

**WASHINGTON STATE
WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD
MEETING NO. 187
May 28, 2015**

WIOA IMPLEMENTATION RECOMMENDATIONS

Background

At a special meeting in October 2014, the Board adopted a four-committee structure to begin the implementation process and to support the Workforce Board and the Governor on critical decision points regarding implementation of WIOA. The four Committees are:

1. Steering Committee
2. Committee for Sector Strategies to Close Skill Gaps in the Workplace
3. Performance Accountability and Eligible Training Provider List Committee
4. Education and Career Pathways through Integrated Service Delivery Models Committee

In November, the Board adopted a WIOA work plan detailing the work of the four committees in preparation for the Act's implementation. Committees were assigned the responsibility of developing recommendations on relevant policy issues, and to bring these to the Steering Committee for consideration. Upon approval by the Steering Committee, these policy recommendations come before the Workforce Board for consideration, in alignment with the intention of the WIOA legislation, and to guide the transformation to a model state system.

After several months of meetings, the Steering Committee considered the first of the subcommittee recommendations at their May 6 meeting. All three subcommittees presented recommendations, providing the supporting background. These recommendations are included in this Tab, with backup documentation in support of the recommendations for the Board's consideration.

Action: The Workforce Board is asked to adopt WIOA implementation recommendations.

RECOMMENDED MOTION

WHEREAS, The Workforce Training and Education Coordinating Board (Workforce Board) is designated as the state's Workforce Board by the Governor; and

WHEREAS, the Workforce Innovation and Opportunity Act requires states to fully implement the Act's plan requirements by June 30, 2016; and

WHEREAS, the Workforce Board adopted a four committee structure to develop recommendations for the implementation of the Workforce Innovation and Opportunity Act to be conducted through a Steering Committee/Subcommittee structure; and

WHEREAS, the Workforce Innovation and Opportunity Act subcommittees used an open and inclusive process to develop policy recommendations; and

WHEREAS, the Workforce Innovation and Opportunity Act Steering Committee considered and approved subcommittee policy recommendations presented to the Workforce Board,

BE IT RESOLVED, the Workforce Board approves the presented policy recommendations and directs staff to implement and include these in the Washington Workforce Innovation and Opportunity Act State Plan.

WORKFORCE INNOVATION & OPPORTUNITY ACT RECOMMENDATIONS

- I. The following recommendations were reviewed and approved by the WIOA Steering Committee with minor amendments or no concerns:

Accountability & Eligible Training Provider List Subcommittee

- *Attachment A-1:* Due to the focus on WIOA, the subcommittee requests a decision to not conduct a review of the current ETPL, and not to review and update the current Workforce Investment Act ETPL standards. *The Steering Committee requested Workforce board staff to provide a focused, high risk review of those currently on the ETPL.*
- *Attachment A-2:* Washington is interested in establishing a baseline that tracks the number of people who have secured employment in the second quarter after exit across the entire system, which would be used as a statewide indicator to evaluate how the WIOA system is serving people across partners. This would eliminate unforeseen negative changes in ‘silo-based’ performance outcome measures, which may be the result of changing the flow of different types of participants among partnering programs.

Education and Career Pathways Subcommittee

- *Attachment A-3:* Adopting a common definition of “Career Pathways” to be integrated into strategic plans: *The career pathway approach connects levels of education, training, counseling, support services, and credentials for specific occupations in a way that optimizes continuous progress toward the education, employment, and career goals of individuals of all ages, abilities, and needs. This approach helps individuals earn marketable credentials; prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships and other work-based learning opportunities; engages individuals in further education and employment; and helps individuals achieve sustained economic success. Career pathways deeply engage employers and help meet their workforce needs; they also help the state and its communities strengthen their workforces and economies.*

Local Governance & Sector Strategies Subcommittee

- *Attachment A-4:* Support the integration of the sectors framework, as presented by the subcommittee, into the state’s workforce plan.
- *Attachment A-5:* Approve the subcommittee recommendation on board member appointment criteria. The Act specifically reduces the size of local workforce boards. The Act also recognizes the important leadership role of local boards. Therefore representation of all the core programs is required and the voice of those representing the workforce is strengthened, while the business majority is maintained. In addition, the Act requires that board members have both “optimal policy making authority” within their institutions and “demonstrated experience and expertise” to help the board achieve its strategic visions.

- Support smaller more manageable boards, by not adding membership categories with the exception of Temporary Assistance for Needy Families program (TANF), should TANF become a required program in the state plan. Locals can add members as needed based on their local situation.
- All board members will be nominated by an appropriate organization, and existing criteria will be used, requiring all board members to have optimal decision-making authority and demonstrated expertise as defined in the Act.
- Local Boards and Chief Local Elected Officials should “cast a wide net” when recruiting new board members to assure that all those interested have the opportunity to become nominated for open seats.
- *Attachment A-6:* Support subcommittee recommendation to disseminate the region’s letter and maps to Chief Local Elected Officials and Workforce Development Councils.
- *Attachment A-7:* Under the Act, an alternative entity may be approved by the Governor to serve as a local workforce board, as long as the entity was established to serve the local area; was in existence on the day before the date of enactment of the Act (www.congress.gov/bill/114th-congress/senate-bill/1031/amendments amends the alternative entity date: *(a) Local workforce development boards – Section 107(i)(1)(B) is amended by striking “the day before the date of enactment of this Act” and inserting “the day before the date of enactment of the Workforce Investment Act of 1998.”*); and includes representatives of business in the local area, representatives of labor organizations nominated by local labor federations or representatives of employees in the local area if no employees are represented by labor organizations. The Board is asked to approve Subcommittee recommendations regarding alternative entities:
 - Support the option for the Governor to approve alternative entities (*added for clarification: such designation will continue to be in consultation with chief local elected officials in the local areas.*) The Governor will need to review the actual membership categories of those applying for alternative entity status to assure that these entities meet the criteria under which they were certified.
 - Board members of alternative entities will need to have optimal decision-making authority and demonstrated expertise and experience as per the Act. The recommendation that all applicants for board positions be nominated by appropriate organizations would also apply. Alternative entities that do not have a member(s) representing adult education programs should show how they have engaged adult education programs in their planning and decisions making processes. Additionally, all other requirements of the Act apply to alternative entities.
- *Attachment A-8:* Support Subcommittee recommendation that a local workforce area designation policy be developed. In January, the Workforce Board issued a request to the Governor to provide initial designation to existing local workforce areas through June 30, 2016. In April, the Governor issued a letter concurring with the Workforce Board’s recommendation.

However, recently proposed rules and guidance from the U.S. Department of Labor clarified that:

- ✓ Initial designation must be for two full programs years, not one;

- ✓ The Governor must approve initial designation for any local area that applies and that has met performance requirements and maintained fiscal integrity for the prior two years; and
- ✓ The state must have a designation policy by July 1, 2015.

The Subcommittee requests that the Workforce Board adopt the following designation policy:

- The process by which the Governor will consult with the state Workforce Board and consider public comment for the designation of local workforce areas.
- The length of initial designation as two years.
- The requirement for the Governor to approve all requests for designation from areas that were designated under WIA, meet performance requirements and maintained fiscal integrity as defined by the U.S. Department of Labor over the previous two years.
- The process by which the Governor could choose to designate/redesignate a local area that does not meet the performance and fiscal integrity requirements under WIOA.
- The requirement that the Governor subsequently designate a local area that has performed successfully, sustained fiscal integrity, and in the case of a local area in a planning region, met the planning region requirements during the two-year period of initial designation.
- The requirement that redesignation be automatic as long as the Chief Local Elected Official and Local Board do not notify the Governor that they no longer wish to operate as a local area.
- The option the Governor has to evaluate a local area at any time to ensure that it continues to meet the requirements for subsequent eligibility, but not less than once every four years.
- The actions the Governor may take if a local area fails to meet designation criteria.
- The definition of “performed successfully” and “maintained fiscal integrity.”
- The process by which local areas will apply for and receive designation.
- The appeals process for areas denied designation.

II. The following recommendations were reviewed with concerns and forwarded to the Workforce Board for discussion:

Education and Career Pathways Subcommittee (*Attachment B-1*)

- WIOA Section 133(b)(4) authorizes local area boards to transfer up to 100 percent of their total funds between the Adult and Dislocated Worker programs, with the permission of the Governor. (Currently, under WIA, local area boards are authorized to transfer up to 30 percent of their funds between the Adult and Dislocated Worker programs, with the approval of the Employment Security Department.) The Steering Committee asked for an amendment to the original recommendation that ESD continue to apply its existing transfer request procedures when a local area Board applies for fund transfer flexibility—potentially up to 100 percent flexibility, as allowed by WIOA. After applying the existing transfer request procedure, ESD may authorize a partial or full transfer of funds for transfer up to 50 percent of the base allocation from either program. A transfer request in excess of 50 percent of the past allocation from either program must be approved by both ESD and by a vote of the Workforce Board, using a single request application to be considered by both entities in this process. The revised recommendation directs ESD to amend the current transfer policy, allowing up to 50 percent transfer of funds from either program. For a request (or multiple requests) that total more than 50 percent, ESD staff will analyze the request and notify Workforce Board staff of the request. This policy will be reviewed after one year.

Local Governance & Sector Strategies Subcommittee (*Attachment C-1*)

- Approve the subcommittee recommendation on board member appointment criteria. The Act specifically reduces the size of local workforce boards. The Act also recognized the important leadership role of local boards. Therefore representation of all the core programs is required and the voice of those representing the workforce is strengthened, while the business majority is maintained. In addition, the Act requires that board members have both “optimal policy making authority” within their institutions and “demonstrated experience and expertise” to help the board achieve its strategic visions.
 - Organized labor should maintain a majority within the workforce category, and the practice of a member filling multiple seats should be discouraged. *The Steering Committee, following significant discussion, asked the Workforce Board to decide whether a local board member should be allowed to fill multiple seats.*

ISSUE: 2015 Revision of Workforce Investment Act (WIA) Eligible Training Provider List Standards (ETPL) and Eligibility Review of all Programs

BACKGROUND: Current Workforce Board policy and practice calls for revision of our ETPL eligibility standards this spring/summer, and review of the updated performance of all current programs to see if they still meet criteria.

RECOMMENDATION: Given the workload of WIOA implementation, including establishing new performance measures and developing new ETPL standards and procedures by January of next year, the Board's approval will allow the state to skip the update of the WIA ETPL standards for 2015, to provide Board staff time to concentrate efforts on developing WIOA-compliant procedures and standards by the January deadline.

CURRENT STRUCTURE UNDER WIA: Board policy is to annually review and update the ETPL standards, and re-evaluate all current programs and update the performance data on the Career Bridge website. The three most recent years of performance data are averaged for this purpose.

POTENTIAL/PERCEIVED CHANGES UNDER WIOA: WIOA requires such re-evaluation at least every two years. Registered apprenticeship programs will no longer be subject to ETPL performance criteria.

MINORITY POSITION(S): None noted.

STAKEHOLDERS ENGAGED: Representatives of a community college, State Board for Community and Technical Colleges (SBCTC), Private Career School Association.

ANY ISSUES, QUESTIONS, GUIDANCE NEEDED TO INFORM THE STEERING COMMITTEE:

ISSUE: Rethinking Framework for Performance Accountability

While WIOA appears to mandate customer-centered integration of services across participating programs, the performance measurement system remains focused on outcomes by funding source – the traditional “silos.”

Members of the Reframing Current Performance Measures Task Force recognize this problem, but do not believe it’s feasible or prudent to attempt to shift the formal performance accountability system to an alternative framework more in keeping with the service and coordination principles articulated in WIOA. The alternative framework discussed by the task force focused on performance outcomes for target populations regardless of how their services are funded. In the absence of experience with such data, and because this alternative approach is not mentioned in WIOA, an alternative framework would be premature and unlikely to be approved by the U.S. Departments of Labor and Education.

Examination of these issues revealed reasons to be concerned that changing the flow of different types of participants among partnering programs may cause unforeseen negative changes in “silo-based” performance outcome measures.

However, the task force believes this approach to analyzing and tracking the outcomes of our participants is a worthwhile opportunity with the potential to inform development of more effective and integrated services. Two consensus recommendations are being developed by the task force, based on the following conclusions:

1. Washington should propose no wholesale changes to the new WIOA measures, while maintaining the option to submit feedback on proposed regulations.
2. Because Washington will be shifting flow and service patterns in how it serves people across multiple partners, end-of-year retroactive adjustments may be needed. This might impact targets set each year.
3. Washington is interested in establishing a baseline that tracks the number of people who have secured employment in the second quarter after exit across the entire system. This would be used as a statewide indicator to evaluate how the WIOA system is serving people across partners.

RECOMMENDATION: Response to the Notice of Proposed Rulemaking (NPRM) should request that the regulations make clear that unforeseen shifts in the distribution of clients across one-stop system partners be explicitly identified as legitimate considerations in year-end adjustment of performance under Sec. 116(b)(3)(vii), particularly if participants with previously uncommon combinations of factors or barriers become a significant proportion of a program’s participant population, and even if available historical data on a service population is limited in the program not providing service. If the Board agrees that this is a valuable approach for helping inform the implementation and management of WIOA, then it should be affirmed and included in the planning and development processes. Initial steps should include:

- a. Measuring the overall “output” of the combined workforce system through measures starting with the total number of individuals placed
- b. Examining the extent to which individuals are already being served by more than one workforce agency, both concurrently and over time, and the comparability of existing data about their characteristics and barriers. The files used in preparation of the annual Workforce Training Results can provide a starting point.

Though Washington is ahead of most states in experience in compiling consistent data across the larger workforce system, this will not be a costless endeavor, and given the other demands of WIOA implementation will produce results incrementally over time.

CURRENT STRUCTURE UNDER WIA: No equivalent Workforce Investment Act (WIA) activity.

POTENTIAL/PERCEIVED CHANGES UNDER WIOA: WIOA requires extensive reporting of service numbers and outcome based on characteristics and barriers, but primarily within and not across programs. Some of the participant attributes listed in WIOA are beyond those currently collected in many existing systems.

MINORITY POSITION(S): None noted.

STAKEHOLDERS ENGAGED: Representatives of Employment Security Department, Workforce Development Councils, Department of Social and Health Services, and Department of Vocational Rehabilitation.

ANY ISSUES, QUESTIONS, GUIDANCE NEEDED TO INFORM THE STEERING COMMITTEE:

Concerns about how undocumented participants are counted (or not) in performance data, particularly for employment and earnings.

ISSUE: The Local Governance and Sector Strategies Subcommittee was charged with identifying targeted sectors including required data analysis and with recommending guidelines for local sector targeting.

BACKGROUND: Washington has been a leader in the implementation of sector strategies. The state has identified statewide priority sectors and appointed leads to support these, developed criteria for sector selection, and defined key terms. Language related to sectors is included in state legislation. The needs of industry sectors have been a driving force in the development of Centers of Excellence, and local workforce planning and other initiatives.

The Sector Strategies Task Force started by identifying what was already in place and what needed updating and streamlining in order to create a framework to guide future sectors work. This framework, once adopted by the Steering Committee and full Workforce Board, will be built into the state strategic plan. The plan forms the basis for regional/local planning and implementation. The attached recommendations are the first step in supporting robust and effective sector strategies. Future recommendations will:

- Provide guidance related to local efforts for closing skill gaps to meet sector needs.
- Clarify state board's role in supporting sector strategies.

(The state has identified priority sectors, so the task force does not intend to duplicate that work.)

RECOMMENDATION: The Workforce Board review and approve the following Guiding Principles and Common Definitions in TAB 2 A-4 for a Sector Framework for state and local plans.

CURRENT STRUCTURE UNDER WIA: The Workforce Investment Act did not require sector strategies.

POTENTIAL/PERCEIVED CHANGES UNDER WIOA: The Workforce Innovation and Opportunity Act requires local workforce boards to support the implementation of sector strategies.

MINORITY POSITION(S): N/A

STAKEHOLDERS ENGAGED: A variety of workforce and economic development stakeholders are represented on the task force. Input was sought from Workforce Development Councils with experience implementing sector strategies.

ANY ISSUES, QUESTIONS, GUIDANCE NEEDED TO INFORM THE STEERING COMMITTEE: N/A

SECTOR FRAMEWORK FOR STATE AND LOCAL PLAN

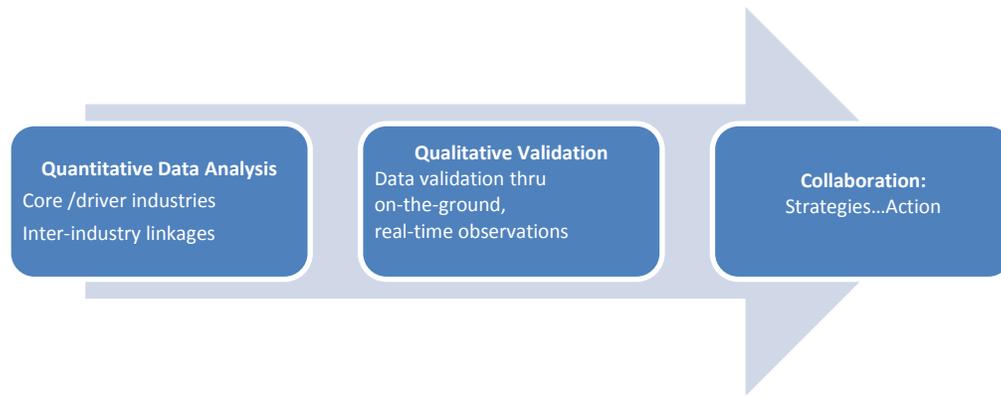
1. Guiding Principles

- Sector strategies are one of many possible strategies for workforce and economic development.
- Statewide and local sector strategies can co-exist in mutually-reinforcing and beneficial ways. They are not mutually exclusive of one another.
- Critical factors for identifying sectors to be targeted for sector strategies include employment opportunities, wage levels (including career and wage progression potential), and the economic impact of the industry.
- Because policy objectives vary, workforce and economic development partners may work from different lists of targeted sectors. That being said, collaboration and coordination is imperative when economic and workforce strategies target the same sectors.
- *Nascent* or *emerging* sectors, as well as *mature* or *plateaued* ones, have a role in workforce and economic development initiatives.
- Both *traded* and *local services sectors* have a role in workforce initiatives.
- Targeted sector lists should be updated periodically to keep pace with changing economic conditions.
- As sector strategies are developed, there should be an emphasis on data-driven outcomes (e.g., employment placements)

Process and criteria for identifying and prioritizing target sectors

1. Conduct quantitative data analysis: Identify core/driver industries and inter-industry linkages. Measure and rank criteria relating to industry concentration, employment, and opportunities for wage and career progression. Criteria should include, but not be limited to:
 - a. Industry concentration – using employment location quotient for the local area relative to the nation.
 - b. Recent and projected employment growth – Looking for positive projected growth potential.
 - c. Opportunities for wage progression – As indicated by range between 25th and 75th percentiles in wages observed within a given occupation in the sector.
 - d. Opportunities for career progression – As indicated by percent of occupations in the middle and high wage ranges and other indicators of occupational mobility within a given sector.

2. Conduct qualitative validation: Validate quantitative findings through conversations with industry (business and labor) and regional economists. Criteria may include:
 - a. Quantitative factors such as employment projections relating to retirements and turnover; output; earnings per worker; change in establishments; change in wages; exports as percent of output; traded versus local services sectors.
 - b. Qualitative Factors such as industry-recognized certifications and related opportunities for career progression, policy/regulatory/legislated issues, resources at-hand, and factors of chance and special circumstances.
3. Develop strategies for action through collaborative planning with economic development, business and education partners.
4. Define intended outcomes and measure results.



2. Common definitions

- **Sector**: A group of industries with similar business processes, products or services like construction or health services; formerly categorized by the Standard Industrial Classification (SIC) system, now categorized by the North American Industry Classification System (NAICS). Traded sectors often locate near the resources necessary to create products, while local services sectors tend to exist throughout the state because these are population based.
- **Industry Cluster**: A geographic concentration of interdependent competitive firms that do business with each other, including firms that sell inside and outside of the geographic region, as well as support firms that supply new materials, components, and business services. (RCW 43.330.090)
- **Targeted Industries or Clusters**: Industries and industry clusters that are identified based on a strategic economic development consideration or other public concerns.
- **High Employer Demand Program of Study**: Postsecondary or Industry Recognized Certificate or degree program in which the number of students prepared for employment per year (from in-state institutions) is less than the number of projected job openings per year in that field—statewide, or in a sub-state region.

- **High-Demand Occupation:** An occupation with a substantial number of current or projected employment opportunities.
- **High Student Demand Program of Study:** Postsecondary or Industry Recognized Certificate or degree program in which student demand exceeds program capacity.

3. Alignment between local and statewide sectors:

The Governor's statewide sectors represent the statewide priorities for sector work. When WDCs identify regional/local sectors using the process and criteria above, they will see which statewide sectors are also of regional/local significance. Not all statewide sectors will be of significance to regional/local economies and vice versa.

When regionally/locally identified sectors are also statewide priority sectors, WDCs should connect with the state sector leads to determine how best to align local activities with statewide sector goals. Statewide sector leads should also reach out to WDCs operating in regional and local economies where there are high concentrations of industries in statewide sectors, in order to identify opportunities to work to together/align work. Opportunities to align local industry sectors that are part of the supply chain for statewide sectors should also be coordinated between the state and local level.

ISSUE: Agreeing on a Systemwide Definition of the Career Pathways Approach for Strategic Planning and Communicating our System Mission to Customers

RECOMMENDATION: The Steering Committee recommends the following agreed-upon definition of “pathways” be integrated into the state strategic plan:

The career pathway approach connects levels of education, training, counseling, support services, and credentials for specific occupations in a way that optimizes continuous progress towards the education, employment, and career goals of individuals of all ages, abilities, and needs.

This approach helps individuals earn marketable credentials; prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships and other work-based learning opportunities; engages individuals in further education and employment; and helps individuals achieve sustained economic success. Career pathways deeply engage employers and help meet their workforce needs; they also help the state and its communities strengthen their workforces and economies.

POTENTIAL/PERCEIVED CHANGES UNDER WIOA: Under WIOA, career pathway is statutorily defined as a combination of rigorous and high-quality education, training and other services that:

- (a) Aligns with the skill needs of industries in the economy of the state or regional economy involved;
- (b) Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships...;
- (c) Includes counseling to support an individual in achieving the individual’s education and career goals;
- (d) Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
- (e) Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the education and career advancement of the individual to the extent practicable;
- (f) Enables an individual to attain a secondary school diploma or its recognized equivalent and at least one recognized postsecondary credential; and
- (g) Helps an individual enter or advance within a specific occupation or occupational cluster.

The subcommittee felt that WIOA’s definition of career pathways needed to be supplemented to:

- Call out a specific focus on the pathways concept as an ongoing, sustained effort that does not end at job placement;
- Reinforce that career pathways must be designed for individuals of all ages, abilities, and needs;
- Engage employers as one of the two customers of the workforce system; and
- Specifically link apprenticeship as one of the postsecondary training options available to customers accessing the system.

Elements of the Alliance for Quality Career Pathways' definition for career pathways were integrated into the WIOA statutory definition to achieve these goals.

MINORITY POSITION(S): The Pathways Subcommittee reached their recommendation by consensus and forwarded it to the Steering Committee for consideration. No minority positions were recorded.

STAKEHOLDERS ENGAGED: Employment Security Department, Workforce Board, the Washington Workforce Association, members of the Pathways Subcommittee.

ANY ISSUES, QUESTIONS, GUIDANCE NEEDED TO INFORM THE STEERING COMMITTEE:

ISSUE: Local board member appointment criteria

BACKGROUND: Under the Workforce Innovation and Opportunity Act (WIOA), the Governor, after consultation with the state’s Workforce Board, may add criteria for Chief Local Elected Officials to use in the appointment of local workforce board members. There is no requirement for the Governor to add criteria.

WIOA specifically reduces the size of local workforce boards. However, the Act also recognizes the important leadership role of local boards. Therefore, representation of all the core programs is required, and the voice of those representing the workforce is strengthened while the business majority is maintained. In addition, the Act requires that board members have both “optimal policy making authority” within their institutions and “demonstrated experience and expertise” to help the board achieve its strategic vision.

Recommendations are based on the following goals –

1. Support smaller, more manageable boards, by not adding membership categories with the exception of the Temporary Assistance for Needy Families (TANF) program, should TANF become a required program in the state plan. Locals can add members as needed based on their local situations.
2. The voices of key stakeholders are critical to inform decision-making and achieve system goals. Therefore, organized labor should maintain a majority within the workforce category, and the practice of a member filling multiple seats should be discouraged.
3. The Act already imposes a number of criteria for board membership. Rather than adding criteria, the Local Governance Task Force within the Local Governance and Sector Strategies Subcommittee, recommends that all board members be nominated by an appropriate organization, and that the existing criteria of requiring all board members to have optimal decision-making authority and demonstrated expertise as defined in the Workforce Innovation and Opportunity Act and proposed regulations be enforced.
4. Local boards and chief local elected officials should “cast a wide net” when recruiting new board members to assure that all those interested have the opportunity to become nominated for open seats.

RECOMMENDATION: The Workforce Board review and approve the recommendation in TAB 2, Attachment A-5.

CURRENT STRUCTURE UNDER WIA: Under the Workforce Investment Act, the Workforce Board added to board member criteria:

- The inclusion of businesses with substantial employment and small businesses in the business category, and

- A requirement to have three labor representatives serving on each local workforce board.

WIOA does not require these criteria to be carried forward.

WIA also requires that K-12 education be represented on local boards. With the change in focus to out-of-school youth and the inclusion of Adult Education as a core program, the Act removed the requirement for K-12 to serve and added an Adult Education provider. WIOA also does not require a public assistance representative (Department of Social and Health Services/TANF), as WIA did.

MINORITY POSITION(S): The Task Force reached consensus on the recommendations above with one notable exception. While the majority of members agreed that there might be situations where it would make sense for a board member to fill more than one seat, a minority of the members felt this practice should not be allowed, even if it is permissible in the regulations. This is highlighted in Attachment C-1.

STAKEHOLDERS ENGAGED: The Task Force consisted of members representing organized labor, business, adult education, human services, and Workforce Development Councils (WDCs). Additional input was solicited from WDCs to answer questions and provide background. Labor and business representatives consulted with the Washington State Labor Council and the Association of Washington Business.

ANY ISSUES, QUESTIONS, GUIDANCE NEEDED TO INFORM THE STEERING COMMITTEE: N/A

Issue	Considerations	Draft Task Force Recommendations
<p><i>Should the Governor add membership categories or members to existing categories as part of the local board nominating criteria?</i></p>	<ul style="list-style-type: none"> ▪ The Act specifically reduces the number of required members on local workforce boards. ▪ Adding members in any category results in increased membership in at least 1 if not 2 additional categories ▪ The Act includes a category for locally identified appointments, which allows locals to add members as needed. 	<p>No additional membership categories should be added to the local board member appointment process with one possible exception: if the Governor decides to submit a combined plan that includes TANF as a mandatory partner, the task force recommends there be a TANF representative to both state and local workforce boards. (NOTE: this recommendation may need to be revisited once the Task Force on Combined/Unified Plan finishes its work).</p> <p>WIOA board membership requirements represent a floor, not a ceiling. Local areas may increase the number of representatives in any category in order to meet local goals. Local areas may also decide how best to fill the seats within categories (e.g. selecting business members that represent targeted industry sectors, selecting community based organizations that provide services to a targeted population).</p> <p>Organized labor will provide 51% of the nominations in the majority in the “workforce” category (aka the 20% category). If a local area increases the size of its board, labor nominations would also increase to maintain at least 51% of the workforce category.</p>
<p><i>Should the Governor add criteria to the types of members who should serve on local boards?</i></p>	<ul style="list-style-type: none"> ▪ The Act requires <i>all board members</i> to have “optimum decision-making authority” within their own organizations and “demonstrated experience and expertise” to contribute to the local strategic vision. In addition ▪ Business members must be owners or executives of businesses or business organizations in in-demand industries. ▪ Those in the workforce category must represent organized labor/apprenticeship. Organizations 	<p>No additional state criteria for board member selection should be added to the local board member appointment process.</p> <p>The appointment process must result in local board members who have “optimal decision-making authority” for their own organizations and “demonstrated experience and expertise” as defined in the Opportunity Act and Notice of Proposed Rule Making to</p>

	<p>serving those with barriers to employment may be included as well.</p> <ul style="list-style-type: none"> ▪ Institutions included in the higher education category must provide workforce activities. 	<p>support the local strategic vision.</p>
<p><i>Should the Governor add nominating criteria to the appointment process for local boards?</i></p>	<p>The Act requires that</p> <ul style="list-style-type: none"> ▪ Local business organizations and business trade associations nominate business members. ▪ Local labor federations nominate the labor representatives ▪ Education and training providers be selected from among nominees of eligible organizations 	<p>All potential board members must be nominated by an appropriate nominating body for consideration in the appointment process.</p> <p>As per the Act, organized labor representatives and the joint-labor management registered apprenticeship program representatives must be nominated by local labor federations and businesses must be nominated by local business or trade associations. Nominations for other representatives could be made by local labor federations, local business/trade associations, or locally recognized social services networks/community based partnerships or other appropriate nominating bodies.</p> <p>Local areas with vacant board seats must notify various public media, business and trade organizations, including chambers of commerce, economic development organizations, local labor federations, social services networks and others of the opportunity to nominate potential board members.</p>

ISSUE: The Local Governance & Sector Strategies Subcommittee agreed to send a letter to Chief Local Elected Officials (CLEOs) and Workforce Development Councils regarding the development of planning regions under the Workforce Innovation and Opportunity Act.

BACKGROUND: Under the Workforce Innovation and Opportunity Act (WIOA), the state, in consultation with CLEOs and Workforce Development Councils (WDCs), is required to identify planning regions to better align workforce activities with regional economies and economic development activities. The subcommittee developed a letter to inform CLEOs and WDCs of this new aspect of the law and to ask for initial input. Because of the complexity of the topic, the committee also recommended the development of a set of webinars.

The draft letter has been reviewed by subcommittee members and the Steering Committee.

RECOMMENDATION: Approve and finalize the letter that appears in Attachment A-6 and the maps to be sent with the letter to Chief Local Elected Officials and Workforce Development Councils to identify planning regions. *Letter and maps to be provided at May 28 meeting.*

CURRENT STRUCTURE UNDER WIA: Planning regions were not required under the Workforce Investment Act. This is a new feature of WIOA.

MINORITY POSITION(S): N/A

STAKEHOLDERS ENGAGED: The members of the subcommittee were asked to provide feedback. Other stakeholders were not engaged at this point in the process.

ANY ISSUES, QUESTIONS, GUIDANCE NEEDED TO INFORM THE STEERING COMMITTEE: N/A

ISSUE: Recommendation Regarding the Approval of Alternative Entities

The Workforce Innovation and Opportunity Act (WIOA) allows governors to approve alternative entities to serve as local workforce boards (aka grandfathering) *(added for clarification: such designation will continue to be in consultation with chief local elected officials in the local area.)* The Subcommittee was asked to provide guidance, should such a designation be requested.

BACKGROUND: Under WIOA, an alternative entity - any local entity (a local council, regional workforce development board, or similar entity) - may be approved by the Governor to serve as a local workforce board, as long as the entity:

- Was established to serve the local area,
- Was in existence on the day before the date of enactment of WIOA, and
- Includes representatives of business in the local area, representatives of labor organizations, nominated by local labor federations or representatives of employees in the local area if no employees are represented by labor organizations.

Simply stated, an entity serving as a local workforce board may keep or “grandfather” its existing board membership categories rather than change its board composition to conform to WIOA. The only thing that is different about alternative entities is their membership composition. Otherwise, an alternative entity must meet all other requirements of the Act.

Under WIOA, all Workforce Development Councils meet the criteria to be certified as alternative entities. There is an effort in Congress to amend the Act to limit which entities could be certified as alternative entities. If and when such a change is made, the recommendation of this committee will need to be revisited. (NOTE: www.congress.gov/bill/114th-congress/senate-bill/1031/amendments amends the alternative entity date: *(a) Local workforce development boards – Section 107(i)(1)(B) is amended by striking “the day before the date of enactment of this Act” and inserting “the day before the date of enactment of the Workforce Investment Act of 1998.”*) However, there is an expectation that states will have most of the local governance questions resolved by July 1, 2015 in order to support an orderly transition.

Please see the attachment for a comparison of board membership requirements under the three acts.

RECOMMENDATION: A review of the membership requirements under the Job Training Partnership Act (JTPA), Workforce Investment Act (WIA) and WIOA found these to be substantially similar to the WIOA requirements for local board membership, with the exception of the WIOA requirement to include an Adult Education representative. The Steering Committee supports the option for the Governor to approve alternative entities.

Prior to approval of alternative entities, the Governor will need to review the actual membership categories of those applying for alternative entity status to assure that these entities meet the criteria under which they were certified.

Board members of alternative entities must meet the requirement for optimal decision-making authority within their organizations and demonstrated expertise and experience as per WIOA. All applicants for board positions must be nominated by appropriate organizations. Alternative entities that do not have a member(s) representing adult education programs should show how they have engaged Adult Education programs in their planning and decision-making processes. Additionally, all requirements of WIOA, other than board membership composition, apply to alternative entities.

CURRENT STRUCTURE UNDER WIA: All local workforce boards in Washington operate under either WIA or JTPA board member requirements. Six Workforce Development Councils (WDCs) are currently certified as alternative entities, meaning their board membership has remained the same as it was under JTPA. The others were certified as meeting WIA board membership requirements. Therefore, all 12 WDCs would be eligible to apply for alternative entity status. Several have indicated an interest in doing so.

STAKEHOLDERS ENGAGED: Organized labor, business, workforce, education, human services.

ANY ISSUES, QUESTIONS, GUIDANCE NEEDED TO INFORM THE STEERING COMMITTEE: N/A

WIOA (19 seats at minimum)	WIA (25 seats at minimum)	JTPA (19 seats at minimum)
<p>51% Business Majority (at least 10 seats)</p> <ul style="list-style-type: none"> - Business owners or chief execs and/or - Organizations representing businesses, including small businesses. 	<p>51% Business Majority (at least 13 seats)</p> <ul style="list-style-type: none"> - Business owners or chief execs (including business contractors) with maximum “within region” policy or hiring authority. <ul style="list-style-type: none"> o At least three reps must have substantial employment opportunities. o At least three reps must be from small businesses (<fifty employees). 	<p>51% Business Majority (at least 10 seats)</p> <ul style="list-style-type: none"> - Business owners or chief execs with substantial management or policy responsibility; - Represent the industrial and demographic composition of the business community. At least ½ of reps shall be from small business, including minority business if possible.
<p>At least 20% represent the workforce (at least 4 seats)</p> <ul style="list-style-type: none"> - At least 2 reps of labor organizations. - A representative or training dir. for a joint labor management apprenticeship program. - May include community-based organizations (CBOs). 	<p>At least three labor representatives (at least 3 seats)</p>	<p>At Least 15% from organized labor and community-based organizations (at least 3 seats)</p>
<p>Education and Training (at least 2 seats)</p> <ul style="list-style-type: none"> - One rep providing adult ed. - One rep of an institute of higher ed. - May include local educational entities or CBOs 	<p>Education (at least 4 seats)</p> <ul style="list-style-type: none"> - At least two representatives of K-12 education. - At least two representatives of postsecondary education. 	<p>Representatives of educational agencies (at least 2 seats)</p> <ul style="list-style-type: none"> - Agencies shall be representative of all educational agencies in the service delivery area.
<p>Gov’t, Economic and Community Dev’t (at least 3 seats)</p> <ul style="list-style-type: none"> - One rep of state employment service. - One rep for economic and community dev’t. - One rep of voc rehab program. - May include reps from housing, transportation programs or philanthropic orgs. 	<p>Gov’t, and Economic Dev’t (at least 5 seats)</p> <p>At least one:</p> <ul style="list-style-type: none"> - Public vocational rehabilitation agency rep. - Public assistance agency rep. - Economic development agency rep. - Community-based organization rep. - Public employment services rep. 	<p>Representatives of Gov’t, and Economic Dev’t (at least 4 seats)</p> <ul style="list-style-type: none"> - Vocational rehabilitation agencies. - Public assistance agencies. - Economic development agencies. - The public employment service.
<p>Local additions</p>	<p>Local additions</p>	<p>Local additions</p>
<p>Additional criteria –</p> <ul style="list-style-type: none"> - Optimum policy-making authority - able to speak affirmatively on behalf of the entity s/he represents and commit that entity to a course of action. - Demonstrated experience and expertise – have the skills and practical knowledge to contribute fully to the strategic vision of the local area’s workforce 		

TAB 2
Attachment A-7

system.		
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ISSUE: Recent federal guidance requires the State Workforce Board to revisit the issue of designation of local workforce areas.

BACKGROUND: The Workforce Innovation and Opportunity Act (WIOA) requires the Governor to designate local workforce areas in order to receive WIOA Title I Adult, Dislocated Worker, and Youth Allocations. Local areas form the boundaries which are served by a local workforce board. The chief local elected officials (CLEOs) in a local workforce area identify the entity they wish to serve as the local workforce board, appoint members to the board and enter into agreements to meet the requirements under the Act.

In January, the Workforce Board issued a request to Governor Inslee to provide initial designation to existing local workforce areas through June 30, 2016. In April, the Governor issued a letter agreeing with the Workforce Board's recommendation.

However, recently proposed rules and guidance from the Department of Labor clarified that:

- Initial designation must be for two program years, not one,
- The Governor must approve initial designation for any local area that applies and that has met performance requirements and maintained fiscal integrity for the prior two years, and
- The state must have a designation policy by July 1, 2015.

The citations from WIOA, the Notice of Proposed Rule Making and the Training and Employment Guidance Letter 27-14 related to this issue are attached.

RECOMMENDATION: Based on recent federal guidance, the Steering Committee asks the state workforce board to support the development of a designation policy that will address:

- The process by which the Governor will consult with the state workforce board and consider public comment for the designation of local workforce areas.
- The length of initial designation as two years.
- The process by which local areas will apply for and receive designation.
- The requirement for the Governor to approve all requests for designation from areas that were designated under the Workforce Investment Act (WIA), met performance requirements, and maintained fiscal integrity as defined by the Department of Labor over the previous two years.
- The process by which the Governor could choose to designate/redesignate a local area that does not meet the performance and fiscal integrity requirements under WIOA.
- The definition of “performed successfully” and “maintained fiscal integrity”.
- The requirement that the Governor subsequently designate a local area that has performed successfully, sustained fiscal integrity, and in the case of a local area in a planning region,

met the planning region requirements during the two-year period of initial designation.

- The requirement that redesignation be automatic as long as the CLEOs and local board do not notify the Governor that they no longer wish to operate as a local area.
- The option the Governor has to evaluate a local area at any time to ensure that it continues to meet the requirements for subsequent eligibility, but not less than once every four years.
- The actions a Governor may take if a local area fails to meet designation criteria.
- The appeals process for areas denied designation.

NOTE: due to the requirement for the state to have a designation policy in place by July 1, 2015, staff have already begun development of a policy.

CURRENT STRUCTURE UNDER WIA: Twelve local workforce areas were designated under WIA. These areas correspond to the service areas of the state's 12 Workforce Development Councils (WDCs).

MINORITY POSITION(S): n/a

STAKEHOLDERS ENGAGED: Business, organized labor, workforce, human services and education representatives.

ANY ISSUES, QUESTIONS, GUIDANCE NEEDED TO INFORM THE STEERING COMMITTEE: See attachment F below.

Attachment A-10 Citations

Citation: WIOA Section 106(b)(2) & Section 106(b)(3)

(B) CONSIDERATIONS.—The Governor [after consultation with the state board, WDCs and Chief Local Elected Officials] shall designate local areas (except for those local areas described in paragraphs (2) and (3) [below]) based on considerations consisting of the extent to which the areas—

- (i) are consistent with labor market areas in the State;
- (ii) are consistent with regional economic development areas in the State; and
- (iii) have available the Federal and non-Federal resources necessary to effectively administer activities under subtitle B and other applicable provisions of this Act, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

(2) INITIAL DESIGNATION.—During the first two full program years following the date of enactment of this Act, the Governor shall approve a request for initial designation as a local area from any area that was designated as a local area for purposes of the Workforce Investment Act of 1998 for the two-year period preceding the date of enactment of this Act, performed successfully, and sustained fiscal integrity.

(3) SUBSEQUENT DESIGNATION.—After the period for which a local area is initially designated under paragraph (2), the Governor shall approve a request for subsequent designation as a local area from such local area, if such area—

- (A) performed successfully;
- (B) sustained fiscal integrity; and
- (C) in the case of a local area in a planning region, met the requirements described in subsection (c)(1).

Citation: Notice of Proposed Rule Making

§ 679.220 What is the purpose of the local workforce development area?

Proposed 679.220...Local areas serve as a jurisdiction for the administration of workforce development activities and execution of adult, dislocated worker, and youth funds allocated by the State. States allocate workforce investment funds based on various population characteristics of the local area. Local areas may correspond to regions identified in WIOA sec. 106(a)(1) or may be smaller geographic areas within a planning region, each with its own Local Workforce Development Board.

§ 679.230 What are the general procedural requirements for designation of local workforce development areas?

Proposed 679.230...requires the Governor to consult with the State Board and CLEO, and consider public comments from a wide range of stakeholders consistent with provisions at WIOA sec. 102(b)(2)(e)(iii)(II) as part of the process of identifying the local area.

§ 679.240 What are the substantive requirements for designation of local workforce development areas that were not designated as local areas under the Workforce Investment Act of 1998?

Proposed § 679.240(a)...explains that the Governor must develop a policy for designation or redesignation of local workforce development areas, including the factors that the Governor must consider. The statute requires that the Governor designate local areas that “are consistent” with labor market and regional economic development areas: the Department interprets this to mean that within a local area, there must be common labor markets and economic development areas. Better integration between the workforce and economic development systems serves to best connect the employment needs of workers with the skilled workforce needs of employers. This section implements sec. 106(b)(1)(B) of WIOA.

Proposed § 679.240(b) permits the Governor to approve a local area designation request from any unit of local government, including a combination of multiple units. This provision implements sec. 106(b)(4) of WIOA and retains the same requirements found at 20 CFR 661.250(c). Proposed paragraph (c) permits the Governor to redesignate a local area that has been designated or redesignated under § 679.240(a) or has been designated under § 679.250(a) or (c) if the local area requests, and the Governor approves, the redesignation.

§ 679.250 What are the requirements for initial and subsequent designation of workforce development areas that had been designated as local areas under the Workforce Investment Act of 1998?

Proposed § 679.250(a) ...during the first two full program years (PYs) following the enactment of WIOA, a Governor is to approve a request for initial designation from any local area designated as a local area under WIA as long as the entity was designated a local area under WIA, performed successfully, and maintained sustained fiscal integrity for two years prior to the enactment of WIOA. This provision requires the Governor to continue the designation of local areas that performed well and maintained sound fiscal practices under WIA. If a local area that was designated under WIA requests initial designation under WIOA but does not meet all of the requirements of § 679.250(a), the Governor has the discretion to approve the initial designation under WIOA or to redesignate the local area pursuant to the procedures described in § 679.240.

Proposed § 679.250(b) clarifies that initial designation applies to PYs 2015 and 2016, as per WIOA sec. 106.

Proposed § 679.250(c)...the Governor must approve requests for subsequent designation as long as the local area performed successfully, sustained fiscal integrity, and in the case of a local area in a planning region, met the planning region requirements during the two-year period of initial designation. Local areas that are able to demonstrate successful performance and fiscal integrity must be permitted to continue to operate and may not be redesignated without the consent of the Local Board and CLEO in the local area.

Proposed § 679.250(d)...permits the Governor to evaluate a local area at any time to ensure the local area continues to meet the requirements for subsequent eligibility...requires the Governor to review local areas to ensure they continue to satisfy the requirements at paragraph (2) as part of each four-year State planning cycle...describe the required actions that the Governor must take in the event that a local workforce area fails to meet its negotiated levels of performance or does not comply with administrative requirements, respectively. Under these provisions, the Governor retains the authority to take corrective action in light of failure of performance or fiscal management short of redesignation, and is not required to redesignate a local area that has failed to maintain the requirements of paragraph (c). Furthermore, the Governor may redesignate local areas at any time with the cooperation of the CLEO and Local Board in a given local area.

Proposed § 679.250(e) presumes that local areas will be considered to have requested continued designation unless the CLEO and the Local Board directly notify the Governor that they no longer wish operate as a local area. This newly proposed paragraph reduces the administrative burden of maintaining local area status, while still holding local areas accountable to the requirements of paragraph (c).

§ 679.260 What do the terms “performed successfully” and “sustained fiscal integrity” mean for purposes of designating local areas?

Proposed § 679.260(a) defines the term “performed successfully” for the purpose of initial designation to mean that the local area met or exceeded all performance levels the Governor negotiated with Local Board and CLEO under WIA sec. 136(c) for the last two full PYs before the enactment of WIOA. It also

requires that the local area not fail any individual measure for the last 2 consecutive PYs before the enactment of WIOA.

Proposed § 679.260(a)(1) requires the Governor, in order to determine if a local area has performed successfully, to have defined the terms “met or exceeded” and “failure” at the time the performance levels were negotiated. Proposed § 679.260(a)(2) clarifies that the Governor may not retroactively apply any higher WIOA threshold to performance negotiated and achieved under WIA for the purposes of local area designation.

Proposed § 679.260(b) defines the term “performed successfully” for the purpose of subsequent designation to mean that the local area met or exceeded the levels of performance the Governor negotiated with Local Board and CLEO for core indicators of performance described at WIOA sec. 116(b)(2)(A). It also requires the Governor to have defined the terms “met or exceeded” and “failure” in the State Plan.

Proposed § 679.260(a) and (b) expand on the definition at WIOA sec. 106(e)(1) to ensure that the initial and subsequent designation of local areas is conducted in a fair and transparent manner by ensuring that the local area’s performance is judged on the contemporaneous standards agreed to between the State and local area at the time rather than under subsequently imposed performance standards.

Proposed § 679.260(c) defines the term “sustained fiscal integrity” for the purpose of determining initial and subsequent local area designation to mean that the Secretary has not made a formal determination that either the grant recipient or any other entity charged with expending local area funds misexpended such funds due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration for the two-year period preceding the determination.

Proposed §§ 679.250 and 679.260 allow for an orderly transition from WIA to WIOA and protects the designation status of local areas that meet or exceed performance targets negotiated in good faith under the relevant authorizing legislation while allowing the Governor both to oversee properly the performance of the local areas and take action necessary to improve the area’s performance in a timely fashion.

679.290 What right does an entity have to appeal the Governor’s decision rejecting a request for designation as a workforce development area?

Proposed § 679.290(a) establishes that entities that are not approved as local areas may follow the process established at 20 CFR 683.640. This section is essentially unchanged from WIA. However, while provisions at WIOA sec. 106(b) permit any unit of local government or combination of units to apply for designation as a local area, the law does not specify that rural concentrated employment programs may apply for designation as a local area. The intent of this section was to prohibit such an arrangement under WIOA and that this prohibition logically applies to the appeals process.

Proposed § 679.290(b) establishes that an entity making an unsuccessful appeal to the State Board may request a review of the appeal by the Secretary of Labor if the State does not respond to the appeal in a timely manner or if the appeal for designation is denied by the State. The Department defines a ‘timely manner’ to be 60 days after the submission of the appeal. This provides adequate time for the State to review and make a ruling on the appeal while not being so long as to delay unreasonably the appeal and designation processes.

Proposed § 679.290(c) summarizes the circumstances under which the Secretary of Labor may require an entity to be designated as a local area. Specifically, the Secretary may require designation upon a finding of either a denial of procedural rights or a finding that the area meets the requirements for designation.

This section was updated from WIA to reflect that neither the 'automatic' nor 'temporary and subsequent' designation statuses exist under WIOA.

Citation: Training and Employment Guidance Letter 27-14

- B. The Governor must develop a policy for designation of local workforce development areas. The purpose of a local area is to serve as a jurisdiction for the administration of workforce development activities using Adult, Dislocated Worker, and Youth funds allocated by the State and to coordinate efforts related to the other core programs at a local community level. WIOA Section 106(b) establishes that the Governor must designate local workforce development areas (local areas) in order for the State to receive Adult, Dislocated Worker, and Youth funding under Title I, subtitle B. This guidance describes the steps that the Governor and other State and local entities must complete in order to designate local areas in the State. The Governor must follow the requirements provided in this guidance until the final regulations take effect.
- i. By July 1, 2015, the Governor, in consultation with the State Board, must develop a policy and procedure for the designation of all local areas, as well as a policy for the designation of new local areas. For all types of designation described in 5.D. and E. of this guidance, the policy must include:
 - a. Consultation with the State Board;
 - b. Consultation with the chief local elected officials and affected Local Boards; and
 - c. Consideration of comments received through a public comment process. The public comment period must offer adequate time for public comment prior to designation of the local workforce development area and provide an opportunity for representatives of interested business, education, and labor organizations to have input into the development of the formation of the local area.
 - ii. For new local areas, the policy must include, at a minimum, consideration of the extent to which the proposed area:
 - a. Is consistent with local labor market areas;
 - b. Has a common economic development area; and
 - c. Has the federal and non-federal resources, including appropriate education and training institutions, to administer activities under the Youth, Adult and Dislocated Worker formula programs under WIOA subtitle B.
- C. Requirements for initial designation of local areas that had been designated under WIA and want to continue as WIOA local areas.
- i. Requesting Initial Designation. Chief local elected officials and local boards of local areas that currently operate under WIA have the option of requesting local area designation status under WIOA. The Department encourages such requests to be completed prior to the onset of PY 15; however, such requests may be made after July 1, 2015. The Governor may establish a procedure for accepting such requests from local areas. If the chief local elected official and local board in a local area submits a request for initial designation, the Governor must approve the request if the entity was designated as a local area for purposes of WIA, performed successfully, and sustained fiscal integrity for the two years preceding the enactment of WIOA. If a local area is approved for initial designation, the period of initial designation applies to program years 2015 and 2016.
 - ii. "Performed Successfully" Definition: For the purpose of initial local area designation, the term "performed successfully" means that the local area met or exceeded the levels of performance the Governor negotiated with the Local Board and chief local elected official and the local area has not failed any individual measure for the last two consecutive program years before the enactment of WIOA. The terms "met or exceeded" and "failure" must be defined by the Governor in the State's policy consistent with how those terms were defined at the time the

performance levels were negotiated. When designating local areas, the Governor may not retroactively apply any higher WIOA threshold to performance negotiated and achieved under WIA.

- iii. "Sustained Fiscal Integrity" Definition: For the purpose of determining initial local area designation, the term "sustained fiscal integrity" means that the Secretary has not made a formal determination that either the grant recipient or the administrative entity of the area misexpended funds due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration for the two-year period preceding the determination.
- iv. Appeals: In order to facilitate the orderly designation of local areas under WIOA, the State Board must develop a formal appeals policy for units of local government that request but are denied initial designation status. In addition to the State's criteria, the policy must include the provision that if a decision on the appeal is not rendered in a timely manner or if the appeal to the State Board does not result in designation, the entity may request review by the Secretary of Labor. The Secretary may require that the area be designated as a workforce development area, if the Secretary determines that the entity was not accorded procedural rights under the State appeals process or if the area meets the initial designation requirements at WIOA sec. 106(b)(2).

ISSUE: WIOA Section 133(b)(4) authorizes local area boards to transfer up to 100 percent of their total funds between the Adult and Dislocated Worker programs, with the permission of the Governor.

BACKGROUND: Under the Workforce Investment Act (WIA), local area boards are authorized to transfer up to 30 percent of their funds between the Adult and Dislocated Worker programs, with the approval of the Employment Security Department (ESD).

The subcommittee explored whether the additional flexibility allowed to local areas by WIOA should require additional criteria or a different approval process than the existing procedure for approving a fund transfer up to 100 percent.

RECOMMENDATION: The subcommittee recommends to the Steering Committee that ESD continue to apply its existing transfer request procedure when a local area Board applies for fund transfer flexibility--potentially up to 100 percent flexibility, as allowed by WIOA.

After applying the existing transfer request procedure, ESD may authorize a partial or full transfer of funds for transfers up to 50 percent of the base allocation from either program. A transfer request in excess of 50 percent of the base allocation from either program must be approved by both ESD and by a vote of the Workforce Board. For transfer requests above 50 percent, local area boards will submit a single request application to both the Workforce Board and ESD, and ESD may approve up to 50 percent of the fund transfer before the Workforce Board grants approval for the remaining balance.

POTENTIAL/PERCEIVED CHANGES UNDER WIOA: Under WIOA, local areas have much greater flexibility to transfer funds between the Adult and Dislocated Worker programs than they had under WIA. However, ESD transfer policy criteria is as applicable in the case of transfer requests above 30 percent the base allocation as it is for the existing capped transfer requests.

Local areas must still show ESD and the Workforce Board that fund transfers will not have an adverse impact in providing services to participants, and that necessary services and client-planned activities will be maintained in the program from which the funds are transferred. Additionally, local areas must still include an assessment of any potential layoffs or closures of which they are aware and how those events will be addressed using existing funds if their fund transfer request from the Dislocated Worker program is approved.

Local areas must continue to confirm that the transfer will not reduce the required rate of expenditure of the fund source to which the funds are transferred by the end of the program year.

MINORITY POSITION(S): The subcommittee reached its recommendation by consensus. No minority positions were recorded.

STAKEHOLDERS ENGAGED: ESD, Workforce Board, the Washington Workforce Association, members of the Pathways Subcommittee.

ANY ISSUES, QUESTIONS, GUIDANCE NEEDED TO INFORM THE STEERING COMMITTEE:

ISSUE: Local Board Member Appointment Criteria

Under the Workforce Innovation and Opportunity Act (WIOA), the Governor, after consultation with the state's Workforce Board, may add criteria for Chief Local Elected Officials (CLEOs) to use in the appointment of local workforce board members. There is no requirement for the Governor to add criteria.

BACKGROUND: WIOA specifically reduces the size of local workforce boards. However, the Act also recognizes the important leadership role of local boards. Therefore, representation of all the core programs is required and the voice of those representing the workforce is strengthened, while the business majority is maintained. In addition, the Act requires that board members have both "optimal policy making authority" within their institutions and "demonstrated experience and expertise" to help the board achieve its strategic vision.

RECOMMENDATION: The Steering Committee approved the following recommendations for consideration by the full Workforce Board:

- Do not require additional membership categories to local workforce boards with one possible exception: if the Governor decides to submit a combined plan that includes Temporary Assistance for Needy Families (TANF) as a mandatory One Stop partner, the task force recommends that there be a TANF representative to both state and local workforce boards. (NOTE: this recommendation may need to be revisited once the Task Force on Combined/Unified Plan finishes its work).
- Because WIOA board membership requirements represent a floor, not a ceiling, local areas may increase the number of representatives in any membership category to meet local goals. Local areas may also decide how best to fill the seats within categories (e.g. selecting business members that represent targeted industry sectors, selecting community based organizations that provide services to a targeted population).
- The local workforce board appointment process must result in local board members who have "optimal decision-making authority" for their own organizations and "demonstrated experience and expertise" as defined in WIOA and the Notice of Proposed Rule Making to support the local strategic vision.
- All potential local workforce board members must be nominated by an appropriate nominating body for consideration in the appointment process.
 - As per the Act, organized labor representatives and the joint-labor management registered apprenticeship program representatives must be nominated by local labor federations, and business representatives must be nominated by local business or trade associations.
 - Organized labor will provide 51 percent of the nominations in the majority in the "workforce" category (aka the 20 percent category). If a local area increases the size of its board, labor nominations would also increase to maintain at least 51 percent of the workforce category.

- Nominations for other representatives could be made by local labor federations, local business/trade associations, or locally recognized social services, networks/community based partnerships, or other appropriate nominating bodies.
- Local areas with vacant board seats must notify various public media, business and trade organizations, including chambers of commerce, economic development organizations, local labor federations, social services networks, and others of the opportunity to nominate potential board members.

CURRENT STRUCTURE UNDER WIA: Under the Workforce Investment Act, the Workforce Board added to board member criteria:

- The inclusion of businesses with substantial employment and small businesses in the business category, and
- A requirement to have three labor representatives serving on each local workforce board.

WIOA does not require these criteria to be carried forward.

WIA required that K-12 education be represented on local boards. With WIOA’s change in focus to out-of-school youth and inclusion of Adult Education as a core program, the Act removed the requirement for K-12 to serve on local boards and added Adult Education to the boards. WIOA also does not require a public assistance representative (Department of Social and Health Services/Temporary Assistance for Needy Families), as WIA did.

STAKEHOLDERS ENGAGED: Organized labor, business, workforce, education, human services.

ANY ISSUES, QUESTIONS, GUIDANCE NEEDED TO INFORM THE STEERING COMMITTEE: N/A

<p><i>Should the Governor restrict the ability of local workforce board members to “wear two hats”?</i></p>	<ul style="list-style-type: none"> ▪ The proposed regulations clarify that a local workforce board member may fill more than one seat if that member meets the criteria for those seats. This is often referred to as “wearing two hats.” For example, the president of community college that offers an adult education program may fill both the higher education and adult education seats or a business member who also serves on a CBO board may fill both seats. ▪ The Act requires all board members to have optimal decision-making authority within their own organizations and demonstrated experience and expertise to contribute to the local strategic vision. 	<p>The board member categories identified in WIOA assure that critical expertise is included in the decision making process of local boards. Therefore the practice of having local board members fill more than one seat is discouraged. In those instances where local situations make it necessary for a member to fill more than on seat on the local board, a member filling two or more seats must not only be able to represent both seats, but s/he must also have “optimal decision-making authority” and “demonstrated experience and expertise” for all seats s/he fills. Additionally, the local boards should find ways to assure adequate expertise of all required viewpoints via committees, task forces, etc. Minority position: although the draft regulations allow board members to fill more than one seat, the state should not allow this practice.</p>
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