# EXPLANATORY STATEMENT AND SECTION-BY-SECTION ANALYSIS OF THE WORKFORCE INVESTMENT ACT AMENDMENTS OF 2007

The "Workforce Investment Act Amendments of 2007" would make critical reforms to the nation's workforce investment system to better address the needs of workers and businesses and to enhance the competitiveness of the American economy.

The proposed legislation would provide States and local communities with greater flexibility to design streamlined workforce systems that best fit the unique needs of their economies. Under the proposal, four separate funding streams through which funds are currently allotted to states to support the workforce investment system -- the Adult, Dislocated Worker, and Youth formula programs under title I of the Workforce Investment Act of 1998 (WIA), and the Employment Service program under the Wagner-Peyser Act -- would be consolidated into a single funding stream to be allotted to the states to provide training through Career Advancement Accounts and to provide other workforce investment services through strengthened One-Stop delivery systems.

The Career Advancement Accounts established by this legislation would enable current and future workers to gain the skills needed to successfully enter, navigate and advance in the 21st century labor market. The proposed legislation would greatly enhance access to training by incorporating a number of amendments. First, the legislation would require that the majority of funds provided under title I of WIA be devoted to training services. As a result, there would be a significant increase in the number of workers trained over the number currently trained through the separate formula programs. Second, the eligibility for training would be simplified and enhanced by eliminating current "sequence of services" requirements. Accounts would be available to adults and out-of-school youth entering or re-entering the workforce or transitioning between jobs, and incumbent workers in need of new skills to remain employed or to move up the career ladder. Additional eligibility criteria and service priorities would be established by states. Third, the provisions relating to the eligibility of training providers would be simplified, eliminating prescriptive federal requirements that have deterred participation and thereby increasing the training choices available to participants while maintaining accountability.

Under the bill, One-Stop Career Centers would continue to provide employment services to job seekers and employers, as well as access to Career Advancement Accounts. However, steps would be taken to streamline and strengthen the One-Stop Career Center system. Governors would retain a percentage of the administrative funding of each of the One-Stop partner employment and training programs and distribute those funds to pay the infrastructure costs of the centers. This mechanism would provide more equitable and stable funding and reduce the burden of cost allocation and resource sharing at the local level. In addition, the state would tie infrastructure funding to a certification process for One-Stop centers to assure more consistency and quality of services across a state.

In addition, the bill makes improvements to WIA in a number of other key areas, such as providing states greater flexibility in the designation of local areas to match regional economies and labor markets, improving performance accountability by simplifying and rationalizing the current accountability system, more clearly defining what are appropriate administrative costs, authorizing the Community-Based Job Training grant program, and promoting state flexibility by enhancing waiver authority.

A description and explanation of the provisions of the bill follow.

Section 1 provides that the short title of the bill is the "Workforce Investment Act Amendments of 2007".

Section 2 contains the Table of Contents.

Section 3 provides that references to a section or provision in this Act are to be considered as references to a section or provision of the Workforce Investment Act of 1998.

Title I contains amendments to title I of WIA. Section 101 amends section 101 of the WIA, which contains definitions.

Section 101(1) strikes the definition of "eligible youth" which currently applies to the separate WIA youth formula program that is being consolidated under this bill, and "lower living standard income level", which is an outdated measure that would no longer be used under the bill. The other paragraph designations are renumbered.

Section 101(2) adds the definition of "accrued expenditures", which would be used under the bill for determining the amount of funds allotted under the formula program that would be available for reallotment and reallocation. The definition is intended to differentiate funds that have actually been expended as opposed to funds that have simply been obligated, which is the basis for the current determination. The proposed definition is consistent with definition used in OMB circulars.

In addition, this paragraph adds a definition of "administrative costs" for purposes of determining which costs are subject to the limitations on administrative costs applicable to the State (5% of the allotment) and local areas (10% of the allocation) under the formula program. The current WIA regulations, at 20 CFR 667.220(b), enumerate the specific functions associated with administrative costs. However, there is concern that under the current regulations, program funds are being used for what would normally be considered administrative costs, which has the effect of reducing the amount of funding that is used to provide training and other direct services to individuals. This provision therefore adds several items to the definition currently contained in the regulation.

Specifically, subclauses (II) and (III) of paragraph (2)(B)(i) add quality assurance and preparing program plans as administrative activities consistent with traditional

treatment since these do not provide services to participants. Subclauses (XIII)-(XV), consisting of information systems and related data processing, preparing reports, and other activities necessary for the administration of government funds and associated programs, are also added. Clause (ii) of paragraph (2)(B) also includes performing oversight and monitoring responsibilities, whereas under current practice in WIA those activities are only included as administrative if they consist of oversight and monitoring of other administrative activities. Clause (iv) of paragraph (2)(B) would include the costs of facilities where activities are carried out, including the costs of rental or ownership, utilities, and operations and maintenance. Under current practice, only the costs of the portions of facilities used to carry out administrative activities are included as administrative costs. Finally, clauses (vii) through (xiii) of paragraph (2)(B) include as administrative costs technical assistance, the activities of the State and local boards and related councils, professional organization membership dues, and the evaluation of program results against stated objectives. These activities are traditionally viewed as administrative since they are not provided directly to participants, but under current practice in WIA they may be classified as programmatic costs.

Section 101(3) amends the requirements related to the definition of "customized training", under which training is designed to meet the special requirements of an employer or group of employers with a commitment by the employer to hire participants who successfully complete training. WIA currently requires that the employer pay at least 50% of the cost of the training. Prior to WIA, no employer contribution was required. The bill would amend the current provision to allow the local board to determine the specific percentage to be required, as long as the amount is a significant proportion of the training costs. In the case where customized training is provided by an employer in multiple local areas in the State, the Governor would determine what constitutes a significant proportion. This amendment to the customized training requirements provides greater flexibility to take into account the circumstances of the employer. Since the commitment to hire is made, this training is an effective tool for placing participants into employment, and greater flexibility may increase its use.

Section 101(4) changes a cross-reference to provisions relating to One-Stop centers to reflect changes made in the location of those provisions in the bill.

Section 101(5) amends the definition of "economic development agencies" to include agencies involved in regional planning and development.

Section 101(6) strikes a reference to eligible providers of youth activities under the separate youth formula program since that program is being consolidated under the bill.

Section 101(7) strikes from the definition of "low-income individual" a reference to the lower living standard income level, which as indicated above is an outdated measure of poverty that would no longer be used under the bill.

Section 101(8) strikes references to the Republic of the Marshall Islands and the Federated States of Micronesia from the definition of outlying areas eligible to receive assistance under the formula program.

Finally, section 101(9) strikes the definitions of "out-of-school youth" (which is defined under the bill in the provisions relating to eligibility for training services); "youth activity", which is currently used under the youth formula program that is being consolidated under the bill; and "youth council", which would no longer be required to be established under the bill.

Section 102 amends section 106 of WIA relating to the purpose of the State and local workforce investment systems, by adding as a purpose to provide Career Advancement Accounts to enhance the choices and control of participants in obtaining training services that will increase their skills and improve their performance outcomes.

Section 103 amends section 111 of WIA regarding the membership requirements and required functions of State Workforce Investment Boards. To better focus the State board on statewide labor market and economic issues, section 103(a) amends section 111(b) of WIA to streamline the membership requirements. Members would include: (1) the lead State agency officials responsible for administering the One-Stop partner programs (including the director of the State Vocational Rehabilitation (VR) program if that director is not a lead official); (2) the State economic development agency; (3) one or more business representatives; (4) one or more labor representatives; and (5) such other representatives and State agency officials as the Governor may designate. Chief elected officials and youth and adult service experts are removed from the current requirements, while the State economic development agency is added. The State VR director is added, and in those States where there is more than one director, the director of the unit that serves the most individuals with disabilities in the State would be the representative. The labor representatives could be selected from nominations submitted by labor organizations in the State, in addition to the nominations made by State labor federations as provided under current law. As under current law, Governors would have the authority to expand State board membership. Since under current law the large size of the boards has often made it difficult to carry out board functions, the requirement that the majority of State board members be business representatives is eliminated. However, to continue to emphasize the importance of the role of business in the system, the requirement that the chairperson of the State board be a business representative would be retained.

Section 103(b) revises the functions of the State board, set forth in section 111(d) of WIA. While many of the existing functions are retained, this subsection is amended to add as a State board function developing and reviewing statewide policies for the One-Stop Career Center system, including: the development of criteria and issuance of certifications of the One-Stop centers; the development of criteria for the allocation of One-Stop infrastructure funding to local areas; and policies relating to the appropriate roles of One-Stop operators, approaches to facilitating equitable and efficient cost allocation in One-Stop delivery systems, and strategies for effective outreach to

individuals and employers who could benefit from One-Stop services and policies. Providing an increased State role in the One-Stop system is intended to promote more consistent and better performance. Through the State board, the State-level administrators of One-Stop partner programs would also have greater involvement in setting policies relating to the One-Stop system, which could result in increasing their participation in that system. In addition, the function of developing State criteria relating to the appointment and certification of local boards is added. Also added to the State board functions are the development of eligibility criteria and priorities for Career Advancement Accounts and the development of effective administrative procedures for such accounts. Finally, the bill would add the important function of reviewing and providing comments on the State plans of the One-Stop partner programs, which is intended to facilitate strategic planning.

Section 103(c) eliminates the grandfathering provisions in section 111(e) of WIA that give authority to use entities that were in existence prior to the enactment of WIA in place of State boards. Since the State boards are an important component of the reforms underlying WIA, this change is intended to ensure State boards, with their enhanced functions as described above, are established. This section also establishes a new section 111(e) that clarifies that the State board has authority to hire staff to assist in carrying out its functions.

Section 104(a) amends section 112 of WIA to revise the WIA planning cycle to require that State plans be submitted every two years instead of every five years. This is intended to ensure that the State plans become living documents that are regularly updated to reflect changing economic situations or State and local priorities.

Section 104(b) revises the State plan content requirements in section 112(b) of WIA. Under section 104(b)(1), the current planning element relating to Wagner-Peyser plans (which would be consolidated into the formula program under the bill) would be replaced by a description of the State criteria for determining the eligibility of training providers, including how the State will take into account the performance of providers and whether the training programs of the providers relate to occupations that are in demand. Section 109 of the bill described below contains significant amendments to the eligible training provider requirements of section 122 of WIA to enhance State flexibility while maintaining accountability, and this planning element reflects some of those important changes.

Under section 104(b)(2), the bill would add as an element a description of the procedures taken by the State to coordinate with and avoid duplication of services with programs authorized under titles II (SSDI), XVI (SSI), XIX (Medicaid), and XX (Social Service Block Grant) of the Social Security Act; title VII of the Rehabilitation Act of 1973 (Independent Living); and programs carried out by State agencies relating to mental health, mental retardation, and developmental disabilities. This is intended to ensure better coordination with programs serving special populations, including individuals with disabilities.

This section also adds, to the description of the common data collection and reporting processes for One-Stop partners required under current law, assurances that those processes use quarterly wage records for performance measures relating to entry into employment, retention, and earnings that are applicable to the One-Stop partners. If such records are not being used, the State is to include an identification of the barriers and how the State will address the barriers within one year of the approval of the State plan. The specified performance measures are part of a common measures initiative designed to ensure that Federal training programs have the same core outcome measures. The most efficient and effective way to carry out these measures is by using quarterly wage records. While most States have been able to establish appropriate arrangements among One-Stop partners to facilitate such use, there are some States where these arrangements have not been made. This provision is designed to ensure that the States make such arrangements so the applicable performance accountability measures can be implemented and reported.

Section 104(b)(3) eliminates references to separate formula programs that are consolidated under the bill and would add a requirement that the State plan include assurances that there are accounting controls and procedures in place to ensure the administrative cost limits are not exceeded. This addition is intended to strengthen the application of those cost limits.

Sections 104(b)(4) and (5) eliminate references to the separate youth formula program being consolidated and change a cross-reference to a provision relating to the One-Stop system.

Section 104(b)(6)(A) adds as a State plan element a description of the eligibility criteria for individuals to receive Career Advancement Accounts in the State and the manner in which those accounts will be administered in the State.

This provision also adds the homeless, out-of-school youth and migrant and seasonal farmworkers to the list of groups the plan is to address, and establishes a separate clause requiring a description of how the State will meet the employment and training needs of individuals with disabilities in a manner consistent with the nondiscrimination requirements of section 188 of WIA and with Executive Order 13217, which promotes community-based alternatives for assisting individuals with disabilities, and with the requirements of sections 504 and 508 of the Rehabilitation Act of 1973.

Section 104(b)(6)(B) modifies a current requirement that States provide an assurance that veterans will be afforded employment and training activities "to the extent practicable." The provision would instead require an assurance that those activities will be provided in accordance with the Jobs for Veterans Act, which accords certain priorities of service for veterans.

Section 104(b)(7) strikes references to the separate youth formula program being consolidated under the bill.

Section 104(b)(8) adds three elements to be included in the State plan. The first is a description of the methodology that will be used for determining the contributions of the One-Stop partner programs for the costs of One-Stop center infrastructure funding and of the formula for allocating such funds to local areas. The infrastructure funding requirements are added by section 108(c) of the bill as a new section 121(h) of WIA.

The second element is a description of the programs and strategies the State will use to provide outreach to and identify and meet the needs of businesses, including small businesses, in the State, which may include technical assistance to local areas to engage employers in workforce development activities.

The third element is a description of actions to foster communications and partnerships with non-profit organizations, including community and faith-based organizations, that provide employment, training, and other complementary services.

Section 104(c) amends section 112(d) of WIA to conform the provisions for modifications to the State plan to the 2-year period planning cycle of the State plan provided in the amendment described under section 104(a) above in lieu of the 5-year period provided under current law.

Section 105 amends section 116 of WIA regarding the designation of local workforce investment areas. Section 105(a) adds to the factors to be considered under section 116(a) of WIA in the designation of local workforce investment areas by requiring the Governor to consider the extent to which the proposed areas will promote efficiency in the administration and provision of services. This section retains the requirement that the Governor award automatic designation to areas with a population of 500,000 or more, but limits the duration of such designation to each two-year planning cycle. The amended provision would also provide that continued automatic designation may be denied if the local area did not perform successfully or sustain fiscal integrity during the preceding two-year period. Provisions of current law requiring the temporary and subsequent designation of certain areas and the automatic designation of certain areas that were JTPA service delivery areas are eliminated. Also eliminated would be the provision permitting appeal of designation denials to the Department, which should be resolved at the State level. The intent of these changes is to provide greater flexibility at the State level to designate areas that conform to labor markets and to apply other designation factors that would enhance the effectiveness and efficiency of the delivery of services.

Section 105(b) retains the authority in the current section 116(b) of WIA that permits a State that operated as a single area State under JTPA to operate as a single local area under WIA. In addition, this provision adds authority for the Governor of other States to designate their State as a single local area, subject to the concurrence of any local area in the State that would otherwise have a right to automatic designation.

Section 105(c) amends section 116(c) of WIA to clarify the State's authority to require a regional plan from local areas in a designated region in lieu of separate local plans.

Section 106(a) amends section 117(b) of WIA to make changes to the local workforce investment board membership requirements. The large size of local boards has been a significant concern under WIA, making the planning and decision-making more difficult and deterring the participation of individuals as representatives, particularly from the business community. To facilitate a more manageable board size, the requirement that each of the One-Stop partners have a seat would be eliminated. The partners retain significant opportunities to affect local policy, including as a party to the local memoranda of understanding (MOUs) establishing One-Stop service arrangements. As noted below, the bill would also specifically allow the inclusion of the One-Stop partners as an advisory council to the board. Finally, it should also be noted that the bill retains the current provision authorizing the chief local elected officials, at their discretion, to appoint other individuals or representatives of entities to the local board they determine are appropriate, which could include representatives of One-Stop partners.

In addition, to further address board size, the amendments made by this subsection clarify that the board need include only one or more representatives of labor organizations, one or more representatives of community and faith-based organizations, and one or more representatives of economic development agencies, rather than two or more representatives from each category.

Additional amendments are included in this section to provide guidance on the type of representatives from business (including representatives from leading industries and large and small businesses), education (the local school superintendent or another high level official from the local school system and the president of a community college or another high level official from a postsecondary institution) and community-based organizations (including faith-based organizations) that are to be appointed. The bill would also allow the labor representative to be nominated by a labor organization in the local area in addition to the local labor federations authorized under current law.

In addition, to avoid potential conflicts of interest or the appearance of such conflicts, a provision is added to provide that the members appointed to the local board (except for the education representatives) may not be employees of entities that are service providers under the formula program.

Section 106(b) further amends section 117(b) of WIA to require that members of the local board represent diverse geographic sections within the local area.

Section 106(c) amends section 117(d) of WIA to revise the oversight functions of the local board. The amendments made by section 106(c)(1) and (2)(A) of the bill remove references to the separate youth program being consolidated under the bill. Section 116(c)(2)(B) adds as a local board function ensuring the appropriate use and

management of funds provided under title I of WIA. Section 106(c)(3) adds ensuring the effective administration of Career Advance Accounts to the functions of the local boards.

Section 106(d) eliminates the requirement in section 117(h) of current law that all local boards must establish a youth council component, but permits a local board to maintain the youth council if it chooses. It also permits the creation of other specialized councils, such as a council of One-Stop partners.

Section 106(e) eliminates the grandfathering provisions in section 117(i) of WIA that give authority to use entities that were in existence prior to the enactment of WIA in place of local boards.

Section 107(a) amends section 118(a) of WIA to change the local workforce investment plan planning cycle from 5 years to 2 years, to be consistent with the State planning cycle, as amended, and to promote the use of the plan to address changing economic circumstances and priorities.

Section 107(b)(1) amends section 118(b)(2) of WIA to restate the local plan element describing the local One-Stop system and, in order to decrease the planning burden on local areas and state reviewers, eliminates the requirement that the local plan contain copies of the local area One-Stop memoranda of understanding.

Section 107(b)(2) amends section 118(b)(4) of WIA to strike a reference to the separate adult and dislocated worker formula programs being consolidated under the bill.

Section 107(b)(3) amends section 118(b)(5) of WIA to remove a reference to the description of the coordination of local activities with statewide rapid response activities, which would no longer be a required statewide activity under the bill, and replaces the reference with a reference to local coordination with statewide activities in general.

Section 107(b)(4) amends section 118(b)(6) of WIA by replacing references to youth activities with a description of how Career Advancement Accounts will be administered in the local area. In addition, this provision requires a description of how the local area will implement the requirements under WIA that the area ensure training services are linked to occupations that are in demand.

Section 107(b)(5) amends section 118(b) of WIA to add additional local plan elements describing the strategies and services to be used to engage employers in workforce development activities, and, similar to a new element in the State plan, how the local area will meet the employment and training needs of individuals with disabilities in a manner consistent with the nondiscrimination requirements of section 188 of WIA and with Executive Order 13217, which promotes community-based alternatives for assisting individuals with disabilities, and with the requirements of sections 504 and 508 of the Rehabilitation Act of 1973.

Section 108 includes amendments to the provisions in section 121 of WIA governing the establishment of the One-Stop delivery system. Section 108(a) amends the

list of required One-Stop partner programs by removing the Wagner-Peyser Act program (which is repealed under title II of the bill) and the defunct Welfare-to-Work program and adding, subject to a condition, two programs currently authorized as optional additional partners: the Temporary Assistance for Needy Families program (TANF) authorized under title IV-A of the Social Security Act and the Food Stamp Employment and Training program authorized under section 6(d)(4) of the Food Stamp Act of 1977. Under these amendments, the TANF and Food Stamp Employment and Training programs would be required partners unless the Governor notified in writing the Secretary of Labor and either the Secretary of Health and Human Services (in the case of TANF) or the Secretary of Agriculture (in the case of the Food Stamp Employment and Training program) of a determination by the Governor not to include those programs as required partners in that State. Incorporating a presumption that these programs are to be included as partners in the One-Stop system is intended to promote important access for participants of those programs to the array of employment and training services available through the One-Stop system, and strengthen the One-Stop system by adding programs that provide additional services and resources to assist disadvantaged individuals.

The list of additional One-Stop partners is also amended to specify that other programs administered by the Social Security Administration or under the Social Security Act (such as Ticket-to-Work, and child support enforcement programs) and certain other programs serving individuals with disabilities may serve as One-Stop partner programs. The addition of these programs would provide enhanced opportunities to coordinate employment and training services with services for special populations. To further identify potential partners that could enhance the services provided through the One-Stop system, the bill also adds employment and training programs carried out by the Small Business Administration, cooperative extension programs carried out by the Department of Agriculture, and employment training and literacy services carried out by public libraries.

Section 108(b) eliminates the current section 121(e), which grandfathers certain One-Stop operators certified before the enactment of WIA. This section then transfers the current section 134(c) of WIA to subsection (e). The transferred section includes requirements for the establishment of a One-Stop delivery system in each local area and specifies minimum requirements for service delivery, including at least one physical center through which all the core services and One-Stop partner activities are accessible. Incorporating these provisions in the general One-Stop delivery section is intended to clarify the requirements applicable to the One-Stop delivery system.

Section 108(b)(4) adds a new provision to redesignated section 121(e) to add some flexibility with respect to the number and location of One-Stop Centers. The provision authorizes a local area to seek a waiver from the Governor of the requirement that each local area maintain at least one physical center that includes access to each of the programs, services, and activities of all the One-Stop partners. The waiver may be requested on the basis that the local area has alternative networks of affiliated sites and One-Stop partners that effectively ensure access to those programs, services, and activities, and that there are other comprehensive physical centers that are accessible to

individuals in the local area. The Governor may approve the waiver request if the Governor determines that the local area meets those conditions and that the number and location of comprehensive centers throughout the State is sufficient to ensure effective access to such centers to individuals in the State.

Section 108(c) adds a new subsection (g) to section 121 of WIA that provides that the State board is to establish procedures and criteria for certifying One-Stop centers and to issue certifications based on those procedures and criteria. The criteria are to include minimum standards relating to service integration and other factors affecting the quality and effectiveness of the centers. The effect of certification would be to make One-Stop centers eligible for infrastructure grants established under a new subsection (h). The intent of the certification process is to promote consistency and quality in the services provided by One-Stop centers in a State.

Section 108(c) also establishes a new subsection (h) to section 121 of WIA to provide for infrastructure funding of One-Stop centers. Under current law, One-Stop partner programs are required to contribute a portion of their funds for the operation of the One-Stop delivery system. The appropriate portion is to be determined through the MOUs required at the local level. However, this process has resulted in uncertainty of funding and contention. In order to provide a stable source of infrastructure funding on a statewide basis, this subsection provides that each of the One-Stop partner programs is to provide a portion of program funds to the Governor, who then is to allocate the funds to local areas for the certified One-Stop centers in the State.

The portion of funds to be provided by each One-Stop partner would be determined, subject to certain limitations, by the Governor after consultation with the State board, which, as noted above, includes representatives from the One-Stop partner programs. In making the determination regarding the funds to be contributed, the Governor is to consider the proportionate use of the One-Stop centers by each partner, the costs of administration unrelated to the use of the One-Stop centers by each partner, and other relevant factors that are also to be considered in developing the allocation formula for these funds, such as the number of certified One-Stop centers in the local area, the services provided by the centers, and other factors relating to the performance of the centers.

In those States where the State constitution places policymaking authority in an entity or official that is independent of the authority of the Governor for the adult education and literacy program under title II of WIA and postsecondary vocational education program under the Carl D. Perkins Vocational and Technical Education Act of 1998, the Governor is to make the determination of the funds to be contributed by those programs with the entity or official that has the independent authority.

In addition, the funds provided by the One-Stop partner programs for the infrastructure costs are to be provided from funds available for administrative costs under each program, and those funds are subject to whatever administrative cost limits are applicable to each program. There is a limitation that the contributions required of

Federal direct spending programs (such as TANF, the Child Support Enforcement program, and the Food Stamp Employment and Training program) may not exceed the amount equal to the proportionate use of the One-Stop centers by those programs. There is also a specified limit of the contributions that may be required of the VR program of 0.75 percent of the funds provided for such program to the State for a fiscal year. Native American programs carried out under section 166 of WIA are not subject to this provision, but the appropriate portion of funds provided by such programs to pay the costs of infrastructure would continue to be determined through local MOUs.

The formula for allocating these funds to the local areas for the certified One-Stop centers would be developed by the State board, and include factors such as those described above. The infrastructure funds would be used to pay for the non-personnel costs that are necessary for the general operation of the certified One-Stop centers, including the rental costs of the facilities, the costs of utilities and maintenance, and equipment (including adaptive technology for individuals with disabilities).

While the infrastructure funding provided under the new subsection (h) would address the primary common costs of operating the one-stop centers, there would remain some common costs that would not be covered by these funds. Therefore, section 108(c) also provides for a new subsection (i) of section 121 to address these other costs. Essentially, this is the same provision that is currently contained in section 134(d)(1)(B) of WIA that applies to all operating costs and the provision of core services. Under this subsection, the partners would provide funding or noncash resources to cover the costs of providing the core services that are applicable to the participants from each program and other common costs, such as infrastructure costs in excess of the amount provided by the new infrastructure grants, and other common costs not included in the infrastructure definition (such as personnel). The local MOU would remain the vehicle for determining these common costs and how to allocate these costs since these costs would be more locally variable. Since the basic infrastructure costs would already be addressed, these remaining cost items should be easier to resolve. In addition, the provision requires the State board to provide guidance to facilitate the determination of appropriate funding allocation in local areas.

Section 109 amends section 122 of WIA to significantly change the requirements relating to the certification of eligible providers of training services. Current eligible training provider provisions include requirements that have proven to be overly burdensome with respect to the specific information required and the scope of the reporting (e.g., reporting performance outcomes for all students, not just WIA-funded students). Rather than increasing customer choice, the current requirements have had the unintended effect of reducing customer choice as many qualified providers choose not to participate in the system. The amended provision would provide the Governors the flexibility to design certification systems that respond to the needs of the States. The revised requirements are intended to ensure the retention of key elements promoting customer choice and provider accountability, while allowing States to simplify the process so that more qualified training providers will participate.

The amended section 122(a) of WIA provides that the Governor, after consultation with the State board, is to establish criteria and procedures relating to the eligibility of providers of training services to receive WIA funds through Career Advancement Accounts. Under section 122(b), the criteria are to take into account the performance of providers with respect to the performance indicators specified in section 136 of WIA or other indicators, whether the training programs of the provider relate to occupations that are in demand, the information providers are required to report to State agencies with respect to other federal and State programs, and other factors that ensure the quality of services, accountability, and informed choice of participants. The criteria are also to require the submission of accurate and timely information to assist the State in ensuring information is available to participants to assist them in selecting a provider. The criteria are also to provide for periodic review and renewal of eligibility.

Under the amended section 122(c) of WIA, the eligibility procedures are to include the application process and are to identify the respective roles of the States and local areas in making eligibility determinations. An appeal process for providers denied eligibility is also to be established. In order to assist participants in choosing among providers, the amended section 122(d) requires that the Governor ensure appropriate information is provided to the One-Stop delivery systems in the State, including information regarding the occupations in demand that relate to the training programs of the providers. This section also includes a special rule under which entities carrying out programs under the National Apprenticeship Act are to be included as eligible providers as long as they remain certified by the Department of Labor. The amended section 122(e) retains a current provision allowing States to enter into reciprocal agreements under which eligible providers in one State may serve participants from other States. The amended section 122(f) requires that the Governor provide an opportunity for local boards, providers of training services, and other members of the public to comment on the criteria, procedures, and information that would be required by the Governor under this section.

The amended section 122(h) provides special rules for providers of on-the-job training and customized training. Those providers are not subject to the other requirements of this section, but the Governor may establish performance criteria and require the submission of performance information for those providers, and disseminate information on those providers through the One-Stop system.

Section 110 repeals section 123 of WIA relating to eligible providers of youth activities since the separate youth program is being consolidated under the bill.

Section 111 repeals chapter 4 of title I-B of WIA, which contained the provisions relating to the separate youth formula program.

Section 112 amends chapter 5 of title I-B of WIA (sections 131-134) to establish a consolidated program of employment and training activities.

The intent of this section is to consolidate four separate funding streams currently providing overlapping employment-related services into a single, more flexible, comprehensive and effective program. The four current funding streams are the adult and dislocated worker funding streams authorized under chapter 5 of title I-B of WIA, the Wagner-Peyser Act funding for State-administered employment services, and the youth funding stream under chapter 4 of title I-B of WIA. These four programs have separate funding formulas, eligibility criteria, performance measures, reporting requirements, and other separate elements. Consistent with the principles of program integration underlying WIA, this consolidation would simplify and enhance the delivery of services.

Section 112(a) changes the title of chapter 5 of title I-B of WIA from "Adult and Dislocated Worker Employment and Training Activities" to "Employment and Training Activities".

Section 112(b) drops references in section 131 of WIA to the separate dislocated worker funding, which is being consolidated.

Section 112(c) includes amendments to section 132 of WIA regarding the allotment of funds to the States and reservations for national activities. The Secretary would reserve 7.5 percent of the amount appropriated for the program, with not less than 85 percent of that amount to be used for national dislocated worker grants (currently referred to as national emergency grants) to assist workers displaced by mass layoffs and natural disasters, not more than 10 percent to be used for demonstration projects, and not more than 5 percent to be used to provide technical assistance. This is similar to the 20% reserve that currently applies to the dislocated worker funds, but the percentage would apply to the larger consolidated grant. The remaining 92.5 percent of the appropriated amount would be allotted to the States.

Section 132(b) of WIA is amended to revise the allotment formulas to the States. The reservation for outlying areas is retained at the current WIA level. The amendments then provide for allotments to the States based on two formulas. Of the remainder (after the reservation for outlying areas), 26 percent would be allotted in accordance with a base formula and 74 percent would be allotted in accordance with a consolidated formula.

Under the base formula for fiscal year 2008, each State would receive an allotment based on the percentage of funds allotted to the State under section 6 of the Wagner-Peyser Act for FY 2007. If the amount available for allotment under the base formula exceeds the amount that was available for allotment under the Wagner-Peyser Act for FY 2007, then the excess amount would be allotted on the basis of the relative number of individuals in the civilian labor force in each State (which is the factor comprising two-thirds of the current Wagner-Peyser formula), adjusted to ensure no State receives less than 3/10 of 1 percent of the excess. Under the base formula for fiscal year 2009 and each fiscal year thereafter, each State would be allotted the percentage of funds received under the base formula for the preceding fiscal year, with any amounts available for allotment in excess of the preceding year allotted according to the relative number of individuals in the civilian labor force, also adjusted to ensure no State receives less than

3/10 of 1 percent. The purpose of the base formula is to facilitate the consolidation of the Wagner-Peyser funding stream into the consolidated program. The Wagner-Peyser formula factors promoted funding stability, and by incorporating a formula for over a quarter of the allotted funds that reflects the distribution of funds under that Act, the base formula also provides a source of funding stability for the States under the consolidated program.

The consolidated formula would allot the remaining 76 percent of funds on the basis of three factors: 60 percent would be allotted based on each State's relative share of unemployed individuals (a factor currently used for the dislocated worker and Wagner-Peyser funding streams); 25 percent would be allotted based on each State's relative share of excess numbers of unemployed individuals (a factor currently used by the adult, dislocated worker, and youth funding streams); and 15 percent would be allotted based on each State's relative share of disadvantaged adults (a factor used in the current adult funding stream). These factors are intended to reflect the population to be served, with the emphasis on the unemployed, and incorporate factors that were applicable to the funding streams being consolidated.

The consolidated formula includes a "hold-harmless" or minimum percentage that would ensure State's receive an allotment percentage not less than 90 percent of the previous year's allotment percentage (for FY 2008, the previous year's percentage would be based on the percentage of funds allotted to States under the three separate adult funding streams). The adult, youth, and Wagner-Peyser funding streams currently include this 90-percent hold harmless.

The allotment formula also includes a "stop-gain" or maximum percentage of 130 percent of the previous year's allotment percentage, which is part of the current adult and youth formulas.

These maximum and minimum percentages are designed to promote increased funding stability.

The formula also includes a small State minimum allotment of 2/10 of 1 percent to ensure small States have sufficient resources to operate a viable program. State minimum allotments are included in both the adult and Wagner-Peyser formulas.

The definitions of "allotment percentage", and "disadvantaged adults" for the purposes of the formula are the same definitions that apply to the current WIA formulas. The definition of "excess number" with respect to the excess number of unemployed individuals is modified to lower the threshold to take into account the generally lower unemployment rates that have been experienced over the last several years. The revision defines the excess number as the number of unemployed individuals in a State that are in excess of the lower of: 80 percent of the average unemployment rate of all States; or 4.5 percent of the civilian labor force in the State. The current law definition is the excess above 4.5 percent of the civilian labor force in the State.

Section 112(c) also amends the reallotment provisions included in section 132(c) of WIA. Under a revised section 127(b) of WIA, the requirements for the reallotment of formula funds are amended to better identify unused funds and target those funds to areas that have demonstrated a need for resources. Current law reallots a State's unobligated funds that, at the end of a program year, are in excess of 20 percent of the prior year's allotment. The funds are reallotted in accordance with the prior year's formula distribution. The amended provision would reallot unexpended funds that are in excess of 30 percent of all funds available to the State during the program year, including carry-over funds from previous allotments, and reallot the funds based on the most recent formula distribution. Since expenditures indicate funds that have actually been used by the program, while obligations only indicate a commitment to future use, the change to unexpended funds as the basis for reallotment provides a better indicator of whether the State is using the resources provided. The inclusion of funds carried over from previous years' allotments in the calculation also provides a more complete picture of the use of funds by a State.

Section 112(d) amends section 133 of WIA, relating to the within-State allocation of funds. Section 133(a) of WIA is amended to authorize the Governor to reserve up to 33 percent of the State allotment for statewide activities. The adult and youth programs currently allow the Governor to reserve up to 15 percent, the dislocated worker program allows the Governor to reserve up to 40 percent (including 25 percent for rapid response, which would no longer be a required statewide activity), and Wagner-Peyser is entirely State-administered. The 33 percent reserve allows the State to retain a comparable level of resources to what is currently administered at the State level under these programs. The remaining 67 percent of the State allotment is to be allocated to the local areas within the State.

Section 133(b) of WIA is amended to provide the formulas for allocating funds to local areas. The separate formulas for adults and dislocated workers are eliminated. Under the bill, 85 percent of the funds are to be allocated in accordance with an established formula that uses the same factors and weights as the national consolidated allotment formula (i.e., 60 percent on each local area's relative share of unemployment, 25 percent on excess unemployment, and 15 percent on disadvantaged adults), includes the "hold harmless" and "stop-gain" provisions to stabilize funding, and includes the same definitions, with "excess number" similarly revised to mean the lower of the number unemployed individuals in the local area in excess of 80% of the average national unemployment rate or 4.5% of the local civilian labor force.

The remaining 15 percent of funds are to be allocated based on a discretionary formula. Currently, the WIA adult program permits States an option of using a discretionary formula under which 70 percent of the formula is based on established factors and 30 percent may be based on factors that relate to excess unemployment or excess poverty. The dislocated worker program allows the Governor to establish a formula that includes certain prescribed factors. Under the bill, the Governor is to determine, after consultation with the State board, the appropriate economic and

demographic factors to be used to allocate funds. This provides an important opportunity for States to determine how to target funding within the State.

The amended section 133(b) of WIA also retains the current local administrative cost limit under which local areas may not expend more than 10 percent of the allocation for administrative costs.

The bill would also add a significant new requirement in section 133(b) of WIA that not less than 90 percent of the allocation be used by local areas for training services. This would help to ensure that the provision of training (through Career Advancement Accounts) becomes a primary mission of title I of WIA. There is some flexibility provided in this provision. A Governor may request that the 90 percent minimum be reduced for one or more local areas in the State based on economic conditions. The Governor would also include assurances that the amounts not used for training services would be used for the provision of core, intensive, or discretionary services as defined in the Act. The Secretary may grant the request if the Secretary determines that the economic conditions in those local areas warrant a reduction in the minimum amount required to be used for training.

Section 112(d) also amends the provisions relating to the reallocation of funds among local areas contained in section 133(c) of WIA in the same manner the reallotment of funds among States is amended. The unexpended funds at the end of a program year that are in excess of 30 percent of the funds available to a local area during that year would be reallocated. Reallocation among local areas within the State would be based on the most recent formula distribution and, as under current law, would be made to local areas that did not have funds to be reallocated.

Section 112(e) amends section 134 of WIA relating to the use of funds. Section 134(a) of WIA addresses statewide employment and training activities. Of the amount reserved by the Governor, at least 67% of funds would be distributed to local areas for the provision of core services. As noted above, the bill consolidates the Wagner-Peyser program of State-administered employment services. Under this provision, the State may use the statewide reserve funds for the personnel and other resources currently funded under the Wagner-Peyser Act to provide these services in support of the One-Stop system.

Consistent with a plan for distributing the funds for these activities that the Governor is to develop in consultation with local areas, these funds may also be used by local areas for the provision of intensive services and discretionary One-Stop services in addition to the provision of core services.

Under the revised section 134(a)(1)(C) of WIA, the remainder of the amount reserved by the Governor that is not distributed to local areas would be used for authorized statewide activities. With respect to those activities, the requirement that the reserve funds be used by States to provide rapid response services to dislocated workers would be eliminated. Under the bill, States could apply for funds to provide rapid

response services through a process similar to the national emergency grant process. This would free up more State funds for training and other activities and would be a more efficient and targeted way to provide rapid response funding.

The revised section 134(a)(2) of WIA identifies allowable statewide activities. To allow greater administrative flexibility, the bill eliminates a list of required activities (except for the provision of core services described above), retains most of the current law allowable activities, including incumbent worker training projects, and adds to the list the development of strategies for effectively serving hard-to-serve populations and for integrating programs and services among One-Stop partners, and activities to facilitate remote access to One-Stop services. Also retained is the current law limitation on State administrative expenses, which are not to exceed 5 percent of the allotment.

Section 112(e)(2) amends section 134(b) of WIA to remove references to the separate dislocated worker funding stream.

Section 112(e)(3) contains a technical amendment redesignating subsections (d) and (e) of section 134 as (c) and (d) to reflect the transfer of the provisions relating to the establishment of the One-Stop system to section of 121 of WIA as described above.

Section 112(e)(4) amends section 134(c)(1) to clarify the source of funding for the locally provided activities. The funding for support of the One-Stop delivery system and providing core services, which are required activities, and for intensive and discretionary services, which are allowable, is from the 67% of the State reserve funds that are passed down to local areas. The funding for training services provided by local areas is from the funds allocated to local areas through the statutorily-prescribed formula under section 133(b) of WIA.

This section also amends the core services provisions in section 134(c)(2) of WIA to broaden one of the core services available under current law, from determinations of eligibility of individuals for assistance under title I of WIA to include assistance in obtaining determinations of eligibility under the other One-Stop partner programs. The assistance may include help in the submission of applications, information on the results of the application, intake services and information, and where appropriate, the determinations of eligibility. Such determinations would be carried out in a manner consistent with the requirements for eligibility determinations under the applicable program. This provision is intended to further enhance access to services through the One-Stop system. The core services provisions are also amended to incorporate as core services three functions specifically identified in the Wagner-Peyser Act that are not specified in WIA: appropriate recruitment services for employers, the administration of the work test for the unemployment compensation system, and the provision of reemployment services to claimants of unemployment compensation (which would include those claimants identified as in need of reemployment services under the worker profiling system). These provisions also delete a section referencing the welfare-to-work program, which has expired, and add as a service the provision of information, from official publications of the Internal Revenue Service, regarding federal tax credits

available to individuals relating to education, job training, and employment, including the Hope Scholarship and Lifetime Learning credits, and the Earned Income Tax Credit. Finally, the provision also add as a core service the provision of services under the Work Opportunity Tax Credit that is currently carried out by the State agency designated under the Wagner-Peyser Act.

Section 112(e)(3)(C) amends section 134(c)(3) relating to the provision of intensive services. One change is to authorize local areas to provide such services rather than, as in current law, requiring that local areas provide them. Also eliminated are the prescriptive eligibility requirements relating to such services. In addition, three services are added to the list of allowable intensive services: internships and work experience; literacy activities relating to basic work readiness and financial literacy activities, if such activities are not available in the local area under programs administered under the Adult Education and Family Literacy Act; and out-of-area job search assistance and relocation assistance.

Section 112(e)(3)(D) amends section 134(c)(4) of WIA relating to training services. Under the amended subparagraph (A), training services are to be provided through the use of Career Advancement Accounts. Recipients of these accounts would use the funds from the accounts to pay for the provision of training services by eligible training providers, including the costs of books and fees.

The only exceptions to the use of these accounts for training services are on-the-job training and customized training, which could be provided by a contract that would facilitate appropriate arrangements with employers.

The amended subparagraph (B) would establish eligibility for training services. The complicated "sequence of services" requirements under which an individual must be determined not to be able to find employment through the use of core or intensive services would be eliminated, as would be the prescribed priorities for targeting training services. Instead, the State would be provided flexibility in establishing the eligibility criteria. At a minimum, the criteria would include unemployed individuals, employed workers who need training to retain employment or advance in a career, and out-of-school youth, who are defined as individuals ages 16 or 17 who are high school dropouts and not subject to State compulsory attendance laws, as eligible to receive training services. States would be specifically authorized to add additional eligibility criteria relating to these categories of individuals and may also establish priorities of service among eligible individuals.

The amended subparagraph (C) would retain the current requirement that training resources are only to be provided if a participant is unable to obtain other grant assistance, including assistance under the Higher Education Act of 1965 (HEA), or needs assistance in addition to the other grant assistance provided. There is a general provision in the HEA prohibiting other Federal programs from taking HEA assistance into account in determining the assistance provided. This amendment would clarify that the HEA

limitation is not applicable, since the purpose of the WIA provision is to ensure the coordination of Federal assistance for training.

In addition, a new clause would be added requiring local areas to take into account, for purposes of determining whether additional assistance is needed by a participant and the amount of assistance to be provided through career advancement accounts, the needs analysis generally required under title IV of the HEA, in addition to any other appropriate factors. This clause is intended to further enhance the coordination of Pell grants and other HEA assistance with career advancement accounts under WIA.

The amended subparagraph (D) contains the list of authorized training services for which Career Advancement Accounts may be used. The current list is clarified by grouping together similar types of training and removing some overlapping descriptions. Added to the list are services that provide workplace training combined with related instruction and occupational skills training that incorporates English language acquisition.

The amended subparagraph (E) would provide that an eligible individual may be provided with a Career Advancement Account with a maximum of $3,000 available through the account during any one-year period, and may be provided with such an account for a total period not to exceed 2 years and a total amount not to exceed $6,000.

The amended subparagraph (F) would retain the requirement that training services be provided in a manner that maximizes consumer choice in the selection of eligible providers, but drops prescriptive requirements relating to the use and maintenance of lists of providers and specified information.

The amended subparagraph (G) would retain the requirement that the training services be linked to occupations in demand, and eliminates the other current law requirements relating to individual training accounts, which are replaced by Career Advancement Accounts.

Section 112(e)(5) amends section 134(e) of WIA relating to permissible activities. This section removes the references to the dislocated worker funding stream and adds activities to the current list of permissible activities that local areas may carry out. One additional activity is customer support to navigate among multiple services and activities for special participant populations that face multiple barriers to employment, including individuals with disabilities. These “navigators” are intended to facilitate the access of special populations to the services and activities available through the One-Stop system. Another additional activity is employment and training assistance provided in coordination with child support enforcement activities of the State agency carrying out title IV-D of the Social Security Act. This coordination is intended to facilitate the employment of unemployed or underemployed noncustodial parents, which would enable them to pay child support. The other new activities are improving services to employers and facilitating remote access to One-Stop services.

This provision would eliminate as a discretionary activity the provision of supportive services. The rationale for this change is that local areas should be able to make arrangements for the provision of such services to WIA participants through other Federal, State, and local programs. This would free up more funds for Career Advancement Accounts and other employment services and promote a better coordinated and more efficient service delivery system.

Section 113 amends provisions of section 136 of WIA relating to performance accountability. The bill would eliminate the set of core indicators applicable to the separate youth formula program, which would be repealed under the bill, and eliminate customer satisfaction as a required indicator of performance. This section would also incorporate secondary indicators of performance, which would complement the core indicators of entry into unsubsidized employment, retention in employment, and earnings, and would be appropriate to include in a program that focuses on training services. These secondary indicators would consist of: entry into education or advanced training; attainment of a secondary school diploma, GED, or certificate; and literacy or numeracy gains. The levels of performance States achieved with respect to these indicators would be reported annually, but expected levels of performance would not be negotiated with the Secretary and the performance would not be considered in the sanctions process.

Specifically, section 113(a)(1) amends section 136(b)(1) of WIA, which specifies performance measures applicable to a State, to strike references to the customer satisfaction measure and substitute the references to the core and secondary indicators.

Section 113(a)(2) amends section 136(b)(2) of WIA relating to the performance indicators applicable to the consolidated program. This provision drops the exclusion of those receiving self-service and informational activities from the measures. Therefore, all participants would be included in the performance measures. This amendment is intended to ensure accountability in the provision of basic core services, which is a significant component of the One-Stop delivery system. This section also incorporates the secondary indicators described above and allows States to use customer satisfaction as an additional indicator should the State so choose.

Section 113(a)(3) amends section 136(b)(3) of WIA relating to performance levels for States. As in current law, the levels of performance for each core indicator are negotiated between the Secretary and each State. One concern that has been raised under current law is that the negotiations do not sufficiently take into account economic conditions and the characteristics of the population to be served, thus discouraging services to special populations. This section would revise the current language requiring that such factors shall be taken into account by the Secretary and replace it with the requirement that levels being negotiated be adjusted based on those factors. This section also identifies the kinds of economic (unemployment rates and job losses in particular industries) and participant characteristics (indicators of poor work history, lack of work experience, dislocation from high-wage employment, low levels of literacy, disability status, homelessness, and welfare dependency) that may be considered.

In addition, in order to facilitate the reaching of agreements with the States and to enhance the performance outcomes, provisions are added requiring the Secretary to establish long-term national goals for the levels of performance to be achieved for all of the core indicators. These goals are to be established in accordance with the Government Performance and Results Act of 1993, and in consultation with the States and other appropriate parties. In negotiating levels of performance on the indicators described above, the Secretary is to take into account the extent to which the levels will assist in meeting the national goals.

Section 113(b) makes amendments to section 136(c) of WIA relating to local performance measures that are similar to the amendments made regarding the State performance measures. The same performance indicators are applied to local areas and the requirement that the levels of performance negotiated between the Governor and local areas be adjusted based on economic conditions and the characteristics of the population served (with the types of such factors identified) is incorporated.

Section 113(c) amends section 136(d) of WIA regarding performance reports by striking the reference to customer satisfaction measures and dropping the exclusion of recipients of basic core services from such reports. The report includes performance with respect to the core and secondary indicators of performance and any additional indicators established by the State. This section is also amended to add noncustodial parents with child support obligations and homeless individuals to the special populations for which the performance outcomes for the indicators of performance are to be separately reported. In addition, a provision is added to require States, consistent with guidelines issued by the Secretary, to establish procedures to ensure the information contained in the reports is valid and reliable.

Section 113(d) amends section 136(g) of WIA relating to sanctions on the States by dropping references to the customer satisfaction indicator and changing a reference to the incentive grant authority, which is described below, and the core indicators.

Section 113(e) amends section 136(h) of WIA regarding sanctions for local areas by dropping a reference to customer satisfaction indicators and by dropping the right of a local area to appeal to the Secretary the sanctions imposed by the State for failure to meet performance levels. The appropriate sanction should be determined at the State level and the Secretary should not be required to intervene through an appeal process.

Section 113(f) eliminates the current section 136(i) of WIA that provided a process that has already been carried out with respect to the definitions of the previous indicators of performance and adds a new subsection (i) relating to incentive grants. Under current law, performance incentives are only available to States that meet or exceed performance measures for all of the following three programs: WIA title I, adult literacy, and vocational education. This approach has the effect of separating the incentives from the performance of a particular program, and thus reduces the incentive effect.

The amended section 136(i) links the funding and process for awarding incentives specifically to WIA title I performance measures. Section 136(i)(1)(A) provides that the Secretary may award funds appropriated for national activities to award grants to States for exemplary performance. The Secretary may base the award on performance of States with respect to exceeding the negotiated performance measures, the performance of the State in serving special populations (which may include the level of service and the outcomes) and other appropriate factors. The States may use these funds to carry out any activities authorized under chapter 5, including demonstrations and innovative programs for special populations.

Section 136(i)(1)(B) provides similar incentive grant language for local areas. The Governor may use State-reserve funds under chapter 5 to award grants for exemplary performance, which may be tied to the performance measures or services to special populations. Local areas may use the funds for activities authorized under chapter 5.

Section 113(g) establishes a new section 136(j), which provides that the Secretary is to use the core indicators of performance to assess the effectiveness of each of the One-Stop partner programs that are administered by the Secretary. Such use is to be carried out in a manner that is consistent with the authorizing laws applicable to each program. This provision is intended to further advance the implementation of the Administration's common measures initiative for federal employment and training programs.

Section 113(h) repeals sections 502 and 503 of WIA, which relate to the establishment of definitions of the current core indicators of performance and the current incentive grant process that is tied to performance under titles I and II of WIA and to the Perkins Career and Technical Education Act.

Section 114 amends section 137(a) of WIA relating to the authorization of appropriations for the consolidated formula program. The authorization is for such sums as may be necessary for fiscal years 2008 through 2012. The separate authorizations for the dislocated worker and youth funding streams are deleted.

Section 115 contains several amendments to the Job Corps provisions in WIA.

Subsection (a) would amend section 144(1) of WIA to remove the waiver authority that would allow enrollment of individuals with disabilities above the age of the maximum ages generally applicable to the program. Generally, the age limit is 21, but up to 20% of the individuals enrolled may be ages 22 and 23. Since the program is focused on at-risk youth, this amendment would conform the eligibility criteria to the intended purpose of the program.

Subsection (b) would amend subsections (c) and (d) of section of 145 of WIA to remove a requirement that enrollees be assigned to the Job Corps center closest to their home. Under these amendments, individual enrollees would be assigned to the Job Corps center that best meets the career technical training goals and occupational track the

enrollee has chosen. This reflects a new vision being launched by Job Corps, which will benefit students in achieving their career goals and create cost and operational efficiencies for the program. Job Corps is beginning to cluster trades by industry sectors at Job Corps centers based on geographic/economic regions. This will move centers away from offering 5-10 various trades and focusing on 2-3 region-specific industry clustering models by trades based on the workforce needs of the surrounding area. In undertaking this effort, Job Corps will work with regional industries to assist in recruitment, training, and certification, and placement of Job Corps graduates. Likewise, graduates will be exiting from the program with a skill set sought after by local employers.

Subsection (c) amends section 147(c)(2) of WIA to enhance the Secretary's authority to select an entity to operate the Civilian Conservation Corps through a competitive process. Under current law, these centers are authorized to be operated under agreements between the Secretary of Labor and the Secretary of Agriculture or the Secretary of the Interior. If a center fails to meet national performance standards established by the Secretary of Labor, then the Secretary may conduct a competition to select an operating entity. Under this provision of the bill, the Secretary of Labor may also select an operating entity through a competitive process if the Secretary determines, after consultation with the Secretary of Agriculture and the Secretary of the Interior, that such a competition would promote efficiency, innovation, and enhanced effectiveness.

Subsection (d) amends section 153(a) of WIA, which currently requires that each Job Corps center have a business and community liaison and identifies the responsibilities of the liaison. This amendment strikes the requirement that the director of the center designate a specific community and business liaison, but retains the requirement that the liaison activities be carried out.

Subsection (e) amends section 154 of WIA, which requires that each Job Corps center establish an industry council responsible for such activities as reviewing labor market information to determine the employment opportunities in the local areas for Job Corps students. This section is amended to remove the requirement that the majority of industry council members be "local and distant" employers and instead language is added that encourages the participation of employers outside of the local area who are likely to hire a large portion of Job Corps students.

Subsection (f) amends section 159 of WIA to provide the performance indicators applicable to the Administration's common measures for youth applicable to the Job Corps program. These indicators are entry into education, employment (including military service) or advanced training; attainment of a secondary school diploma, GED, or certificate; and literacy or numeracy gains.

Subsection (g) amends section 161 of WIA to provide for the authorization of appropriations for the Job Corps program of such sums as may be necessary for fiscal years 2008 through 2012.

Subsection (h) would repeal the provision contained in the Department of Labor's FY 2006 appropriations act requiring that Job Corps be administered through the Office of the Secretary. Like other programs authorized under this title, this provision would allow the Secretary to determine how best to administer the program within the Department of Labor.

Section 116 contains amendments to section 166 of WIA, relating to Native American programs. Subsection (a) revises the duties of the Native American Employment and Training Council. The Council will no longer be responsible for advising the Secretary on the selection of the head of the unit in the Department of Labor that administers Native American programs.

Subsection (b) repeals an obsolete provision relating to FY 1999 appropriations for American Samoans in Hawaii.

Section 117 repeals section 167 of WIA, which authorizes Migrant and Seasonal Farmworker Programs. Employment and training services will be provided to migrant and seasonal farmworkers through the network of local One-Stop Career Centers. Social and supportive services, housing, and other related assistance for this population will be obtained from other agencies, with information and referrals to these agencies made by the local One-Stop centers.

Section 118 amends the veterans' workforce investment programs authorized under section 168 of WIA to change a cross-reference to the provisions relating to the One-Stop system.

Section 119 amends section 170 of WIA, which authorizes the Secretary of Labor to provide, coordinate, and support training, technical assistance, and other activities.

Section 170(b) of current law, establishing separate technical assistance activities under the dislocated worker funding stream, would be deleted. However, the staff training activities authorized in section 170(b)(2) of current law, including training for rapid response services, is retained and moved to subsection (a). Funding for peer review activities and training of recipient staff are specifically authorized as allowable uses of technical assistance funds, as is implementation of the amendments made by the bill. In addition, a provision is added to establish a system for sharing best practices regarding the operation of workforce investment activities.

Section 120 amends the provisions of section 171 of WIA relating to demonstration, pilot, multiservice, research, and multistate projects in order to better align requirements with current priorities and the new overall direction of the workforce investment system. The list of projects contained in paragraph (1) of subsection 171(b) is amended to include: projects that assist national employers to enhance connections with the workforce investment system; systems development activities that benefit recipients under this title and improve the effectiveness and efficiency of programs; projects focused on high-growth industry sectors; projects that promote States and local areas to

test innovative approaches to delivering workforce services; projects that focus on industries being transformed by technology, including advanced manufacturing; and projects assisting in starting small businesses. In addition, to provide greater flexibility and innovation in carrying out these projects, the current requirements limiting the entities eligible to receive funds to experienced entities or States and localities under this section are deleted.

The requirement in section 171(c)(2)(B) for a formula study is eliminated since the study is already under way. In lieu of this requirement, the Secretary is to conduct studies to determine the net impacts of programs, services, and activities carried out under title I, and to disseminate to the public reports and the results of such studies.

Subsection (d) of section 171 of current law provides for demonstration and pilot projects, multiservice projects, and multistate projects relating to dislocated workers. This provision is deleted due to the move to a consolidated funding stream. In its place is authority for the Secretary to waive provisions of title I (except for provisions relating to wage and labor standards, nondiscrimination and judicial review) that the Secretary finds would prevent carrying out demonstration, pilot, multiservice, research, and multistate projects and evaluations. This waiver authority is similar to the authority contained in section 156 of current law, relating to the Job Corps.

Section 121 adds a new subsection (e) to authorize a community-based job training demonstration program similar to the program the Department has carried out pursuant to the Department's recent appropriations acts. The program is to be carried out as a national demonstration project by the Secretary of Labor, after consultation with the Secretary of Education. The Secretary of Labor is authorized to provide competitive grants to a community college or consortium of community colleges that work in conjunction with the local workforce investment system and a business or businesses in a qualified industry. "Qualified industry" is defined is an industry or economic sector projected to experience significant growth. Funds are to be used for the development of rigorous education and training programs related to employment in a qualified industry, training of adults and dislocated workers for such employment, dissemination of information relating to occupations in qualified industries, placement of trained individuals into employment in such industries, and increasing the integration of community colleges with the activities of businesses and the One-Stop delivery system to meet the training needs for qualified industries. The bill would authorize the Secretary to require matching funds, and includes leveraging of resources as a factor in making awards. Performance information on the outcomes of participants receiving training would be required, and the subsection provides for carrying out an evaluation of the program.

Section 122 amends section 172 of WIA relating to evaluations. Section 122(a) amends section 172(a)(4) of WIA to provide that the evaluation of programs and activities under this section are to include consideration of the impact of receiving and not receiving services by communities, businesses and individuals.

Section 122(b) amends section 172(c) of WIA to provide that the techniques used for evaluations are to include rigorous methodology and, in addition to the random assignment methodologies authorized under current law, quasi-experimental methods, impact analysis, and the use of administrative data. This provision also includes a requirement that the Secretary conduct an impact analysis of the formula grant program not later than 2010, and at least once every four years thereafter.

Section 123 amends section 173 of WIA to change the name of "National Emergency Grants" to "National Dislocated Worker Grants." Section 123(b) strikes section 173(b) of current law, which requires the Secretary to designate a dislocated worker office to coordinate the functions of the Secretary under title I of WIA relating to employment and training activities for dislocated workers, including activities carried out under the national emergency grants. This requirement is repealed to allow the Secretary the discretion to determine how the grants could best be administered within the Department of Labor. This subsection also eliminates section 173(e) of WIA since it was a transition provision. Specifically, this subsection provides for national emergency grant funding for up to 8 States to compensate for reduced allotments in the transition from the JTPA to the WIA funding formulas.

In addition, this subsection of the bill includes amendments that would remove a separate funding authorization for the NEGs that were authorized under the Trade Act of 2002 to provide assistance in providing health insurance coverage to certain participants in the Trade Adjustment Assistance (TAA) program and certain beneficiaries of the Pension Benefit Guaranty Corporation. These NEGs would be funded, if needed, from the same reserve available for the other National Dislocated Worker Grants.

Section 123(c) amends section 173(c)(1)(B) of current law, which identifies the entities eligible to receive national emergency grants (which under the bill would be referred to as National Dislocated Worker Grants). The inclusion of "other entities that demonstrate to the Secretary the capability to effectively respond to the circumstances relating to particular dislocations" is deleted, since the appropriate entities to carry out these grants are the grantees in the workforce investment system and entities approved by the Governor. No entity in the deleted category has received these grants under WIA.

Section 123(d) amends the eligibility provisions of the National Dislocated Worker Grants to extend eligibility for assistance to spouses of members of the Armed Forces who are in need of assistance to obtain or retain employment.

Section 123(a) and (e) contain provisions that would authorize the use of national reserve funds to provide assistance to States to carry out rapid response activities. The changes add a new section 173(f), which would authorize States to use the funds awarded to provide rapid response activities in the State and provide an application process for receiving such awards. As noted above, under the bill, rapid response would no longer be a required statewide activity. Funds would be better targeted for these services to those States that need them through the national discretionary grant process.

Section 124 amends section 174 of WIA, authorizing appropriations for national activities. In general, these activities are authorized for fiscal years 2008 through 2012.

Section 125(a) amends section 181 of WIA relating to grievance procedures. Under current law, section 181(c)(2)(A) requires the Secretary to investigate each allegation of violations of the requirements of title I of WIA. This section is amended to authorize investigations of such allegations since it may not be necessary or appropriate to conduct an investigation of each one.

Section 125(b) amends section 181(e) of WIA to remove from the prohibition on the use of funds under title I of WIA employment generating activities and economic development activities. The bill would also revise the prohibition on the use of funds for revolving loans, capitalization of businesses, contracting bidding resource centers, and similar activities where they are not directly related to the entry into employment, retention in employment, or earnings of eligible individuals, which are core performance measures for chapter 5, in lieu of the current requirement that they not be related to training. These changes are intended to better link these activities to the purposes of WIA and to promote closer ties between workforce development and economic development activities. The current restriction on the use of funds for foreign travel would be maintained.

Section 125(c) would add a new section 181(g) establishing a salary cap applicable to recipients and subrecipients of funds under title I of WIA. This is similar to a provision that was enacted as part of the Department of Labor's FY 2006 appropriation act in response to abuses occurring in the system. The provision limits the salary and bonuses of individuals working for such recipients and subrecipients to Level II of the Federal Executive Pay Schedule applicable to federal employees. This limitation would not apply to vendors providing goods and services as defined in OMB Circular A-133. Where States are recipients of such funds, States could establish a lower limit for salaries and bonuses for those receiving salaries and bonuses from subrecipients of such funds.

Section 126 amends the section 188 nondiscrimination provisions of WIA to provide an exemption for religious organizations with respect to the employment of individuals of a particular religion to perform work connected with the carrying out of its activities. This incorporates the exemption in hiring by religious organizations contained in title VII of the Civil Rights Act of 1964. The religious nondiscrimination prohibitions contained in section 188 relating to participants in WIA programs would not be affected by this amendment.

Section 127 amends the administrative provisions of section 189 of WIA. Section 127(a) would amend section 189(g)(1) of WIA to remove a special provision on the availability of funds for the separate youth formula program, which is being consolidated under the bill.

Section 127(b) amends section 189(g)(2) of WIA to limit the expenditure period for States receiving formula funds to two program years, i.e., the year of obligation and

the succeeding program year, rather than three years under current law. This is consistent with the requirement applicable to local areas and will assist in addressing the significant carryover that has occurred in the past with respect to the formula funds.

Section 127(c) would amend section 189(i)(4) to expand the waiver authority of the Secretary of Labor by deleting several provisions from the list of provisions that cannot be waived, including the allocation of funds to local areas; eligibility of providers; establishment and functions of local workforce areas and local Boards; and procedures for review and approval of State and local plans. This is intended to provide greater flexibility for States to address the particular needs in their State. The current application process for waivers would be retained.

A new subparagraph (D) is also added to section 189(i)(4) to provide authority to the Department of Labor to establish an expedited process for extending waivers approved for one State to additional States, provided they meet other applicable requirements. In administering the waiver process, the Department has found that some waivers to address particular issues appear to be appropriate for all States, but under current authority each State must go through a detailed application process to have a waiver extended to their State. This provision would allow the Secretary to expedite that process.

Section 127(d) amends section 192 of WIA, which authorizes States to apply for Work-Flex authority under which the State is authorized to grant waivers to local areas within the State. Similar to the amendment to the general waiver authority, this provision would remove the allocation of funds to local areas and the functions of local areas and local boards from the list of provisions that cannot be waived.

Section 128 amends section 195(9) of WIA to eliminate a reference to the separate youth formula program being consolidated by this bill.

Title II of the bill contains amendments to the Wagner-Peyser Act. This section repeals sections 1-13 of the Act, which authorizes the separate formula program for the provision of employment services. Those services would be carried out under the consolidated grant program established by this bill.

This section would also make a minor amendment to section 14 of the Wagner-Peyser Act, authorizing the cooperative statistical programs that are carried out through agreements between the Bureau of Labor Statistics and the States, to clarify that the Secretary being referenced is the Secretary of Labor.

This section also amends section 15 of the Wagner-Peyser Act relating to the employment statistics system, which would be renamed the Workforce and Labor Market Information System. Most of the current law provisions are maintained.

Subsection (a)(2), relating to the confidentiality of the information, would be amended to clarify that the limitations relate to disclosure of information to the public,

which is more consistent with other confidentiality statutes, than the current law reference to “publication or media transmittal”.

Subsection (b)(2) is amended to strike a requirement that the Secretary provide budget information to States and localities, since the information used in the development of the Administration’s budget has been, and should remain, confidential.

Subsection (c) is amended to strike the requirement for an annual plan, and is replaced by a provision authorizing the Secretary to assist in the development of national electronic tools to facilitate the delivery of core services under the consolidated formula program and provide workforce information to individuals through the One-Stop and other appropriate delivery systems.

Subsection (d) is amended to revise the requirements for coordination with States to provide that formal consultations will be carried out by BLS with representatives of elected State agency representatives from the six BLS regions. When the law was initially enacted, there were 10 BLS regions, but there has been subsequent consolidation.

Subsection (e) is amended to remove a requirement that State designate a single State agency for the management of the workforce and labor market information system. This is intended to provide States with greater flexibility in administering the system.

Subsection (g) amends the authorization of appropriations for this section to fiscal years 2008 through 2012.

Title III contains transition provisions and the effective date. Section 301 specifies that the Secretary shall take such actions as the Secretary determines, at the discretion of the Secretary, to be appropriate for the orderly implementation of this Act. Section 302 states that, except as otherwise provided by this Act, the amendments made by this Act are to take effect on enactment.