



MEMORANDUM

July 9, 2009

To: Senator Jim Webb
Attention: Maribel Ramos

From: Gail McCallion
Specialist in Social Legislation (x77758)

David Bradley
Analyst in Education Policy (x77352)

Subject: Discussion of proposed changes to the Workforce Investment Act contained in the Adult Education and Economic Growth Act of 2009

Per your request, this memorandum provides a discussion of the major changes to the Workforce Investment Act (WIA) proposed by your draft legislation, the *Adult Education and Economic Growth Act of 2009*. Not all changes proposed by the *Adult Education and Economic Growth Act of 2009* (hereafter referred to as the Act) are discussed in this memorandum. Following the order of the Act, we first discuss proposed changes to WIA Title I, and then discuss proposed changes to WIA Title II. Discussion of the proposed Titles III, IV, and V, follows the discussion of Title II.

We hope the following discussion will be helpful. Please let us know if we can be of further assistance.

Proposed Changes to WIA Title I—Workforce Investment Systems

SEC. 101. Definitions.

Would amend WIA Section 101 to incorporate three definitions that are consistent with the new emphases of the legislation: “integrated education and training,” “career pathway,” and “workplace skills.”

SEC. 102. Purpose.

Would amend Section 106 of WIA to add to the purpose of WIA “adult education” as a means of providing workforce investment activities to achieve the goals of WIA.

SEC. 103. State Workforce Investment Boards.

Would amend Section 111 of WIA to require membership of Workforce Investment Boards (WIBs) to include the lead state agency officials responsible for the programs and activities identified in Title II of WIA (Adult Education and Literacy). The provision to include adult education state officials as required members of the state WIB would not affect the existing requirement of Section 111 that a majority of the members of the state WIB be representatives of business.

SEC. 104. State Plan.

Would amend Section 112(b) of WIA by requiring the addition of several provisions related to the adult education system to be included in the State Plan.

Would require the State Plan to include a description of the core indicators of performance that are enumerated in Section 212 of WIA. Because the measurement of these core indicators of performance are part of the existing WIA requirements, this proposed section of the Act would not add a new data collection requirement but would require these performance indicators to be reported in the State Plan.

Would add a new reporting requirement in the State Plan that includes a description of “any integrated data systems used to track performance outcomes over time” for the specifically enumerated programs and activities identified in Section 112(b)(8)(A) of WIA, which include workforce investment activities, adult education, Wagner-Peyser, title I of the Rehabilitation Act of 1973, part A of title IV of the Social Security Act, section 6(d)(4) and 6(o) of the Food Stamp Act of 1977, title V of the Older Americans Act of 1965, the Carl D. Perkins Career and Technical Education Act of 2006, chapter 2 of title II of the Trade Act of 1974, Chapter 41 of Title 38 of the U.S. Code, employment and training activities carried out under the Community Services Block Grant Act, the National and Community Service Act of 1990, employment and training activities carried out by the Department of Housing and Urban Development, and programs authorized under state unemployment compensation laws.

Would require a description of the process that the state uses to include public comments on the State Plan from representatives of adult education and postsecondary education providers.

Would add to the list of required contents of the State Plan a description of the following three items: academic level and job skills necessary to obtain employment opportunities; type and level of education opportunities relevant to the projected employment opportunities; and the integrated education and training activities to be carried out under WIA.

SEC. 105. Local Workforce Investment Boards.

Would add to the required membership of the local Youth Council, which is a subgroup within each local WIB, representatives of the adult education system.

SEC. 106. Local Plan.

This section would amend Section 118(b) of WIA by requiring the addition of several provisions related to the adult education system to be included in the Local Plan.

Would add to the list of required contents of the Local Plan a description of the following three items: academic level and job skills necessary to obtain employment opportunities; type and level of education opportunities relevant to the projected employment opportunities in the local area; and the integrated education and training activities to be carried out in the local area, including a description of how the eligible providers of these activities will provide education and training services.

SEC. 107. Use of Funds for Youth Activities.

Would amend Section 129(a) of WIA to include as one of the purposes of WIA funds for youth activities “opportunities for career pathways for eligible youth.”

Would amend Section 129(c)(1)(C) of WIA to specify that part of the program design of the WIA youth activities program should include “opportunities for career pathways” and the “completion of secondary school.”

Would amend Section 129(c)(2) of WIA to include an eleventh program element: “dual enrollment opportunities” to the youth activities program.

SEC. 108. Use of Funds for Employment and Training Activities.

Would amend Section 134(a)(2)(B) of WIA to add to the list of required statewide employment and training activities: “integrated education and training.”

Would amend Section 134(d)(3)(A)(i)(I) to remove the requirement that individuals must be unable to obtain employment after receiving core services in order to receive intensive services. Likewise, the Act would amend Section 134(d)(4)(A)(i) to remove the requirement that individuals must be unable to obtain or retain employment after receiving intensive services in order to receive training services. Thus, while the Act would not remove the other requirements to receive these services, it does eliminate the inability to find or keep employment as a condition for receiving the next level of services under WIA.

Would amend Section 134(d)(4)(D) to add: “integrated education and training” to the list of allowable training services.

Would amend Section 134(d)(4)(G)(ii) to provide two additional exceptions to the general requirement that training services must be provided through individual training accounts (ITAs) that are provided through the one-stop system. The Act would permit two additional exceptions to this general system of ITAs by allowing local WIBs to contract directly for training services. The exceptions include cases in which the local WIB determines that such a contract would facilitate the training of multiple individuals in high-demand occupations or cases in which the local WIB determines that contracting training services would facilitate the provision of integrated education and training programs. The exception provided for the training of multiple individuals in high-demand occupations is identical to the exception provided in Title VIII of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

SEC. 109. Performance Accountability System.

Would amend Section 136(b)(2)(A) of WIA to alter the criteria for core indicators of performance under WIA. First, the Act would exclude eligible youth age 19 through 21 from the population subject to the general core indicators of performance. The Act would, however, require performance indicators

described in Section 212 (see below) to be included as part of the general core indicators of performance. Second, the Act would exclude eligible youth ages 14 through 18 from the population subject to the core indicators of performance for eligible youth. In addition, the Act would clarify that the three existing general core indicators of performance would apply to youth age 18 years and older.

SEC. 110. Demonstration and Pilot Projects.

Would amend Section 171(b)(1) of WIA to add to the list of eligible demonstration and pilot projects: “integrated educating and training programs” and “career pathway programs.” For programs that integrate education and training, the Act would include projects designed for workers with limited English proficiency.

Proposed Changes to WIA Title II—Adult Education, Literacy, and Workplace Skills

SEC. 201. Purposes.

Would amend Section 202 of WIA by adding to the purposes of the Act the following: assisting adults obtain readiness for postsecondary education or training, assisting adults in transitions to postsecondary education and career pathways, and assisting adults with limited English proficiency to improve their skills in English, math and civics.

SEC. 202. Definitions.

Would amend Section 203 definitions to incorporate the aforementioned new emphases. Would include definitions for the following new terms: “career pathway,” “integrated education” and “training, integrated English literacy and civics education program,” and “workplace skills.”

SEC. 203. Authorization of Appropriations.

Would amend Section 205 of WIA by authorizing \$850 million for fiscal year 2010 and such sums as may be necessary for each succeeding fiscal year, for Title II of the Act.

SEC. 204. Reservation of Funds; Grants to Eligible Agencies: Allotments.

Would amend Section 211(a) of WIA by changing the reservations from the total appropriated for Title II. Would change the reservation for the National Institute for Literacy (the reservation would be changed from the lesser of 1.5% or \$8 million to the lesser of 1.5% or \$15 million); and would change the reservation for National Leadership Activities (the reservation would be changed from the lesser of 1.5% or \$8 million to the lesser of 1.25% or \$12 million.) Would reserve 12% of funds for a new Section 244: Integrated English Literacy and Civics Education Programs.

Would change Section 211(d) of WIA by adding as a qualifying adult: an individual who is limited English proficient with a secondary school diploma or its equivalent, if he or she meets the following 3 criteria: (1) is at least 16 year of age; (2) is beyond the age of compulsory school attendance under state law; and (3) is not enrolled in secondary school.

SEC. 205. Performance Accountability System.

Would amend Section 212(b)(1) of WIA to include as a core indicator of performance: an “Employment Performance Indicator” (entry into employment); and would amend Section 212 (b)(2) to add as core indicators of performance: attainment of “work readiness,” “workforce skills,” and obtaining “certificates that are nationally or industry recognized or approved by the State or local board.”

Would amend Section 212(b)(2) of WIA to require a new performance measure on technology (“Technology Literacy indicator”) effective in 2013.

SEC. 206. State Distribution of Funds; Matching Requirement.

Would amend Section 222(a) of WIA by requiring states to use not less than 80% of their grant funds under the Act to provide grants and contracts to eligible providers, to use not less than 10% of this 80% to provide programs for corrections education and other institutionalized individuals, and to use not more than 15% of their grant funds for State leadership activities.

SEC. 207. State Leadership Activities.

The Act would amend Section 223(a) of WIA by incorporating “workplace skills activities” throughout Section 207 of the Act, as a component of state leadership activities.

Would amend Section 223(a) of WIA by delineating some authorized activities as required activities, and others as permissible [currently SEC. 223(a) specifies that funds shall be used for 1 or more of the authorized state leadership activities.] Would add as a required state leadership activity—coordination with the workforce systems supported under Title I of WIA.

SEC. 208. State Plan.

Would amend Section 224(b) of WIA regarding the required contents of state plans. Would require state plans:

- to describe the knowledge and skills necessary for postsecondary education and training;
 - to describe the professional development needs of adult education, literacy, and workplace skills providers in the state, as well as the certification or other requirements that apply to these providers;
 - to describe how the state will improve access to, and the use of technology to improve program quality;
 - to provide a description of how the state will carry out a new section of the law requiring integrated English literacy and civics education programs;
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- to provide a description of the data systems the state will use to track student outcomes over time; and
- to specify the state's plan to invest in adult education, literacy and workplace skills programs, and how the state will integrate these efforts with business partners and other programs--including other adult education, career development and employment and training programs.

Would amend Section 224(e) of WIA regarding peer review of state plans. Would require the Secretary to establish a peer review process for reviewing state plans. Would require the Secretary, in coordination with the National Institute for Adult Education, Literacy, and Workplace Skills, to select a variety of stakeholders and individuals with specific qualifications and experience to serve as members of the peer review panel. Would also require the Secretary to meet a specific timeline for approving or disapproving state plans; and would require that the Secretary not finally disapprove any plan until he or she has offered to provide technical assistance and allowed the state to revise its plan.

SEC. 209. Programs for Corrections Education and other Institutionalized Individuals.

Would amend Section 225(b) of WIA by adding several new programs that could be funded under this section, including: "integrated education and training programs," "career pathways programs," "dual enrollment programs," and "preparation for postsecondary education and training."

SEC. 210. Grants and Contracts for Eligible Providers.

Would amend Section 231(b)(1) of WIA by adding additional activities to be provided by eligible providers, including: "integrated education and training services," and "transition to postsecondary education and training and career pathways."

SEC. 211. Administrative Provisions.

Would amend Section 241 of WIA to authorize the Secretary to issue regulations to ensure compliance with Title II. Would require the Secretary to obtain advice and recommendations from stakeholders and other interested individuals and organizations, before publishing proposed regulations.

SEC. 212. National Institute for Adult Education, Literacy, and Workplace Skills.

Would amend Section 242 of WIA by renaming the National Institute for Literacy (NIFL): the National Institute for Adult Education, Literacy, and Workplace Skills (the Institute).

Would incorporate the new emphasis on: "adult education, literacy, and workplace skills;" and on advancing the use of technology, in Institute authorized activities..

Would amend Section 242(b)(2) of WIA by replacing the word "separate" with the word "independent" in the following provision: "The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services."

Would amend Section 242(c)(1) of WIA by requiring the Institute to establish and maintain a National Adult Learning and Technology Resource Center.

Would amend Section 242(c)(1) of WIA by adding effective practices for integrated English literacy and civics education to the areas to be addressed in the Institute's duties of sharing, coordinating and disseminating information on a national basis.

Would amend Section 242(c)(1) by requiring the Institute to conduct an evaluation of programs funded under Title II not later than 4 years after enactment of the Act. The evaluation would include a longitudinal study of outcomes for adult learner participants, an analysis of the adequacy of performance measures, and recommendations for improving performance measures and program effectiveness.

SEC. 213. National Leadership Activities.

Would amend Section 243 of WIA by incorporating, as applicable, in national leadership activities, language on: "workplace skills programs," "family literacy services," "transitions to postsecondary education or career pathways," and "integrated English literacy and civics education programs."

Would add to the list of national leadership activities: technical assistance to providers in developing and using certification systems and performance measures, and data systems; the provision of assistance to distance learning programs; and the provision of assistance to improve the classroom use of technology.

Would add a list of authorized uses for national demonstration projects including:

- projects to accelerate learner outcomes for low literacy adults,
- promoting career pathways and dual enrollment,
- providing integrated education and training,
- building capacity to enhance intensity of services,
- establishing partnerships to improve service quality and availability,
- provision of professional development for service providers,
- development of new curricula and methods of instruction,
- provision of integrated English literacy and civics education program instruction,
- dissemination of results and best practices; and
- program evaluation, data collection, and reporting.

SEC. 214. Integrated English Literacy and Civics Education Programs.

Would add a new Section 244 to WIA explicitly authorizing integrated English literacy and civics education programs.

The section includes provisions for allocating funds to states by formula (65% based on each state's share of the most recent 10 year average of immigrants admitted for legal permanent residence and 35% based on each state's share of the most recent 3 year average of immigrants admitted for legal permanent residence). States receiving an award would receive a minimum grant of \$60,000.

Title III-21st Century Technology and Skills for Adult Learners.

SEC. 301. Purposes.

Title III would be intended to:

- expand access to technology,
- provide professional training for service providers on how to effectively use technology,
- improve the quality of instruction and accelerate participant achievement and training readiness,
- assist states develop a 21st century delivery system for services, and
- assist adults to develop technology literacy.

SEC. 302. Definitions.

Would add a new definition for the term “technology literacy.”

SEC. 303. Reservation of Funds and Allotments.

Would require that the Secretary reserve the lesser of 3% of funds authorized for this title or \$7.5 million, for the National Adult Learning and Technology Resource Center. From sums remaining after reservations, the Secretary would allocate 75% for grants and contracts to eligible providers, 20% for grants to eligible agencies, and 5% for administration of grants to eligible agencies.

SEC. 304. Grants to Eligible Agencies.

Eligible agencies with an approved application would receive a grant in proportion to their award under WIA Title II, with a minimum grant (funds permitting) of \$100,000. Agencies would be required to use funds for the following activities:

- developing a state technology plan for the adult education system,
 - providing professional development to service providers,
 - providing access to curricula, instruction, and assessment for adult learners and service providers,
 - supporting the development of curricula and assessment tools for service providers,
 - providing guidance and technical assistance to service providers, and
 - supporting innovative pilot projects.
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SEC. 305. Grants and Contracts to Eligible Providers.

An eligible agency that receives a grant under Title III would be required to award grants and contracts to eligible providers to carry out the following activities:

- Acquiring and effectively implementing technology tools, applications, and other resources to: (1) enhance curricula to improve adult outcomes and technology literacy; (2) conduct on-going assessments and effectively use data systems to address personalized student learning needs; and (3) provide support for individualized learning, including through instructional software and digital content.
- Providing professional development activities that include: (1) ongoing, sustainable, timely training for service providers; (2) training in strategies and pedagogy for teaching and learning that involve technology and curriculum redesign; (3) training to ensure that service providers can use technology to improve individualized instruction and technology literacy; (4) training that includes ongoing communication with instructors, facilitators, and peers; and (5) acquisition and implementation of technology resources.

SEC. 306. National Adult Learning and Technology Resource Center.

The National Adult Learning and Technology Resource Center would be required to:

- develop frameworks for technology based learning and professional development materials;
- develop frameworks for technology literacy performance measures;
- provide technical assistance to eligible entities and eligible providers;
- support distance education for professional development;
- support innovative uses of technology;
- be accessible to the public through the Institute's website.

SEC. 307. Authorization of Appropriations.

Would authorize \$250,000,000 to be appropriated for Title III for FY2010, and such sums as may be needed for succeeding fiscal years.

TITLE IV--RESEARCH IN ADULT EDUCATION

SEC. 401. Research in Adult Education.

Would amend the Education Sciences Reform Act of 2002 to require the Secretary to direct the Commissioner of Education Research of the National Center for Education Research to establish a national research and development center for adult literacy, described by the Education Sciences Reform Act of 2002 (20 U.S.C. 9533 (c)(2)(A)). The focus of this center would be expanded to include: adult education, literacy, and workplace skills.

TITLE V – EMPLOYER INCENTIVES

SEC. 501. Credit for Employer Educational Assistance Programs.

Would amend the Internal Revenue Code by adding a credit for employer educational assistance programs.

SEC. 45R. Credit for Employer Educational Assistance Programs.

Employers could receive an educational assistance program credit for the taxable year equal to 50% of the educational assistance expenses paid, with a per employee cap of \$5,250 per year. There would be a total limitation on the amount of educational assistance expenses that would be taken into account for an employer for a given taxable year, that could not exceed the average of the aggregate qualified educational assistance expenses taken into account for the employer for all employees in the preceding 3 taxable years. (The Act provides alternative methods of calculation for situations where data on the amount of educational assistance expenses are not available for the preceding 3 taxable years.)

Qualified educational assistance expenses would be those provided for employees enrolled in an educational program leading to a sub-baccalaureate degree or career technical certificate awarded by an accredited postsecondary institution; or enrolled in basic education, workplace skills, or English language training leading to a nationally recognized certificate of proficiency.