

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas As Engrossed: H1/18/99 H2/15/99 H2/16/99 H2/19/99 S3/10/99

2 82nd General Assembly

A Bill

Act 1125 of 1999

3 Regular Session, 1999

HOUSE BILL 1074

4

5 By: Representatives Ferrell, P. Malone, T. Steele, *Sheppard*

6 By: Senators Bradford, Mahony

7

8

9

For An Act To Be Entitled

10 "THE ARKANSAS WORKFORCE INVESTMENT ACT; AND FOR OTHER
11 PURPOSES. "

12

13

Subtitle

14

"THE ARKANSAS WORKFORCE INVESTMENT ACT. "

15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

17

18 SECTION 1. This Act shall be known and may be cited as the Arkansas
19 Workforce Investment Act.

20

21 SECTION 2. The purpose of this Act is to outline a workforce
22 development plan for Arkansas and to comply with the Federal Workforce
23 Investment Act of 1998 by providing workforce investment activities, through
24 statewide and local workforce investment systems, that increase the
25 employment, retention, and earning of participants, and increasing
26 occupational skill attainment by participants, and, as a result, improving the
27 quality of the workforce, reducing welfare dependency, and enhancing the
28 productivity and competitiveness of the State of Arkansas.

29

30 SECTION 3. For purposes of this Act:

31 (1) "Chief elected official" means:

32 (A) The chief elected executive officer of a unit of general
33 local government in a local area; or

34 (B) In a case in which a local area includes more than one (1)
35 unit of general local government, the chief elected officials shall include
36 the county judge(s) and the mayor(s) of the first-class city(ies). These

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1 officials may include other mayors, in accordance with the agreement cited in
2 subdivision (C) below;

3 (C) In a case in which a local area includes more than one (1)
4 unit of general local government, the chief elected officials of each unit
5 shall execute an agreement specifying the respective roles of the individual
6 chief elected officials;

7 (2) "General local government" means any general purpose political
8 subdivision of Arkansas that has the power to levy taxes and spend funds, as
9 well as general corporate and police powers; and

10 (3) "Local educational agency" has the meaning given the term in
11 section 14101 of the Elementary and Secondary Education Act of 1965.

12
13 SECTION 4. (a) There is created the Arkansas Workforce Investment
14 Board.

15 (b) The Board shall consist of:

16 (1) The Governor;

17 (2) One (1) member of the House of Representatives to be
18 appointed by the Speaker of the House;

19 (3) One (1) member of the Senate to be appointed by the President
20 Pro Tempore;

21 (4) One (1) member shall be a member of the Women's Caucus of the
22 House of Representatives to be appointed by the chairperson of the Women's
23 Caucus;

24 (5) One (1) member shall be a member of the Black Caucus of the
25 General Assembly to be appointed by the chairperson of the Black Caucus;

26 (6) The following members to be appointed by the Governor,
27 subject to confirmation by the Senate:

28 (A) Representatives of business in Arkansas who:

29 (i) Are owners of businesses, chief executive or
30 operating officers of businesses, and other business executives or employers
31 with policymaking or hiring authority, including members of the local
32 workforce investment boards;

33 (ii) Represent businesses with employment
34 opportunities reflecting the employment opportunities of Arkansas;

35 (iii) Are appointed from individuals nominated by
36 Arkansas business organizations and business trade associations; and

1 (iv) At least one (1) of whom serves on a local
2 workforce investment board;

3 (B) One chief elected official nominated by the Arkansas
4 Municipal League and one chief elected official nominated by the Association
5 of Arkansas Counties;

6 (C) No less than three (3) representatives of labor
7 organizations who are to be nominated by the Arkansas labor federation;

8 (D) No less than two (2) representatives of individuals and
9 organizations who have experience with respect to youth activities and
10 programs;

11 (E) No less than three (3) representatives of individuals
12 and organizations who have experience and expertise in the delivery of
13 workforce investment activities of which at least one (1) person shall be a
14 chief executive officer of a two (2) year college nominated by the Association
15 of two-year colleges, one (1) member shall be a director of an agency
16 responsible to a local work force investment board for administrative
17 workforce investment programs, nominated by the Career Development Network
18 Associations, and one (1) member representing community-based organizations;
19 and

20 (F) One (1) member who is a person with a disability who is
21 familiar with vocational rehabilitation and:

22 (i) Represents an organization(s) of Arkansans with disabilities
23 or;

24 (ii) Complies with subsection (b)(6)(A) of this Section.

25 (7) The Director of the Department of Workforce Education;

26 (8) The Director of the Employment Security Department;

27 (9) The Director of the Department of Human Services;

28 (10) The Director of the Arkansas Economic Development

29 Commission;

30 (11) A representative of Employment and Training Activities
31 carried out by the Department of Housing and Urban Development;

32 (12) The Director of the Department of Higher Education; and

33 (13) The Director of the Arkansas Rehabilitative Services.

34 (c) In no event shall the Board consist of more than forty-eight (48)
35 members. A person may serve in dual capacity as a member of the Board.

36 (d) The Governor may select one (1) person from any of the following to

1 serve in dual capacity as a member of the Board:

2 (1) Arkansas Development Finance Authority;

3 (2) Arkansas Economic Development Commission;

4 (3) State Board of Education;

5 (4) State Board of Workforce Education;

6 (5) Arkansas Department of Higher Education Coordinating Board;

7 or

8 (6) Transitional Employment Assistance Program Advisory Council

9 or their successors.

10 (e) In appointing the members, the Governor shall take into
11 consideration that the Board represents the diverse regions of Arkansas,
12 including but not limited to the urban, rural and suburban areas, and that the
13 boards or commissions, or both, of the state educational and economic
14 development agencies are represented.

15 (f) Non-legislative members shall be appointed for four (4) year
16 staggered terms. The staggered terms shall be assigned by lot. The terms
17 shall commence on June 1 of each year.

18 (g) A majority of the members shall be representatives of businesses.

19 (h) The Governor shall annually select on June 1 a chairperson for the
20 Board among the representatives of businesses described in subdivision (b)(6)
21 of this section.

22 (i) In the event of a vacancy on the Board in one of the nonlegislative
23 positions, the vacancy shall be filled for the unexpired portion of the term
24 by appointment of the designated representative in subsection (b)(6) of this
25 section of a person meeting the same qualifications required for initial
26 appointment.

27 (j) The Board may, by a majority vote of the total membership of the
28 board cast during its first regularly scheduled meeting of each calendar year,
29 authorize payment to its members of a stipend not to exceed one hundred
30 dollars (\$100) per meeting attended, and the board members shall receive no
31 other compensation, expense reimbursement, or in-lieu-of payments as provided
32 in § 25-16-902. The stipend shall be paid from the Arkansas Workforce
33 Investment Fund.

34 (k) The legislative members shall receive, in lieu of reimbursement for
35 meals, lodging and travel, the same per diem and mileage allowance for each
36 day of attending meetings of the Board as is authorized by law for attending

1 meetings of the interim committees of the General Assembly and shall be paid
2 from the Arkansas Workforce Investment Fund.

3 (l) A member of the Board shall not:

4 (1) Vote on a matter under consideration by the Board:

5 (A) Regarding the provision of services by the member or by
6 an entity that such member represents; or

7 (B) That would provide direct financial benefit to the
8 member or the immediate family of the member; or

9 (2) Engage in any other activity determined by the Governor or by
10 law to constitute a conflict of interest.

11 (m) The Board shall hold its first meeting by July 15, 1999 at a place
12 and time designated by the Governor. Subsequent meetings shall be held at
13 least quarterly or at the call of the chairperson or upon the written request
14 of a majority of the members of the Board.

15 (n) For purposes of complying with this section, the Governor may use
16 any state entity that:

17 (1) Was in existence on December 31, 1997, and

18 (2) Was established pursuant to section 122 or title VII of the
19 Job Training Partnership Act, as in effect on December 31, 1997; or

20 (3) Is substantially similar to the Board described in subsection
21 (a) of this section.

22
23 SECTION 5. (a) In order to comply with the requirements and
24 responsibilities assigned within this Act, the Board shall select from its
25 membership an Executive Committee to be composed of at least eleven (11)
26 members but no more than fifteen (15) members.

27 (b) The chair and vice-chair of the Board shall serve as the chair and
28 vice-chair of the Executive Committee, respectively;

29 (c) The membership of the Executive Committee shall include:

30 (1) At least seven (7) business members, with at least one (1) of
31 whom serves on a local workforce investment board;

32 (2) At least two (2) Arkansas labor federation representatives;

33 (3) At least two (2) members of the General Assembly;

34 (4) At least one (1) Community College Representative; and

35 (5) At least one (1) Chief Elected Official.

36 (d) The Board shall form such other committees as needed.

1 (e) Membership on any committee shall not extend beyond term of service
2 on the Board.

3 (f) The executive board shall, beginning in August of 1999, meet
4 monthly and shall report to the Board at the quarterly meetings.

5 (g) Expense reimbursement and per diem allowance for the members shall
6 be as provided in subsections (j) and (k) of section 4.

7
8 SECTION 6. (a) The Board shall advise and assist the Governor and the
9 General Assembly in the:

10 (1) Development of a state workforce development plan;

11 (2) Development and continuous improvement of a statewide system
12 of activities that are funded under this Act or carried out through a one-stop
13 delivery system which receives funds under this Act including:

14 (A) Development of linkages in order to assure coordination
15 and nonduplication among the programs and activities; and

16 (B) Review of local plans;

17 (3) Commenting on an annual basis on the measures taken pursuant
18 to section 113(b) (14) of the Carl D. Perkins Vocational and Applied
19 Technology Education Act;

20 (4) Designation of local workforce investment areas;

21 (5) Development of an allocation formula for the distribution of
22 funds for adult employment and training activities and youth activities to
23 local areas;

24 (6) Development and continuous improvement of comprehensive state
25 performance measures, including state adjusted levels of performance, to
26 assess the effectiveness of the workforce investment activities in the state;

27 (7) Preparation of the annual report to the United States
28 Secretary of Labor;

29 (8) Development of a statewide employment statistics systems as
30 described in section 15(e) of the Wagner-Peyser Act;

31 (9) Development of an application for an incentive grant;

32 (10) Recommendation of the programs identified in Section 7
33 (b)(8)(A) which may be consolidated or realigned;

34 (11) Creation of workforce investment program accountability
35 measures and standards;

36 (12) Development of workforce training standards;

1 (13) Evaluation of the entire Arkansas workforce investment
2 system, including but not limited to the education system, the Career
3 Development system and the youth programs, to determine if it is meeting the
4 goals of the Arkansas Workforce Investment Act;

5 (14) Re-evaluation of the Arkansas Workforce Investment Act;

6 (15) Coordination of state agencies to assist in the development
7 of the state workforce development plan;

8 (16) Development of additional state workforce development plans
9 every three (3) years;

10 (17) Use of federal, state or private funds, donations, and
11 grants made available for the development of the Arkansas Workforce
12 Development Plan;

13 (18) Establishing procedures that will be taken by the State to
14 assure coordination of and avoid duplication among Workforce Investment
15 Programs; and

16 (19) Provide a report prior to each regular session to the
17 Arkansas General Assembly with recommendations for appropriate statutory
18 changes which may enhance the delivery of Workforce Investment in and for
19 Arkansas.

20 (b) The Executive board may recommend to the Governor the resolution of
21 any disagreements between or among state agencies pertaining to their duties
22 and responsibilities in the state workforce investment plan. The executive
23 board shall notify the agencies involved of the recommendation in writing.

24 (c) The board may recommend to the Governor that he require state
25 agencies to cooperate with the board in implementing the state workforce
26 investment plan, including but not limited to providing information to the
27 board and providing staff assistance.

28 (d) The Workforce Investment Board shall have the authority to
29 promulgate any rules or regulations necessary to carry out the provisions of
30 this Act and to comply with the Federal Workforce Investment Act of 1998.

31 (e) The Board shall present a report quarterly to the Legislative
32 Council concerning the progress, performance and compliance with the Federal
33 Workforce Investment Act of 1998, and the Arkansas Workforce Investment Act of
34 1999 and shall provide to the Legislative Council any information requested of
35 it.

36 (f) Based upon measures established through Section 6 (a)(11), the

1 Board shall recommend performance incentives and shall recommend sanctions for
2 failure to achieve such measures.

3 (g) (1) The Director of the Board shall be appointed by the Governor
4 with the consent of the Board and be subject to confirmation by the Senate.

5 (2) The director shall hire the necessary staff to carry out the
6 provisions of this Act.

7 SECTION 7. (a) The Governor, by April 1, 2000, shall submit to the
8 United States Secretary of Labor and other approval authorities, as
9 appropriate, a state plan outlining the state's five (5) year strategy for the
10 statewide workforce investment system of the state.

11 (b) The state plan shall include:

12 (1) A description of the state board, including a description of
13 the manner in which the Board collaborated in the development of the state
14 plan and a description of how the board will continue to collaborate in
15 carrying out the functions described in this section;

16 (2) A description of state-imposed requirements for the statewide
17 workforce investment system;

18 (3) A description of the state performance accountability system
19 developed for the workforce investment activities to be carried out through
20 the statewide workforce investment system, including but not limited to
21 information identifying state performance measures;

22 (4) Information describing:

23 (A) The needs of the state with regard to current and
24 projected employment opportunities, by occupation;

25 (B) The job skills necessary to obtain employment
26 opportunities;

27 (C) The skills and economic development needs of the state;
28 and

29 (D) The type and availability of workforce investment
30 activities in the state;

31 (5) An identification of local areas designated in the state,
32 including a description of the process used for the designation of the areas;

33 (6) An identification of criteria to be used by chief elected
34 officials for the appointment of members of local boards;

35 (7) The detailed plans required under section 8 of the Wagner-
36 Peyser Act (29 U.S.C. 49g);

1 (8)(A) A description of the procedures that will be taken by the
2 state to assure coordination of and avoid duplication among:

3 (i) Workforce investment activities authorized under
4 this Act;

5 (ii) Other activities authorized under this Act;

6 (iii) Programs authorized under the Wagner-Peyser Act
7 (29 U.S.C. 49 et seq.), title I of the Rehabilitation Act of 1973 (29 U.S.C.
8 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et
9 seq.), and section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C.
10 2015(d)(4)), activities authorized under title V of the Older Americans Act of
11 1965 (42 U.S.C. 3056 et seq.), and postsecondary vocational education
12 activities authorized under the Carl D. Perkins Vocational and Applied
13 Technology Education Act (20 U.S.C. 2301 et seq.);

14 (iv) Work programs authorized under section 6(o) of
15 the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

16 (v) Activities authorized under chapter 2 of title II
17 of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

18 (vi) Activities authorized under chapter 41 of title
19 38, United States Code;

20 (vii) Employment and training activities carried out
21 under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.);

22 (viii) Activities authorized under the National and
23 Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

24 (ix) Employment and training activities carried out by
25 the Department of Housing and Urban Development; and

26 (x) Programs authorized under state unemployment
27 compensation laws; and

28 (B) A description of the common data collection and
29 reporting processes used for the programs and activities;

30 (9) A description of the process used by the state to provide an
31 opportunity for public comment, including comment by representatives of
32 businesses and representatives of labor organizations, and input into
33 development of the plan, prior to submission of the plan;

34 (10) Information identifying how the state will use funds the
35 state receives under this Act to leverage other federal, state, local, and
36 private resources, in order to maximize the effectiveness of the resources,

1 and to expand the participation of business, employees, and individuals in the
2 statewide workforce investment system;

3 (11) Assurances that the state will provide for fiscal control and
4 fund accounting procedures that may be necessary to ensure the proper
5 disbursement of, and accounting for, funds paid to the state;

6 (12)(A) A description of the methods and factors the state will
7 use in distributing funds to local areas for youth activities and adult
8 employment and training activities, including:

9 (i) A description of how the individuals and entities
10 represented on the state board were involved in determining the methods and
11 factors of distribution; and

12 (ii) A description of how the state consulted with
13 chief elected officials in local areas throughout the state in determining the
14 distribution;

15 (B) Assurances that the funds will be distributed equitably
16 throughout the state, and that no local areas will suffer significant shifts
17 in funding from year to year; and

18 (C) A description of the formula prescribed by the Governor
19 for the allocation of funds to local areas for dislocated worker employment
20 and training activities;

21 (13) Information specifying the actions that constitute a conflict
22 of interest;

23 (14) With respect to the one-stop delivery systems, a description
24 of the strategy of the state for assisting local areas in development and
25 implementation of fully operational one-stop delivery systems in the state;

26 (15) A description of the appeals process;

27 (16) A description of the competitive process to be used by the
28 state to award grants and contracts in the state for activities carried out
29 under this Act;

30 (17) With respect to the employment and training activities for
31 adults:

32 (A) A description of:

33 (i) The employment and training activities that will
34 be carried out with the funds received by the state through the allotment;

35 (ii) How the state will provide rapid response
36 activities to dislocated workers from funds reserved for the purposes,

1 including the designation of an identifiable state rapid response dislocated
2 worker unit to carry out statewide rapid response activities;

3 (iii) The procedures the local boards in the state
4 will use to identify eligible providers of training services; and

5 (iv) How the state will serve the employment and
6 training needs of dislocated workers, low-income individuals, individuals
7 training for nontraditional employment, and other individuals with multiple
8 barriers to employment; and

9 (B) An assurance that veterans will be afforded the
10 employment and training activities by the state, to the extent practicable;

11 (18) With respect to youth activities, information:

12 (A) Describing the state strategy for providing
13 comprehensive services to eligible youth, particularly those eligible youth
14 who are recognized as having significant barriers to employment;

15 (B) Identifying the criteria to be used by local boards in
16 awarding grants for youth activities, including criteria that the Governor and
17 local boards will use to identify effective and ineffective youth activities
18 and providers of the activities;

19 (C) Describing how the state will coordinate the youth
20 activities carried out in the state with the services provided by Job Corps
21 centers in the state; and

22 (D) Describing how the state will coordinate youth
23 activities with activities carried out through the youth opportunity grants;

24 (19) A description of the eligibility criteria set by the state to
25 certify training providers including post-secondary institutions certified
26 under the Higher Education Act, apprenticeship programs registered under the
27 National Apprenticeship Act, and other public or private providers of
28 training. Criteria shall be established for both initial and subsequent
29 eligibility and shall be applied equitably to all training providers. The
30 state shall develop this criteria with input from the public and the training
31 providers; and

32 (20) A description of how the state will ensure that local workforce
33 investment board plans include information as to how they will support the
34 Transitional Employment Assistance implementation plans for the counties in
35 its service areas.

36 (c) The state plan submitted to the United States Secretary of Labor

1 shall be considered to be approved by the United States Secretary of Labor at
2 the end of the ninety (90) day period beginning on the day the United States
3 Secretary of Labor receives the plan, unless the United States Secretary of
4 Labor makes a written determination, during the ninety (90) day period, that:

5 (1) The plan is inconsistent with the provisions of this Act; and

6 (2) In the case of the portion of the plan described in section
7 8(a) of the Wagner-Peyser Act (29 U.S.C. 49g(a)), the portion does not satisfy
8 the criteria for approval.

9 (d) The state may submit modifications to a state plan in accordance
10 with the requirements of this section as necessary during the five (5) year
11 period covered by the plan.

12 (e) The General Assembly authorizes for inclusion in the state plan
13 those programs referenced in Section 501(b)(2)(A) of Public Law 105-220. Such
14 inclusion shall have the concurrence of the State Board of Workforce Education
15 and Career Opportunities.

16
17 SECTION 8. (a) The Governor shall, no later than September 30, 1999,
18 designate local workforce investment areas within the State:

19 (1) Through consultation with the Board; and

20 (2) After consultation with chief elected officials and after
21 consideration of comments received through the public comment process, as
22 described in the Federal Workforce Investment Act, Section 112(b)(9).

23 (b) In making the designation of local areas, the Governor shall take
24 into consideration the following:

25 (1) Geographic areas served by local educational agencies and
26 intermediate educational agencies;

27 (2) Geographic areas served by postsecondary educational
28 institutions and area vocational education schools;

29 (3) The extent to which the local areas are consistent with labor
30 market areas;

31 (4) The distance that individuals will need to travel to receive
32 services provided in the local areas; and

33 (5) The resources of the local areas that are available to
34 effectively administer the activities carried out under this Act.

35 (c) The Governor shall approve any request for designation as a local
36 area:

1 (1) From any unit of general local government with a population of
2 five hundred thousand (500,000) or more;

3 (2) Of the area served by a rural concentrated employment program
4 grant recipient of demonstrated effectiveness that served as a service
5 delivery area or substate area under the Job Training Partnership Act, if the
6 grant recipient has submitted the request; and

7 (3) Of an area that served as a service delivery area under
8 section 101(a)(4)(A)(ii) of the Job Training Partnership Act as effective on
9 September 1, 1999, in a state that has a population of not more than one
10 million, one hundred thousand (1,100,000) and a population density greater
11 than nine hundred (900) persons per square mile.

12 (d)(1) The Governor shall approve any request, made not later than the
13 date of submission of the initial state plan under this Act, for temporary
14 designation as a local area from any unit of general local government
15 (including a combination of the units) with a population of two hundred
16 thousand (200,000) or more that was a service delivery area under the Job
17 Training Partnership Act as effective on September 1, 1999, if the Governor
18 determines that the area:

19 (A) Performed successfully, in each of the last two (2)
20 years prior to the request for which data are available, in the delivery of
21 services to participants under part A of title II and title III of the Job
22 Training Partnership Act as effective on September 1, 1999; and

23 (B) Has sustained the fiscal integrity of the funds used by
24 the area to carry out the activities.

25 (2) A temporary designation shall be for a period of not more than
26 two (2) years, after which the designation shall be extended until the end of
27 the period covered by the state plan if the Governor determines that, during
28 the temporary designation period, the area substantially met the local
29 performance measures for the local area and sustained the fiscal integrity of
30 the funds used by the area to carry out activities under this Act.

31 (e) The Governor may approve a request from any unit of general local
32 government for designation as a local area if the Board, after consultation
33 with and agreement of the local chief elected officials, recommends to the
34 Governor, that the area should be so designated. Arkansas labor federations,
35 or other representatives of employees if no employees are represented by labor
36 organizations;

1 (f) A unit of general local government or grant recipient that requests
2 but is not granted designation of an area as a local area may submit an appeal
3 to the Board under an appeal process established in the state plan. If the
4 appeal does not result in the designation, the United States Secretary of
5 Labor, after receiving a request for review from the unit or grant recipient
6 and on determining that the unit or grant recipient was not accorded
7 procedural rights under the appeal process established in the state plan or
8 that the area meets the requirements of this section, may require that the
9 area be designated as a local area.

10
11 SECTION 9. (a) There shall be established by January 15, 2000, in each
12 local area of the state, and certified by the Governor, a local workforce
13 investment board to set policy for the portion of the statewide workforce
14 investment system within the local area.

15 (b) The Governor in partnership with the Board, shall establish
16 criteria for use by chief elected officials in the local areas for appointment
17 of members of the local boards.

18 (c) The criteria shall require, at a minimum, that the membership of
19 each local board:

20 (1) Include:

21 (A) Representatives of business in the local area, who:

22 (i) Are owners of businesses, chief executives or
23 operating officers of businesses, and other business executives or employers
24 with policymaking or hiring authority;

25 (ii) Represent businesses with employment
26 opportunities that reflect the employment opportunities of the local area; and

27 (iii) Are appointed from among individuals nominated
28 by local business organizations and business trade associations;

29 (B) Representatives of local educational entities,
30 including representatives of local educational agencies, local school boards,
31 two (2) year colleges and universities, entities providing adult education and
32 literacy activities, and postsecondary educational institutions, selected from
33 among individuals nominated by regional or local educational agencies,
34 institutions, or organizations representing the local educational entities;

35 (C) Representatives of labor organizations, nominated by
36 Arkansas local labor federations, or other representatives of employees if no

1 employees are represented by labor organizations;

2 (D) Representatives of community-based organizations;

3 (E) Representatives of economic development agencies,
4 including private sector economic development entities;

5 (F) Representatives of each of the one-stop partners; and

6 (G) One (1) member who is a person with a disability who is
7 familiar with vocational rehabilitation and represents an organization of
8 Arkansans with disabilities and:

9 (i) Represents an organization(s) of Arkansans with disabilities;

10 or

11 (ii) Complies with subsection (c)(1)(A) of this Section; and

12 (H) One (1) member who represents veterans organizations;

13 and

14 (2) May include other individuals or representatives of entities
15 as the chief elected official in the local area may determine to be
16 appropriate.

17 (d) Members of the board that represent organizations, agencies, or
18 other entities shall be individuals with policymaking authority within the
19 organizations, agencies, or entities.

20 (e) A majority of the members of the local board shall be
21 representatives described in subdivision (c)(1)(A) of this section.

22 (f) The chief elected official shall ensure that minority groups are
23 represented on the local board.

24 (g) The local board shall elect a chairperson for the local board from
25 among the representatives described in paragraph (c)(1)(A).

26 (h) The chief elected official in a local area is authorized to appoint
27 the members of the local board for the area, in accordance with the state
28 criteria.

29 (1) In the event a local area includes more than one (1) unit of
30 general local government, the chief elected officials of the units shall
31 execute an agreement that specifies the respective roles of the individual
32 chief elected officials:

33 (A) In the appointment of the members of the local board
34 from the individuals nominated or recommended to be the members in accordance
35 with the criteria; and

36 (B) In carrying out any other responsibilities assigned to

1 the officials under this section.

2 (2) If, after a reasonable effort, the chief elected officials
3 are unable to reach agreement, the Governor may appoint the members of the
4 local board from individuals so nominated or recommended.

5
6 SECTION 10. (a) The Governor shall, once every two (2) years, certify
7 one (1) local board for each local area in the state.

8 (b) The certification shall be based on criteria established under
9 Section 9 of this Act and, for a second or subsequent certification, the
10 extent to which the local board has ensured that workforce investment
11 activities carried out in the local area have enabled the local area to meet
12 the local performance measures.

13 (c) Failure of a local board to achieve certification shall result in
14 reappointment and certification of another local board.

15 (d) The Governor may decertify a local board, at any time after
16 providing notice and an opportunity for comment, for:

17 (1) Fraud or abuse; or

18 (2) Failure to carry out the functions specified for the local
19 board.

20 (e) The Governor may decertify a local board if a local area fails to
21 meet the local performance measures for the local area for two (2) consecutive
22 years.

23 (f) If the Governor decertifies a local board for a local area, the
24 Governor may require that a new local board be appointed and certified for the
25 local area pursuant to a reorganization plan developed by the Governor, in
26 consultation with the chief elected official in the local area.

27
28 SECTION 11. (a) The functions of the local board shall include the
29 following:

30 (1) Development of a local plan in accordance with Section 12 of
31 this Act;

32 (2) The local board, with the agreement of the chief elected
33 official:

34 (A) Shall designate or certify one-stop operators; and

35 (B) May terminate for cause the eligibility of the
36 operators;

1 (3) The local board shall identify eligible providers of youth
2 activities in the local area by awarding grants or contracts on a competitive
3 basis, based on the recommendations of the youth council;

4 (4) The local board shall identify eligible providers of training
5 services using criteria established by the state.

6 (5) If the one-stop operator does not provide intensive services
7 in a local area, the local board shall identify eligible providers of
8 intensive services in the local area;

9 (6) The local board shall develop a budget for the purpose of
10 carrying out the duties of the local board under this section, subject to the
11 approval of the chief elected official; and

12 (7) The local board shall annually provide a progress report to
13 the Board.

14 (b) The chief elected official in a local area shall serve as the local
15 grant recipient for, and shall be liable for any misuse of, the grant funds
16 allocated to the local area, unless the chief elected official reaches an
17 agreement with the Governor for the Governor to act as the local grant
18 recipient and bear the liability.

19 (c) In order to assist in the administration of the grant funds, the
20 chief elected official or the Governor, where the Governor serves as the local
21 grant recipient for a local area, may designate an entity to serve as a local
22 grant subrecipient for the funds or as a local fiscal agent. The designation
23 shall not relieve the chief elected official or the Governor of the liability
24 for any misuse of grant funds.

25 (d) The local grant recipient or an entity shall disburse the funds for
26 workforce investment activities at the direction of the local board, pursuant
27 to the requirements of this Act. The local grant recipient or entity shall
28 disburse the funds immediately on receiving the direction from the local
29 board.

30 (e) The local board may contract for some or all of its administrative
31 services in an amount consistent with the grant but in no case shall the cost
32 of administrative services exceed fifteen percent (15%) of the total cost of
33 the program.

34 (f) The local board may solicit and accept grants and donations from
35 sources other than federal funds.

36 (g) The local board, in partnership with the chief elected official,

1 shall conduct oversight with respect to local programs of youth activities,
2 local adult employment and training, and the one-stop delivery system in the
3 local area.

4 (h) The local board, the chief elected official, and the Governor shall
5 negotiate and reach an agreement on local performance measures.

6 (i) The local board shall assist the Governor in developing the
7 statewide employment statistics system described in section 15(e) of the
8 Wagner-Peyser Act as effective on September 1, 1999.

9 (j) The local board shall coordinate the workforce investment
10 activities carried out in the local area with economic development strategies
11 and develop other employer linkages with the activities.

12 (k) The local board shall promote the participation of private sector
13 employers in the statewide workforce investment system and ensure the
14 effective provision, through the system, of connecting, brokering, and
15 coaching activities, through intermediaries like the one-stop operator in the
16 local area or through other organizations, to assist the employers in meeting
17 hiring needs.

18 (l) No local board may provide training services unless the Governor,
19 pursuant to a request from the local board, grants a written waiver of the
20 prohibition for a program of training services, if the local board:

21 (1) Submits to the Governor a proposed request for the waiver
22 that includes:

23 (A) Satisfactory evidence that there is an insufficient
24 number of eligible providers of the program of training services to meet local
25 demand in the local area;

26 (B) Information demonstrating that the board meets the
27 requirements for an eligible provider of training services; and

28 (C) Information demonstrating that the program of training
29 services prepares participants for an occupation that is in demand in the
30 local area.

31 (2) Makes the proposed request available to eligible providers of
32 training services and other interested members of the public for a public
33 comment period of not less than thirty (30) calendar days.

34 (3) Includes, in final request for waiver, the evidence and
35 information described in subdivisions (1) and (2) of this subsection.

36 (4) A waiver granted to a local board shall apply for a period

1 not to exceed one (1) year. The waiver may be renewed for additional periods
2 not to exceed one (1) year, pursuant to requests from the local board.

3 (5) The Governor may revoke a waiver granted if the state
4 determines that the local board involved has engaged in a pattern of
5 inappropriate referrals to training services operated by the local board.

6 (m) Nothing in this section shall be construed to provide a local board
7 with the authority to mandate curricula for schools.

8 (n) A member of a local board may not:

9 (1) Vote on a matter under consideration by the local board:

10 (A) Regarding the provision of services by the member or by
11 an entity that such member represents; or

12 (B) That would provide direct financial benefit to the
13 member or the immediate family of the member; or

14 (2) Engage in any other activity determined by the Governor or by
15 law to constitute a conflict of interest as specified in the state plan.

16 (o) There shall be established, as a subgroup within each local board,
17 a youth council appointed by the local board, in cooperation with the chief
18 elected official for the local area.

19 (1)(A) The membership of each youth council shall include:

20 (i) Members of the local board with special interest
21 or expertise in youth policy;

22 (ii) Representatives of youth service agencies,
23 including juvenile justice and local law enforcement agencies;

24 (iii) Representatives of local public housing
25 authorities;

26 (iv) Parents of eligible youth seeking assistance
27 under this Act;

28 (v) Individuals, including former participants, and
29 representatives of organizations, that have experience relating to youth
30 activities; and

31 (vi) Representatives of the Job Corps, as
32 appropriate; and

33 (B) The membership of each youth council may include other
34 individuals as the chairperson of the local board, in cooperation with the
35 chief elected official, determines to be appropriate.

36 (2) Members of the youth council who are not members of the local

1 board shall be voting members of the youth council and nonvoting members of
2 the board.

3 (3) The duties of the youth council include:

4 (A) Developing the portions of the local plan relating to
5 eligible youth, as determined by the chairperson of the local board;

6 (B) Subject to the approval of the local board:

7 (i) Recommending eligible providers of youth
8 activities, to be awarded grants or contracts on a competitive basis by the
9 local board to carry out the youth activities; and

10 (ii) Conducting oversight with respect to the
11 eligible providers of youth activities, in the local area;

12 (C) Coordinating youth activities in the local area; and

13 (D) Other duties determined to be appropriate by the
14 chairperson of the local board.

15 (p) A local board may provide core services and/or intensive services,
16 as defined in the Federal Workforce Investment Act of 1998, or may be
17 designated or certified as a One-Stop Operator, only with the agreement of the
18 chief elected official(s) and the Governor.

19 SECTION 12. (a) Each local board shall develop and submit to the
20 Governor a comprehensive five (5) year local plan in partnership with the
21 appropriate chief elected official. The plan shall be consistent with the
22 state plan and shall be updated every three (3) years thereafter.

23 (b) The local plan shall include:

24 (1) An identification of:

25 (A) The workforce investment needs of businesses, job
26 seekers, and workers in the local area;

27 (B) The current and projected employment opportunities in
28 the local area; and

29 (C) The job skills necessary to obtain the employment
30 opportunities;

31 (2) A description of the one-stop delivery system to be
32 established or designated in the local area, including:

33 (A) A description of how the local board will ensure the
34 continuous improvement of eligible providers of services through the system
35 and ensure that the providers meet the employment needs of local employers and
36 participants; and

1 (B) A copy of each memorandum of understanding concerning
2 the operation of the one-stop delivery system in the local area;

3 (3) A description of the local levels of performance negotiated
4 with the Governor and chief elected official to be used to measure the
5 performance of the local area and to be used by the local board for measuring
6 the performance of the local fiscal agent, eligible providers, and the one-
7 stop delivery system, in the local area;

8 (4) A description and assessment of the type and availability of
9 adult and dislocated worker employment and training activities in the local
10 area;

11 (5) A description of how the local board will coordinate
12 workforce investment activities carried out in the local area with statewide
13 rapid response activities, as appropriate;

14 (6) A description and assessment of the type and availability of
15 youth activities in the local area, including an identification of successful
16 providers of the activities;

17 (7) A description of the process used by the local board to
18 provide an opportunity for public comment, including comment by
19 representatives of businesses and comment by representatives of labor
20 organizations, and input into the development of the local plan, prior to
21 submission of the plan;

22 (8) An identification of the entity responsible for the disbursement
23 of grant funds as determined by the chief elected official or the Governor;

24 (9) A description of the competitive process to be used to award
25 the grants and contracts in the local area for activities carried out under
26 this Act; and

27 (10) Other information as the Governor may require.

28 (c) Prior to the date on which the local board submits a local plan
29 under this section, the local board shall:

30 (1) Make available copies of a proposed local plan to the public
31 through public hearings and local news media;

32 (2) Allow members of the local board and members of the public,
33 including representatives of business and representatives of labor
34 organizations, to submit comments on the proposed local plan to the local
35 board, not later than the end of the thirty (30) calendar day period beginning
36 on the date on which the proposed local plan is made available; and

1 (3) Include with the local plan submitted to the Governor under
2 this section any comments that represent a disagreement with the plan.

3 (d) The local plan submitted to the Governor under this section shall
4 be considered to be approved by the Governor at the end of the ninety (90) day
5 period beginning on the day the Governor receives the plan, unless the
6 Governor makes a written determination during the ninety (90) day period that:

7 (1) Deficiencies in activities carried out under this Act have
8 been identified, through audits or otherwise, and the local area has not made
9 acceptable progress in implementing corrective measures to address the
10 deficiencies; or

11 (2) The plan does not comply with this Act.

12
13 SECTION 13. All provisions of this Act of a general and permanent
14 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
15 Code Revision Commission shall incorporate the same in the Code.

16
17 SECTION 14. If any provision of this Act or the application thereof to
18 any person or circumstance is held invalid, such invalidity shall not affect
19 other provisions or applications of the Act which can be given effect without
20 the invalid provision or application, and to this end the provisions of this
21 Act are declared to be severable.

22
23 SECTION 15. All laws and parts of laws in conflict with this Act are
24 hereby repealed.

25
26 SECTION 16. EMERGENCY CLAUSE. It is hereby found and determined by the
27 Eighty-second General Assembly that the provisions of this Act are of critical
28 importance to preserve the efficient operation of programs that deliver
29 services to the citizens of the State of Arkansas. The federal government has
30 allocated funds to assist states in implementing a workforce investment plan
31 and in order to receive those funds, Arkansas must begin to outline a proposal
32 for approval by the United States Secretary of Labor. Therefore, an emergency
33 is declared to exist and this act being immediately necessary for the
34 preservation of the public peace, health and safety shall become effective on
35 the date of its approval by the Governor. If the bill is neither approved nor
36 vetoed by the Governor, it shall become effective on the expiration of the

1 period of time during which the Governor may veto the bill. If the bill is
2 vetoed by the Governor and the veto is overridden, it shall become effective
3 on the date the last house overrides the veto.

4 */s/ Ferrell, et al*

7 APPROVED: 4/6/1999

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