

107TH CONGRESS
2^D SESSION

S. 2631

To amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to provide grants for transitional jobs programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2002

Mr. BINGAMAN (for himself and Mrs. MURRAY) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to provide grants for transitional jobs programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Support, Training,
5 Employment Programs Act of 2002” or the “STEP Act
6 of 2002”.

1 **SEC. 2. TRANSITIONAL JOBS GRANTS.**

2 Section 403(a) of the Social Security Act (42 U.S.C.
3 603(a)) is amended by adding at the end the following:

4 “(6) TRANSITIONAL JOBS GRANTS.—

5 “(A) PURPOSE.—The purpose of this para-
6 graph is to provide funding so that States and
7 localities can create and expand transitional
8 jobs programs that—

9 “(i) combine time-limited employment
10 that is subsidized with public funds, with
11 skill development and barrier removal ac-
12 tivities, pursuant to an individualized plan;

13 “(ii) provide job development and
14 placement assistance to individual partici-
15 pants to help them move from subsidized
16 employment in transitional jobs into un-
17 subsidized employment, as well as reten-
18 tion services after the transition to unsub-
19 subsidized employment; and

20 “(iii) serve recipients of assistance
21 under the State program funded under this
22 part and other low-income individuals who
23 have been unable to secure employment
24 through job search or other employment-
25 related services because of limited skills,

1 experience, or other barriers to employ-
2 ment.

3 “(B) AUTHORITY TO MAKE GRANTS.—
4 Each transitional jobs State (as determined
5 under subparagraph (C)) shall receive a grant
6 under this paragraph for each fiscal year speci-
7 fied in subparagraph (K) for which the State is
8 a transitional jobs State, in an amount equal to
9 the allotment for the State as specified under
10 subparagraph (D) for the fiscal year.

11 “(C) TRANSITIONAL JOBS STATE.—A
12 State shall be considered a transitional jobs
13 State for a fiscal year for purposes of this para-
14 graph if the Secretary of Labor determines that
15 the State meets the following requirements:

16 “(i) The State has submitted to the
17 Secretary of Labor and the Secretary of
18 Health and Human Services (in the form
19 of an addendum to the State plan sub-
20 mitted under section 402) a plan which is
21 approved by the Secretary of Labor based
22 on the plan’s compliance with the following
23 requirements:

24 “(I) The plan describes how, con-
25 sistent with this paragraph, the State

1 will use any funds provided under this
2 paragraph during the fiscal year.

3 “(II) The plan contains evidence
4 that the plan was developed in con-
5 sultation and coordination with appro-
6 priate entities including employers,
7 labor organizations, and community-
8 based organizations that work with
9 low-income families, and includes a
10 certification as required under section
11 402(a)(4) with regard to the transi-
12 tional jobs services that the State pro-
13 poses to provide.

14 “(III) The plan specifies the cri-
15 teria that will be used to select enti-
16 ties who will receive funding to oper-
17 ate transitional jobs programs.

18 “(IV) The plan describes specifi-
19 cally how the State will address the
20 needs of rural areas, Indian tribes,
21 and cities with large concentrations of
22 residents with an income that is less
23 than the poverty line, or who are un-
24 employed.

1 “(V) The plan describes how the
2 State will ensure that a grantee to
3 which information is disclosed pursu-
4 ant to this paragraph or section
5 454A(f)(5) has procedures for safe-
6 guarding the information and for en-
7 suring that the information is used
8 solely for the purpose described in this
9 paragraph or that section.

10 “(VI) The plan describes cat-
11 egories of jobs that are in demand in
12 various areas of the State and which
13 offer the opportunity for advancement
14 to better jobs. The plan also shall pro-
15 vide assurances that the ability of or-
16 ganizations seeking to operate transi-
17 tional jobs programs to best prepare
18 participants for those jobs will be
19 given weight in the selection of pro-
20 gram operators.

21 “(ii) The State has agreed to nego-
22 tiate in good faith with the Secretary of
23 Health and Human Services with respect
24 to the substance and funding of any eval-

1 uations and to cooperate with the conduct
2 of any such evaluations.

3 “(D) ALLOTMENTS TO STATES.—

4 “(i) IN GENERAL.—Subject to clauses
5 (ii) and (iii), the amount of the allotment
6 for a transitional jobs State for a fiscal
7 year shall be the available amount for the
8 fiscal year multiplied by the State percent-
9 age for the fiscal year.

10 “(ii) MINIMUM ALLOTMENT.—The
11 amount of the allotment for a transitional
12 jobs State (other than Guam, the Virgin
13 Islands, or American Samoa) for a fiscal
14 year shall not be less than 0.4 percent of
15 the available amount for the fiscal year.

16 “(iii) PRO RATA REDUCTION.—Sub-
17 ject to clause (ii), the Secretary of Labor
18 shall make pro rata reductions in the allot-
19 ments to States under this subparagraph
20 for a fiscal year as necessary to ensure
21 that the total amount of the allotments
22 does not exceed the available amount for
23 the fiscal year.

24 “(iv) AVAILABLE AMOUNT.—As used
25 in this subparagraph, the term ‘available

1 amount' means, for a fiscal year, 80 per-
2 cent of the sum of—

3 “(I) the amount specified in sub-
4 paragraph (K) for the fiscal year;

5 “(II) any funds available under
6 this subparagraph that have not been
7 allotted due to a determination by the
8 Secretary that any State has not met
9 the requirements of subparagraph
10 (C); and

11 “(III) any available amount for
12 the immediately preceding fiscal year
13 that has not been obligated by the
14 State.

15 “(v) STATE PERCENTAGE.—As used
16 in this subparagraph, the term ‘State per-
17 centage’ means, with respect to a fiscal
18 year and a State, $\frac{1}{2}$ of the sum of—

19 “(I) the percentage represented
20 by the number of individuals in the
21 State whose income is less than the
22 poverty line divided by the number of
23 such individuals in the United States;
24 and

1 “(II) the percentage represented
2 by the number of adults who are re-
3 cipients of assistance under the State
4 program funded under this part di-
5 vided by the number of adults in the
6 United States who are recipients of
7 assistance under any State program
8 funded under this part.

9 “(vi) ADMINISTRATION OF FUNDS.—

10 “(I) IN GENERAL.—Subject to
11 subclause (II), funds made available
12 to a State under this paragraph shall
13 be administered by an agency or agen-
14 cies, as determined by the chief execu-
15 tive officer of the State, which may in-
16 clude the agency that administers the
17 State program funded under this part,
18 the State board designated to admin-
19 ister the Workforce Investment Act of
20 1998 (29 U.S.C. 2801 et seq.) in the
21 State, or any other appropriate agen-
22 cy.

23 “(II) COORDINATION WITH TANF
24 AGENCY.—If an agency other than the
25 State agency that administers the

1 State program funded under this part
2 administers funds made available to a
3 State under this paragraph, that
4 agency shall coordinate the planning
5 and administration of such funds with
6 the State agency that administers the
7 State program funded under this part.

8 “(vii) DISTRIBUTION OF FUNDS WITH-
9 IN STATES.—

10 “(I) IN GENERAL.—A State to
11 which a grant is made under this
12 paragraph shall allocate not less than
13 90 percent of the amount of the grant
14 to eligible applicants for the operation
15 of transitional jobs programs con-
16 sistent with subparagraph (E). Any
17 funds not used for such operation
18 may be used to provide technical as-
19 sistance to program operators and
20 worksite employers, administration, or
21 for other purposes consistent with this
22 paragraph.

23 “(II) ELIGIBLE APPLICANTS.—
24 As used in subclause (I), the term ‘eli-
25 gible applicant’ means a political sub-

1 division of a State, a local workforce
2 investment board established under
3 section 117 of the Workforce Invest-
4 ment Act of 1998 (29 U.S.C. 2832),
5 an Indian tribe, or a private entity.

6 “(E) LIMITATIONS ON USE OF FUNDS.—

7 “(i) ALLOWABLE ACTIVITIES.—An en-
8 tity to which funds are provided under
9 subparagraph (D)(vii) shall use the funds
10 to operate transitional jobs programs con-
11 sistent with the following:

12 “(I) An entity which secures a
13 grant to operate a transitional jobs
14 program (in this subparagraph re-
15 ferred to as a ‘program operator’),
16 under this paragraph shall place eligi-
17 ble individuals in temporary, publicly
18 subsidized jobs. Individuals placed in
19 such positions shall perform work di-
20 rectly for the program operator, or at
21 other public and nonprofit organiza-
22 tions (in this subparagraph referred
23 to as ‘worksite employers’) within the
24 community. Funds provided under
25 subparagraph (D) shall be used to

1 subsidize 100 percent of the wages
2 paid to participants as well as em-
3 ployer-paid payroll costs for such par-
4 ticipants, except as provided in clause
5 (v) regarding placements in the pri-
6 vate, for-profit sector.

7 “(II) Transitional jobs programs
8 shall provide paid employment for not
9 less than 30, nor more than 40 hours
10 per week, except that a parent with a
11 child under the age of 6, a child who
12 is disabled, or a child with other spe-
13 cial needs, or an individual who for
14 other reasons cannot successfully par-
15 ticipate for 30 to 40 hours per week,
16 may, at State discretion, be allowed to
17 participate for more limited hours, but
18 not less than 20 hours per week.

19 “(III) Program operators shall—

20 “(aa) develop an individual
21 plan for each participant, the
22 goal of which shall focus on prep-
23 aration for unsubsidized jobs in
24 demand in the local economy

1 which offer the potential for ad-
2 vancement and growth;

3 “(bb) develop transitional
4 work placements for participants
5 that will best prepare them for
6 jobs in demand in the local econ-
7 omy that offer the potential for
8 wage growth and advancement;
9 and

10 “(cc) provide case manage-
11 ment services and ensure that
12 appropriate education, training,
13 and other services are available
14 to participants consistent with
15 each participant’s individual
16 plan.

17 “(IV) Program operators shall
18 provide job placement assistance to
19 help participants obtain unsubsidized
20 employment, and shall provide reten-
21 tion services for 12 months after
22 entry into unsubsidized employment.

23 “(V) In any work week in which
24 a participant is employed at least 30
25 hours, a minimum of 20 percent of

1 scheduled hours and a maximum of
2 50 percent of scheduled hours, shall
3 involve participation in education or
4 training activities designed to improve
5 the participant's employability and po-
6 tential earnings, or other services de-
7 signed to reduce or eliminate any bar-
8 riers that may impede the partici-
9 pant's ability to secure unsubsidized
10 employment.

11 “(VI) The maximum duration of
12 any placement in a transitional jobs
13 program shall not be less than 6
14 months, nor more than 24 months.
15 Nothing in this subclause shall be
16 construed to bar a participant from
17 moving into unsubsidized employment
18 at a point prior to the maximum du-
19 ration of the program. States may ap-
20 prove programs of varying durations
21 consistent with this subclause.

22 “(VII) Participants shall be paid
23 at the rate paid to unsubsidized em-
24 ployees of the worksite employer, (or
25 program operator where work is per-

1 formed directly for the program oper-
2 ator,) who perform comparable work
3 at the worksite where the individual is
4 placed. If no other employees perform
5 the same or comparable work then
6 wages shall be set, at a minimum, at
7 50 percent of the Lower Living
8 Standard Income Level (in this sub-
9 paragraph referred to as the
10 ‘LLSIL’), as specified in section
11 101(24) of the Workforce Investment
12 Act of 1998, for family of 3 based on
13 35 hours per week.

14 “(VIII) Participants shall receive
15 supervision from the worksite em-
16 ployer or program operator consistent
17 with the goal of addressing the limited
18 work experience and skills of program
19 participants.

20 “(ii) CONSULTATION.—An application
21 submitted by an entity seeking to become
22 a program operator shall include an assur-
23 ance by the applicant that the transitional
24 jobs program carried out by the applicant
25 shall—

1 “(I) provide in the design, re-
2 cruitment, and operation of the pro-
3 gram for broad-based input from the
4 community served and potential par-
5 ticipants in the program and commu-
6 nity-based agencies with a dem-
7 onstrated record of experience in pro-
8 viding services, prospective worksite
9 employers, local labor organizations
10 representing employees of prospective
11 worksite employers, if these entities
12 exist in the area to be served by the
13 program, and employers, and member-
14 ship-based groups that represent low-
15 income individuals; and

16 “(II) prior to the placement of
17 participants, consult with the appro-
18 priate local labor organization, if any,
19 representing employees in the area
20 who are engaged in the same or simi-
21 lar as that proposed to be carried out
22 by such program to ensure compliance
23 with the nondisplacement require-
24 ments specified in subparagraph (L).

1 “(iii) ELIGIBILITY FOR OTHER WORK
2 SUPPORTS.—Participants shall be eligible
3 for subsidized child care, transportation
4 assistance, and other needed support serv-
5 ices on the same basis as other recipients
6 of cash assistance under the State program
7 funded under this part.

8 “(iv) WAGES NOT CONSIDERED AS-
9 SISTANCE.—Wages paid to program par-
10 ticipants shall not be considered to be as-
11 sistance for purposes of section 408(a)(7).

12 “(v) PRIVATE SECTOR PLACE-
13 MENTS.—Placements of participants with
14 private, for-profit entities shall be per-
15 mitted only under the following conditions:

16 “(I) Except as provided in clause
17 (vi), not more than 20 percent of the
18 total number of participants in transi-
19 tional jobs in a State at any time may
20 be placed at worksite employers which
21 are private, for-profit companies.

22 “(II) When placements are made
23 at private, for-profit, entities the enti-
24 ty shall pay for at least 50 percent of

1 programs costs (including wages) for
2 each participant.

3 “(III) Not more than 5 percent
4 of a private, for-profit entity’s work-
5 force may be composed of transitional
6 jobs programs subsidized participants
7 at any point in time, and no super-
8 visor at the entity shall have the re-
9 sponsibility for supervising more than
10 one transitional job program partici-
11 pant.

12 “(IV) A private, for-profit entity
13 shall not be allowed to participate as
14 a worksite employer or program oper-
15 ator if the entity has previously exhib-
16 ited a pattern of failing to provide
17 transitional jobs participants with
18 continued, unsubsidized employment
19 with wages, benefits, and working
20 conditions, that are equal to those
21 provided to other unsubsidized em-
22 ployees who have worked a similar
23 length of time and are doing similar
24 work.

1 “(V) The duration of any sub-
2 sidized placement under this clause
3 shall be limited to the period of time
4 required for the participant to become
5 proficient in the performance of the
6 tasks of the job for which the partici-
7 pant is employed.

8 “(VI) Transitional jobs partici-
9 pants shall only be placed with pri-
10 vate, for-profit entities in which the
11 participants will have the opportunity
12 for permanent, unsubsidized employ-
13 ment in positions where they will
14 learn skills that provide a clear path-
15 way to higher paying jobs.

16 “(VII) At the time a transitional
17 jobs placement is made, the entity
18 shall agree in writing—

19 “(aa) to hire the participant
20 into an unsubsidized position at
21 the completion of the agreed
22 upon subsidized placement, or
23 sooner, provided that the transi-
24 tional jobs participant’s job per-

1 performance has been satisfactory;
2 and

3 “(bb) to provide the partici-
4 pant with access to employee
5 benefits that would be available
6 to an individual in an unsub-
7 subsidized position of the employer
8 within 12 months of the partici-
9 pant’s initial placement in the
10 subsidized position.

11 “(vi) EXCEPTION TO 20 PERCENT LIM-
12 ITATION ON PRIVATE SECTOR PLACE-
13 MENTS.—

14 “(I) IN GENERAL.—A State may
15 exceed the 20 percent limitation under
16 clause (v)(I) if necessary because of
17 the limited number of placement op-
18 portunities in public and non-profit
19 organizations in rural areas of the
20 State, but only if the State includes in
21 its plan a request to exceed such limi-
22 tation and provides specific informa-
23 tion describing why private place-
24 ments in excess of the 20 percent limi-
25 tation are necessary, including a

1 specification of the rural areas in the
2 State in which insufficient nonprofit
3 or public sector placements are avail-
4 able and the projected distribution of
5 private sector placements throughout
6 the State.

7 “(II) CONSIDERATION OF RE-
8 QUESTS.—The Secretary shall by reg-
9 ulation develop procedures for the
10 prompt consideration and resolution
11 of requests by a State to exceed the
12 20 percent limitation under clause
13 (v)(I).

14 “(III) LIMITATION REMAINS IN
15 NON-DESIGNATED AREAS.—If a re-
16 quest to exceed such 20 percent limi-
17 tation is approved, the 20 percent limi-
18 tation shall not apply in those areas
19 of the State that have been designated
20 to exceed such limit, but shall con-
21 tinue to apply in those areas of the
22 State not so designated.

23 “(IV) INCLUSION OF INFORMA-
24 TION IN ANNUAL REPORT.—With re-
25 spect to any year in which the Sec-

1 retary authorizes the State to exceed
2 such 20 percent limitation, a State
3 shall report on the number and geo-
4 graphic location of private sector slots
5 used during the year in addition to
6 the information required to be re-
7 ported by the State under clauses (vii)
8 and (viii) of subparagraph (G) .

9 “(F) GENERAL ELIGIBILITY.—

10 “(i) IN GENERAL.—Not less than $\frac{2}{3}$
11 of the participants in a transitional jobs
12 program within a State during a fiscal
13 year shall be individuals who are, at the
14 time they enter the program—

15 “(I) receiving assistance under
16 the State program funded under this
17 part;

18 “(II) not receiving assistance
19 under the State program funded
20 under this part, but who are unem-
21 ployed, and who were recipients of as-
22 sistance under a State program fund-
23 ed under this part within the imme-
24 diately preceding 12-month period;

1 “(III) custodial parents of a
2 minor child who meet the financial eli-
3 gibility criteria for assistance under
4 the State program funded under this
5 part; or

6 “(IV) noncustodial parents with
7 income below 100 percent of the pov-
8 erty line (as defined in section 673(2)
9 of the Omnibus Budget Reconciliation
10 Act of 1981, including any revision re-
11 quired by such section, applicable to a
12 family of the size involved).

13 “(ii) STATE OPTION TO FURTHER
14 LIMIT ELIGIBILITY.—A State may further
15 limit the eligibility of noncustodial parents
16 to those noncustodial parents for whom at
17 least 1 of the following applies to a minor
18 child of the noncustodial parent:

19 “(I) The minor child is eligible
20 for, or is receiving, assistance under
21 the State program funded under this
22 part.

23 “(II) The minor child received
24 assistance under the program funded
25 under this part in the 12-month pe-

1 riod preceding the date of the deter-
2 mination but no longer receives such
3 assistance.

4 “(III) The minor child is eligible
5 for, or is receiving, assistance under
6 the Food Stamp Act of 1977, benefits
7 under the supplemental security in-
8 come program under title XVI of this
9 Act, medical assistance under title
10 XIX of this Act, or child health assist-
11 ance under title XXI of this Act.

12 “(iii) CONSULTATION.—A transitional
13 jobs program that provides services to non-
14 custodial parents shall consult with the
15 State child support program funded under
16 part D so that child support services are
17 coordinated with transitional jobs program
18 services.

19 “(iv) LIMITATION.—Not more than $\frac{1}{3}$
20 of all participants in a transitional jobs
21 program within a State during a fiscal
22 year shall be individuals who have attained
23 at least age 18 with income below 100 per-
24 cent of the poverty line (as defined in sec-
25 tion 673(2) of the Omnibus Budget Rec-

1 conciliation Act of 1981, including any revi-
2 sion required by such section, applicable to
3 a family of the size involved) who are not
4 eligible under clause (i).

5 “(v) METHODOLOGY.—A State may
6 use any reasonable methodology in calcu-
7 lating whether a participant satisfies the
8 requirements of clause (i), make up $\frac{2}{3}$ or
9 more of all participants, and whether par-
10 ticipants satisfying the requirements of
11 clause (iv) make up not more than $\frac{1}{3}$ of
12 all participants in a fiscal year.

13 “(vi) AUTHORITY TO PROVIDE WORK-
14 RELATED SERVICES TO INDIVIDUALS WHO
15 HAVE REACHED THE 5 YEAR LIMIT.—A
16 program operator under this paragraph
17 may use the funds to provide transitional
18 job program participation to individuals
19 who, but for section 408(a)(7), would be
20 eligible for assistance under the program
21 funded under this part of the State in
22 which the entity is located.

23 “(G) RELATIONSHIP TO OTHER PROVI-
24 SIONS OF THIS PART; ADMINISTRATIVE PROVI-
25 SIONS.—

1 “(i) RULES GOVERNING USE OF
2 FUNDS.—The provisions of section 404,
3 other than subsection (f) of section 404,
4 shall not apply to a grant made under this
5 paragraph.

6 “(ii) WORK PARTICIPATION REQUIRE-
7 MENTS.—With respect to any month in
8 which a recipient of assistance under a
9 State or tribal program funded under this
10 part satisfactorily participates in a transi-
11 tional jobs program funded under a grant
12 made under this paragraph, such partici-
13 pation shall be considered to satisfy the
14 work participation requirements of section
15 407 and included for purposes of deter-
16 mining monthly participation rates under
17 subsection (b)(1)(B)(i) of that section.

18 “(iii) ADMINISTRATION.—Section 416
19 shall not apply to the programs under this
20 paragraph.

21 “(iv) PROHIBITION AGAINST USE OF
22 GRANT FUNDS FOR ANY OTHER FUND
23 MATCHING REQUIREMENT.—An entity to
24 which funds are provided under this para-
25 graph shall not use any part of the funds

1 to fulfill any obligation of any State or po-
2 litical subdivision under subsection (b) or
3 section 418 or any other provision of this
4 Act or other Federal law.

5 “(v) DEADLINE FOR EXPENDITURE.—

6 An entity to which funds are provided
7 under this paragraph shall remit to the
8 Secretary of Labor any part of the funds
9 that are not expended within 3 years after
10 the date on which the funds are so pro-
11 vided.

12 “(vi) REGULATIONS.—Within 90 days

13 after the date of the enactment of this
14 paragraph, the Secretary of Labor, after
15 consultation with the Secretary of Health
16 and Human Services, shall prescribe such
17 regulations as may be necessary to imple-
18 ment this paragraph.

19 “(vii) REPORTING REQUIREMENTS.—

20 The Secretary of Labor, in consultation
21 with the Secretary of Health and Human
22 Services, shall establish requirements for
23 the collection and maintenance of financial
24 and participant information and the re-
25 porting of such information by entities car-

1 rying out activities under this paragraph.
2 Such reporting requirements shall include,
3 at a minimum, that States report
4 disaggregated data on individual partici-
5 pants that include the following:

6 “(I) Demographic information
7 about the participant including edu-
8 cation level, literacy level, and prior
9 work experience.

10 “(II) Identity of the program op-
11 erator that provides or provided serv-
12 ices to the participant, and the dura-
13 tion of participation.

14 “(III) The nature of education,
15 training or other services received by
16 the participant.

17 “(IV) Reason for the partici-
18 pant’s leaving the programs.

19 “(V) Whether the participant se-
20 cured unsubsidized employment dur-
21 ing or within 60 days after the em-
22 ployment of the participant in a tran-
23 sitional job, and if so, details about
24 the participant’s unsubsidized employ-
25 ment including industry, occupation,

1 starting wages and hours, availability
2 of employer sponsored health insur-
3 ance, sick and vacation leave.

4 “(VI) The extent to which sub-
5 sidized and unsubsidized placements
6 are in jobs or occupations identified in
7 the State’s plan as being in demand
8 in the local economy and offering the
9 opportunity for advancement and
10 wage growth.

11 “(viii) ADDITIONAL REPORTING RE-
12 QUIREMENTS.—States shall collect and re-
13 port follow-up data for a sampling of par-
14 ticipants reflecting their employment and
15 earning status 12 months after entering
16 unsubsidized employment.

17 “(ix) ANNUAL REPORT TO CON-
18 GRESS.—The Secretary of Labor shall sub-
19 mit an annual report to Congress on the
20 activities conducted with grants made
21 under this paragraph that includes infor-
22 mation regarding the employment and
23 earning status of participants in such ac-
24 tivities.

25 “(H) NATIONAL COMPETITIVE GRANTS.—

1 “(i) IN GENERAL.—The Secretary of
2 Labor shall award grants in accordance
3 with this subparagraph, in fiscal years
4 2003 through 2007, for transitional jobs
5 programs proposed by eligible applicants,
6 based on the following:

7 “(I) The extent to which the pro-
8 posal seeks to provide services in mul-
9 tiple sites that include sites in more
10 than 1 State.

11 “(II) The extent to which the
12 proposal seeks to provide services in a
13 labor market area or region that in-
14 cludes portions of more than 1 State.

15 “(III) The extent to which the
16 proposal seeks to provide transitional
17 jobs in a State that is not eligible to
18 receive an allotment under subpara-
19 graph (D).

20 “(IV) The extent to which the
21 applicant proposes to provide transi-
22 tional jobs in either rural areas or
23 areas where there is a high concentra-
24 tion of residents with income that is
25 less than the poverty line.

1 “(V) The effectiveness of the pro-
2 posal in helping individuals who are
3 least job ready move into unsubsidized
4 jobs that provide pathways to stable
5 employment and livable wages.

6 “(ii) ELIGIBLE APPLICANTS.—In this
7 subparagraph, the term ‘eligible applicant’
8 means a local workforce investment board
9 established under section 117 of the Work-
10 force Investment Act of 1998 (29 U.S.C.
11 2832), a political subdivision of a State, or
12 a private entity

13 “(iii) FUNDING.—For grants under
14 this subparagraph for each fiscal year
15 specified in clause (i), there shall be avail-
16 able to the Secretary of Labor an amount
17 equal to 13.5 percent of the sum of—

18 “(I) the amount specified in sub-
19 paragraph (K) for the fiscal year;

20 “(II) any amount available for
21 the immediately preceding fiscal year
22 that has not been obligated by a
23 State; and

24 “(III) any funds available under
25 this paragraph that have not been al-

1 lotted due to a determination by the
2 Secretary of Labor that the State has
3 not qualified as a transitional jobs
4 State.

5 “(I) FUNDING FOR INDIAN TRIBES.—5
6 percent of the amount specified in subpara-
7 graph (K) for each fiscal year shall be reserved
8 for grants to Indian tribes under subparagraph
9 (P).

10 “(J) FUNDING FOR EVALUATIONS OF
11 TRANSITIONAL JOBS PROGRAMS.—1.5 percent
12 of the amount specified in subparagraph (K)
13 for each fiscal year shall be reserved for use by
14 the Secretary to carry out subparagraph (O).

15 “(K) APPROPRIATIONS.—

16 “(i) IN GENERAL.—Out of any money
17 in the Treasury of the United States not
18 otherwise appropriated, there are appro-
19 priated for grants under this paragraph—

20 “(I) \$250,000,000 for fiscal year
21 2003;

22 “(II) \$375,000,000 for fiscal
23 year 2004; and

24 “(III) \$500,000,000 for each of
25 fiscal years 2005 through 2007.

1 “(ii) AVAILABILITY.—The amounts
2 made available pursuant to clause (i) shall
3 remain available for such period as is nec-
4 essary to make the grants provided for in
5 this paragraph.

6 “(L) WORKER PROTECTIONS.—

7 “(i) NONDUPLICATION.—

8 “(I) IN GENERAL.—Assistance
9 provided through a grant made under
10 this paragraph shall be used only for
11 a program that does not duplicate,
12 and is in addition to, an activity oth-
13 erwise available in the locality of such
14 program.

15 “(II) PRIVATE, NONPROFIT ENTI-
16 TY.—Assistance provided through a
17 grant made available under this para-
18 graph shall not be provided to a pri-
19 vate nonprofit entity to conduct activi-
20 ties that are the same or substantially
21 equivalent to activities provided by a
22 State or local government agency in
23 the area in which such entity resides,
24 unless the requirements of clause (ii)
25 are met.

1 “(ii) NONDISPLACEMENT.—

2 “(I) IN GENERAL.—An employer
3 shall not displace an employee or posi-
4 tion (including partial displacement
5 such as reduction in hours, wages, or
6 employment benefits) or impair exist-
7 ing contracts for services or collective
8 bargaining agreements, as a result of
9 the use by such employer of a partici-
10 pant in a program receiving assistance
11 under a grant made under this para-
12 graph, and no participant shall be as-
13 signed to fill any established unfilled
14 position vacancy.

15 “(II) JOB OPPORTUNITIES.—A
16 job opportunity shall not be created
17 under this section that will infringe in
18 any manner on the promotional op-
19 portunity of an employed individual.

20 “(III) LIMITATION ON SERV-
21 ICES.—

22 “(aa) SUPPLANTATION OF
23 HIRING.—A participant in any
24 transitional job program that re-
25 ceives funds under a grant made

1 under this paragraph shall not
2 perform any services or duties or
3 engage in activities that will sup-
4 plant the hiring of unsubsidized
5 workers.

6 “(bb) DUTIES FORMERLY
7 PERFORMED BY ANOTHER EM-
8 PLOYEE.—A participant in any
9 transitional job program that re-
10 ceives funds under a grant made
11 under this paragraph shall not
12 perform services or duties that
13 are services, duties, or activities
14 with respect to which an indi-
15 vidual has recall rights pursuant
16 to a collective bargaining agree-
17 ment or applicable personnel pro-
18 cedures, or which had been per-
19 formed by or were assigned to
20 any employee who recently re-
21 signed or was discharged, any
22 employee who is subject to a re-
23 duction in force, any employee
24 who is on leave (terminal, tem-
25 porary, vacation, emergency, or

1 sick), or any employee who is on
2 strike or who is being locked out.

3 “(iii) CONCURRENCE OF LOCAL
4 LABOR ORGANIZATION.—No work assign-
5 ment under a transitional job program
6 that receives funds under a grant made
7 under this paragraph shall be made until
8 the program operator has obtained the
9 written concurrence of any local labor or-
10 ganization representing employees who are
11 engaged in the same or substantially simi-
12 lar work as that proposed to be carried out
13 for the program operator or worksite em-
14 ployer with whom a participant is placed.

15 “(iv) APPLICATION OF WORKER PRO-
16 TECTION LAWS.—Participants employed in
17 transitional jobs created under a transi-
18 tional job program that receives funds
19 under a grant made under this paragraph
20 shall be considered to be employees for all
21 purposes under Federal and State law, in-
22 cluding laws relating to health and safety,
23 civil rights, and worker’s compensation.

24 “(M) GRIEVANCE PROCEDURE.—

1 “(i) IN GENERAL.—The State shall
2 establish and maintain a grievance proce-
3 dure for resolving complaints by unsub-
4 sidized employees of program operators or
5 worksite employers or such employees’ rep-
6 resentatives alleging violations of clause
7 (i), (ii), or (iii) of subparagraph (L), or by
8 participants alleging violations of clause
9 (ii), (iii), or (iv) of such subparagraph.

10 “(ii) LIMITATION.—Except in the case
11 of a grievance that alleges fraud or crimi-
12 nal activity, a grievance shall be made not
13 later than 1 year after the date of the al-
14 leged occurrence of the event that is the
15 subject of the grievance.

16 “(iii) HEARING.—A hearing on any
17 grievance made under this subparagraph
18 shall be conducted not later than 30 days
19 after the filing of the grievance.

20 “(iv) DEADLINE FOR DECISION.—A
21 decision on any grievance made under this
22 subparagraph shall be made not later than
23 60 days after the filing of the grievance.

24 “(v) BINDING ARBITRATION.—

1 “(I) IN GENERAL.—In the event
2 of a decision on a grievance that is
3 adverse to the party who filed such
4 grievance, or, in the event on non-
5 compliance with the 60-day period re-
6 quired under clause (iv), the party
7 who filed the grievance may submit
8 the grievance to binding arbitration
9 before a qualified arbitrator who is
10 jointly selected and independent of the
11 interested parties.

12 “(II) SELECTION OF ARBI-
13 TRATOR.—If the parties cannot agree
14 on an arbitrator, the chief executive
15 officer of the State shall appoint an
16 arbitrator from a list of qualified arbi-
17 trators within 15 days after receiving
18 a request for such appointment from
19 a party to the grievance.

20 “(III) DEADLINE FOR PRO-
21 CEEDING.—An arbitration proceeding
22 shall be held not later than 45 days
23 after the request for the arbitration
24 proceeding, or, if the arbitrator is ap-
25 pointed by the chief executive officer

1 of the State in accordance with sub-
2 clause (II), not later than 30 days
3 after the appointment of such arbi-
4 trator.

5 “(IV) DEADLINE FOR DECI-
6 SION.—A decision concerning a griev-
7 ance that has been submitted to bind-
8 ing arbitration under this clause shall
9 be made not later than 30 days after
10 the date the arbitration proceeding be-
11 gins.

12 “(V) COST.—

13 “(aa) IN GENERAL.—Except
14 as provided in item (bb), the cost
15 of an arbitration proceeding shall
16 be divided evenly between the
17 parties to the arbitration.

18 “(bb) EMPLOYEE IS PRE-
19 VAILING PARTY.—If an employee
20 or such employee’s representative
21 prevails under a binding arbitra-
22 tion proceeding under this clause,
23 the State agency shall pay the
24 total cost of such proceeding and

1 the attorneys' fees of such em-
2 ployee or representative.

3 “(vi) REMEDIES.—Remedies for a
4 grievance filed under this subparagraph
5 include—

6 “(I) prohibition of the work as-
7 signment in the program funded
8 under a grant made under this para-
9 graph;

10 “(II) reinstatement of the dis-
11 placed employee to the position held
12 by such employee prior to displace-
13 ment;

14 “(III) payment of lost wages and
15 benefits of the displaced employee;

16 “(IV) reestablishment of other
17 relevant terms, conditions, and privi-
18 leges of employment of the displaced
19 employee; and

20 “(V) such equitable relief as is
21 necessary to make the displaced em-
22 ployee whole.

23 “(vii) JUDICIAL REVIEW.—An action
24 to enforce remedy or an arbitration award
25 under this paragraph may be brought in

1 any district court of the United States,
2 without regard to the amount in con-
3 troversy or the citizenship of the parties to
4 the action.

5 “(viii) NON-EXCLUSIVE PROCEDURE-
6 DURES.—The grievance procedures speci-
7 fied in this subparagraph are not exclusive
8 and an aggrieved employee or participant
9 in a program funded under a grant made
10 under this paragraph may use alternative
11 procedures available under applicable con-
12 tracts, collective bargaining agreements, or
13 Federal or State laws.

14 “(N) NON-PREEMPTION OF STATE LAW.—
15 The provisions of subparagraphs (L) and (M)
16 of this paragraph shall not be construed to pre-
17 empt any provision of State law that affords
18 greater protections to employees or to other
19 participants engaged in work activities under a
20 program funded under this part than is af-
21 forded by the provisions of this paragraph.

22 “(O) EVALUATION OF TRANSITIONAL JOBS
23 PROGRAMS.—

24 “(i) EVALUATION.—The Secretary, in
25 consultation with the Secretary of Labor—

1 “(I) shall develop a plan to evalu-
2 ate the extent to which transitional
3 jobs programs funded under this
4 paragraph have been effective in pro-
5 moting sustained, unsubsidized em-
6 ployment for each group of eligible
7 participants;

8 “(II) may evaluate the use of
9 such grants by such grantees as the
10 Secretary deems appropriate, in ac-
11 cordance with an agreement entered
12 into with the grantees after good-faith
13 negotiations; and

14 “(III) should include the fol-
15 lowing outcome measures in the plan
16 developed under subclause (I):

17 “(aa) Placements in unsub-
18 sidized employment.

19 “(bb) Placements in unsub-
20 sidized employment that last for
21 at least 12 months, and the ex-
22 tent to which individuals are em-
23 ployed continuously for at least
24 12 months.

1 “(cc) Earnings of individuals
2 who obtain employment at the
3 time of placement.

4 “(dd) Earnings of individ-
5 uals one year after placement.

6 “(ee) The occupations and
7 industries in which wage growth
8 and retention performance is
9 greatest.

10 “(ff) Average expenditures
11 per participant.

12 “(P) GRANTS TO INDIAN TRIBES.—

13 “(i) IN GENERAL.—The Secretary
14 shall award a grant in accordance with this
15 subparagraph to an Indian tribe for each
16 fiscal year specified in subparagraph (K)
17 for which the Indian tribe is a transitional
18 jobs tribe, in such amount as the Secretary
19 of Labor deems appropriate.

20 “(ii) TRANSITIONAL JOBS TRIBE.—An
21 Indian tribe shall be considered a transi-
22 tional jobs tribe for a fiscal year for pur-
23 poses of this subparagraph if the Indian
24 tribe meets the following requirements:

1 “(I) The Indian tribe has sub-
2 mitted to the Secretary a plan which
3 describes how, consistent with this
4 paragraph, the Indian tribe will use
5 any funds provided under this sub-
6 paragraph during the fiscal year. If
7 the Indian tribe has a tribal family
8 assistance plan, the plan referred to
9 in the preceding sentence shall be in
10 the form of an addendum to the tribal
11 family assistance plan.

12 “(II) The Indian tribe is oper-
13 ating a program under a tribal family
14 assistance plan approved by the Sec-
15 retary, a program described in section
16 412(a)(2)(C), or an employment pro-
17 gram funded through other sources
18 under which substantial services are
19 provided to recipients of assistance
20 under a program funded under this
21 part.

22 “(III) The Indian tribe has
23 agreed to negotiate in good faith with
24 the Secretary with respect to the sub-
25 stance and funding of any evaluation

1 under subparagraph (O), and to co-
2 operate with the conduct of any such
3 evaluation.”.

4 **SEC. 3. INNOVATIVE BUSINESS LINK PARTNERSHIP FOR**
5 **EMPLOYERS AND NONPROFIT ORGANIZA-**
6 **TIONS.**

7 (a) **AUTHORITY TO AWARD GRANTS.**—The Secretary
8 of Health and Human Services and the Secretary of Labor
9 (in this section referred to as the “Secretaries”) jointly
10 shall award grants in accordance with this section for
11 projects proposed by eligible applicants based on the fol-
12 lowing:

13 (1) The potential effectiveness of the proposed
14 project in carrying out the activities described in
15 subsection (e).

16 (2) Evidence of the ability of the eligible appli-
17 cant to leverage private, State, and local resources.

18 (3) Evidence of the ability of the eligible appli-
19 cant to coordinate with other organizations at the
20 State and local level.

21 (b) **DEFINITION OF ELIGIBLE APPLICANT.**—In this
22 section, the term “eligible applicant” means a nonprofit
23 organization, a local workforce investment board estab-
24 lished under section 117 of the Workforce Investment Act
25 of 1998 (29 U.S.C. 2832), or a political subdivision of a

1 State. In addition, in order to qualify as an eligible appli-
2 cant for purposes of subsection (e), the applicant must
3 provide evidence that the application has been developed
4 by and will be implemented by a local or regional consor-
5 tium that includes, at minimum, employers or employer
6 associations, education and training providers, and social
7 service providers.

8 (c) REQUIREMENTS.—In awarding grants under this
9 section, the Secretaries shall—

10 (1) consider the needs of rural areas and cities
11 with large concentrations of residents with an in-
12 come that is less than the 150 percent of the poverty
13 line; and

14 (2) ensure that all of the funds made available
15 under this section (other than funds reserved for use
16 by the Secretaries under subsection (j)) shall be
17 used for activities described in subsection (e).

18 (d) DETERMINATION OF GRANT AMOUNT.—

19 (1) IN GENERAL.—Subject to paragraph (2), in
20 determining the amount of a grant to be awarded
21 under this section for a project proposed by an eligi-
22 ble applicant, the Secretaries shall provide the eligi-
23 ble applicant with an amount sufficient to ensure
24 that the project has a reasonable opportunity to be
25 successful, taking into account—

1 (A) the number and characteristics of the
2 individuals to be served by the project;

3 (B) the level of unemployment in such
4 area;

5 (C) the job opportunities and job growth in
6 such area;

7 (D) the poverty rate for such area; and

8 (E) such other factors as the Secretary
9 deems appropriate in the area to be served by
10 the project.

11 (2) AWARD CEILING.—A grant awarded to an
12 eligible applicant under this section may not exceed
13 \$10,000,000.

14 (e) ALLOWABLE ACTIVITIES.—

15 (1) PROMOTE BUSINESS LINKAGES.—An eligi-
16 ble applicant awarded a grant under this section
17 shall use funds provided under the grant to promote
18 business linkages in which funds shall be used to
19 fund new or expanded programs that are designed
20 to—

21 (A) substantially increase the wages of
22 low-income parents, noncustodial parents, and
23 other low-income individuals, whether employed
24 or unemployed, who have limited English pro-
25 ficiency or other barriers to employment by up-

1 grading job and related skills in partnership
2 with employers, especially by providing services
3 at or near work sites; and

4 (B) identify and strengthen career path-
5 ways by expanding and linking work and train-
6 ing opportunities for low-earning workers in col-
7 laboration with employers.

8 (2) CONSIDERATION OF IN-KIND, IN-CASH RE-
9 SOURCES.—In determining which programs to fund
10 under this subsection, an eligible applicant awarded
11 a grant under this section shall consider the ability
12 of a consortium to provide funds in-kind or in-cash
13 (including employer-provided, paid release time) to
14 help support the programs for which funding is
15 sought.

16 (3) PRIORITY.—In determining which programs
17 to fund under this subsection, an eligible applicant
18 awarded a grant under this section shall give pri-
19 ority given to programs that include education or
20 training for which participants receive credit toward
21 a recognized credential.

22 (4) USE OF FUNDS.—

23 (A) IN GENERAL.—Funds provided to a
24 program under this subsection may be used for
25 a comprehensive set of employment and train-

1 ing benefits and services, including job develop-
2 ment, job matching, curricula development,
3 wage subsidies, retention services, and such oth-
4 ers as the program deems necessary to achieve
5 the overall objectives of this subsection.

6 (B) PROVISION OF SERVICES.—So long as
7 a program is principally designed to assist eligi-
8 ble individuals, funds may be provided to a pro-
9 gram under this subsection that is designed to
10 provide services to categories of low-earning em-
11 ployees for 1 or more employers and such a
12 program may provide services to individuals
13 who do not meet the definition of low-income
14 established for the program.

15 (f) DEFINITION OF ELIGIBLE INDIVIDUAL.—In this
16 section, the term “eligible individual” means—

17 (A) an individual who is a parent who is
18 a recipient of assistance under a State or tribal
19 program funded under part A of title IV of the
20 Social Security Act (42 U.S.C. 601 et seq.);

21 (B) an individual who is a parent who has
22 ceased to receive assistance under such a State
23 or tribal program; or

1 (C) a noncustodial parent who is unem-
2 employed, or having difficulty in paying child sup-
3 port obligations.

4 (g) APPLICATION.—Each eligible applicant desiring a
5 grant under this section shall submit an application to the
6 Secretaries at such time, in such manner, and accom-
7 panied by such information as the Secretaries may re-
8 quire.

9 (h) ASSESSMENTS AND REPORTS BY GRANTEES.—

10 (1) IN GENERAL.—An eligible applicant that re-
11 ceives a grant under this section shall assess and re-
12 port on the outcomes of programs funded under the
13 grant, including outcomes related to job placement,
14 1-year employment retention, wage at placement,
15 and earnings progression, as specified by the Secre-
16 taries.

17 (2) ASSISTANCE.—The Secretaries shall—

18 (A) assist grantees in conducting the as-
19 sessment required under paragraph (1) by mak-
20 ing available where practicable low-cost means
21 of tracking the labor market outcomes of par-
22 ticipants; and

23 (B) encourage States to also provide such
24 assistance.

1 (i) APPLICATION TO REQUIREMENTS OF THE STATE
2 TANF PROGRAM.—

3 (1) WORK PARTICIPATION REQUIREMENTS.—

4 With respect to any month in which a recipient of
5 assistance under a State or tribal program funded
6 under part A of title IV of the Social Security Act
7 (42 U.S.C. 601 et seq.) who satisfactorily partici-
8 pates in a business linkage program described in
9 subsection (e) that is paid for with funds made
10 available under a grant made under this section,
11 such participation shall be considered to satisfy the
12 work participation requirements of section 407 of
13 the Social Security Act (42 U.S.C. 607)) and in-
14 cluded for purposes of determining monthly partici-
15 pation rates under subsection (b)(1)(B)(i) of such
16 section.

17 (2) PARTICIPATION NOT CONSIDERED ASSIST-
18 ANCE.—A benefit or service provided with funds
19 made available under a grant made under this sec-
20 tion shall not be considered assistance for any pur-
21 pose under a State or tribal program funded under
22 part A of title IV of the Social Security Act (42
23 U.S.C. 601 et seq.).

24 (j) ASSESSMENTS BY THE SECRETARIES.—

1 (1) RESERVATION OF FUNDS.—Of the amount
2 appropriated under subsection (k), \$3,000,000 is re-
3 served for use by the Secretaries to prepare an in-
4 terim and final report summarizing and synthesizing
5 outcomes and lessons learned from the programs
6 funded through grants awarded under this section.

7 (2) INTERIM AND FINAL ASSESSMENTS.—With
8 respect to the reports prepared under paragraph (1),
9 the Secretaries shall submit—

10 (A) the interim report not later than 4
11 years after the date of enactment of this Act;
12 and

13 (B) the final report not later than 6 years
14 after such date of enactment.

15 (k) APPROPRIATION.—Out of any money in the
16 Treasury of the United States not otherwise appropriated,
17 there are appropriated for carrying out this section,
18 \$250,000,000 for the period of fiscal years 2003 through
19 2007.

○