or failure to observe accepted standards of administration. No such finding shall be made except after notice and opportunity for a fair hearing.

(2) In determining whether to impose any sanction authorized by this section against a recipient for violations by a subgrantee of such recipient under this Act or the regulations under this Act, the
Secretary shall first determine whether such recipient has adequately demonstrated that it has—
(A) established and adhered to an appropriate system for the award and monitoring of contracts with subgrantees which contains acceptable standards for ensuring accountability;
(B) entered into a written contract with such subgrantee which established clear goals and obligations in unambiguous terms;
(C) acted with due diligence to monitor the implementation of the subgrantee contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and
(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this Act or the regulations under this Act by such subgrantee.

(3) If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this Act and any applicable Federal or State law directly against any subgrantee for violation of this Act or the regulations under this Act.

(f) In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment was required to be made by and with the advice and consent of the Senate.

(g) If the Secretary determines that any recipient under this Act has discharged or in any other manner discriminated against a participant or against any individual in connection with the administration of the program involved, or against any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding or investigation under or related to this Act, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this Act or the Secretary's regulations, the Secretary shall, within thirty days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved individual, or both.

(h) The remedies under this section shall not be construed to be exclusive remedies.

REPORTS, RECORDKEEPING, AND INVESTIGATIONS

Sec. 165. (a)(1) Recipients shall keep records that are sufficient to permit the preparation of reports required by this Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully.

(2) Every recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary requires regarding the performance of its programs. Such records and reports shall be submitted to the Secretary but shall not
be required to be submitted more than once each quarter unless specifically requested by the Congress or a committee thereof.

(b)(1)(A) In order to evaluate compliance with the provisions of this Act, the Secretary shall conduct, in several States, in each fiscal year investigations of the use of funds received by recipients under this Act.

(B) In order to insure compliance with the provisions of this Act, the Comptroller General of the United States may conduct investigations of the use of funds received under this Act by any recipient.

(2) In conducting any investigation under this Act, the Secretary or the Comptroller General of the United States may not request the compilation of any new information not readily available to such recipient.

c) Each State, each administrative entity designated under title I, and each recipient (other than a subrecipient, grantee or contractor of a recipient) receiving funds under this Act shall—

1. make such reports concerning its operations and expenditures as shall be prescribed by the Secretary;
2. prescribe and maintain a management information system, in accordance with guidelines prescribed by the Secretary, designed to facilitate the uniform compilation and analysis of programmatic and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes.

ADMINISTRATIVE ADJUDICATION

Sec. 166. (a) Whenever any applicant for financial assistance under this Act is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient upon whom a corrective action or a sanction has been imposed by the Secretary. Except to the extent provided for in section 1576, all other disputes arising under this Act shall be adjudicated under grievance procedures established by the recipient or under applicable law other than this Act.

(b) The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision the Secretary dissatisfied with the decision or any part thereof has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. Thereafter the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days of such filing, has notified the parties that the case has been accepted for review.

c) Any case accepted for review by the Secretary shall be decided within one hundred and eighty days of such acceptance. If not so decided, the decision of the administrative law judge shall become the final decision of the Secretary.

d) The provisions of section 168 of this Act shall apply to any final action of the Secretary under this section.
Sec. 167. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

(3) Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(4) With respect to terms and conditions affecting, or rights provided to, individuals who are participants in activities supported by funds provided under this Act, such individuals shall not be discriminated against solely because of their status as such participants.

(5) Participation in programs and activities financially assisted in whole or in part under this Act shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other individuals authorized by the Attorney General to work in the United States.

(b) Whenever the Secretary finds that a State or other recipient has failed to comply with a provision of law referred to in subsection (a)(1), with paragraph (2), (3), (4), or (5) of subsection (a), or with an applicable regulation prescribed to carry out such paragraphs, the Secretary shall notify such State or recipient and shall request it to comply. If within a reasonable period of time, not to exceed sixty days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act, as may be applicable; or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) For purposes of this section, Job Corps members shall be considered as the ultimate beneficiaries of Federal financial assistance.
PUBLIC LAW 97–300—OCT. 13, 1982
96 STAT. 1353

JUDICIAL REVIEW

Sec. 168. (a)(1) With respect to any final order by the Secretary under section 166 whereby the Secretary determines to award, to not award, or to only conditionally award, financial assistance, with respect to any final order of the Secretary under section 166 with respect to a corrective action or sanction imposed under section 164, and with respect to a denial of an appeal under section 101(4)(C) or 105(b)(2), any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds, by filing a review petition within 30 days of such final order.

(2) The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record upon which the final order was entered as provided in section 2112 of title 28, United States Code. Review petitions unless ordered by the court, shall not stay the Secretary's order. Petitions under this Act shall be heard expeditiously, if possible within ten days of the filing of a reply brief.

(3) No objection to the order of the Secretary shall be considered by the court unless the objection shall have been specifically and timely urged before the Secretary. Review shall be limited to questions of law and the Secretary's findings of fact shall be conclusive if supported by substantial evidence.

(b) The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The court's judgment shall be final, subject to certiorari review by the Supreme Court of the United States as provided in section 1254(1) of title 28, United States Code.

ADMINISTRATIVE PROVISIONS

Sec. 169. (a) The Secretary, in accordance with chapter 5 of title 5, United States Code, prescribe such rules and regulations (including performance standards) as the Secretary deems necessary. Such rules and regulations may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. All such rules and regulations shall be published in the Federal Register at least thirty days prior to their effective date. Copies of all such rules and regulations shall be transmitted to the appropriate committees of the Congress at the same time and shall contain, with respect to each material provision of such rules and regulations, citations to the particular substantive section of law which is the basis therefor.

(b) The Secretary is authorized, in carrying out this Act, to accept, purchase, or lease in the name of the department, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 2675(a)(2) of the Revised Statutes of the United States.

(c) The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds under this Act as necessary to carry out this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction,
repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

(d) The Secretary shall prepare and submit to the Congress an annual report for employment and training programs. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs authorized in this Act in meeting the objective of this Act;

(2) a summary of major findings from research, evaluation, pilot projects, and experiments conducted in the previous fiscal year;

(3) recommendations for program modifications based upon analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary deems appropriate.

(e) The Secretary shall develop methods to ascertain, and shall ascertain annually, energy development and conservation employment impact data by type and scale of energy technologies used. The Secretary shall present the best available data to the Secretary of Energy, the Secretary of Housing and Urban Development, and the Director of the Office of Management and Budget as part of the budgetary process and to the appropriate Committees of Congress annually.

UTILIZATION OF SERVICES AND FACILITIES

29 USC 1580.

Sec. 170. The Secretary is authorized, in carrying out this Act, and to the extent permitted by law other than this Act, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with its consent.

OBLIGATIONAL AUTHORITY

29 USC 1581.

Sec. 171. Notwithstanding any other provision of this Act, no authority to enter into contracts or financial assistance agreements under this Act shall be effective except to such extent or in such amount as are provided in advance in appropriation Acts.

PART E—MISCELLANEOUS PROVISIONS

TRANSITION

29 USC 1591.

Sec. 181. (a) Except as otherwise provided in this section, the Secretary, from funds appropriated pursuant to this Act or pursuant to the Comprehensive Employment and Training Act, shall provide financial assistance under this Act in the same manner that such assistance was provided under the Comprehensive Employment and Training Act (as in effect on the day before the enactment of this Act) until September 30, 1983.

(b) The Commission established by title V of the Comprehensive Employment and Training Act shall continue to be authorized until September 30, 1983, and on such date the personnel, property, and records of such Commission shall be transferred to the Commission established by part F of title IV of this Act.
Notwithstanding the provisions of subsection (a), Governors, prime sponsors, and other recipients of financial assistance under this Act, or under the Comprehensive Employment and Training Act, may expend funds received under this Act, or under the Comprehensive Employment and Training Act, prior to October 1, 1983, in order to—

(1) administer consolidated programs formed by the combining of programs previously administered under different titles, parts, and subparts of the Comprehensive Employment and Training Act;

(2) establish for new participants, in accordance with the eligibility criteria for title II of this Act, uniform eligibility criteria and other provisions relating to participation for programs consolidated pursuant to paragraph (1);

(3) conduct planning for any program or activity authorized under this Act; and

(4) conduct any other activity deemed necessary by the recipient to provide for an orderly transition to the operation of October 1, 1983, of programs under this Act.

(d) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges, which have been issued under the Comprehensive Employment and Training Act (as in effect on the date before the date of enactment of this Act), or which are issued under that Act on or before September 30, 1983, shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

(e) The provisions of this Act shall not affect administrative or judicial proceedings pending on the date of enactment of this Act, or begun between the date of enactment of this Act and September 30, 1984, under the Comprehensive Employment and Training Act.

(f)(1) By January 1, 1983, the Secretary shall have published in the Federal Register final regulations governing the establishment of the State job training coordinating councils and the designation of service delivery areas.

(2) By January 15, 1983, the Secretary shall have published in the Federal Register final regulations governing the establishment of private industry councils.

(3) By March 15, 1983, the Secretary shall have published in the Federal Register final regulations governing all aspects of programs under title II of this Act not described in paragraphs (1) and (2) of this subsection.

(4) All other regulations for programs under this Act shall take effect no later than October 1, 1983.

Pursuant to section 160(a) of this Act the rules described in paragraphs (1), (2), and (3) of this section shall take effect thirty days after publication. In promulgating the rules described in paragraphs (1), (2), and (3), the Secretary shall be exempt from all requirements of law regarding rulemaking procedures except that such rules, prior to their publication in final form, shall be published in the Federal Register for comment for thirty days in the case of rules under paragraphs (2) and (3) and twenty days in the case of rules under paragraph (1).

(6) The Secretary may subsequently modify rules issued pursuant to paragraphs (1), (2), and (3) but, with respect to the program period October 1, 1983, to June 30, 1984, such subsequent rules shall not affect the legitimacy of any State job training coordinating council.
or private industry council, or the composition of any service delivery area, established under the rules issued pursuant to paragraphs (1) or (2). In addition, with respect to the program period October 1, 1983, to June 30, 1984, no modifications of the rules published pursuant to paragraph (3) shall be effective unless they are published in final form by May 15, 1983.

(7) Upon the certification of any private industry council under section 102(g) the Secretary, from discretionary funds appropriated under this Act or Comprehensive Employment and Training Act, for fiscal year 1983, may provide up to $80,000 to each such council to assist it in performing its functions under section 103.

(g) Notwithstanding any other provision of law, any real or nonexpendable personal property, which was acquired on or before September 30, 1983, by prime sponsors (including by their contractors or subrecipients) with funds under the Comprehensive Employment and Training Act or under this Act, and with respect to which the Secretary reserved the right to take title, shall be transferred, as of October 1, 1983, from such prime sponsors to the custody of the entity which is administering programs under title II of this Act in the geographic area in which such property is located. Such transfer shall be subject to the Secretary's rights in such property, which shall continue unchanged.

(h) Funds for fiscal year 1982 allocated to areas served by prime sponsors or to other recipients under the Comprehensive Employment and Training Act, which were not obligated by the prime sponsor or other recipient prior to the end of such fiscal year, shall remain available for obligation by the prime sponsor or other recipient during fiscal year 1983. No reduction shall be made in the allocation for any area served by such a prime sponsor from appropriations to carry out this Act for fiscal year 1983 on account of the carryover of such funds from fiscal year 1982 to fiscal year 1983.

(i) The amendments made by sections 501 and 502 shall be effective October 1, 1983, but, the Secretary is authorized to use funds appropriated for fiscal year 1983 to plan for the orderly implementation of such amendments.

(j) In order to facilitate the development of a service delivery area's job training plan for the program period October 1, 1983, to June 30, 1984, the various time limits contained in this Act which pertain to the planning process shall not be applicable, except that the job training plan must be submitted to the Governor by August 31, 1983. This provision shall apply only to the time limits and shall not apply to any of the required planning procedures, or to the required chronological order of such procedures except that the job training plan and budget need only be for the October 1, 1983 to June 30, 1984 program period.

(2) In order to facilitate planning for the program period October 1, 1983, to June 30, 1984, the local agreement or agreements between the private industry council and the appropriate chief elected official or officials may provide for interim procedures applicable only to that program. Such interim agreements may also, notwithstanding the provisions of section 107, authorize service deliverers under the Comprehensive Employment and Training Act or under this Act during fiscal year 1983 to continue as service deliverers under the program as established by this Act for such period.

(3) The performance standards described in section 106 shall apply to service delivery areas for the program period October 1, 1983, to June 30, 1984. No service delivery area, however, shall suffer a
of any service delivery area served by prime recipients of funds appropriated under the Comprehensive Employment and Training Act, for which such service delivery area is obligated under section 103.

(b) Whoever, by threat or procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with the Comprehensive Employment and Training Act or the Job Training Partnership Act, induces any person to give up any money or thing of any value to any person (including such organization or agency receiving funds) shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(c) Any person who willfully obstructs or impedes, or willfully endeavors to obstruct or impede, an investigation or inquiry under the Comprehensive Employment and Training Act or the Job Training Partnership Act, or the regulations thereunder, shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

REFERENCE

Sec. 183. Effective on the date of enactment of this Act, all references in any other statute other than this Act, and other than in section 665 of title 18, United States Code, to the Comprehensive Employment and Training Act shall be deemed to refer to the Job Training Partnership Act.

REPEALERS

Sec. 184. (a) Effective on the date of enactment of this Act—

(1) the Comprehensive Employment and Training Act is repealed;
(2) section 5(b) of the Comprehensive Employment and Training Act Amendments of 1978 is repealed.

TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

PART A—ADULT AND YOUTH PROGRAMS

ALLOTMENT

29 USC 1601.

Section 201. (a) Not more than $5,000,000 of the amount appropriated pursuant to section 9(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(b)(1) Subject to the provisions of paragraph (2), of the remainder of the amount available for this part for each fiscal year—

(A) 33 1/3 percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

(B) 33 1/3 percent shall be allotted 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;

(C) 33 1/3 percent shall be allotted on the basis of the relative number of economically disadvantaged individuals within the State compared to the total number of economically disadvantaged individuals in all States, except that, for the allotment for any State in which there is any service delivery area described in section 101(a)(4)(A)(ii), the allotment shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

(2)(A) No State shall receive less than one-quarter of 1 percent of the amount available for allotment under this subsection for each such fiscal year.

(B) No State shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subparagraph, the allotment percentage for each State for the fiscal year 1982 is the percent that each State received in 1982, pursuant to the formula allocations made under the Comprehensive Employment and Training Act, of the total such formula allocations for all States made under that Act in fiscal year 1982. For each succeeding fiscal year, the allotment percentage of a State shall be the percentage which the State received of all allotments pursuant to this subsection.

(3) For purposes of paragraph (1)—

(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 State, 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 State; 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,