



DEC - 7 2012

The Honorable Sam Brownback
Governor of Kansas
Capitol
300 SW 10th Avenue, Ste. 212S
Topeka, Kansas 66612-1590

Dear Governor Brownback:

This letter provides approval of Kansas' State Integrated Workforce Plan for Title I of the Workforce Investment Act (WIA), the Wagner-Peyser Act (W-P), including the W-P Agricultural Outreach Plan, plans for coordination with Trade Adjustment Assistance (TAA), and Title V of the Older Americans Act. The Employment and Training Administration (ETA) received the State Integrated Workforce Plan on September 17, 2012. This letter also responds to Kansas' WIA waiver requests.

Training and Employment Guidance Letter (TEGL) No. 21-11, issued on March 27, 2012, and TEGL No. 21-11, Change 1 issued on August 8, 2012, provide guidance for states to submit their State Workforce Plans and waivers for Program Year (PY) 2012 and beyond. We appreciate the State's responsiveness to this guidance.

Plan Review and Approval

ETA has reviewed the Kansas State Integrated Workforce Plan in accordance with Title I of WIA, the Wagner-Peyser Act, the Trade Act (as amended), the corresponding regulations, the State Integrated Workforce Plan Requirements for Workforce Investment Act Title I/Wagner-Peyser Act, and Department of Labor Workforce Programs (<http://www.doleta.gov/usworkforce/wia-planning/docs/integrated-planning-guidance.pdf>), Title V of the Older Americans Act and corresponding regulations, TEGL No. 21-11, and the corresponding Change 1. Pursuant to 20 CFR 661.230(e), this letter constitutes a written determination under WIA Section 112 (29 USC 2822), and WIA Section 501 (20 USC 9271) which pertains to State Unified Plans, that ETA is approving those portions of the Kansas State Integrated Workforce Plan that relate to Title I of the WIA, the Wagner-Peyser Act, and TAA for Program Years 2012-2016, July 1, 2012 through June 30, 2017. The annual W-P Agricultural Outreach Plan is approved for the period July 1, 2012 through June 30, 2013. The Senior Community Service Employment Program (SCSEP) State Plan has been reviewed by both ETA and the Administration on Aging, and is approved for Program Years 2012-2015, July 1, 2012 through June 30, 2016. The State is eligible to receive WIA formula allotments for Adult, Dislocated Worker, and Youth programs, and W-P program allotments, effective July 1, 2012 through June 30, 2017.

Performance Levels

Program performance goals for PY 2012 WIA and Wagner-Peyser have been reached in negotiations between the ETA Regional Administrator and your state workforce agency. Kansas' goals were transmitted to the agency in the Regional Administrator's letter dated November 21, 2012.. This letter also indicates that Kansas' final performance goals for PY 2012 will be incorporated into the Regional and National Office copies of the State Integrated Workforce Plan. Please include these final PY 2012 goals in the State's official copy of the State Plan. For your convenience, your final negotiated performance goals are enclosed with this letter.

Waivers

As part of Kansas' State Integrated Workforce Plan, the State submitted waiver requests for waivers of statutory and regulatory requirements under WIA (copy enclosed). The State's request for waivers is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the State's waiver requests is outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

Waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The State requested a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The State is granted approval of this waiver through June 30, 2017. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs.

Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State requested a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. The State is granted approval of this waiver through June 30, 2017. Under this waiver, the State is permitted to allow local areas to use up to 15 percent of local Dislocated Worker funds and up to 5 percent of local Adult funds for incumbent worker training only as part of a layoff aversion strategy. Use of Adult funds must be restricted to serving lower income adults under this waiver. ETA believes limiting incumbent worker training to the specified level and requiring it to be a part of layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. Local areas must continue to conduct the required local employment and training activities at WIA Section 134(d), and the State is required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related

Incumbent Worker Training for Layoff Aversion Using a Waiver” provide policy guidance related to implementation of this waiver.

Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.

The State requested a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training. The State is granted approval of this waiver through June 30, 2017. Under this waiver, the State is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. ETA believes limiting incumbent worker training to layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. The State is required to report performance outcomes for any incumbent workers served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, “Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010” and TEGL No. 30-09, “Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver” provide policy guidance related to implementation of this waiver.

Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State requested a waiver to permit an increase in employer reimbursement for on-the-job training through a sliding scale based on the size of the business. The State is granted approval of this waiver through June 30, 2017. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2) up to 75 percent for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local areas may provide on-the-job training to individuals age 18 and over with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local areas may provide on-the-job training to dislocated workers with WIA Dislocated Worker funds. On-the-job training provided with statewide funds must serve WIA eligible individuals.

Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The State requested a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older youth and out-of-school youth program participants. The State is granted approval of this waiver through June 30, 2017. Under this waiver, the State can use ITAs for older youth and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

Waiver of WIA Section 123 that requires that providers of Youth program elements be selected on a competitive basis.

The State requested a waiver of the requirement for competitive procurement of service providers for three of the ten youth program elements: supportive services, follow-up services, and work experience. The State is granted approval of this waiver through June 30, 2017. Under this waiver, the State is permitted to allow its One-Stop Career Centers or partner agencies to directly provide the above youth program elements. In utilizing this waiver, the State and local areas must still meet Office of Management and Budget requirements (codified in 29 CFR 95.40-95.48 and 97.36) and all state and local procurement laws and policies.

Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The State requested a waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. The State is granted approval of this waiver through June 30, 2017. This waiver permits the State to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The State will no longer negotiate and report to ETA on the following WIA measures: WIA adult and dislocated worker credential rates; participant and employer customer satisfaction; older youth measures; and younger youth measures. The State will use the three adult common performance measures to negotiate goals and report outcomes for the WIA Adult and WIA Dislocated Worker programs. The State will use the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth program. Workforce Investment Act Standardized Record Data system (WIASRD) item 619, Type of Recognized Credential, should be completed for each individual as appropriate, regardless of this waiver to report on common performance measure outcomes only.

Waiver of 20 CFR 666 and 667.300(a) to reduce the collection of participant data for incumbent workers.

The State requested a waiver of the requirements to reduce the data collection burden for employers participating in WIA-funded incumbent worker training programs. The waiver permits the State to discontinue the collection of the following Workforce Investment Act Standardized Record Data (WIASRD) elements: single parent (117), unemployment compensation eligible status at participation (118), low income (119), TANF (120), other public assistance (121), homeless individual and/or runaway (125), and offender (126). The State is granted approval of this waiver through June 30, 2017.

Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State requested a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted approval of this waiver through June 30, 2017. Under the waiver, the State is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the State to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt a state from the requirement to provide local workforce investment area incentive grants.

The State requested a waiver of the requirement to provide local workforce investment areas incentive grants to reward regional cooperation, local coordination of activities, and exemplary performance. ETA is unable to make a determination with the information provided in the request. TEGL 26-09, change 1, provides guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information.

Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) to exempt the state from the requirement to conduct evaluations.

The State requested a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth in order to establish and promote continuous improvement of the statewide workforce investment system. ETA is unable to make a determination with the information provided in the request. TEGL 26-09, change 1, provides guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information.

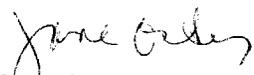
Waiver of 20 CFR 665.200(b)(3) to exempt the state from the requirement to disseminate training provider performance and cost information.

The State requested a waiver of the requirement to disseminate training provider performance and cost information. ETA is unable to make a determination with the information provided in the request. TEGL 26-09, change 1, provides guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and are incorporated into the State Integrated Workforce Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and with the approved State Plan. In addition, as described in TEGL No. 29-11, the State should address the impact these waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to working together as you implement your State Integrated Workforce Plan for PY 2012 and beyond. As discussed in TEGL 36-11, we strongly encourage State WIA grantees to adopt the use of the American Job Center brand for your physical One-Stop Career Centers and online tools. We are available to provide technical assistance. If you have any questions related to the issues discussed above, please contact Linda Ortolano, the Federal Project Officer for Kansas, at 312-596-5533 or Ortolano.Linda@dol.gov.

Sincerely,



Jane Oates
Assistant Secretary

Enclosures

cc: Byron Zuidema, Regional Administrator, ETA Chicago Regional Office
Linda Ortolano, Federal Project Officer for Kansas

Workforce Investment Act and Wagner-Peyser Act Performance Levels for PY 2012
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Kansas

Workforce Investment Act Performance Levels

<u>Adult Measures</u>	<u>PY 2012</u>
Adult Entered Employment Rate	67.7
Adult Employment Retention Rate	85.4
Adult Six-months Average Earnings	\$13,000
<u>Dislocated Worker Measures</u>	<u>PY 2012</u>
Dislocated Worker Entered Employment Rate	81.0
Dislocated Worker Employment Retention Rate	90.0
Dislocated Worker Six-months Average Earnings	\$17,750
<u>Youth Measures</u>	<u>PY 2012</u>
Youth Placement in Employment or Education	70.0
Youth Attainment of Degree or Certificate	63.0
Youth Literacy and Numeracy Gains	50.0

Wagner-Peyser Act Performance Levels

<u>Measures</u>	<u>PY 2012</u>
Entered Employment Rate	62.0
Employment Retention Rate	81.0
Six-months Average Earnings	\$14,709

From: Susan R. Weidenbach [sweidenbach@kansascommerce.com]
Posted At: Monday, September 17, 2012 4:34 PM
Conversation: WIA/WP/SCSEP state plan
Posted To: WIA.PLAN

Subject: WIA/WP/SCSEP state plan

Thank you.

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All waivers have been posted for Public Comment, along with the entirety of the State Plan, for a minimum of 30 days.

Waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The Department of Commerce requests a waiver of WIA Section 133(b)(4) to allow for the transfer of 50% of formula between the adult and dislocated worker programs.

Limitations on the transfer of funds restrict a Local Board's ability to manage available resources allocated in response to economic conditions within their regions. This waiver will allow continued flexibility for the Local Boards in meeting the needs of the customers they serve through the One Stop system.

The increased flexibility to transfer funds will result in a higher rate of expenditures, more clients receiving WIA services, and improved performance outcomes. In addition, this Waiver is intended to accomplish the following:

◆ *Outcomes derived from this waiver:*

1. Improve the ability of Local Boards to respond to economic changes within their regions;
2. Increase local program delivery options in response to customer needs;
3. Increase the collaboration with business to identify industry needs and provide worker training; and
4. Increase accountability for expenditures at the State, local, and service provider levels.

◆ *Individuals affected by this waiver:* This waiver would permit Local Boards continued flexibility to transfer funds between the adult and dislocated worker programs resulting in expanded services to business and increased employment and training opportunities, particularly in those regions with low expenditure rates. This would positively impact business and individuals seeking employment and training services.

◆ *State implementation and monitoring:* The Department of Commerce has implemented policies and procedures implementing the provisions of this waiver. Local Boards were made aware of these provisions and instructions were issued on the process to modify budgets to allow for the transfer between the Adult and Dislocated Worker program. Transfers constitute a modification of the Local Plan and Local Boards requesting fund transfers between programs must provide the following information to the Department before approval:

1. Effective date of the fund transfer;

2. Amount of funds to be transferred;
3. Local Board's assessment of local conditions creating a need for the transfer; and
4. How the transfer will meet performance targets and critical workforce needs of the region.

Waiver of the prohibition at 20CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

This waiver will allow Older and Out of School Youth to enroll in approved Individual Training Account (ITA) programs from the Eligible Training Provider List while retaining their "youth" classification. The Department of Commerce also requests continued authority to use ITAs for youth without co-enrollment under the adult program therefore eliminating the need to track separate funding streams.

By allowing youth to have more access to ITAs, Kansas can connect these youth with quality job opportunities in high-growth industries. This concept is also a part of the regulatory reforms addressed in the Workforce Innovation in Regional Economic development (WIRED) initiative in the Kansas City region.

- ◆ *Outcomes derived from this waiver:* This waiver will allow for the following goals and program outcomes:
 1. Local Boards would be allowed to charge training costs as out-of-school youth expenditures, eliminating the need to track separately across funding streams.
 2. Local Boards would be able to provide youth the same opportunity as adults to make informed decisions about their future employment and career goals.
 3. Older and out-of-school youth who want to train for an occupation can pursue their occupational goals without the additional burden of meeting adult or dislocated worker eligibility documentation.
 4. The local workforce development system could move more quickly to meet the needs of youth who could benefit from an ITA.
 5. Local Boards would have the flexibility to deliver services based on individual needs of youth participants as intended by WIA.

6. Eliminate co-enrollment of youth in the adult program to avoid unnecessary and duplicative paperwork for the Local Board.

- ◆ *Individuals affected by this waiver:* Older and out-of-school youth who want to train for an occupation can pursue their occupational goals without the additional burden of having to meet adult or dislocated worker eligibility requirements. Local Boards would have less paperwork and tracking processes to follow if this waiver is granted.

State implementation and monitoring: Existing State Policy and Procedures will be amended to implement this waiver. The Department will monitor the Local Areas to ensure funds used for ITAs are tracked and reflected in the individual service strategies for these youth.

Waiver of WIA Section 123 that requires providers of Youth program elements be selected on a competitive basis.

This waiver would allow for the continued identification and establishment of Eligible Youth Providers of follow-up, supportive services, and work experience through both a competitive and non-competitive process as dictated by the availability of service providers. A solely competitive procurement process has continually failed to yield sufficient prospective providers to select sufficient providers on a purely competitive basis, particularly when available service providers are not equipped to accommodate multiple program elements for youth in sparsely populated areas. Geographically, Local Areas in Kansas are predominantly rural. For example, Local Area with the smallest population also has a land mass equivalent to the state of Indiana. Without this waiver, a youth's ability to access a particular program element would depend on their ability to commute extraordinary distances.

The goals of this waiver are to increase accessibility for youth to benefit from youth program elements through the ability to secure services in more locations.

- ◆ *Outcomes derived from this waiver:* This waiver will provide for the following goals to be met:
 1. Improve youth services by increasing customer choice in accessing youth program opportunities in demand occupations;
 2. Increase the number of Youth program providers;
 3. Provide greater flexibility in securing Youth program providers;
 4. Promote better use of Youth providers in rural areas; and
 5. Improve economies for contracting Youth providers
- ◆ *Individuals Affected by this waiver:* Youth participants, youth service providers, and the Local Boards benefit from this waiver as described in the section above.

State implementation and monitoring: This waiver will be incorporated into State policy distributed to all local areas. The policy will be monitored to ensure it is implemented properly.

Waiver of WIA Section 134(a)(1)(A) to permit a portion of funds reserved for rapid response to be used for incumbent worker training.

This waiver would provide additional flexibility for the Governor to meet priority demands in the state, such as focusing on demand-driven; business services while strengthening the local areas focus on employer and worker competitiveness through skills upgrade training. The state of Kansas is requesting the Governor have the flexibility to utilize up to 20 percent of funds reserved for rapid response activities for statewide incumbent worker employment and training activities limited to skill attainment activities as part of a layoff aversion strategy. The state will continue to carry out all required rapid response activities and maintain its ability to respond to worker dislocations in collaboration with employers, labor unions, and other stakeholders.

U.S. Department of Labor Employment and Training Administration (DOLETA) Training and Employment Guidance Letter (TEGL) No. 30-09, issued June 8, 2010, and entitled "Layoff Aversion Definition and the Appropriate Use of Workforce Investment Act (WIA) Funds for Incumbent Employee Training for Layoff Aversion Using a Waiver" defines layoff aversion as:

1. A worker's job is saved with an existing employer that is at risk of downsizing or closure;
2. A worker at risk of dislocation *transitions to a different job with the same employer OR a new job with a different employer* and experiences *no, or a minimal, time unemployed.*

The Department of Commerce developed operating procedures for Incumbent worker training programs (Technical Assistance Guide to Layoff Aversion) during the last Program Year. The guide provides a definition for layoff aversion, outlines the benefits of averting layoffs, and provides information on identifying layoff risks.

Incumbent worker training is designed in conjunction with a specific employer or a consortium of employers to upgrade the skills of a particular workforce. Such training is an important strategy for meeting workforce areas' needs for qualified workers and can take place in or out of the workplace and during or after employees' work hours.

- ◆ *Outcomes derived from this waiver:* The goal of this waiver is to permit the state to use up to 20% of the funds reserved for rapid response activities at WIA Section 133(a)(2), to provide the allowable statewide incumbent worker employment and training activities limited to skill attainment activities as part of a layoff aversion strategy. This transfer authority will allow for the following programmatic outcomes to be achieved:
 1. Increase capacity of the state to respond to business needs by providing training in high demand occupations;

2. Provide greater flexibility in structuring the Kansas workforce development system;
 3. Increase collaboration between business and the Local Boards toward addressing industry needs and worker training; and
 4. More closely align local area workforce development strategies with the Governor's vision for an improved demand and economically driven workforce system.
- ◆ *Individuals affected by this waiver:* The state and Local Areas will be able to target additional resources than previously allocated for statewide activities limited to incumbent worker training.

State implementation and monitoring: The State will develop and implement a fund transfer process and will monitor the expenditure of these funds in accordance with statewide fund expenditure procedures. This transfer will not negatively impact services available for rapid response activities or dislocated worker services.

Waiver of Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The Department of Commerce requests waiver of WIA Section 134(d)(3)(A) to allow the Local Boards, at their discretion, to spend up to 15% of local Dislocated Worker funds and up to 5% of local Adults funds to carry out incumbent worker training programs as part of a layoff aversion strategy. Use of Adult funds is restricted to serving lower income adults under this waiver.

WIA Section 134(d)(3)(A) effectively blocks the use of formula funds for incumbent worker training. Approval of this waiver will reduce layoffs and closures by assisting companies in saving jobs and becoming more competitive through provision of needed training to current workers.

Kansas recognizes that the regulation preventing the Local Boards from spending funds allocated under WIA Section 133(b) to carry out incumbent worker training programs is a barrier to using local funds to meet the needs of businesses and their existing workers. With the reduction in State discretionary funding, the loss of traditional employers, and increased global competition, the need for flexibility in providing incumbent worker training is growing, as companies struggle to avoid layoffs. This waiver provides local areas with the unique opportunity to exercise the necessary responsiveness and funding flexibility necessary to design proactive programs that meet the needs of their business customers within their service delivery area, thereby saving jobs and helping communities grow and prosper through incumbent worker training.

U.S. Department of Labor Employment and Training Administration (DOLETA) Training and Employment Guidance Letter (TEGL) No. 30-09, issued June 8, 2010, and entitled "Layoff Aversion

Definition and the Appropriate Use of Workforce Investment Act (WIA) Funds for Incumbent Employee Training for Layoff Aversion Using a Waiver” defines layoff aversion as:

3. A worker’s job is saved with an existing employer that is at risk of downsizing or closure
4. A worker at risk of dislocation *transitions to a different job with the same employer OR a new job with a different employer* and experiences *no, or a minimal, time unemployed.*

Incumbent worker training is designed in conjunction with a specific employer or a consortium of employers to upgrade the skills of a particular workforce. Such training is an important strategy for meeting workforce areas’ needs for qualified workers and can take place in or out of the workplace and during or after employees’ work hours. When used as a layoff aversion strategy, LWIBS may utilize up to 15% of their Formula Dislocated Worker funding and up to 5% of their Formula Adult funding to provide Incumbent Worker Training under existing waivers. At risk workers may be earning self-sufficient wages and still qualify for participation as incumbent workers participating in a layoff aversion strategy.

Incumbent worker training strategies focus on industries that yield the highest return on investment by prioritizing funding investments and expenditures on services, education, and training around targeted industry clusters and related high priority occupations. Through the analysis of labor market information, including wages and long-term employment forecasts, local areas identify priority industries to target.

The Department developed operating procedures for Incumbent worker training programs (Technical Assistance Guide to Layoff Aversion) during the last Program Year. The guide provides a definition for layoff aversion, outlines the benefits of averting layoffs, and provides information on identifying layoff risks including:

- When to Implement Layoff Aversion Strategies
- Early Warning Strategies
 - Early Warning System
 - Early warning Indicators
- Prefeasibility Studies,
- Asset Mapping, and
- Incumbent Worker Training

Incumbent worker training is designed in conjunction with a specific employer or a consortium of employers to upgrade the skills of a particular workforce. Such training is an important strategy for meeting workforce areas’ needs for qualified workers and can take place in or out of the workplace and during or after employees’ work hours. When used as a layoff aversion strategy, LWIBS may utilize up to 15% of their Formula Dislocated Worker funding and up to 5% of their Formula Adult funding to provide Incumbent Worker Training under existing waivers. At risk workers may be earning self-sufficient wages and still qualify for participation as incumbent workers participating in a layoff aversion strategy.

When developing program criteria, LWIBS should consider:

- whether absent training, a good job will be lost or degraded
- whether with training, the job will be retained or improved

Boards should use the following considerations in determining whether the provision of incumbent worker training will avert a layoff and whether the training is appropriate:

Employer Assessment

- The employer remains open, but it is phasing out a function, which will lead to layoffs unless the employees can be retrained to perform new functions.
- Employee jobs have changing skills requirements as a result of external economic or market forces, significant changes in technology or operating processes, rapidly changing industry or occupational requirements, or emergence of new products.
- The changing skills requirements are outside of normal skill growth and upkeep provided by the employer.
- Training programs will prepare employees to address the skills gaps.

Worker Assessment

- Unless provided with training, employees vulnerable to layoff do not have marketable, in-demand skills.
- The new skills can be attained within a reasonable time frame.
- Employees have not received a formal layoff notice.
- There exists a strong possibility of a job, either with the existing employer OR a new employer, if the potentially laid-off worker attains new skills

Local Boards must ensure that the employer demonstrates a commitment to retaining employees or otherwise providing a tangible benefit to employees who receive incumbent worker training.

Local Boards may establish additional criteria in determining whether incumbent worker training is appropriate.

Boards must be aware that providing WIA Formula funded Incumbent Worker Training when there is no foreseeable threat of layoff does NOT constitute a layoff aversion strategy and is therefore not allowed by waiver.

The overall goal of layoff aversion is to save jobs by encouraging market efficiencies. A workforce's knowledge and skills are the core drivers of economic competitiveness. Implementation of flexible programs and policies to strategically invest limited resources to develop workforce skills and deliver services which meet continually changing market demands is paramount.

Companies and corporations make business decisions daily that affect employment, sales, suppliers, customers, vendors, and—ultimately—communities. Local Workforce Investment Boards (LWIBs) have the unique opportunity to implement proactive programs, thereby saving jobs and helping their communities grow and prosper.

- ◆ *Outcomes derived from this waiver:* This waiver will continue to permit Local Boards the option to spend a portion of their WIA formula funding for incumbent worker training. With each succeeding year, competition in the workplace

increases and Incumbent worker training provides companies the assistance they need to retain jobs and even to create new jobs.

- ◆ *Individuals affected by this waiver:* This waiver will positively affect business by reducing the risk of layoff or closing because workers have not kept current with new skills and technology. It further has the potential to expand employment. The training provided to individuals makes the worker more valuable to both the current business and to other businesses as well. This waiver increases the role of Local Boards and the role of businesses in the workforce development system. It also increases local flexibility to respond to the business community in keeping with the goals of WIA.
- ◆ *State implementation and monitoring:* The Kansas Department of Commerce has encouraged Local Boards to implement Incumbent Worker training programs utilizing previous waiver authority. Currently all five Boards have implemented local policies and procedures to implement Incumbent worker training programs and there are a number of programs currently under way with additional ones pending the waiver's approval. The Department anticipates this service will expand in use during Program Year 2007 once information about the services becomes more readily available to businesses.

Waiver of 20CFR 666 and 667.300(a) to reduce the collection of participant data for incumbent workers.

This waiver would allow Kansas to minimize data capture requirements for individuals enrolled in Incumbent Worker training. Current data requirements are a hindrance to usage of these programs. Data gathering will be focused primarily on employer application data rather than individual trainee eligibility by discontinuing collection of the following WISARD elements:

- Single parent (117)
- Unemployment compensation eligible status at participation (118)
- Low income (119)
- Other public assistance (121)
- Homeless individual and/or runaway (125)
- Offender (126)

Individual demographic data gathering causes an undue data collection burden for employers participating in WIA-funded incumbent worker training programs and often leads to reluctance by businesses to become involved in these training programs. This does not align with the Governor's goals of creating jobs and expanding the Kansas economy in the most efficient manner possible. Since the Incumbent Worker Program seeks to upgrade the skills of existing

workers employed by businesses operating in Kansas to improve the skills of existing workers employed by businesses operating in Kansas to improve the competitiveness of both the employer and the worker, data capture requirements should be based on the employer application, rather than individual trainee eligibility. This waiver request is to minimize paperwork so more businesses are interested in WIA services.

- ◆ *Outcomes derived from this waiver:* This waiver will achieve the following outcomes:
 1. Allow the Kansas workforce development system to respond to employer demand by providing easier application for incumbent worker training;
 2. Increase staff resources available to provide business services by eliminating excessive data capture requirements; and
 3. Provide better tools for economic developers to respond to the needs of local employers for skills upgrade training.
- ◆ *Individuals affected by this waiver:* WIA customers, as well as the Local Boards will improve linkages with employers and economic development representatives in their areas resulting in increased usage of WIA Incumbent Worker training programs.

State implementation and monitoring: The Department of Commerce will incorporate this waiver into existing policies on data collection related to Incumbent Workers. This policy will be monitored to ensure it is being properly implemented in the Local Areas.

Waiver of Section 101(31)(B) to increase the employer reimbursement for on-the-job-training.

This waiver would permit Kansas to increase employer reimbursement for On-the-Job Training (OJT) up to a 90 percent reimbursement rate for small businesses. Many times, businesses view programs such as OJT as a “government program” with too many regulations and too much paperwork. Some businesses do not feel it is worth the effort to utilize an OJT when hiring only one or two people. This waiver should enhance the attractiveness of OJT to small businesses when the benefits of increased reimbursement outweigh the upfront paperwork. This waiver gives the Local Boards flexibility to encourage small businesses to train job seekers such as youth and TANF recipients who may have challenging barriers.

Under the waiver, the following reimbursement limits will be allowed:

1. Up to 90% for employers of 50 or fewer employees
2. Up to 75% for employers with 51-250 employees

3. The current statutory limit of 50% for employers with more than 250 employees

- ◆ *Objectives derived from this waiver:* This waiver would have the following goals and expected program outcomes:
 1. Allows the Local Boards to continue to improve services to customers who would benefit through an OJT;
 2. Improves the capacity of the Local Boards to market demand-driven services and build relationships with businesses;
 3. Increases employment opportunities for harder to serve persons, such as youth and TANF customers by allowing small businesses to receive higher reimbursement for this population because they make take longer to train; and
 4. Increases opportunities for local economic developers to enhance relationships with small businesses.
- ◆ *Individuals affected by this waiver:* More job seekers would have the opportunity to participate in an OJT with small businesses because the training costs would be reduced for the business.

State implementation and monitoring: This waiver will be incorporated in existing State OJT policy and distributed to all Local Areas. The waiver will be monitored to ensure it is implemented properly.

Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures..

This waiver will allow the current reporting of WIA performance outcome measures to be consolidated into a single unified Common Measures quarterly and annual report. These reports will encompass the six Common Measures outcomes as a composite for all programs and individually for WIA fund streams, Wagner-Peyser, VETS and TAA. Accountability for negotiated performance levels at the state and local area levels will remain tied to the individual program and fund stream outcomes.

- ◆ *Outcomes derived from this waiver:* This waiver will accomplish the following goals and programmatic outcomes:
 1. Increase integration of services to customers. An excessive number of performance measures compel staff to spend time focusing on program outcomes rather than on the needs of employers and job seekers. Reporting only Common Measures removes this barrier and consequently improves service delivery. This waiver will allow for the complete integration of performance reporting across all workforce development programs.

2. Increased accountability at the state, local and service provider levels. Because Local Boards are responsible for numerous workforce development programs, co-enrollment of customers in multiple programs is becoming increasingly commonplace. Using integrated performance measures will promote accountability by evaluating Local Boards through consistent and reliable data.
 3. Provides greater flexibility to Local Boards in designing and implementing services. This waiver will allow the Department of Commerce to further promote service delivery designs based on employer needs rather than program requirements by eliminating program-specific measures and applying Common Measures across all programs.
 4. Improve services to youth and increase focus on out-of-school youth. Youth Common Measures have been implemented along with existing Youth Measures. This results in 10 youth outcome measures that are excessive in number, cumbersome to monitor and conflicting in purpose. Common Measures encourage states to focus more effort on out-of-school youth and waiving the seven statutory WIA Youth measures will make it easier for Kansas to transition to this new focus.
- ◆ *Individuals affected by this waiver:* This waiver will allow local areas to better focus on the needs of employers, find job seekers to match those needs and maximize integrated services to achieve the best outcomes. Common Measures will increase the focus on employment for adult participants, and education and skill attainment for youth participants. Continued focus on Youth Common Measures will remove a significant barrier to aligning Kansas WIA Youth programs with the USDOL vision of serving primarily out-of-school youth, as well as fostering long-term connections between youth and the workforce system. The hardest-to-serve youth groups, such as MSFW youth and the current and former foster care youth, will derive the most benefit from long-term connection to the workforce.

State Implementation and Monitoring: Pursuant to the Department of Commerce's initial waiver request, system rules and policies have been amended to comply with this waiver. The Department continues to analyze performance reports and compares actual performance with targets. Information on the new reporting system and waiver has been shared with the Local Boards through training and technical assistance and the distribution of state policy. Commerce will monitor progress under this waiver by reviewing monthly performance reports, through regularly scheduled conference calls with the Local Board executive directors, and through its monitoring and performance accountability system.

Waiver of the provision at 20CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

This waiver would permit the continued use of Initial Eligibility criteria for certification of WIA training providers in Kansas. Additionally, the state wishes to revert to the initial eligibility requirements for inclusion on the Eligible Training Provider List (ETPL), as provided for by WIA Section 122(b) and 20CFR Section 663.530 related to eligible training provider provisions. Kansas requests authority to waive full implementation of the Subsequent Eligibility Determination process until WIA reauthorization.

Many Kansas training providers, especially the two-year and four-year public colleges have found it difficult or impossible to collect the required data due to the dissimilar reporting requirements of the Department of Education and WIA. This has caused many schools to be disqualified as Eligible Training Providers or to quit participating in the workforce development system.

The state recognizes performance information is critical in meeting the WIA principles of customer choice and program accountability. The reversion back to Initial Eligibility will afford Kansas' job seekers an opportunity to take advantage of the wide array of programs provided by the state's training providers while allowing Kansas the time necessary to thoroughly assess the Eligible Training Provider process and develop an effective and efficient method of data collection and dissemination. The Department of Commerce is confident this request represents best efforts and good intentions to provide true "customer choice" to the citizens of Kansas.

- ◆ *Outcomes derived from this waiver:* This waiver will result in the following program outcomes:
 1. Alleviate providers' concerns with the types and amount of information required to maintain eligibility;
 2. Allow sufficient time to develop an effective and efficient method of collecting data from training providers;
 3. Allow sufficient time to develop reasonable criteria for eligibility performance information; and
 4. Retain approved Eligible Providers and continue to increase numbers thereby providing quality customer choice for Kansas jobseekers.
- ◆ *Individuals affected by this waiver:* This waiver will positively affect public and private training providers. As indicated, the mandated reporting requirements are so burdensome and costly that some providers have found it necessary to end their WIA participation. This waiver would avert this problem by allowing the state to retain providers currently participating and allow for the reinstatement of past providers. This waiver will have a system-wide impact either directly or indirectly on all training customers, training providers, and all Local Boards.

State implementation and monitoring: The Department of Commerce will incorporate this waiver into existing training provider for distribution to Local Areas. The application of this policy will be monitored to ensure it is properly implemented.

Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) requiring the conduct of evaluations of workforce investment activities for adults, dislocated workers, and youth.

The reduction to five percent in the WIA allotment for Program Year 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of evaluations, incentive grants to local areas and dissemination of training provider performance, with current costs estimated at \$350,273.60. This total is comprised of up to \$200,000.00 in incentives for Local Areas and approximately \$150,273.60 in program staff salaries resulting from unfilled positions. Required activities will be performed by a smaller staff, with work divided among remaining staff members.

- ◆ *Outcomes derived from this waiver:* This waiver will result in the following program outcomes:

The state's reduced funds are being used to cover those required activities found in Section 665.200, including:

- State Administration (limited to five percent maximum);
- Rapid Response (paid through Rapid Response fund stream);
- Disseminating: Eligible Training Provider information;
- Assure information on Training Providers is widely available;
- Conducting Evaluations under section 134(a)(2)(B)(ii) and 20 CFR 665.200(d);
- Providing incentive grants;
- Providing technical assistance;
- Assisting in the establishing and operation of One-Stop delivery systems;
- Providing additional assistance to local areas that have high concentrations of eligible youth;
- Operating a fiscal and management accountability information system.

- ◆ *Individuals affected by this waiver:* This waiver will allow Commerce to better meet the immediate needs of state-wide workforce system and maximize integrated services to achieve the best outcomes.

Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) requiring provision of incentive grants to local areas.

The reduction to five percent in the WIA allotment for Program Year 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide

workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of evaluations, incentive grants to local areas and dissemination of training provider performance, with current costs estimated at \$350,273.60. This total is comprised of up to \$200,000.00 in incentives for Local Areas and approximately \$150,273.60 in program staff salaries resulting from unfilled positions. Required activities will be performed by a smaller staff, with work divided among remaining staff members.

- ◆ *Outcomes derived from this waiver:* This waiver will result in the following program outcomes:

The state's reduced funds are being used to cover those required activities found in Section 665.200, including:

- State Administration (limited to five percent maximum);
- Rapid Response (paid through Rapid Response fund stream);
- Disseminating: Eligible Training Provider information;
- Assure information on Training Providers is widely available;
- Conducting Evaluations under section 134(a)(2)(B)(ii) and 20 CFR 665.200(d);
- Providing incentive grants;
- Providing technical assistance;
- Assisting in the establishing and operation of One-Stop delivery systems;
- Providing additional assistance to local areas that have high concentrations of eligible youth;
- Operating a fiscal and management accountability information system.

- ◆ *Individuals affected by this waiver:* This waiver will allow Commerce to better meet the immediate needs of state-wide workforce system and maximize integrated services to achieve the best outcomes.

Waiver of 20 CFR 665.200(b)(3) requiring dissemination of training provider performance and cost information.

The reduction to five percent in the WIA allotment for Program Year 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of evaluations, incentive grants to local areas and dissemination of training provider performance, with current costs estimated at \$350,273.60. This total is comprised of up to \$200,000.00 in incentives for Local Areas and approximately \$150,273.60 in program staff salaries resulting from unfilled positions. Required activities will be performed by a smaller staff, with work divided among remaining staff members.

- ◆ *Outcomes derived from this waiver:* This waiver will result in the following program outcomes:

The state's reduced funds are being used to cover those required activities found in Section 665.200, including:

- State Administration (limited to five percent maximum);
- Rapid Response (paid through Rapid Response fund stream);
- Disseminating: Eligible Training Provider information;
- Assure information on Training Providers is widely available;
- Conducting Evaluations under section 134(a)(2)(B)(ii) and 20 CFR 665.200(d);
- Providing incentive grants;
- Providing technical assistance;
- Assisting in the establishing and operation of One-Stop delivery systems;
- Providing additional assistance to local areas that have high concentrations of eligible youth;
- Operating a fiscal and management accountability information system.

- ◆ *Individuals affected by this waiver:* This waiver will allow Commerce to better meet the immediate needs of state-wide workforce system and maximize integrated services to achieve the best outcomes.