



JUN 29 2018

The Honorable Peter Ricketts
Governor of Nebraska
Office of the Governor
Post Office Box 94848
Lincoln, Nebraska 68509-4848

Dear Governor Ricketts:

Thank you for your waiver request of certain statutory and regulatory provisions of the Workforce Innovation and Opportunity Act (WIOA) and the accompanying plan to improve the statewide workforce development system, submitted as part of your WIOA State Plan modification on April 2, 2018 (copy enclosed). This letter provides the Employment and Training Administration's (ETA) official response to the State's requests and memorializes that Nebraska will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Nebraska and ETA. This action is taken under the Secretary's authority to waive certain requirements of WIOA Title I, Subtitles A, B, and E, and Sections 8 – 10 of the Wagner-Peyser Act in WIOA Section 189(i).

Requested Waiver: The State is requesting a waiver of WIOA Section 106(a)(2) and 20 CFR 679.210 to allow the State to assign a single local workforce development area to multiple planning regions.

The State is requesting a waiver of the requirement that a planning region consist of one local workforce development area, two or more intrastate local areas, or two or more interstate local areas to better align its local areas with its regions. This would allow the State to assign a single local workforce development area to more than one planning region. In its WIOA State Plan and waiver request, Nebraska identified regions in the State that correspond with its economy, the labor market, and other factors. However, the existing geography of designated local workforce development areas spans multiple regions. The State and local workforce areas indicate local areas have experienced success in planning and delivering services in the context of the State's identified regions in their early efforts. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Nebraska to implement its plan to improve the workforce development system. Therefore, ETA approves this waiver for Program Years 2018 and 2019 (July 1, 2018 through June 30, 2020) on the condition that the State provide information to ETA regarding how it will minimize the regional and local area planning burden to local areas that are assigned to more than one region.

Requested Waiver: The State is requesting a waiver of 20 CFR 652.202 and 678.315, which prohibit the existence of stand-alone Wagner-Peyser Employment Service affiliate American Job Centers (AJCs) and require the physical presence of one or more required one-stop partners more than 50 percent of the time.

Unfortunately, ETA is unable to grant this waiver request. The Secretary's waiver authority extends to statutory and regulatory provisions related to WIOA Title I Subtitles A, B, and E, as well as the Wagner-Peyser Act Sections 8 – 10. The particular provisions the State seeks to waive implement Section 3(d) of the Wagner-Peyser Act and thus, are outside of ETA's waiver authority. ETA is available for further discussion and to provide technical assistance to the State to support achieving its goals, including expanding service delivery in rural areas.

The Department of Labor has proposed additional flexibility in its Fiscal Year 2019 Budget in order to give governors more flexibility to meet the workforce needs of their states. If Congress passes legislation signed by the President with new legal authority, we will be happy to revisit the areas that cannot currently be waived. Should you have questions or wish to explore additional flexibility, feel free to contact my office at (202) 693-2772.

Sincerely,



Rosemary LaHasky
Acting Assistant Secretary

Enclosure

cc:

John Albin, Commissioner, Nebraska Department of Labor

Christine Quinn, ETA Chicago Regional Administrator, Employment and Training Administration

Christopher Mendoza, Federal Project Officer, Employment and Training Administration

Nebraska

Nebraska requests that the ETA waive its required reconfiguration of Nebraska's designated regions and local areas, as requested in the ETA's June 29, 2016 letter to Governor Ricketts and in the September 26, 2016 email to Commissioner Albin, because: Nebraska's designated planning regions meet the criteria established under WIOA Sec. 106(a)(2) and 20 CFR § 679.210; and the Governor is permitted to reconfigure a designated local area only in the event that the local area: fails to perform successfully and sustain fiscal integrity according to the requirements of WIOA Sec. 106(e)(1) - (2) and 20 CFR §§ 679.250 and 679.260; or agrees to reconfiguration. **Background**

In its letter dated June 29, 2016 regarding requested revisions to this plan, the US Department of Labor Employment and Training Administration (ETA) states that Nebraska must reconfigure its regions so that the two counties that comprise the Greater Lincoln Local Workforce Development Area are not split between two regions.

Based on its responses in the final WIOA Labor-only rules to comments on 20 CFR § 679.210, the ETA interprets WIOA Sec. 106(a)(2) and 20 CFR § 679.210 to say that a local area cannot be split across two planning regions. Neither WIOA Sec. 106(a)(2) nor 20 CFR § 679.210 states that a local area cannot be split across two planning regions. Rather, WIOA Sec. 106(a)(2) and 20 CFR § 679.210 say that a region must consist of one local area or two or more contiguous local areas. Assignment of Nebraska's initially-designated local areas to the planning regions designated by the Governor meets the criteria established under WIOA Sec. 106(a)(2) and 20 CFR § 679.210 in that all three of Nebraska's local areas are contiguous.

The designated planning regions identified in this plan include contiguous counties from two of the state's three local areas. If one or more contiguous counties from a local area cannot be a part of a planning region, then Nebraska finds itself with planning region boundaries that mirror those of Nebraska's local areas, which were established more than 30 years ago. The local areas then become de facto planning regions.

On September 26, 2016, Commissioner John Albin was notified by email that Nebraska must reconfigure its local areas so that no local area is split between two regions. Under WIOA Sec. 106(b)(2), 20 CFR § 679.250(a), and TEGL 27-14, the Governor is required to approve a request for initial designation as a local area from any local area that was designated as a local area for purposes of the Workforce Investment Act of 1998 (WIA) for the 2-year period preceding the date of enactment of WIOA; provided the local area had performed successfully and sustained fiscal integrity during that 2-year period. Because each of Nebraska's local areas met these criteria and one local area requested its initial designation as a local area continues under WIOA as it had under WIA, Nebraska's local area boundaries remain unchanged. Based on the requirements of WIOA Sec. 106(b)(2) and 20 CFR § 679.250(a), the Governor is not permitted to reconfigure Nebraska's initially-designated local areas.

Prior to subsequent designation of any local area, the Governor will again consult with local area chief elected officials and local workforce development boards and attempt realignment of local

area boundaries. Implementing the planning regions as originally designated will greatly facilitate the alignment of the local area and regional boundaries.

Actions undertaken to remove state or local barriers

In July and August of 2015, the Governor held focus groups across the state, including the communities of Omaha, Lincoln, Grand Island, Norfolk, Scottsbluff, and North Platte. These public focus groups were attended by more than 250 workforce system representatives, including employers, state and local workforce development board members, community college representatives, one-stop partners, representatives of economic development entities, elected officials, and other interested parties.

Nebraska's then-proposed planning regions were determined based on analysis of empirical regional economic and labor market data, performed by the Nebraska Department of Labor Office of Labor Market Information. The analysis was a main topic of discussion at the focus group events. Data analyzed included:

commuting patterns; numbers of employers and jobs supported regionally; projections of regional job growth, particularly in H3 occupations ("H3" refers to high wage, high skill, high demand); locations of training facilities; targeted industry growth patterns; and workforce system service delivery patterns.

Based on the empirical data and related input from the focus groups in August 2015, the Governor took the proposed planning regions to each local area's Chief Elected Official and Workforce Development Board with the idea of aligning local area boundaries with the proposed planning regions. Two of Nebraska's three local areas agreed with the realignment of local area boundaries; one did not. However, all three local areas agreed that the then-proposed planning regions were appropriate and supported the submission of this plan with the designated planning regions identified in the Program-specific Requirements for Adult, Dislocated Worker, and Youth Activities under Title I-B, Section 1.1.A. There is no objection by any of Nebraska's three local areas to being "split" for the purpose of establishing planning regions.

When contacted about this waiver request, all three local area Chief Elected Officials and Local Workforce Development Board Chairs, in addition to the Chair of the Nebraska Workforce Development Board and the Commissioner of the Nebraska Department of Labor, expressed continued support of the planning region designation.

Nebraska's large land mass (77,358 square miles) supports only three WIOA local workforce development areas. The ability to consolidate two or more total local workforce development areas is practically non-existent without going to a two local area or single-area state design. While this might make sense in the future, the chief elected officials and local workforce development boards are not ready. However, designating planning regions does provide the vehicle to align workforce services and delivery with regional economies. The current local area configuration has been in place since 1983, established under the Job Training Partnership Act (JTPA). This configuration, particularly in the eastern, most populated portion of Nebraska, has not represented economic or service patterns for a number of years.

As stated above, under WIOA Sec. 106(b)(2), 20 CFR § 679.250(a), and TEGL 27-14, the Governor is required to approve a request for initial designation as a local area from any local area that was designated as a local area for purposes of WIA for the 2-year period preceding the

date of enactment of WIOA; provided the local area performed successfully and sustained fiscal integrity during that 2-year period. Again, because each local area met these criteria and one local area requested its initial designation as a local area continues under WIOA as it had under WIA, Nebraska's local area boundaries remain unchanged.

Designating planning regions in Nebraska that align with outdated local area boundaries does not meet with the spirit of 20 CFR § 679.200, which defines the purpose of identifying planning regions as alignment of workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both jobseekers and employers. Aligning workforce development services and programs with the designated planning regions that reflect current economic conditions, workforce patterns, and employment projections is critical in creating Nebraska's workforce system.

If Nebraska's current local area boundaries, which are over 30 years old, become Nebraska's planning region boundaries, alignment of the workforce development activities and resources of the local areas with larger regional economic areas and resources through the planning activities required under 20 CFR § 679.510 will not occur.

Waiver Goals and Outcomes

Waiver of the ETA's requested reconfigurations will allow Nebraska to not only comply with the requirements of WIOA Section 106(a) and 20 CFR Part 679 Subpart D but also ensure that Nebraska's workforce system is aligned and based on the development of employment and training systems tailored specifically to regional economies.

In this plan, Nebraska identifies four goals, which are aligned with and supported by the structure of Nebraska's planning regions as identified in this waiver request:

Goal 1. Enhance coordination between plan partners and other key workforce development system stakeholders to:

ensure jobseekers and employers are provided coordinated and seamless services; reduce duplication of effort; and maximize the resources among the state's workforce development system partners

Goal 2. Increase workforce participation by:

expanding access to assessment, education, training, and employment services and other workforce development activities; and preparing jobseekers, including individuals in Nebraska who are experiencing barriers to employment and other populations, for occupations that provide family-sustaining wages

Goal 3. Enhance employer engagement through industry sector partnership initiatives, informed by workforce and industry data to support identification of:

future industry needs; opportunities for collaboration among industry sector employers; and potential workforce disruptions.

Goal 4. Promoting economic self-sufficiency among Nebraska's jobseekers and reducing welfare dependency by increasing postsecondary credential attainment, employment, retention, and earnings to:

meet the skill requirements of employers; and enhance productivity and competitiveness of

Nebraska.

The plan partners developed each of these goals based on the practical reality of the data analyzed by the Nebraska Department of Labor Office of Labor Market Information and the formation of planning regions based on that data. Retaining the original boundaries of Nebraska's designated planning regions will ensure collaboration across local area boundaries in support of the goals established in this plan. Without this waiver, the goals are compromised due to the misalignment of education and training programs and partner services.

Alignment with US Department of Labor policy priorities

Under 20 CFR § 675.100, four of the eight identified purposes of Title I of WIOA include priorities involving activities at the regional level:

enhancing the strategic role for states and elected officials, and local workforce development boards in the public workforce system by increasing flexibility to tailor services to meet employer and worker needs at state, regional, and local levels; supporting the alignment of the workforce investment, education, and economic development systems in support of a comprehensive, accessible, and high-quality workforce development system at the Federal, state, and local and regional levels; improving the quality and labor market relevance of workforce investment, education, and economic development efforts by promoting the use of industry and sector partnerships, career pathways, and regional service delivery strategies in order to both provide America's workers with the skills and credentials that will enable them to secure and advance in employment with family-sustaining wages, and to provide America's employers with the skilled workers the employers need to succeed in a global economy; and increasing the prosperity and economic growth of workers, employers, communities, regions, and states. These four priorities are the very basis of Nebraska's workforce system stakeholders' support for the designated planning regions. Designing and implementing Nebraska's workforce system based on current economic and labor market data will result in a service delivery system that makes sense to employers and jobseekers and greatly improves alignment with Nebraska's community colleges and the service delivery areas of the one-stop partners. The stakeholders fully support the development of comprehensive regional partnerships and alignment of workforce development activities with regional economic development activities, as well as the execution and implementation of sector strategies and career pathways.

Individuals impacted by the waiver

First and foremost, employers and jobseekers are impacted by the misalignment of local area boundaries serving as the boundaries of planning regions.

Beneficiary of the establishment of this waiver is the entirety of Nebraska's workforce system, including:

employers; jobseekers, including WIOA priority population groups; local area one-stop partners and delivery systems; local workforce development boards; economic development entities; and the state board.

Designing and implementing regional plans that align with the economic, labor market, and

service-delivery patterns will provide increased access to workforce services for employers and jobseekers, which truly aligns with the full intent of WIOA.

Monitoring progress and implementation

The process for monitoring the implementation of the Governor's designated planning regions will be done through the state board. Each local workforce development board responsible for their region has submitted a regional plan that aligns jobseeker and employer services with regional economies. The Board will monitor progress by: measuring partnerships developed, participants served regionally (including co-enrollments), and employers served; and gathering feedback from the local workforce development boards on the alignment of jobseeker and employer services from a regional perspective.

Nebraska has three designated planning regions, which are outlined below and depicted under the Program-specific Requirements for Adult, Dislocated Worker, and Youth Activities under Title I-B, Section 1.1.A.:

[1] Metro Region - covers Dodge, Douglas, Cass, Sarpy, Saunders, and Washington counties, with Douglas County being the focal county; Southeast Region - covers Fillmore, Gage, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Richardson, Saline, Seward, Thayer, and York counties, with Lancaster County being the focal county; and Greater Nebraska Region - covers the remaining seventy-four (74) counties in Nebraska and includes 10 focal counties: Adams, Buffalo, Cheyenne, Hall, Holt, Lincoln, Madison, Platte, Red Willow, and Scotts Bluff counties.

Under Nebraska's regional configuration, local areas are assigned to the planning regions as described below. For each planning region, one local board is designated as the "lead local board."

Metro Region. Greater Omaha Workforce Development Board is assigned to the Metro Region and is the lead local board for the planning region. Greater Omaha Workforce Development Board is responsible for: (a) coordinating the Metro regional planning activities, including collaborating with the one-stop and workforce system partners, which must include representatives from the Greater Nebraska and Greater Lincoln Workforce Development Area WIOA Title I (Adult, Dislocated Worker, and Youth programs) service providers in Cass, Dodge, and Saunders counties; and Greater Lincoln and Greater Nebraska Workforce Development Boards, which have oversight of Cass, Dodge, and Saunders counties; and (b) preparing and submitting the Metro Region regional plan and the Greater Omaha local area plan.

Southeast Region. Greater Lincoln Workforce Development Board is assigned to the Southeast Region and is the lead local board for the planning region. Greater Lincoln Workforce Development Board is responsible for: (a) coordinating the Southeast regional planning activities, including collaborating with the: one-stop and workforce system partners, which must include representatives from the Greater Nebraska Workforce Development Area WIOA Title I (Adult, Dislocated Worker, and Youth programs) service providers in Fillmore, Gage, Jefferson, Johnson, Nemaha, Otoe, Pawnee, Richardson, Saline, Seward, Thayer, and York counties; and Greater Nebraska Workforce Development Board, which has oversight of Fillmore, Gage, Jefferson, Johnson, Nemaha, Otoe, Pawnee, Richardson, Saline, Seward, Thayer, and York counties; and (b) preparing and submitting the Southeast Region regional plan and the Greater Lincoln local area plan.

Greater Nebraska Region. Greater Nebraska Workforce Development Board is assigned to the Greater Nebraska Region. Greater Nebraska Workforce Development Board is responsible for: (a) coordinating the Greater Nebraska in regional planning activities, including collaborating with the WIOA Title I (Adult, Dislocated Worker, and Youth programs)

service providers in the remaining 74 counties in Nebraska; and Workforce system representatives in each of the 10 focal counties; and (b) preparing and submitting the Greater Nebraska Region regional plan and the Greater Nebraska local area plan. Notice to local workforce development boards and public comment

The Nebraska Department of Labor notified local area chief elected officials and workforce development boards of its intent to submit this waiver request on January 26, 2018 through the publication of this 2-year modification of this plan.

Local area chief elected officials, local workforce development boards, and the public had the opportunity to comment on this waiver request during the public comment period for this 2-year modification of this plan, which included a public hearing on February 7, 2018 as described in the Public Comments section at the front of this plan.

Stand-alone Wagner-Peyser Employment Service offices Statutory requirements to be waived Nebraska requests a waiver of the statutory requirements under 20 CFR §§ 652.202 and 678.315: prohibiting the existence of Wagner-Peyser Employment Service offices as stand-alone affiliate sites; and requiring the physical presence of one or more required one-stop partners more than 50 percent of the time an affiliate site is open.

Background

Nebraska has 93 counties covering 77,358 square miles. Nebraska's 93 counties are served by four comprehensive one-stop centers in three local workforce development areas. Jobseekers and employers in 31 of the 93 counties are within a one-hour drive of the comprehensive one-stop center(s) in their respective local areas. Jobseekers and employers in the remaining 62 counties, all of which are part of the Greater Nebraska Workforce Development area, are underserved due to:

restrictions regarding stand-alone Wagner-Peyser offices; budget limitations among required one-stop partners affecting their ability to provide a physical presence in the rural areas of the local area; and geographic isolation based on: the distance to the nearest comprehensive one-stop center, and limited or no access to public transportation in rural areas.

While access to virtual services are an option in addressing this need, delivery of virtual services is contingent upon the customer's ability to access technology, which may be limited based on: income; educational attainment; disability; English proficiency; or homelessness. Actions undertaken to remove state or local barriers

During the development of memorandums of understanding and funding agreements among required one-stop partners in the Greater Nebraska Workforce Development Area, the Greater Nebraska Workforce Development Board sought to establish affiliate sites in underserved rural communities in the local area. Because of budget limitations, required one-stop partners in the Greater Nebraska local area were and remain unable to provide a physical presence in those rural areas in addition to their required physical presence or presence through direct linkage in the comprehensive one-stop centers in the local area.

The Nebraska Department of Labor, as the Wagner-Peyser grantee for the State of Nebraska, has the capacity to provide staffing for affiliate sites in rural Nebraska but is prohibited from doing so because of the:

restrictions regarding stand-alone Wagner-Peyser offices; and inability of required one-stop

partners to provide staffing at least 50 percent of the time the proposed affiliate sites would be open. Waiver Goals and Outcomes

Goals and outcomes of this waiver request include:

increased access to one-stop delivery system services in the Greater Nebraska Workforce Development Area for jobseekers and employers through: establishment of stand-alone Wagner-Peyser offices in underserved rural communities located more than 45 miles from the nearest comprehensive one-stop center in the local area; and direct linkage to required one-stop partners that do not have a physical presence in rural Greater Nebraska; and enhanced ability of required one-stop partners in the Greater Nebraska Workforce Development Area to provide services to underserved populations in geographically isolated rural areas, including individuals with barriers to employment. Alignment with US Department of Labor policy priorities

Ensuring the provision of services to individuals with barriers to employment is a required function of the state workforce development board and local workforce development boards.[2]

In the context of this waiver request, geographic isolation is a barrier to employment.

Implementation of this waiver will align with this required function of the boards as a strategy for better meeting the needs of individuals with barriers to employment through leveraging resources and capacity within the local workforce development system.

Individuals impacted by the waiver

Individuals in the Greater Nebraska Workforce Development Area impacted by this waiver include:

individuals with barriers to employment residing in geographically isolated rural areas; employers operating in geographically isolated rural areas; required one-stop partners that do not have a physical presence in rural Greater Nebraska; the local workforce development board and its ability to effectively serve employers and jobseekers, including individuals with barriers to employment, in geographically isolated rural areas; and the state workforce development board and its ability to ensure the provision of services to employers and jobseekers, including individuals with barriers to employment, in geographically isolated rural areas. Monitoring progress and implementation

NDOL will monitor progress and implementation of this waiver in the Greater Nebraska Workforce Development Area by:

collaborating with the local workforce development board on the development and implementation of an action plan for establishment of stand-alone Wagner-Peyser offices in key regions of the local area; coordinating with the local workforce development board and required one-stop partners to establish a mechanism for use of established stand-alone Wagner-Peyser offices on an as-needed basis, based on a reasonable cost allocation methodology; and monitoring of local area performance in key regions of the local area where stand-alone Wagner-Peyser offices have been established. Notice to local workforce development boards and public comment

The Nebraska Department of Labor notified local area chief elected officials and workforce development boards of its intent to submit this waiver request on January 26, 2018 through the publication of this 2-year modification of this plan.

Local area chief elected officials, local workforce development boards, and the public had the opportunity to comment on this waiver request during the public comment period for this 2-year modification of this plan, which included a public hearing on February 7, 2018 as described in the Public Comments section at the front of this plan.

[1] The term focal county refers to the main county or counties in a region to which employees from other counties commute for work. Each region has at least one (1) focal county.

[2] 20 CFR § 679.130(e)(1) and 679.370(h)(3)