

## CHAPTER 39

**AN ACT** reorganizing and consolidating the State's workforce development system, redesignating the Department of Labor as the Department of Labor and Workforce Development and revising various parts of the statutory law.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.34:1A-1.2 Department of Labor and Workforce Development; reference.

1. On and after the effective date of this 2004 amendatory and supplementary act, the Department of Labor shall be entitled and known as the Department of Labor and Workforce Development and whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the Department of Labor, the same shall mean and refer to the Department of Labor and Workforce Development.

C.34:1A-1.3 Transfer of workforce development programs from DHS.

2. a. To the extent not inconsistent with any federal law, and notwithstanding any other State law, all employment-directed and workforce development programs and activities of the Department of Human Services which are funded through the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, 42 U.S.C. s.601 et seq., and the federal Food Stamp Act of 1977, Pub.L.95-113, 7 U.S.C. s. 2011 et seq. are hereby transferred to the Department of Labor and Workforce Development.

b. The employment-directed and workforce development programs and activities which shall be transferred from the Department of Human Services to the Department of Labor and Workforce Development pursuant to this section and provided by the Department of Labor and Workforce Development shall include, but not be limited to:

- (1) Career guidance;
- (2) Labor market information;
- (3) Employability assessment;
- (4) Development of Employability Development Plans;
- (5) Employment-directed case management;
- (6) Subsidized and unsubsidized employment in the public and private sectors;
- (7) Job search and readiness programs;
- (8) Community work experience programs;
- (9) Alternative work experience programs;
- (10) Community service programs;
- (11) On-the -job training;
- (12) Vocational education and training;
- (13) Employment-related education and job skill training;
- (14) Basic skills and literacy training;
- (15) Work-related educational enhancements;
- (16) A proportionate share of employment and training related expenses;
- (17) Referral and access to work support services, including transport and childcare services;
- (18) Early employment initiative; and
- (19) Career advancement vouchers.

c. The programmatic, administrative and support staff and equipment comprising the employment-directed and workforce development programs and activities in the Department of Human Services are transferred to the Department of Labor and Workforce Development pursuant to this section and the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.), with all of their functions, powers and duties and a proportionate share of the resources to maintain the programs and activities.

C.34:1A-1.4 New Jersey Youth Corps transferred.

3. The New Jersey Youth Corps, established pursuant to P.L.1984, c.198 (C.9:25-1 et seq.), is hereby transferred to the Department of Labor and Workforce Development. To the extent not inconsistent with any federal law, and notwithstanding any other State law, the Department of Labor and Workforce Development is authorized to enhance, strengthen and expand the New Jersey Youth Corps program. The programmatic, administrative and support staff and

equipment assigned to the New Jersey Youth Corps are transferred to the Department of Labor and Workforce Development, with all of their functions, powers and duties and the resources to maintain the programs and activities pursuant to this section and the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

C.34:1A-1.5 Certain powers, functions, duties of DOE transferred.

4. a. Notwithstanding any other State law, all powers, functions and duties of the Department of Education with respect to the following employment-directed and workforce development programs and activities are hereby transferred to the Department of Labor and Workforce Development:

(1) The administration and provision of adult education and literacy activities as defined in 20 U.S.C. s.9202;

(2) Operational authority for the approval of private or proprietary trade, business or vocational schools or similar training institutions pursuant to section 2 of P.L.1966, c.13 (C.44:12-2); and

(3) Registration and approval of registered apprenticeship programs under a joint agreement negotiated with the Bureau of Apprenticeship and Training in the United States Department of Labor.

b. The programmatic, administrative and support staff and equipment comprising the employment-directed and workforce development programs and activities in the Department of Education are transferred to the Department of Labor and Workforce Development pursuant to this section and the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.), with all of their functions, powers and duties and a proportionate share of the resources to maintain the programs and activities.

C.34:1A-1.6 Construction of act relative to Civil Service tenure, rights, protection.

5. a. Nothing in this 2004 amendatory and supplementary act and no transfer carried out pursuant to this act shall be construed or permitted to deprive any person of any tenure rights or reduce or deny any right or protection provided him or her by Title 11A, Civil Service, of the New Jersey Statutes, or under any pension law or retirement system.

b. All staff who are hired to work at a One Stop Career Center and supported by any resources transferred to the Department of Labor and Workforce Development pursuant to section 2, 3 or 4 of this act, shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, be hired and employed by a political subdivision of the State, or be qualified staff hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of this act.

c. Any staff member, including staff located at any One Stop Career Center, providing services to unemployment insurance claimants or services to employment service clients shall be hired and employed pursuant to Title 11A, Civil Service, of the New Jersey Statutes, if that staff member is supported by any funds provided to the State under the Wagner-Peyser Act (29 U.S.C. s.49 et seq.) or section 903 of the Social Security Act (42 U.S.C. s.1103), as amended.

d. For the purpose of this section, "One Stop Career Center" means any of the facilities established, sponsored or designated by the State, a political subdivision of the State or a Workforce Investment Board in a local area to coordinate or make available State and local programs providing employment and training services or other employment-directed and workforce development programs and activities, including job placement services, and any other similar facility as may be established, sponsored or designated at any later time to coordinate or make available any of those programs, services or activities, and "qualified staff" means staff whose qualifications meet standards set by regulations adopted by the Commissioner of Labor and Workforce Development.

6. Section 1 of P.L.1992, c.48 (C.34:15B-35) is amended to read as follows:

C.34:15B-35 Definitions relative to job training.

1. As used in this act:

"Approved community-based or faith-based organization" means an organization which is an approved service provider, a nonprofit organization exempt from federal taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. s.501), and approved by the commissioner as demonstrating expertise and effectiveness in the field of workforce investment and being representative of a community or a significant segment of a community where the organization provides services.

"Approved service provider" means a service provider approved pursuant to section 6 of this act.

"Apprenticeship Policy Committee" means the New Jersey Apprenticeship Policy Committee established by an agreement between the Bureau of Apprenticeship and Training in the United States Department of Labor, the State Department of Labor and Workforce Development and the State Department of Education and consisting of a representative of the Commissioner of the State Department of Education, a representative of the Commissioner of the State Department of Labor and Workforce Development, the Director of Region II of the Bureau of Apprenticeship and Training in the United States Department of Labor, and a representative of the New Jersey State AFL-CIO.

"Commissioner" means the Commissioner of Labor and Workforce Development.

"Department" means the Department of Labor and Workforce Development.

"Employment and training services" means:

- a. Counseling provided pursuant to section 4 of this act;
- b. Vocational training; or
- c. Remedial education.

"Federal job training funds" means any moneys expended to obtain employment and training services, pursuant to the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C.s.2801 et seq.) or any other federal law pursuant to which moneys may be expended to obtain employment and training services or other employment-directed and workforce development programs and activities, except that, to the extent that the application of any specific provision of this act would cause the amount of federal job training funds provided to the State to be reduced, that provision shall not apply.

"Labor demand occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor demand occupation by the New Jersey Occupational Information Coordinating Committee pursuant to section 7 of this act.

"Office of Customized Training" means the Office of Customized Training established pursuant to section 5 of P.L.1992, c.43 (C.34:15D-5).

"One Stop Career Center" means any of the facilities established, sponsored or designated by the State, a political subdivision of the State and a Workforce Investment Board in a local area to coordinate or make available State and local programs providing employment and training services or other employment-directed and workforce development programs and activities, including job placement services, and any other similar facility as may be established, sponsored or designated at any later time to coordinate or make available any of those programs, services or activities.

"Permanent employment" means full-time employment unsubsidized by government training funds which provides a significant opportunity for career advancement and long-term job security and is in the occupation for which a worker receives vocational training pursuant to this act.

"Poverty level" means the official poverty level based on family size, established and adjusted under section 673 (2) of Subtitle B of the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C. s. 9902 (2)).

"Qualified job counselor" means a job counselor whose qualifications meet standards established by the commissioner.

"Qualified staff" means staff whose qualifications meet standards set by regulations adopted by the Commissioner of Labor and Workforce Development.

"Remedial education" means any literacy or other basic skills training or education which may

not be directly related to a particular occupation but is needed to facilitate success in vocational training or work performance, including training or education in basic mathematics, reading comprehension, basic computer literacy, English proficiency and work-readiness skills.

“Self-sufficiency” for an individual means a level of earnings from employment not lower than 250% of the poverty level for an individual, taking into account the size of the individual's family.

"Service provider" or "provider" means a provider of employment and training services including but not limited to a private or public school or institution of higher education, a business, a labor organization or a community-based organization.

"Vocational training" means training or education which is related to an occupation and is designed to enhance the marketable skills and earning power of a worker or job seeker.

7. Section 2 of P.L.1992, c.48 (C.34:15B-36) is amended to read as follows:

C.34:15B-36 Funding of vocational training.

2. a. All vocational training funded with federal job training funds shall be training which is likely to substantially enhance the trainee's marketable skills and earning power and is for a labor demand occupation.

b. Federal job training funds shall not be used for job training or any related activities which induce, encourage or assist: any displacement or partial displacement of currently employed workers by trainees by means such as reduced hours of currently employed workers; any replacement of laid off workers by trainees; or any relocation of operations resulting in a loss of employment at a previous workplace, except in cases of multi-establishment employers consolidating establishments. No federal job training funds shall be used for job training in any case in which an employer relocates within the State and does not offer each affected employee the equivalent benefits, pay and working conditions if the employee moves to the new location and into a job or position involving comparable skills, responsibilities, experience and seniority to the prior job or position.

c. Federal job training funds shall not be used for job training or any related activities which impair existing contracts for services or collective bargaining agreements, except that job training or any related activities which are inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and employer who are parties to the agreement.

d. Any federal job training funds which are provided directly to an employer or indirectly to an employer through a consortium shall be regarded as customized training grants and be administered by the Office of Customized Training and the employer and any consortium shall comply with all requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), except that federal job training funds provided directly or indirectly to an employer for use in connection with any program which includes apprenticeship training or activities shall be exempt from the requirement of this subsection d. to be administered by the Office of Customized Training and be subject to the requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), but the funds shall be exempt only if approved by the Apprenticeship Policy Committee, as defined in section 3 of P.L.1993, c.268 (C.34:15E-3) and the employer complies with the provisions of subsection e. of section 5 of P.L.1993, c.268 (C.34:15E-5). Employment and training services funded by federal job training funds shall not replace, supplant, compete with or duplicate any approved apprenticeship program.

e. All staff who are hired and supported by any federal job training funds, including any of those staff located at any One Stop Career Center, but not including any staff of a service provider providing training services funded by a customized training grant pursuant to subsection d. of this section or an individual training grant pursuant to section 4 of P.L.1992, c.48 (C.34:15B-38), shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, be hired and employed by a political subdivision of the State, or be qualified staff hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.), or be qualified

staff hired and employed by an approved community-based or faith-based organization to provide services at the level of staffing provided in an agreement entered into by the organization before the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.).

8. Section 4 of P.L.1992, c.48 (C.34:15B-38) is amended to read as follows:

C.34:15B-38 Counseling requirement.

4. a. No individual shall receive employment and training services paid for with federal job training funds unless the individual first receives counseling pursuant to this section. The counseling shall be provided by a job counselor hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, or hired and employed by a political subdivision of the State, or be provided by a qualified job counselor hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.), or hired and employed by an approved community-based or faith-based organization to provide counseling which the organization entered into an agreement to provide before the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.). The purpose of any counseling provided pursuant to this section is to assist each individual in obtaining the employment and training services most likely to enable the individual to obtain employment providing self-sufficiency for the individual and also to provide the individual with the greatest opportunity for long-range career advancement with high levels of productivity and earning power. The counseling shall include:

(1) Testing and assessment of the individual's job skills and aptitudes, including the individual's literacy skills and other basic skills. Basic skills testing and assessment shall be provided to the individual unless information is provided regarding the individual's educational background and occupational or professional experience which clearly demonstrates that the individual's basic skill level meets the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11) or unless the individual is already participating in a remedial education program which meets those standards;

(2) An evaluation by a qualified job counselor of what remedial education, if any, is determined to be necessary for the individual to advance in his current career or occupation or to succeed in any particular vocational training which the individual would undertake under the program, provided that the remedial education shall be at a level not lower than that needed to meet the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11);

(3) The provision of information to the individual regarding the labor demand occupations, including the information about the wage levels in those occupations, and information regarding the effectiveness of approved service providers of vocational training in labor demand occupations which the claimant is considering, including a consumer report card on service providers showing the long-term success of former trainees of each provider in obtaining permanent employment and increasing earnings over a period of not more than two years following the completion of training;

(4) The timely provision of information to the individual regarding the services and benefits available to the individual, and all actions required of the individual to obtain the services and benefits, under programs supported by federal job training funds or the provisions of P.L.1992, c.47 (C.43:21-57 et al.), and the provision to the individual of a written statement of the individual's rights and responsibilities with respect to programs for which the individual is eligible, which includes a full disclosure to the individual of his right to obtain the services most likely to enable the individual to obtain employment providing self-sufficiency and the individual's right not to be denied employment and training services for any of the reasons indicated in section 5 of P.L.1992, c.48 (C.34:15B-39), including the individual's right not to be denied training services because the individual already has identifiable vocational skills, if those existing skills are for employment with a level of earnings lower than the level of self-sufficiency; and

(5) Discussion with the counselor of the results of the testing and evaluation and, based on those results, the development of a written Employability Development Plan identifying

the training and employment services, including any needed remedial education, to be provided to the individual.

b. Federal job training funds shall be used to provide training and employment services to an individual only if the counselor who evaluates the individual pursuant to this section determines that the individual can reasonably be expected to successfully complete the training and education identified in the Employability Development Plan developed pursuant to this section.

c. All information regarding an individual applicant or trainee which is obtained or compiled in connection with the testing, assessment and evaluation and which may be identified with the individual shall be confidential and shall be released to an entity other than the individual, the counselor or the department only if the individual provides written permission to the department for the release of the information or the information is used solely for program evaluation.

9. Section 3 of P.L.1992, c.43 (C.34:15D-3) is amended to read as follows:

C.34:15D-3 Definitions relative to workforce development.

3. As used in this act:

"Administrative costs" means any costs incurred by the department to administer the program, including any cost required to collect information and conduct evaluations of service providers pursuant to section 8 of this act and conduct surveys of occupations pursuant to section 12 of this act, to the extent that funding is not available from federal or other sources.

"Apprenticeship Policy Committee" means the New Jersey Apprenticeship Policy Committee established by an agreement between the Bureau of Apprenticeship and Training in the United States Department of Labor, the State Department of Labor and Workforce Development and the State Department of Education and consisting of a representative of the Commissioner of the State Department of Education, a representative of the Commissioner of the State Department of Labor and Workforce Development, the Director of Region II of the Bureau of Apprenticeship and Training in the United States Department of Labor and a representative of the New Jersey State AFL-CIO.

"Approved community-based or faith-based organization" means an organization which is an approved service provider, a nonprofit organization exempt from federal taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. s.501), and approved by the commissioner as demonstrating expertise and effectiveness in the field of workforce investment and being representative of a community or a significant segment of a community where the organization provides services.

"Approved service provider" means a service provider approved pursuant to section 8 of this act.

"Commission" means the State Employment and Training Commission.

"Commissioner" means the Commissioner of Labor and Workforce Development or the commissioner's designees.

"Customized training services" means employment and training services which are provided by the Office of Customized Training pursuant to section 5 of this act.

"Department" means the State Department of Labor and Workforce Development.

"Employer" or "business" means any employer subject to the provisions of R.S.43:21-1 et seq.

"Employment and training services" means:

- a. Counseling provided pursuant to section 7 of this act;
- b. Vocational training;
- c. Remedial education; or
- d. Occupational safety and health training.

e. In the case of a qualified disadvantaged worker who is or was receiving, or is eligible for but not receiving, benefits under the Work First New Jersey program, "employment and training services" includes, in addition to any of the benefits listed in subsections a. through d. above, Supplemental Workforce Development Benefits approved as part of the workers' Employability Development Plan pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7).

"Fund" means the Workforce Development Partnership Fund established pursuant to section 9 of this act.

"Labor Demand Occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor demand occupation by the New Jersey Occupational Information Coordinating Committee pursuant to section 12 of this act.

"Occupational safety and health training" means training or education which is designed to assist in the recognition and prevention of potential health and safety hazards related to an occupation.

"Office" means the Office of Customized Training established pursuant to section 5 of this act.

"One Stop Career Center" means any of the facilities established, sponsored or designated by the State, a political subdivision of the State and a Workforce Investment Board in a local area to coordinate or make available State and local programs providing employment and training services or other employment-directed and workforce development programs and activities, including job placement services, and any other similar facility as may be established, sponsored or designated at any later time to coordinate or make available any of those programs, services or activities.

"Permanent employment" means full-time employment unsubsidized by government training funds which provides a significant opportunity for career advancement and long-term job security and is in the occupation for which a worker receives vocational training pursuant to this act.

"Poverty level" means the official poverty level based on family size, established and adjusted under section 673 (2) of Subtitle B of the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C. s.9902 (2)).

"Program" means the Workforce Development Partnership Program created pursuant to this act.

"Qualified disadvantaged worker" means a worker who is not a qualified displaced worker or a qualified employed worker but who otherwise meets the following criteria:

- a. Is unemployed;
- b. Is working part-time and actively seeking full-time work or is working full-time but is earning wages substantially below the median salary for others in the labor force with similar qualifications and experience; or
- c. Is certified by the Department of Human Services as:
  - (1) Currently receiving public assistance;
  - (2) Having been recently removed from the public assistance rolls because of gross income exceeding the grant standard for assistance; or
  - (3) Being eligible for public assistance but not receiving the assistance because of a failure to apply for it.

"Qualified displaced worker" means a worker who:

- a. Is unemployed, and:
  - (1) Is currently receiving unemployment benefits pursuant to R.S.43:21-1 et seq. or any federal or State unemployment benefit extension; or
  - (2) Has exhausted eligibility for the benefits or extended benefits during the preceding 52 weeks; or
- b. Meets the criteria set by the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C.s.2801 et seq.), to be regarded as a "dislocated worker" pursuant to that act.

"Qualified employed worker" means a worker who is employed by an employer participating in a customized training program, or other employed worker who is in need of remedial education.

"Qualified job counselor" means a job counselor whose qualifications meet standards established by the commissioner.

"Qualified staff" means staff whose qualifications meet standards set by regulations adopted by the Commissioner of Labor and Workforce Development.

"Remedial education" means any literacy or other basic skills training or education which may

not be directly related to a particular occupation but is needed to facilitate success in vocational training or work performance, including training or education in mathematics, reading comprehension, computer literacy, English proficiency and work-readiness skills.

“Self-sufficiency” for an individual means a level of earnings from employment not lower than 250% of the poverty level for an individual, taking into account the size of the individual's family.

"Service provider" or "provider" means a provider of employment and training services including but not limited to a private or public school or institution of higher education, a business, a labor organization or a community-based organization.

"Supplemental Workforce Fund for Basic Skills" means the fund established pursuant to section 1 of P.L.2001, c.152 (C.34:15D-21).

"Total revenues dedicated to the program during any one fiscal year" means all moneys received for the fund during any fiscal year, including moneys withdrawn from the State disability benefits fund pursuant to section 3 of P.L.1992, c.44 (C.34:15D-14), minus any repayment made during that fiscal year from the fund to the State disability benefits fund pursuant to that section.

"Training grant" means a grant provided to fund vocational training and any needed remedial education for a qualified displaced or disadvantaged worker pursuant to section 6 of this act, or to fund needed remedial education for a qualified employed worker pursuant to section 1 of P.L.2001, c.152 (C.34:15D-21).

"Vocational training" means training or education which is related to an occupation and is designed to enhance the marketable skills and earning power of a worker or job seeker.

10. Section 4 of P.L.1992, c.43 (C.34:15D-4) is amended to read as follows:

C.34:15D-4 Workforce Development Partnership Program established.

4. a. The Workforce Development Partnership Program is hereby established in the Department of Labor and Workforce Development and shall be administered by the Commissioner of Labor and Workforce Development. The purpose of the program is to provide qualified displaced, disadvantaged and employed workers with the employment and training services most likely to enable the individual to obtain employment providing self-sufficiency for the individual and also to provide the greatest opportunity for long-range career advancement with high levels of productivity and earning power. To implement that purpose, the program shall provide those services by means of training grants or customized training services in coordination with funding for the services from federal or other sources. The commissioner is authorized to expend moneys from the Workforce Development Partnership Fund to provide the training grants or customized training services and provide for each of the following:

(1) The cost of counseling required pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7), to the extent that adequate funding for counseling is not available from federal or other sources;

(2) Reasonable administrative costs, which shall not exceed 10% of the revenues collected pursuant to section 2 of P.L.1992, c.44 (C.34:15D-13) during any fiscal year ending before July 1, 2001, except for additional start-up administrative costs approved by the Director of the Office of Management and Budget during the first year of the program's operation;

(3) Reasonable costs, which shall not exceed 0.5% of the revenues collected pursuant to section 2 of P.L.1992, c.44 (C.34:15D-13) during any fiscal year ending before July 1, 2001, as required by the State Employment and Training Commission to design criteria and conduct an annual evaluation of the program; and

(4) The cost of reimbursement to individuals for excess contributions pursuant to section 6 of P.L.1992, c.44 (C.34:15D-17).

b. Not more than 10% of the moneys received by any service provider pursuant to this act shall be expended on anything other than direct costs to the provider of providing the employment and training services, which direct costs shall not include any administrative or overhead expense of the provider.

c. Training and employment services shall be provided to a worker who receives counseling



pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7) only if the counselor who evaluates the worker pursuant to that section determines that the worker can reasonably be expected to successfully complete the training and education identified in the Employability Development Plan developed pursuant to that section for the worker.

d. All vocational training provided under this act:

(1) Shall be training which is likely to substantially enhance the individual's marketable skills and earning power; and

(2) Shall be training for a labor demand occupation, except for:

(a) Customized training provided to the present employees of a business which the commissioner deems to be in need of the training to prevent job loss caused by obsolete skills, technological change or national or global competition; or

(b) Customized training provided to employees at a facility which is being relocated from another state into New Jersey; or

(c) Entrepreneurial training and technical assistance supported by training grants provided pursuant to subsection b. of section 6 of P.L.1992, c.43 (C.34:15D-6).

e. During any fiscal year ending before July 1, 2001, not less than 25% of the total revenues dedicated to the program during any one fiscal year shall be reserved to provide employment and training services for qualified displaced workers; not less than six percent of the total revenues dedicated to the program during any one fiscal year shall be reserved to provide employment and training services for qualified disadvantaged workers; not less than 45% of the total revenues dedicated to the program during any one fiscal year shall be reserved for and appropriated to the Office of Customized Training; not less than 3% of the total revenues dedicated to the program during any one fiscal year shall be reserved for occupational safety and health training; and 5% of the total revenues dedicated to the program during any one fiscal year shall be reserved for and appropriated to the Youth Transitions to Work Partnership created pursuant to P.L.1993, c.268 (C.34:15E-1 et seq.).

f. Funds available under the program shall not be used for activities which induce, encourage or assist: any displacement of currently employed workers by trainees, including partial displacement by means such as reduced hours of currently employed workers; any replacement of laid off workers by trainees; or any relocation of operations resulting in a loss of employment at a previous workplace located in the State.

g. On-the-job training shall not be funded by the program for any employment found by the commissioner to be of a level of skill and complexity too low to merit training. The duration of on-the-job training funded by the program for any worker shall not exceed the duration indicated by the Specific Vocational Preparation Code developed by the United States Department of Labor for the occupation for which the training is provided and shall in no case exceed 26 weeks. The department shall set the duration of on-the-job training for a worker for less than the indicated maximum, when training for the maximum duration is not warranted because of the level of the individual's previous training, education or work experience. On-the-job training shall not be funded by the program unless it is accompanied, concurrently or otherwise, by whatever amount of classroom-based vocational training, remedial education or both, is deemed appropriate for the worker by the commissioner. On-the-job training shall not be funded by the program unless the trainee is provided benefits, pay and working conditions at a level and extent not less than the benefits and working conditions of other trainees or employees of the trainee's employer with comparable skills, responsibilities, experience and seniority.

h. Employment and training services funded by the program shall not replace, supplant, compete with or duplicate in any way approved apprenticeship programs.

i. No activities funded by the program shall impair existing contracts for services or collective bargaining agreements, except that activities which would be inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and employer who are parties to the agreement.

j. All staff who are hired and supported by moneys from the Workforce Development Partnership Fund, including any of those staff located at any One Stop Career Center, but not including any staff of a service provider providing employment and training services supported by a customized training grant pursuant to section 5 of P.L.1992, c.43 (C.34:15D-5) or an

individual training grant pursuant to section 6 of P.L.1992, c.43 (C.34:15D-6), shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, be hired and employed by a political subdivision of the State, or be qualified staff hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.), or be qualified staff hired and employed by an approved community-based or faith-based organization to provide services at the level of staffing provided in an agreement entered into by the organization before the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.).

11. Section 5 of P.L.1992, c.43 (C.34:15D-5) is amended to read as follows:

C.34:15D-5 Office of Customized Training established.

5. a. There is hereby established, as part of the Workforce Development Partnership Program, the Office of Customized Training. Moneys allocated to the office from the fund shall be used to provide employment and training services to eligible applicants approved by the commissioner.

b. An applicant shall be eligible for customized training services if it is one of the following:

(1) An individual employer that seeks the customized training services to create, upgrade or retain jobs in a labor demand occupation;

(2) An individual employer that seeks customized training services to upgrade or retain jobs in an occupation which is not a labor demand occupation, if the commissioner determines that the services are necessary to prevent the likely loss of the jobs or that the services are being provided to employees at a facility which is being relocated from another state into New Jersey;

(3) An employer organization, labor organization or community-based or faith-based organization seeking the customized training services to provide training in labor demand occupations in a particular industry; or

(4) A consortium made up of one or more educational institutions and one or more eligible individual employers or labor, employer or community-based or faith-based organizations that seeks the customized training services to provide training in labor demand occupations in a particular industry.

c. Each applicant seeking funding for customized training services shall submit an application to the commissioner in a form and manner prescribed in regulations adopted by the commissioner. The application shall be accompanied by a business plan of each employer which will receive customized training services if the application is approved. The business plan shall include:

(1) A justification of the need for the services and funding from the office, including information sufficient to demonstrate to the satisfaction of the commissioner that the applicant will provide significantly less of the services if the requested funding is not provided by the office;

(2) A comprehensive long-term human resource development plan which:

(a) Extends significantly beyond the period of time in which the services are funded by the office;

(b) Significantly enhances the productivity and competitiveness of the employer operations located in the State and the employment security of workers employed by the employer in the State; and

(c) States the number of current or newly-hired workers who will be trained under the grant and the pay levels of jobs which will be created or retained for those workers as a result of the funding and the plan.

(3) Evidence, if the training sought is for an occupation which is not a labor demand occupation, that the customized training services are needed to prevent job loss caused by obsolete skills, technological change or national or global competition or that the services are being provided to employees at a facility which is being relocated from another state into New Jersey;

(4) Information demonstrating that most of the individuals receiving the services will be trained primarily for work in the direct production of goods or services;

(5) A commitment to provide the information needed by the commissioner to evaluate the success of the funding and the plan in creating and retaining jobs, to assure compliance with the provisions of P.L.1992, c.43 (C.34:15D-1 et seq.); and

(6) Any other information or commitments which the commissioner deems appropriate to assure compliance with the provisions of P.L.1992, c.43 (C.34:15D-1 et seq.).

The commissioner may provide whatever assistance he deems appropriate in the preparation of the application and business plan, which may include labor market information, projections of occupational demand and information and advice on alternative training and education strategies.

d. Each employer that receives a grant for customized training services shall contribute a minimum of 50% of the total cost of the customized training services, except that the commissioner shall set a higher or lower minimum contribution by an employer, if warranted by the size and economic resources of the employer or other factors deemed appropriate by the commissioner, and except that, for individuals hired by the employer through a One Stop Career Center who receive classroom training under the grant and were recipients of benefits under the Work First New Jersey program at any time during the 12 months preceding the date of employment, the employer shall be eligible for reimbursement of up to 50% of wages paid to the individual during the classroom training in addition to reimbursement for tuition and other direct costs of the training as determined to be appropriate by the office, and provided, further, that no individual shall be hired or placed in a manner which results in a violation of the restrictions of subsection f. of section 4 of P.L.1992, c.43 (C.34:15D-4) against displacing current employees.

e. Each employer receiving a grant for customized training services shall hire or retain in permanent employment each worker who successfully completes the training and education provided under the customized training. The employer shall be entitled to select the qualified employed, disadvantaged or displaced workers who will participate in the customized training, except that if any collective bargaining unit represents a qualified employed worker, the selection shall be conducted in a manner acceptable to both the employer and the collective bargaining unit. The commissioner shall provide for the withholding, for a time period he deems appropriate, of whatever portion he deems appropriate of program funding as a final payment for customized training services, contingent upon the hiring and retention of a program completer as required pursuant to this section. If an employer receiving a grant for customized training services pursuant to this section relocates or outsources any or all of the jobs out of the State for which the customized training services were provided under the grant within three years following the end date of the customized contract, the employer shall, if all of the jobs are relocated or outsourced, return all of the moneys provided to the employer by the State for customized training services, or, if only a portion of the jobs are relocated or outsourced, return a part of the moneys, deemed by the commissioner to be appropriate and proportional to the portion of the jobs relocated or outsourced, and the returned amount shall be deposited into the Workforce Development Partnership Fund.

f. The customized training services provided to an approved applicant may include any combination of employment and training services or any single employment and training service approved by the commissioner, including remedial education provided to upgrade workplace literacy. Each service may be provided by a separate approved service provider.

g. Customized training services shall include any remedial education determined necessary pursuant to section 7 of this act. Applications for customized training services shall include estimates of the total need for remedial education determined in a manner deemed appropriate by the commissioner.

h. Any business seeking customized training services shall, in the manner prescribed by the commissioner, participate in the development of a plan to provide the services. Any business seeking customized training services for workers represented by a collective bargaining unit shall notify the collective bargaining unit and permit it to participate in developing the plan. No customized training services shall be provided to a business employing workers represented by

a collective bargaining unit without the written consent of both the business and the collective bargaining unit.

i. Any business receiving customized training services shall be responsible for providing workers' compensation coverage for any worker participating in the customized training.

j. The commissioner shall establish an annual goal that 15% or more of the jobs to be created or retained in connection with training supported by grants from the office shall be jobs provided to individuals who were recipients of benefits under the Work First New Jersey program at any time during the 12 months prior to being placed in the jobs. The means to attain the goal shall include coordinated efforts between the office and One Stop Career Centers to prepare recipients for employment and make them available to employers, but shall not include any policy which may penalize employers or discourage employers from using customized training service provided by the office.

12. Section 7 of P.L.1992, c.43 (C.34:15D-7) is amended to read as follows:

C.34:15D-7 Counseling.

7. Counseling shall be made available by the department to each qualified displaced worker or qualified disadvantaged worker applying to participate in the Workforce Development Partnership program and, in the case of a qualified disadvantaged worker who is a recipient of, or eligible for, benefits under the Work First New Jersey Program, to participate in the Workforce Development Partnership program or in any of those employment-directed workforce development programs or activities transferred to the Department of Labor and Workforce Development pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3) which provide employment and training services as defined in section 3 of P.L.1992, c.43 (C.34:15D-3), including the services indicated in paragraphs (11) through (16) of subsection b. of section 2 of P.L.2004, c.39 (C.34:1A-1.3). Counseling may also be made available to a qualified employed worker who seeks remedial education or is selected to participate in a customized training program, if the worker's employer requests the counseling. The counseling shall be provided by a job counselor hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, or hired and employed by a political subdivision of the State, or be provided by a qualified job counselor hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of P.L.2004, c.39 (C.34:1A-1.2 et al.), or hired and employed by an approved community-based or faith-based organization to provide counseling which the organization entered into an agreement to provide before the effective date of P.L.2004, c.39 (C.34:1A-1.2 et al.). In the case of a qualified disadvantaged worker who is a recipient of, or is eligible for, benefits under the Work First New Jersey Program, the counseling provided pursuant to this section shall be the counseling for the provision of employment and training services either under the Workforce Development Partnership program or under programs or activities transferred to the Department of Labor and Workforce Development pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3), but the counseling provided pursuant to this section shall be provided in conjunction and in coordination with counseling provided in connection with any services, other than training and employment services, made available to the disadvantaged worker under programs or activities transferred to the Department of Labor and Workforce Development pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3). The purpose of any counseling made available pursuant to this section is to assist each worker in obtaining the employment and training services most likely to enable the worker to obtain employment providing self-sufficiency for the worker and also to provide the worker with the greatest opportunity for long-range career advancement with high levels of productivity and earning power. The counseling shall include:

a. Testing and assessment of the worker's job skills and aptitudes, including the worker's literacy skills and other basic skills. Basic skills testing and assessment shall be provided to the worker unless information is provided regarding the worker's educational background and occupational or professional experience which clearly demonstrates that the worker's basic skill level meets the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11)

or unless the worker is already participating in a remedial education program which meets those standards;

b. An evaluation by a qualified job counselor of what remedial education, if any, is determined to be necessary for the worker to advance in his current employment or occupation or to succeed in any particular vocational training which the worker would undertake under the program, provided that the remedial education shall be at a level not lower than that needed to meet the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11);

c. The provision to the worker of information regarding any of the labor demand occupations for which training meets the requirements of section 4 of this act in the worker's case, including information about the wage levels in those occupations, and information regarding the effectiveness of approved service providers of vocational training in occupations which the worker is considering, including a consumer report card on service providers showing the long-term success of former trainees of each provider in obtaining permanent employment and increasing earnings over a period of not more than two years following the completion of training;

d. The timely provision of information to the worker regarding the services and benefits available to the worker, and all actions required of the worker to obtain the services and benefits, under the provisions of this act and P.L.1992, c.47 (C.43:21-57 et al.), and under the Work First New Jersey program in the case of a qualified disadvantaged worker receiving or eligible for benefits under that program; and the provision to the worker of a written statement of the worker's rights and responsibilities with respect to programs for which the worker is eligible, which includes a full disclosure to the worker of the worker's right to obtain the services most likely to enable the worker to obtain employment providing self-sufficiency and the workers' right not to be denied training services for any of the reasons indicated in subsection d. of section 6 of P.L.1992, c.43 (C.34:15D-6), including the worker's right not to be denied training services because the worker already has identifiable vocational skills, if those existing skills are for employment with a level of earnings lower than the level of self-sufficiency; and

e. Discussion with the counselor of the results of the testing and evaluation and, based on those results, the development of a written Employability Development Plan identifying the training and employment services, including any needed remedial education, to be provided to the worker pursuant to this act. In the case of a qualified disadvantaged worker, the Employability Development Plan will be, to the greatest extent possible while remaining in compliance with any applicable federal requirements, coordinated and made consistent with any individual responsibility plan developed for the worker under the Work First New Jersey program. In the case of a qualified disadvantaged worker who is or was receiving, or who is eligible for but not receiving, benefits under the Work First New Jersey program, and who does not have a marketable bachelor's degree, the counselor may approve, as part of the workers' Employability Development Plan, the replacement of Work First New Jersey program benefits by Supplemental Workforce Development Benefits paid to the disadvantaged worker for full-time educational activity without, or with insufficient, other work activity from available resources for employment-directed and workforce development programs and activities transferred from the Department of Human Services pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3) or from the account of the Workforce Development Partnership Fund reserved for qualified disadvantaged workers pursuant to subsection b. of section 9 of P.L.1992, c.43 (C.34:15D-9), for any period of time for which the counselor determines that:

(1) Full-time remedial education to obtain a high school diploma or G.E.D. or full-time post secondary education in a two-year or four-year degree-granting educational program with a course of study related to work, even if the duration of the full-time education is longer than two years, is the training and employment service that is most likely to enable the worker to obtain employment providing self-sufficiency;

(2) The worker has responsibility during that period of time for the care of dependent children or other family members unable to care for themselves the magnitude of which, if added to the full-time educational activities indicated in paragraph (1) of this subsection, make it likely that any additional work activity will jeopardize the success of the educational activity; and

(3) Providing Work First New Jersey program benefits to the worker during that

period of time for the full-time educational activity without, or with insufficient, work activities would result in a loss of benefits for the worker pursuant to section 9 of P.L.1997, c.38 (C.44:10-63) or would be counted toward the maximum limit of 60 cumulative months of Work First New Jersey program benefits provided to the worker pursuant to section 2 of P.L.1997, c.37 (C.44:10-72).

With respect to the use of the funds deposited during any fiscal year in the account of the Workforce Development Partnership Fund reserved for qualified disadvantaged workers pursuant to subsection b. of section 9 of P.L.1992, c.43 (C.34:15D-9), first priority shall be given for the payment of Supplemental Workforce Development Benefits pursuant to this subsection. Not more than 1,500 qualified disadvantaged workers shall receive Supplemental Workforce Development Benefits pursuant to this subsection at any one time. With respect to using available resources for employment-directed and workforce development programs and activities transferred from the Department of Human Services pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3) for Supplemental Workforce Development Benefits, no federal funds which are part of those resources may be used for Supplemental Workforce Development Benefits which result in the imposition of conditions of participation other than those established by this subsection. If federal funds are used for childcare costs of a participant, the Department of Human Services may transfer the funds to the Child Care and Development Block Grant, as permitted by law and as needed to permit the use of the federal funds while preventing any loss of benefits to the participant and preventing the childcare time from being counted toward the participant's maximum limit of 60 cumulative months of Work First New Jersey program benefits. The counselor shall assist in facilitating the use, to the maximum extent possible, of Pell grants or other available educational grants to pay for tuition and other educational costs of a recipient of Supplemental Workforce Development Benefits provided pursuant to this section. The requirements for receiving Supplemental Workforce Development Benefits may include work-site experience which will enhance the participant's employability in the participant's field, provided that the required sum of class hours for a full-time class schedule, hours of study time at not less than one and one half times class time, and hours of work-site experience, shall not exceed 40 hours per week and that the commissioner shall adopt regulations for reasonable adjustments in participation requirements for good cause, including verifiable needs related to physical or mental health problems, illness, accident or death or serious personal or family problems that necessitate reduced participation, provided further that no individual shall receive Supplemental Workforce Development Benefits for a period of more than five years. The commissioner shall adopt regulations setting standards for satisfactory academic progress for continued participation. Participation may not be denied for any of the reasons which subsection d. of section 6 of P.L.1992, c.43 (C.34:15D-6) prohibits from being used to deny training grants. For the purposes of this section, "Work First New Jersey benefits" means benefits for which a worker and the worker's family would be eligible if the worker was participating in the Work First New Jersey program or any successor program to the Work First New Jersey program.

Counseling made available at the request of an employer participating in a customized training program may include only those components requested by the employer.

All information regarding a worker applicant or trainee which is obtained or compiled in connection with the testing, assessment and evaluation and which may be identified with the worker shall be confidential and shall be released to an entity other than the worker, the counselor or the department only if the worker provides written permission to the department for the release of the information or the information is used solely for program evaluation.

13. This act shall take effect immediately.

Approved June 23, 2004.