

# United States Code Title 40 Subtitle IV—Appalachian Regional Development

## Chapter 141—General Provisions

### Sec. 14101. Findings and purposes

#### a. 1965 Findings and Purpose.—

1. Findings.—Congress finds and declares that the Appalachian region of the United States, while abundant in natural resources and rich in potential, lags behind the rest of the Nation in its economic growth and that its people have not shared properly in the Nation's prosperity. The region's uneven past development, with its historical reliance on a few basic industries and a marginal agriculture, has failed to provide the economic base that is a vital prerequisite for vigorous, self-sustaining growth. State and local governments and the people of the region understand their problems and have been working, and will continue to work, purposefully toward their solution. Congress recognizes the comprehensive report of the President's Appalachian Regional Commission documenting these findings and concludes that regionwide development is feasible, desirable, and urgently needed.
2. Purpose.—It is the purpose of this subtitle to assist the region in meeting its special problems, to promote its economic development, and to establish a framework for joint federal and state efforts toward providing the basic facilities essential to its growth and attacking its common problems and meeting its common needs on a coordinated and concerted regional basis. The public investments made in the region under this subtitle shall be concentrated in areas where there is a significant potential for future growth and where the expected return on public dollars invested will be the greatest. States will be responsible for recommending local and state projects within their borders that will receive assistance under this subtitle. As the region obtains the needed physical and transportation facilities and develops its human resources, Congress expects that the region will generate a diversified industry and that the region will then be able to support itself through the workings of a strengthened free enterprise economy.

#### b. 1975 Findings and Purpose.—

1. Findings.—Congress further finds and declares that while substantial progress has been made toward achieving the purposes set out in subsection (a), especially with respect to the provision of essential public facilities, much remains to be accomplished, especially with respect to the provision of essential health, education, and other public services. Congress recognizes that changes and evolving national purposes in the decade since 1965 affect not only the Appalachian region but also its relationship to a nation that on December 31, 1975, is assigning higher priority to conservation and the quality of life, values long cherished within the region. Appalachia as of December 31, 1975, has the opportunity, in accommodating future growth and development, to demonstrate local leadership and coordinated planning so that housing, public services, transportation and other community facilities will be provided in a way congenial to the traditions and beauty of the region and compatible with conservation values

and an enhanced quality of life for the people of the region, and consistent with that goal, the Appalachian region should be able to take advantage of eco-industrial development, which promotes both employment and economic growth and the preservation of natural resources. Congress recognizes also that fundamental changes are occurring in national energy requirements and production, which not only risk short-term dislocations but will undoubtedly result in major long-term effects in the region. It is essential that the opportunities for expanded energy production be used so as to maximize the social and economic benefits and minimize the social and environmental costs to the region and its people.

2. Purpose.—It is also the purpose of this subtitle to provide a framework for coordinating federal, state and local efforts toward—
  - A. anticipating the effects of alternative energy policies and practices;
  - B. planning for accompanying growth and change so as to maximize the social and economic benefits and minimize the social and environmental costs; and
  - C. implementing programs and projects carried out in the region by federal, state, and local governmental agencies so as to better meet the special problems generated in the region by the Nation's energy needs and policies, including problems of transportation, housing, community facilities, and human services.
- c. 1998 Findings and Purpose.—
  1. Findings.—Congress further finds and declares that while substantial progress has been made in fulfilling many of the objectives of this subtitle, rapidly changing national and global economies over the decade ending November 13, 1998, have created new problems and challenges for rural areas throughout the United States and especially for the Appalachian region.
  2. Purpose.—In addition to the purposes stated in subsections (a) and (b), it is the purpose of this subtitle—
    - A. to assist the Appalachian region in—
      - i. providing the infrastructure necessary for economic and human resource development;
      - ii. developing the region's industry;
      - iii. building entrepreneurial communities;
      - iv. generating a diversified regional economy; and
      - v. making the region's industrial and commercial resources more competitive in national and world markets;
    - B. to provide a framework for coordinating federal, state, and local initiatives to respond to the economic competitiveness challenges in the Appalachian region through—
      - i. improving the skills of the region's workforce;
      - ii. adapting and applying new technologies for the region's businesses, including eco-industrial development technologies; and
      - iii. improving the access of the region's businesses to the technical and financial resources necessary to development of the businesses; and

- C. to address the needs of severely and persistently distressed areas of the Appalachian region and focus special attention on the areas of greatest need so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across the United States.

## **Sec. 14102. Definitions**

### a. Definitions.—In this subtitle—

- 1. Appalachian region.—The term "Appalachian region" means that area of the eastern United States consisting of the following counties (including any political subdivision located within the area):
  - A. In Alabama, the counties of Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, De Kalb, Elmore, Etowah, Fayette, Franklin, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Macon, Madison, Marion, Marshall, Morgan, Pickens, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston.
  - B. In Georgia, the counties of Banks, Barrow, Bartow, Carroll, Catoosa, Chattooga, Cherokee, Dade, Dawson, Douglas, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Gwinnett, Habersham, Hall, Haralson, Hart, Heard, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield.
  - C. In Kentucky, the counties of Adair, Bath, Bell, Boyd, Breathitt, Carter, Casey, Clark, Clay, Clinton, Cumberland, Edmonson, Elliott, Estill, Fleming, Floyd, Garrard, Green, Greenup, Harlan, Hart, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Menifee, Metcalfe, Monroe, Montgomery, Morgan, Nicholas, Owsley, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe.
  - D. In Maryland, the counties of Allegany, Garrett, and Washington.
  - E. In Mississippi, the counties of Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Kemper, Lee, Lowndes, Marshall, Monroe, Montgomery, Noxubee, Oktibbeha, Panola, Pontotoc, Prentiss, Tippah, Tishomingo, Union, Webster, Winston, and Yalobusha.
  - F. In New York, the counties of Allegany, Broome, Cattaraugus, Chautauqua, Chemung, Chenango, Cortland, Delaware, Otsego, Schoharie, Schuyler, Steuben, Tioga, and Tompkins.
  - G. In North Carolina, the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Davie, Forsyth, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey.
  - H. In Ohio, the counties of Adams, Ashtabula, Athens, Belmont, Brown, Carroll, Clermont, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, Lawrence, Mahoning,

Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Trumbull, Tuscarawas, Vinton, and Washington.

- I. In Pennsylvania, the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Columbia, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lawrence, Luzerne, Lycoming, McKean, Mercer, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland, and Wyoming.
  - J. In South Carolina, the counties of Anderson, Cherokee, Greenville, Oconee, Pickens, and Spartanburg.
  - K. In Tennessee, the counties of Anderson, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Claiborne, Clay, Cocke, Coffee, Cumberland, De Kalb, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Lawrence, Lewis, Loudon, McMinn, Macon, Marion, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Smith, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White.
  - L. In Virginia, the counties of Alleghany, Bath, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Henry, Highland, Lee, Montgomery, Patrick, Pulaski, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe.
  - M. All the counties of West Virginia.
2. Local development district.—The term "local development district" means any of the following entities for which the Governor of the State in which the entity is located, or the appropriate state officer, certifies to the Appalachian Regional Commission that the entity has a charter or authority that includes the economic development of counties or parts of counties or other political subdivisions within the region:
    - A. a nonprofit incorporated body organized or chartered under the law of the State in which it is located.
    - B. a nonprofit agency or instrumentality of a state or local government.
    - C. a nonprofit agency or instrumentality created through an interstate compact.
    - D. a nonprofit association or combination of bodies, agencies, and instrumentalities described in this paragraph.
  - b. Change in Definition.—The Commission may not propose or consider a recommendation for any change in the definition of the Appalachian region as set forth in this section without a prior resolution by the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives that directs a study of the change.

## Chapter 143—Appalachian Regional Commission

### SUBCHAPTER I—ORGANIZATION AND ADMINISTRATION

#### Sec. 14301. Establishment, membership, and employees

- a. Establishment.—There is an Appalachian Regional Commission.
- b. Membership.—
  1. Federal and state members.—The Commission is composed of the Federal Co-chairman, appointed by the President by and with the advice and consent of the Senate, and the Governor of each participating State in the Appalachian region.
  2. Alternate members.—Each state member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff. The President, by and with the advice and consent of the Senate, shall appoint an alternate for the Federal Co-chairman. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the member for whom the individual is an alternate. A state alternate shall not be counted toward the establishment of a quorum of the Commission when a quorum of the state members is required.
  3. Co-chairmen.—The Federal Co-chairman is one of the two Cochairmen of the Commission. The state members shall elect a Co-chairman of the Commission from among themselves for a term of not less than one year.
- c. Compensation.—The Federal Co-chairman shall be compensated by the Federal Government at level III of the Executive Schedule as set out in section 5314 of title 5. The Federal Co-chairman's alternate shall be compensated by the Government at level V of the Executive Schedule as set out in section 5316 of title 5. Each state member and alternate shall be compensated by the State which they represent at the rate established by law of that State.
- d. Delegation.—
  1. Powers and responsibilities.—Commission powers and responsibilities specified in section 14302(c) and (d) of this title, and the vote of any Commission member, may not be delegated to an individual who is not a Commission member or who is not entitled to vote in Commission meetings.
  2. Alternate federal cochairman.—The alternate to the Federal Co-chairman shall perform the functions and duties the Federal Co-chairman delegates when not actively serving as the alternate.
- e. Executive Director.—The Commission has an executive director. The executive director is responsible for carrying out the administrative functions of the Commission, for directing the Commission staff, and for other duties the Commission may assign.
- f. Status of Personnel.—Members, alternates, officers, and employees of the Commission are not federal employees for any purpose, except the Federal Cochairman, the alternate to the Federal Cochairman, the staff of the Federal Cochairman, and federal employees detailed to the Commission under section 14306(a)(3) of this title.

## **Sec. 14302. Decisions**

- a. Requirements for Approval.—Except as provided in section 14306(d) of this title, decisions by the Appalachian Regional Commission require the affirmative vote of the Federal Cochairman and of a majority of the state members, exclusive of members representing States delinquent under section 14306(d).
- b. Consultation.—In matters coming before the Commission, the Federal Cochairman, to the extent practicable, shall consult with the federal departments and agencies having an interest in the subject matter.
- c. Decisions Requiring Quorum of State Members.—A decision involving Commission policy, approval of state, regional or subregional development plans or strategy statements, modification or revision of the Appalachian Regional Commission Code, allocation of amounts among the States, or designation of a distressed county or an economically strong county shall not be made without a quorum of state members.
- d. Project and Grant Proposals.—The approval of project and grant proposals is a responsibility of the Commission and shall be carried out in accordance with section 14322 of this title.

## **Sec. 14303. Functions**

- a. In General.—In carrying out the purposes of this subtitle, the Appalachian Regional Commission shall—
  1. develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities under those plans and programs, giving due consideration to other federal, state, and local planning in the Appalachian region;
  2. conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of the region, and, in cooperation with federal, state, and local agencies, sponsor demonstration projects designed to foster regional productivity and growth;
  3. review and study, in cooperation with the agency involved, federal, state, and local public and private programs and, where appropriate, recommend modifications or additions which will increase their effectiveness in the region;
  4. formulate and recommend, where appropriate, interstate compacts and other forms of interstate cooperation and work with state and local agencies in developing appropriate model legislation;
  5. encourage the formation of, and support, local development districts;
  6. encourage private investment in industrial, commercial, and recreational projects;
  7. serve as a focal point and coordinating unit for Appalachian programs;
  8. provide a forum for consideration of problems of the region and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences;
  9. encourage the use of eco-industrial development technologies and approaches; and
  10. seek to coordinate the economic development activities of, and the use of economic development resources by, federal agencies in the region
- b. Identify Needs and Goals of Subregional Areas.—In carrying out its functions under this section, the Commission shall identify the characteristics of, and may distinguish

between the needs and goals of, appropriate subregional areas, including central, northern, and southern Appalachia.

#### **Sec. 14304. Recommendations**

The Appalachian Regional Commission may make recommendations to the President and to the Governors and appropriate local officials with respect to—

1. the expenditure of amounts by federal, state, and local departments and agencies in the Appalachian region in the fields of natural resources, agriculture, education, training, and health and welfare and in other fields related to the purposes of this subtitle; and
2. additional federal, state, and local legislation or administrative actions as the Commission considers necessary to further the purposes of this subtitle.

#### **Sec. 14305. Liaison between Federal Government and Commission**

- a. President.—The President shall provide effective and continuing liaison between the Federal Government and the Appalachian Regional Commission and a coordinated review within the Government of the plans and recommendations submitted by the Commission pursuant to sections 14303 and 14304 of this title.
- b. Interagency Coordinating Council on Appalachia.—In carrying out subsection (a), the President shall establish the Interagency Coordinating Council on Appalachia, to be composed of the Federal Cochairman and representatives of federal agencies that carry out economic development programs in the Appalachian region. The Federal Cochairman is the Chairperson of the Council.

#### **Sec. 14306. Administrative powers and expenses**

- a. Powers.—To carry out its duties under this subtitle, the Appalachian Regional Commission may—
  1. adopt, amend, and repeal bylaws and regulations governing the conduct of its business and the performance of its functions;
  2. appoint and fix the compensation of an executive director and other personnel as necessary to enable the Commission to carry out its functions, except that the compensation shall not exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5;
  3. request the head of any federal department or agency to detail to temporary duty with the Commission personnel within the administrative jurisdiction of the head of the department or agency that the Commission may need for carrying out its functions, each detail to be without loss of seniority, pay, or other employee status;
  4. arrange for the services of personnel from any state or local government, subdivision or agency of a state or local government, or intergovernmental agency;

5. (A) make arrangements, including contracts, with any participating state government for inclusion in a suitable retirement and employee benefit system of Commission personnel who may not be eligible for, or continue in, another governmental retirement or employee benefit system; or  
(B) otherwise provide for coverage of its personnel;
  6. accept, use, and dispose of gifts or donations of services or any property;
  7. enter into and perform contracts, leases (including the lease of office space for any term), cooperative agreements, or other transactions, necessary in carrying out its functions, on terms as it may consider appropriate, with any—
    - A. department, agency, or instrumentality of the Federal Government;
    - B. State or political subdivision, agency, or instrumentality of a State; or
    - C. person;
  8. maintain a temporary office in the District of Columbia and establish a permanent office at a central and appropriate location it may select and field offices at other places it may consider appropriate; and
  9. take other actions and incur other expenses as may be necessary or appropriate.
- b. Authorizations.—
1. Detail employees.—The head of a federal department or agency may detail personnel under subsection (a)(3).
  2. Enter into and perform transactions.—A department, agency, or instrumentality of the Government, to the extent not otherwise prohibited by law, may enter into and perform a contract, lease, cooperative agreement, or other transaction under subsection (a)(7).
- c. Retirement and Other Employee Benefit Programs.—The Director of the Office of Personnel Management may contract with the Commission for continued coverage of Commission employees, if the employees are federal employees when they begin Commission employment, in the retirement program and other employee benefit programs of the Government.
- d. Expenses.—Administrative expenses of the Commission shall be paid equally by the Government and the States in the Appalachian region, except that the expenses of the Federal Cochairman, the alternate to the Federal Cochairman, and the staff of the Federal Cochairman shall be paid only by the Government. The Commission shall determine the amount to be paid by each State. The Federal Cochairman shall not participate or vote in that determination. Assistance authorized by this subtitle shall not be furnished to any State or to any political subdivision or any resident of any State, and a state member of the Commission shall not participate or vote in any decision by the Commission, while the State is delinquent in payment of its share of administrative expenses.

### **Sec. 14307. Meetings**

- a. In General.—The Appalachian Regional Commission shall conduct at least one meeting each year with the Federal Cochairman and at least a majority of the state members present.
- b. Additional Meetings by Electronic Means.—The Commission may conduct additional meetings by electronic means as the Commission considers advisable, including meetings to decide matters requiring an affirmative vote.



## **Sec. 14308. Information**

- a. **Actions of Commission.**—To obtain information needed to carry out its duties, the Appalachian Regional Commission shall—
  1. hold hearings, sit and act at times and places, take testimony, receive evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports on the proceedings as the Commission may deem advisable;
  2. arrange for the head of any federal, state, or local department or agency to furnish to the Commission information as may be available to or procurable by the department or agency; and
  3. keep accurate and complete records of its doings and transactions which shall be made available for—
    - A. public inspection; and
    - B. audit and examination by the Comptroller General or an authorized representative of the Comptroller General.
- b. **Authorizations.**—
  1. **Administer oaths.**—A Cochairman of the Commission, or any member of the Commission designated by the Commission, may administer oaths when the Commission decides that testimony shall be taken or evidence received under oath.
  2. **Furnish information.**—The head of any federal, state, or local department or agency, to the extent not otherwise prohibited by law, may carry out section (a)(2).
- c. **Public Participation.**—Public participation in the development, revision, and implementation of all plans and programs under this subtitle by the Commission, any State, or any local development district shall be provided for, encouraged, and assisted. The Commission shall develop and publish regulations specifying minimum guidelines for public participation, including public hearings.

## **Sec. 14309. Personal financial interests**

- a. **Conflict of Interest.**—
  1. **No role allowed.**—Except as permitted by paragraph (2), an individual who is a state member or alternate, or an officer or employee of the Appalachian Regional Commission, shall not participate personally and substantially as a member, alternate, officer, or employee in any way in any particular matter in which, to the individual's knowledge, any of the following has a financial interest:
    - A. the individual.
    - B. the individual's spouse, minor child, or partner.
    - C. an organization (except a State or political subdivision of a State) in which the individual is serving as an officer, director, trustee, partner, or employee.
    - D. any person or organization with whom the individual—
      - i. is serving as an officer, director, trustee, partner, or employee; or
      - ii. is negotiating or has any arrangement concerning prospective employment.

2. Exception.—Paragraph (1) does not apply if the individual first advises the Commission of the nature and circumstances of the particular matter and makes full disclosure of the financial interest and receives in advance a written decision of the Commission that the interest is not so substantial as to be considered likely to affect the integrity of the services which the Commission may expect from the individual.
  3. Criminal penalty.—An individual violating this subsection shall be fined under title 18, imprisoned for not more than two years, or both.
- b. Additional Sources of Salary Disallowed.—
1. State member or alternate.—A state member or alternate may not receive any salary, or any contribution to, or supplementation of, salary, for services on the Commission from a source other than the State of the member or alternate.
  2. Individuals detailed to commission.—An individual detailed to serve the Commission under section 14306(a)(4) of this title may not receive any salary, or any contribution to, or supplementation of, salary, for services on the Commission from a source other than the state, local, or intergovernmental department or agency from which the individual was detailed or from the Commission.
  3. Criminal penalty.—An individual violating this subsection shall be fined under title 18, imprisoned for not more than one year, or both.
- c. Federal Cochairman, Alternate to Federal Cochairman, and Federal Officers and Employees.—The Federal Cochairman, the alternate to the Federal Cochairman, and any federal officer or employee detailed to duty with the Commission under section 14306(a)(3) of this title are not subject to this section but remain subject to sections 202-209 of title 18.
- d. Rescission.—The Commission may declare void and rescind any contract, loan, or grant of or by the Commission in relation to which it finds that there has been a violation of subsection (a)(1) or (b) of this section or any of the provisions of sections 202-209 of title 18.

### **Sec. 14310. Annual report**

Not later than six months after the close of each fiscal year, the Appalachian Regional Commission shall prepare and submit to the Governor of each State in the Appalachian region and to the President, for transmittal to Congress, a report on the activities carried out under this subtitle during the fiscal year.

## **SUBCHAPTER II—FINANCIAL ASSISTANCE**

### **Sec. 14321. Grants and other assistance**

- a. Authorization To Make Grants.—
1. In general.—The Appalachian Regional Commission may make grants—
    - A. for administrative expenses, including the development of areawide plans or action programs and technical assistance activities, of local development districts, but—
      - i. the amount of the grant shall not exceed—

- I. 50 percent of administrative expenses;
      - II. at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which a distressed county designation is in effect under section 14526, 75 percent of administrative expenses; or
      - III. at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which an at-risk county designation is in effect under section 14526, 70 percent of administrative expenses; and
    - ii. grants for administrative expenses shall not be made for a state agency certified as a local development district for a period of more than three years beginning on the date the initial grant is made for the development district; and
    - iii. the local development district contributions for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services;
  - B. for assistance to States for a period of not more than two years to strengthen the state development planning process for the Appalachian region and the coordination of state planning under this subtitle, the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), and other federal and state programs; and
  - C. for investigation, research, studies, evaluations, and assessments of needs, potentials, or attainments of the people of the region, technical assistance, training programs, demonstrations, and the construction of necessary facilities incident to those activities, which will further the purposes of this subtitle.
2. Limitation on available amounts.—
- A. IN GENERAL- Except as provided in subparagraph (B), of the cost of any activity eligible for financial assistance under this section, not more than
    - i. 50 percent may be provided from amounts appropriated to carry out this subtitle;
    - ii. in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this subtitle; or
    - iii. in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this subtitle.
  - B. Discretionary grants.—
    - i. Grants to which percentage limitation doesn't apply.—  
Discretionary grants made by the Commission to implement significant regional initiatives, to take advantage of special

development opportunities, or to respond to emergency economic distress in the region may be made without regard to the percentage limitations specified in subparagraph (A).

- ii. Limitation on aggregate amount.—For each fiscal year, the aggregate amount of discretionary grants referred to in clause (i) shall not be more than 10 percent of the amount appropriated under section 14703 of this title for the fiscal year.
  3. Sources of grants.—Grant amounts may be provided entirely from appropriations to carry out this section, in combination with amounts available under other federal or federal grant programs, or from any other source.
  4. Federal share.—Notwithstanding any law limiting the federal share in any other federal or federal grant program, amounts appropriated to carry out this section may be used to increase that federal share, as the Commission decides is appropriate.
- b. Assistance for Demonstrations of Enterprise Development.—
  1. In general.—The Commission may provide assistance under this section for demonstrations of enterprise development, including site acquisition or development where necessary for the feasibility of the project, in connection with the development of the region's energy resources and the development and stimulation of indigenous arts and crafts of the region.
  2. Cooperation by federal agencies.—In carrying out the purposes of this subtitle and in implementing this section, the Secretary of Energy, the Environmental Protection Agency, and other federal agencies shall cooperate with the Commission and shall provide assistance that the Federal Cochairman may request.
  3. Available amounts.—In any fiscal year, not more than—
    - A. \$3,000,000 shall be obligated for energy resource related demonstrations; and
    - B. \$2,500,000 shall be obligated for indigenous arts and crafts demonstrations.
- c. Records.—
  1. Commission.—The Commission, as required by the President, shall maintain accurate and complete records of transactions and activities financed with federal amounts and report to the President on the transactions and activities. The records of the Commission with respect to grants are available for audit by the President and the Comptroller General.
  2. Recipients of federal assistance.—Recipients of federal assistance under this section, as required by the Commission, shall maintain accurate and complete records of transactions and activities financed with federal amounts and report to the Commission on the transactions and activities. The records are be available for audit by the President, the Comptroller General, and the Commission.

## **Sec. 14322. Approval of development plans, strategy statements, and projects**

- a. Annual Review and Approval Required.—The Appalachian Regional Commission annually shall review and approve, in accordance with section 14302 of this title, state

and regional development plans and strategy statements, and any multistate subregional plans which may be developed.

- b. **Application Process.**—An application for a grant or for other assistance for a specific project under this subtitle shall be made through the state member of the Commission representing the applicant. The state member shall evaluate the application for approval. To be approved, the state member must certify, and the Federal Cochairman must determine, that the application—
  - 1. implements the Commission-approved state development plan;
  - 2. is included in the Commission-approved strategy statement;
  - 3. adequately ensures that the project will be properly administered, operated, and maintained; and
  - 4. otherwise meets the requirements for assistance under this subtitle.
- c. **Affirmative Vote Requirement Deemed Met.**—After the appropriate state development plan and strategy statement are approved, certification by a state member, when joined by an affirmative vote of the Federal Cochairman, is deemed to satisfy the requirements for affirmative votes for decisions under section 14302(a) of this title.

## Chapter 145—Special Appalachian Programs

### SUBCHAPTER I—PROGRAMS

#### Sec. 14501. Appalachian development highway system

- a. Purpose.—To provide a highway system which, in conjunction with the Interstate System and other Federal-aid highways in the Appalachian region, will open up an area with a developmental potential where commerce and communication have been inhibited by lack of adequate access, the Secretary of Transportation may assist in the construction of an Appalachian development highway system and local access roads serving the Appalachian region. Construction on the development highway system shall not be more than 3,090 miles. There shall not be more than 1,400 miles of local access roads that serve specific recreational, residential, educational, commercial, industrial, or similar facilities or facilitate a school consolidation program.
- b. Commission Designations.—
  1. What is to be designated.—The Appalachian Regional Commission shall transmit to the Secretary its designations of—
    - A. the general corridor location and termini of the development highways;
    - B. local access roads to be constructed;
    - C. priorities for the construction of segments of the development highways; and
    - D. other criteria for the program authorized by this section.
  2. State transportation department recommendation required.— Before a state member participates in or votes on designations, the member must obtain the recommendations of the state transportation department of the State which the member represents.
- c. Addition to Federal-aid Primary System.—When completed, each development highway not already on the Federal-aid primary system shall be added to the system.
- d. Use of Specific Materials and Products.—
  1. Indigenous materials and products.—In the construction of highways and roads authorized under this section, a State may give special preference to the use of materials and products indigenous to the Appalachian region.
  2. Coal derivatives.—For research and development in the use of coal and coal products in highway construction and maintenance, the Secretary may require each participating State, to the maximum extent possible, to use coal derivatives in the construction of not more than 10 percent of the roads authorized under this subtitle.
- e. Federal Share.—Federal assistance to any construction project under this section shall not be more than 80 percent of the cost of the project.
- f. Construction Without Federal Amounts.—
  1. Payment of federal share.—When a participating State constructs a segment of a development highway without the aid of federal amounts and the construction is in accordance with all procedures and requirements applicable to the construction of segments of Appalachian development highways with those amounts, except for procedures and requirements that limit a State to the construction of projects for which federal amounts have previously been appropriated, the Secretary, on

application by the State and with the approval of the Commission, may pay to the State the federal share, which shall not be more than 80 percent of the cost of the construction of the segment, from any amounts appropriated and allocated to the State to carry out this section.

2. No commitment or obligation.—This subsection does not commit or obligate the Federal Government to provide amounts for segments of development highways constructed under this subsection.
- g. Application of Title 23.—
1. Sections 106(a) and 118.—Sections 106(a) and 118 of title 23 apply to the development highway system and the local access roads.
  2. Construction and maintenance.—States are required to maintain each development highway and local access road as provided for Federal-aid highways in title 23. All other provisions of title 23 that are applicable to the construction and maintenance of Federal-aid primary and secondary highways and which the Secretary decides are not inconsistent with this subtitle shall apply to the system and roads, respectively.

#### **Sec. 14502. Demonstration health projects**

- a. Purpose.—To demonstrate the value of adequate health facilities and services to the economic development of the Appalachian region, the Secretary of Health and Human Services may make grants for the planning, construction, equipment, and operation of multi-county demonstration health, nutrition, and child care projects, including hospitals, regional health diagnostic and treatment centers, and other facilities and services necessary for the purposes of this section.
- b. Planning Grants.—
  1. Authority to provide amounts and make grants.—The Secretary may provide amounts to the Appalachian Regional Commission for the support of its Health Advisory Committee and may make grants for expenses of planning necessary for the development and operation of demonstration health projects for the region.
  2. Limitation on available amounts.—The amount of a grant under this section for planning shall not be more than 75 percent of expenses.
  3. Sources of assistance.—The federal contribution may be provided entirely from amounts authorized under this section or in combination with amounts provided under other federal or federal grant programs.
  4. Federal share.—Notwithstanding any provision of law limiting the federal share in those other programs, amounts appropriated to carry out this section may be used to increase the federal share to the maximum percentage cost of a grant authorized by this subsection.
- c. Construction and Equipment Grants.—
  1. Additional uses for construction grants.—Grants under this section for construction may also be used for—
    - A. the acquisition of privately owned facilities—
      - i. not operated for profit; or
      - ii. previously operated for profit if the Commission finds that health services would not otherwise be provided in the area served by the facility if the acquisition is not made; and

B. initial equipment.

2. Standards for making grants.—Grants under this section for construction shall be made in accordance with section 14523 of this title and shall not be incompatible with the applicable provisions of title VI of the Public Health Service Act (42 U.S.C. 291 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.), and other laws authorizing grants for the construction of health-related facilities, without regard to any provisions in those laws relating to appropriation authorization ceilings or to allotments among the States.
  3. Limitation on available amounts.—A grant for the construction or equipment of any component of a demonstration health project shall not be more than 80 percent of the cost.
  4. Sources of assistance.—The federal contribution may be provided entirely from amounts authorized under this section or in combination with amounts provided under other federal grant programs for the construction or equipment of health-related facilities.
  5. Federal share.—Notwithstanding any provision of law limiting the federal share in those other programs, amounts authorized under this section may be used to increase federal grants for component facilities of a demonstration health project to a maximum of 80 percent of the cost of the facilities.
- d. Operation Grants.—
1. Standards for making grants.—A grant for the operation of a demonstration health project shall not be made—
    - A. unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit;
    - B. after five years following the commencement of the initial grant for operation of the project, except that child development demonstrations assisted under this section during fiscal year 1979 may be approved under section 14322 of this title for continued support beyond that period, on request of the State, if the Commission finds that no federal, state, or local amounts are available to continue the project; and
    - C. unless the Secretary of Health and Human Services is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits.
  2. LIMITATION ON AVAILABLE AMOUNTS—Grants under this section for the operation (including initial operating amounts and operating deficits, which include the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with amounts authorized to be appropriated by this section, may be made for up to—
    - A. 50 percent of the cost of that operation;
    - B. in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of the cost of that operation; or
    - C. in the case of a project to be carried out for a county for which an at-risk county designation is in effect under section 14526, 70 percent of the cost of that operation; and



3. Sources of assistance.—The federal contribution may be provided entirely from amounts appropriated to carry out this section or in combination with amounts provided under other federal grant programs for the operation of health related facilities and the provision of health and child development services, including parts A and B of title IV and title XX of the Social Security Act (42 U.S.C. 601 et seq., 620 et seq., 1397 et seq.).
  4. Federal share.—Notwithstanding any provision of law limiting the federal share in those other programs, amounts appropriated to carry out this section may be used to increase federal grants for operating components of a demonstration health project to the maximum percentage cost of a grant authorized by this subsection.
  5. State deemed to meet requirement of providing assistance or services on statewide basis.—Notwithstanding any provision of the Social Security Act (42 U.S.C. 301 et seq.) requiring assistance or services on a statewide basis, a State providing assistance or services under a federal grant program described in paragraph (2) in any area of the region approved by the Commission is deemed to be meeting that requirement.
- e. Grant Sources and Use of Grants in Computing Allotments.—Grants under this section—
1. shall be made only out of amounts specifically appropriated for the purpose of carrying out this subtitle; and
  2. shall not be taken into account in computing allotments among the States under any other law.
- f. Maximum Commission Contribution.—
1. In general.—Subject to paragraph (2) and (3), the Commission may contribute not more than 50 percent of any project cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.
  2. Distressed counties.—The maximum Commission contribution for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title may be increased to the lesser of—
    - A. 80 percent; or
    - B. the maximum federal contribution percentage authorized by this section.
  3. AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to the lesser of—
    - A. 70 percent; or
    - B. the maximum Federal contribution percentage authorized by this section.
- g. Emphasis on Occupational Diseases From Coal Mining.—To provide for the further development of the Appalachian region's human resources, grants under this section shall give special emphasis to programs and research for the early detection, diagnosis, and treatment of occupational diseases arising from coal mining, such as black lung.

### **Sec. 14503. Assistance for proposed low- and middle-income housing projects**

- a. Appalachian Housing Fund.—
1. Establishment.—There is an Appalachian Housing Fund.
  2. Source and use of amounts in fund.—Amounts allocated to the Secretary of Housing and Urban Development for the purposes of this section shall be

deposited in the Fund. The Secretary shall use the Fund as a revolving fund to carry out those purposes. Amounts in the Fund not needed for current operation may be invested in bonds or other obligations the Federal Government guarantees as to principal and interest. General expenses of administration of this section may be charged to the Fund.

- b. Purpose.—To encourage and facilitate the construction or rehabilitation of housing to meet the needs of low- and moderate-income families and individuals, the Secretary may make grants and loans from the Fund, under terms and conditions the Secretary may prescribe. The grants and loans may be made to nonprofit, limited dividend, or cooperative organizations and public bodies and are for planning and obtaining federally insured mortgage financing or other financial assistance for housing construction or rehabilitation projects for low- and moderate-income families and individuals, in any area of the Appalachian region the Appalachian Regional Commission establishes, under—
  1. section 221 of the National Housing Act (12 U.S.C. 1715l);
  2. section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);
  3. section 515 of the Housing Act of 1949 (42 U.S.C. 1485); or
  4. any other law of similar purpose administered by the Secretary or any other department, agency, or instrumentality of the Federal Government or a state government.
- c. Providing Amounts to States for Grants and Loans.—The Secretary or the Commission may provide amounts to the States for making grants and loans to nonprofit, limited dividend, or cooperative organizations and public bodies for the purposes for which the Secretary may provide amounts under this section.
- d. Loans.—
  1. LIMITATION ON AVAILABLE AMOUNTS—A loan under subsection (b) for the cost of planning and obtaining financing (including the cost of preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts) of a project described in that subsection may be made for up to—
    - A. 50 percent of that cost;
    - B. in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of that cost; or
    - C. in the case of a project to be carried out for a county for which an at-risk county designation is in effect under section 14526, 70 percent of that cost.; and
  2. Interest.—A loan shall be made without interest, except that a loan made to an organization established for profit shall bear interest at the prevailing market rate authorized for an insured or guaranteed loan for that type of project.
  3. Payment.—The Secretary shall require payment of a loan made under this section, under terms and conditions the Secretary may require, no later than on completion of the project. Except for a loan to an organization established for profit, the Secretary may cancel any part of a loan made under this section on determining that a permanent loan to finance the project cannot be obtained in an amount adequate for repayment of a loan made under this section.
- e. Grants.—

1. IN GENERAL—A grant under this section for expenses incidental to planning and obtaining financing for a project under this section that the Secretary considers to be unrecoverable from the proceeds of a permanent loan made to finance the project shall—
  - A. not be made to an organization established for profit; and
  - B. except as provided in paragraph (2), not exceed—
    - i. 50 percent of those expenses;
    - ii. in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of those expenses; or
    - iii. in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent of those expenses.
2. Site development costs and offsite improvements.—The Secretary may make grants and commitments for grants, and may advance amounts under terms and conditions the Secretary may require, to nonprofit, limited dividend, or cooperative organizations and public bodies for reasonable site development costs and necessary offsite improvements, such as sewer and water line extensions, when the grant, commitment, or advance is essential to the economic feasibility of a housing construction or rehabilitation project for low- and moderate-income families and individuals which otherwise meets the requirements for assistance under this section. A grant under this paragraph for—
  - A. the construction of housing shall not be more than 10 percent of the cost of the project; and
  - B. the rehabilitation of housing shall not be more than 10 percent of the reasonable value of the rehabilitation housing, as determined by the Secretary.
- f. Information, Advice, and Technical Assistance.—The Secretary or the Commission may provide, or contract with public or private organizations to provide, information, advice, and technical assistance with respect to the construction, rehabilitation, and operation by nonprofit organizations of housing for low- or moderate- income families in areas of the region the Commission establishes.
- g. Application of Certain Provisions.—Programs and projects assisted under this section are subject to the provisions cited in section 14701 of this title to the extent provided in the laws authorizing assistance for low- and moderate-income housing.

#### **Sec. 14504. Telecommunications and technology initiative**

- a. Projects To Be Assisted.—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to persons or entities in the region for projects—
  1. to increase affordable access to advanced telecommunications, entrepreneurship, and management technologies or applications in the region;
  2. to provide education and training in the use of telecommunications and technology;
  3. to develop programs to increase the readiness of industry groups and businesses in the region to engage in electronic commerce; or

4. to support entrepreneurial opportunities for businesses in the information technology sector.
- b. Limitation on Available Amounts- Of the cost of any activity eligible for a grant under this section, not more than—
  1. 50 percent may be provided from amounts appropriated to carry out this section;
  2. in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or
  3. in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.
- c. Sources of Assistance.—Assistance under this section may be provided entirely from amounts made available to carry out this section, in combination with amounts made available under other federal programs, or from any other source.
- d. Federal Share.—Notwithstanding any provision of law limiting the federal share under any other federal program, amounts made available to carry out this section may be used to increase that federal share, as the Commission decides is appropriate.

#### **Sec. 14505. Entrepreneurship Initiative**

- a. Business Incubator Service.—In this section, the term "business incubator service" means a professional or technical service necessary for the initiation and initial sustainment of the operations of a newly established business, including a service such as—
  1. a legal service, including aid in preparing a corporate charter, partnership agreement, or basic contract;
  2. a service in support of the protection of intellectual property through a patent, a trademark, or any other means;
  3. a service in support of the acquisition and use of advanced technology, including the use of Internet services and Web-based services; and
  4. consultation on strategic planning, marketing, or advertising.
- b. Projects To Be Assisted.—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to persons or entities in the region for projects—
  1. to support the advancement of, and provide, entrepreneurial training and education for youths, students, and businesspersons;
  2. to improve access to debt and equity capital by such means as facilitating the establishment of development venture capital funds;
  3. to aid communities in identifying, developing, and implementing development strategies for various sectors of the economy;
  4. to develop a working network of business incubators; and
  5. to support entities that provide business incubator services.
- c. Limitation on Available Amounts—Of the cost of any activity eligible for a grant under this section, not more than—
  1. 50 percent may be provided from amounts appropriated to carry out this section;
  2. in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or

3. in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.
- d. Sources of Assistance.—Assistance under this section may be provided entirely from amounts made available to carry out this section, in combination with amounts made available under other federal programs, or from any other source.
- e. Federal Share.—Notwithstanding any provision of law limiting the federal share under any other federal program, amounts made available to carry out this section may be used to increase that federal share, as the Commission decides is appropriate.

### **Sec. 14506. Regional skills partnerships**

- a. Eligible Entity.—In this section, the term "eligible entity" means a consortium that—
  1. is established to serve one or more industries in a specified geographic area; and
  2. consists of representatives of—
    - A. businesses (or a nonprofit organization that represents businesses);
    - B. labor organizations;
    - C. State and local governments; or
    - D. educational institutions.
- b. Projects To Be Assisted.—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to eligible entities in the region for projects to improve the job skills of workers for a specified industry, including projects for—
  1. the assessment of training and job skill needs for the industry;
  2. the development of curricula and training methods, including, in appropriate cases, electronic learning or technology-based training;
  3. the identification of training providers;
  4. the development of partnerships between the industry and educational institutions, including community colleges;
  5. the development of apprenticeship programs;
  6. the development of training programs for workers, including dislocated workers; and
  7. the development of training plans for businesses.
- c. Administrative Costs.—An eligible entity may use not more than 10 percent of amounts made available to the eligible entity under subsection (b) to pay administrative costs associated with the projects described in subsection (b).
- d. Limitation on Available Amounts.—Of the cost of any activity eligible for a grant under this section, not more than—
  1. 50 percent may be provided from amounts appropriated to carry out this section;
  2. in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or
  3. in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.

- e. Sources of Assistance.—Assistance under this section may be provided entirely from amounts made available to carry out this section, in combination with amounts made available under other federal programs, or from any other source.
- f. Federal Share.—Notwithstanding any provision of law limiting the federal share under any other federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Commission decides is appropriate.

## **Sec. 14507. Supplements to federal grant programs**

### a. Definition.—

#### 1. Federal grant programs.—In this section, the term "federal grant programs"—

- A. means any federal grant program that provides assistance for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including a federal grant program authorized by—
  - i. the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);
  - ii. the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.);
  - iii. the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.)
  - iv. the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.);
  - v. the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (known as the Clean Water Act);
  - vi. title VI of the Public Health Services Act (42 U.S.C. 291 et seq.);
  - vii. sections 201 and 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141, 3149);
  - viii. title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); and
  - ix. part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.); but
- B. does not include—
  - i. the program for the construction of the development highway system authorized by section 14501 of this title or any other program relating to highway or road construction authorized by title 23; or
  - ii. any other program to the extent that financial assistance other than a grant is authorized.

#### 2. Certain sewage treatment works deemed constructed with federal grant assistance.—For the purpose of this section, any sewage treatment works constructed pursuant to title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) (known as the Clean Water Act) without federal grant assistance under that title is deemed to be constructed with that assistance.

- b. Purpose.—To enable the people, States, and local communities of the Appalachian region, including local development districts, to take maximum advantage of federal grant programs for which they are eligible but for which, because of their economic

situation, they cannot supply the required matching share, or for which there are insufficient amounts available under the federal law authorizing the programs to meet pressing needs of the region, the Federal Cochairman may use amounts made available to carry out this section—

1. for any part of the basic federal contribution to projects or activities under the federal grant programs authorized by federal laws; and
  2. to increase the federal contribution to projects and activities under the programs above the fixed maximum part of the cost of the projects or activities otherwise authorized by the applicable law.
- c. **Certification Required.**—For a program, project, or activity for which any part of the basic federal contribution to the project or activity under a federal grant program is proposed to be made under subsection (b), the contribution shall not be made until the responsible federal official administering the federal law authorizing the contribution certifies that the program, project, or activity meets the applicable requirements of the federal law and could be approved for federal contribution under that law if amounts were available under the law for the program, project, or activity.
- d. **Limitations in Other Laws Inapplicable.**—Amounts provided pursuant to this subtitle are available without regard to any limitations on areas eligible for assistance or authorizations for appropriation in any other law.
- e. **Acceptance of Certain Material.**—For a supplemental grant for a project or activity under a federal grant program, the Federal Cochairman shall accept any finding, report, certification, or documentation required to be submitted to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the program.
- f. **Federal Share.**—The federal portion of the cost of a project or activity shall not—
1. be increased to more than the percentages the Commission establishes; nor
  2. be more than 80 percent of the cost.
- g. **Maximum Commission Contribution.**—
1. **In general.**—Subject to paragraph (2) and (3), the Commission may contribute not more than 50 percent of a project or activity cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.
  2. **Distressed counties.**—The maximum Commission contribution for a project or activity to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title may be increased to 80 percent.
  3. **AT-RISK COUNTIES**—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to 70 percent.

#### **Sec. 14508. Economic and energy development initiative**

- a. **Projects To Be Assisted**—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to persons or entities in the Appalachian region for projects and activities—
1. to promote energy efficiency in the Appalachian region to enhance the economic competitiveness of the Appalachian region;

2. to increase the use of renewable energy resources, particularly biomass, in the Appalachian region to produce alternative transportation fuels, electricity, and heat; and
  3. to support the development of regional, conventional energy resources to produce electricity and heat through advanced technologies that achieve a substantial reduction in emissions, including greenhouse gases, over the current baseline.
- b. Limitation on Available Amounts- Of the cost of any activity eligible for a grant under this section, not more than—
1. 50 percent may be provided from amounts appropriated to carry out this section;
  2. in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts appropriated to carry out this section; or
  3. in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts appropriated to carry out this section.
- c. Sources of Assistance- Subject to subsection (b), grants provided under this section may be provided from amounts made available to carry out this section in combination with amounts made available under other Federal programs or from any other source.
- d. Federal Share—Notwithstanding any provision of law limiting the Federal share under any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Commission decides is appropriate.

## **SUBCHAPTER II—ADMINISTRATIVE**

### **Sec. 14521. Required level of expenditure**

A State or political subdivision of a State is not eligible to receive benefits under this subtitle unless the aggregate expenditure of state amounts, except expenditures for participation in the Dwight D. Eisenhower System of Interstate and Defense Highways and local and federal amounts, for the benefit of the area within the State located in the Appalachian region is maintained at a level which does not fall below the average level of those expenditures for the State's last two full fiscal years prior to March 9, 1965. In computing the level, a State's past expenditure for participation in the Dwight D. Eisenhower System of Interstate and Defense Highways and expenditures of local and federal amounts shall not be included. The Commission shall recommend to the President a lesser requirement when it finds that a substantial population decrease in that part of a State which lies within the region would not justify a state expenditure equal to the average level of the last two years or when it finds that a State's average level of expenditure in an individual program has been disproportionate to the present need for that part of the State.

### **Sec. 14522. Consent of States**

This subtitle does not require a State to engage in or accept a program under this subtitle without its consent.



### **Sec. 14523. Program implementation**

- a. Requirements.—A program or project authorized under this chapter shall not be implemented until—
  1. the responsible federal official has decided that applications and plans relating to the program or project are not incompatible with the provisions and objectives of federal laws that the official administers that are not inconsistent with this subtitle; and
  2. the Appalachian Regional Commission has approved the program or project and has determined that it—
    - A. meets the applicable criteria under section 14524 of this title and the requirements of the development planning process under section 14525 of this title; and
    - B. will contribute to the development of the Appalachian region.
- b. Decision Is Controlling.—A decision under subsection (a)(2) is controlling and shall be accepted by the federal agencies.

### **Sec. 14524. Program development criteria**

- a. Factors To Be Considered.—In considering programs and projects to be given assistance under this subtitle, and in establishing a priority ranking of the requests for assistance presented to the Appalachian Regional Commission, the Commission shall follow procedures that will ensure consideration of—
  1. the relationship of the project or class of projects to overall regional development, including its location in a severely and persistently distressed county or area;
  2. the population and area to be served by the project or class of projects, including the per capita market income and the unemployment rates in the area;
  3. the relative financial resources available to the State or political subdivisions or instrumentalities of the State that seek to undertake the project;
  4. the importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same amounts;
  5. the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic and social development of the area served by the project; and
  6. the extent to which the project design provides for detailed outcome measurements by which grant expenditures may be evaluated.
- b. Limitation on Use.—Financial assistance made available under this subtitle shall not be used to assist establishments relocating from one area to another.
- c. Determination Required Before Amounts May Be Provided.—Amounts may be provided for programs and projects in a State under this subtitle only if the Commission determines that the level of federal and state financial assistance under other laws for the same type of programs or projects in that part of the State within the Appalachian region will not be diminished in order to substitute amounts authorized by this subtitle.
- d. Minimum Amount of Assistance to Distressed Counties and Areas.— For each fiscal year, not less than 50 percent of the amount of grant expenditures the Commission

approves shall support activities or projects that benefit severely and persistently distressed counties and areas.

### **Sec. 14525. State development planning process**

- a. State Development Plan.—Pursuant to policies the Appalachian Regional Commission establishes, each state member shall submit a development plan for the area of the State within the Appalachian region. The plan shall—
  1. be submitted according to a schedule the Commission prescribes;
  2. reflect the goals, objectives, and priorities identified in the regional development plan and in any subregional development plan that may be approved for the subregion of which the State is a part;
  3. describe the state organization and continuous process for Appalachian development planning, including—
    - A. the procedures established by the State for the participation of local development districts in the process;
    - B. how the process is related to overall statewide planning and budgeting processes; and
    - C. the method of coordinating planning and projects in the region under this subtitle, the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), and other federal, state, and local programs;
  4. set forth the goals, objectives, and priorities of the State for the region, as established by the Governor, and identify the needs on which the goals, objectives, and priorities are based; and
  5. describe the development strategies for achieving the goals, objectives, and priorities, including funding sources, and recommendations for specific projects to receive assistance under this subtitle.
- b. Areawide Action Programs.—The Commission shall encourage the preparation and execution of areawide action programs that specify interrelated projects and schedules of actions, the necessary agency funding, and other commitments to implement the programs. The programs shall make appropriate use of existing plans affecting the area.
- c. Local Development Districts.—Local development districts certified by the State as described in section 14102(a)(2) of this title provide the linkage between state and substate planning and development. The districts shall assist the States in the coordination of areawide programs and projects and may prepare and adopt areawide plans or action programs. In carrying out the development planning process, including the selection of programs and projects for assistance, States shall consult with local development districts, local units of government, and citizen groups and shall consider the goals, objectives, priorities, and recommendations of those bodies.
- d. Federal Responsibilities.—To the maximum extent practicable, federal departments, agencies, and instrumentalities undertaking or providing financial assistance for programs or projects in the region shall—
  1. take into account the policies, goals, and objectives the Commission and its member States establish pursuant to this subtitle;
  2. recognize Appalachian state development strategies approved by the Commission as satisfying requirements for overall economic development planning under the programs or projects; and

3. accept the boundaries and organization of any local development district certified under this subtitle that the Governor may designate as the areawide agency required under any of those programs undertaken or assisted by those federal departments, agencies, and instrumentalities.

### **Sec. 14526. Distressed, at-risk, and economically strong counties**

#### a. Designations.—

1. In general.—The Appalachian Regional Commission, in accordance with criteria the Commission may establish, each year shall—
  - A. designate as "distressed counties" those counties in the Appalachian region that are the most severely and persistently distressed;
  - B. designate as "at-risk counties" those counties in the Appalachian region that are most at risk of becoming economically distressed; and
  - C. designate two categories of economically strong counties, consisting of—
    - i. "competitive counties", which shall be those counties in the region that are approaching economic parity with the rest of the United States; and
    - ii. "attainment counties", which shall be those counties in the region that have attained or exceeded economic parity with the rest of the United States.
2. Annual review of designations.—The Commission shall—
  - A. conduct an annual review of each designation of a county under paragraph (1) to determine if the county still meets the criteria for the designation; and
  - B. renew the designation for another one-year period only if the county still meets the criteria.

#### b. Distressed Counties.—In program and project development and implementation and in the allocation of appropriations made available to carry out this subtitle, the Commission shall give special consideration to the needs of counties for which a distressed county designation is in effect under this section.

#### c. Economically Strong Counties.—

1. Competitive counties.—Except as provided in paragraphs (3) and (4), assistance under this subtitle for a project that is carried out in a county for which a competitive county designation is in effect under this section shall not be more than 30 percent of the project cost.
2. Attainment counties.—Except as provided in paragraphs (3) and (4), amounts may not be provided under this subtitle for a project that is carried out in a county for which an attainment county designation is in effect under this section.
3. Exceptions.—Paragraphs (1) and (2) do not apply to—
  - A. a project on the Appalachian development highway system authorized by section 14501 of this title;
  - B. a local development district administrative project assisted under section 14321(a)(1)(A) of this title; or

- C. a multicounty project that is carried out in at least two counties designated under this section if—
  - i. at least one of the participating counties is designated as a distressed county under this section; and
  - ii. the project will be of substantial direct benefit to at least one distressed county.

4. Waiver.—

- A. In general.—The Commission may waive the requirements of paragraphs (1) and (2) for a project when the recipient of assistance for the project shows the existence of any of the following:
  - i. a significant pocket of distress in the part of the county in which the project is carried out.
  - ii. a significant potential benefit from the project in at least one area of the region outside the designated county.
- B. Reports to congress.—The Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report describing each waiver granted under subparagraph (A) during the period covered by the report.

## **Chapter 147—Miscellaneous**

### **Sec. 14701. Applicable labor standards**

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are financially assisted through federal amounts authorized under this subtitle shall be paid wages at rates not less than those prevailing on similar construction in the locality as the Secretary of Labor determines in accordance with sections 3141–3144, 3146, and 3147 of this title. With respect to those labor standards, the Secretary has the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 3145 of this title.

### **Sec. 14702. Nondiscrimination**

An individual in the United States shall not, because of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, a program or activity receiving federal financial assistance under this subtitle.

### **Sec. 14703. Authorization of appropriations**

- a. In General—In addition to amounts made available under section 14501, there is authorized to be appropriated to the Appalachian Regional Commission to carry out this subtitle—
  1. \$87,000,000 for fiscal year 2008;
  2. \$100,000,000 for fiscal year 2009;
  3. \$105,000,000 for fiscal year 2010;
  4. \$108,000,000 for fiscal year 2011; and
  5. \$110,000,000 for fiscal year 2012.
- b. Economic and Energy Development Initiative—Of the amounts made available under subsection (a), the following amounts may be used to carry out section 14508—
  1. \$12,000,000 for fiscal year 2008;
  2. \$12,500,000 for fiscal year 2009;
  3. \$13,000,000 for fiscal year 2010;
  4. \$13,500,000 for fiscal year 2011; and
  5. \$14,000,000 for fiscal year 2012.
- c. Availability.—Amounts made available under subsection (a) remain available until expended.
- d. Allocation of Funds—Funds approved by the Appalachian Regional Commission for a project in a State in the Appalachian region pursuant to a congressional directive shall be derived from the total amount allocated to the State by the Appalachian Regional Commission from amounts appropriated to carry out this subtitle.

### **Sec. 14704. Termination**

This subtitle, except sections 14102(a)(1) and (b) and 14501, ceases to be in effect on October 1, 2012.