

MEMORANDUM

October 9, 2015

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing/Action:** Expedited Bill 40-15, Economic Development – Workforce Development – Amendments

Planning, Housing, & Economic Development Committee recommendation: the Committee did not meet to discuss Bill 40-15 after its introduction.

Expedited Bill 40-15, Economic Development – Workforce Development – Amendments, sponsored by Lead Sponsor Council President on behalf of the County Executive, was introduced on September 29, 2015. Action is tentatively scheduled immediately following the hearing.

Bill 25-15, Economic Development – Reorganization – Montgomery County Economic Development Corporation, signed into law on July 7, will abolish the Department of Economic Development and authorize the Council to designate a non-profit corporation to serve as the County's lead economic development organization. However, the designated economic development organization will not assume the workforce development programs operating out of the Department of Economic Development. Bill 40-15 would authorize the Council to designate a separate non-profit corporation as the County's workforce development organization and assign certain duties to that workforce development organization. The Executive explained his goals for the Bill in his transmittal memorandum at ©17.

Assistant CAO Thomas Street briefed the Planning, Housing, & Economic Development (PHED) Committee on the Executive's plan for workforce development on July 27, 2015.¹ The Committee agreed with the plan in concept and the need for legislation authorizing the Council to designate a non-profit corporation to implement workforce development policies. The PHED Committee did not meet to discuss Bill 40-15 after it was introduced, but the Bill is consistent with the Executive's plan for workforce development discussed with the Committee on July 27.

¹ The packet for the July 27 PHED meeting can be found at:

http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2015/150727/20150727_PHED3.pdf

OMB estimates that the Bill would have no fiscal impact on the County because the \$4,407,517 already appropriated by the Council for workforce development within the appropriation for the Department of Economic Development would be sufficient to cover the costs for the non-profit corporation for this year. See ©10. Finance estimates that the Bill would have a positive impact on the County's economy through focused implementation of the County's workforce development policies by the designated non-profit corporation. See ©12.

This packet contains:

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Expedited Bill No. 40-15
Concerning: Economic Development -
Workforce Development -
Amendments
Revised: September 25, 2015 Draft No.5
Introduced: September 29, 2015
Expires: March 29, 2017
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) authorize the Council to designate a non-profit corporation as the County's workforce development organization;
- (2) assign certain duties to that workforce development organization; and
- (3) generally amend the economic development laws.

By amending

Montgomery County Code
Chapter 30B, Economic Development Corporation
Sections 30B-1, 30B-2, and 30B-4

By adding

Montgomery County Code
Chapter 30B, Economic Development Corporation
Sections 30B-8, 30B-9, 30B-10, 30B-11, 30B-12, 30B-13, and 30B-14

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

28 the Corporations and Associations Article of the Maryland Code.

29 * * *

30 **Sec 2. Sections 30B-8, 30B-9, 30B-10, 30B-11, 30B-12, 30B-13, and 30B-**
 31 **14 are added as follows:**

32 **Article II. Workforce Development**

33 **30B-8. Policy objectives.**

34 (a) The success of Montgomery County's economic development goals is
 35 dependent upon a comprehensive and demand-driven system of
 36 workforce development that:

- 37 (1) meets the talent attraction, development, and retention needs of
 38 strategic industries;
 39 (2) meets the needs of the underemployed and unemployed; and
 40 (3) develops career pathways that lead to sustainable wage jobs to
 41 support a thriving economy.

42 (b) To achieve these goals, the County Government may designate a
 43 nonprofit corporation as the County's Workforce Development
 44 Corporation to implement the County's workforce development
 45 policies established by the Workforce Development Board.

46 **30B-9. Designation.**

47 (a) The Council must designate, by resolution approved by the Executive,
 48 a single nonprofit corporation which complies with all requirements of
 49 this Article as the County's Workforce Development Corporation. If
 50 the Executive disapproves the resolution within 10 days after receiving
 51 it, the Council may readopt the resolution with at least 6 affirmative
 52 votes.

53 (b) To continue to qualify as the County's Workforce Development
 54 Corporation, the Corporation's articles of incorporation and bylaws

55 must comply with all requirements of this Article.

56 (c) Any designation under this Section expires at the end of the fifth full
 57 fiscal year after the resolution is adopted unless the Council extends the
 58 designation by adopting another resolution under this Section.

59 (d) The Council at any time may suspend or revoke the designation of a
 60 corporation as the County's Workforce Development Corporation by
 61 resolution, adopted after at least 15 days public notice that is approved
 62 by the Executive, or, if the Executive disapproves the resolution within
 63 10 days after receiving it, is readopted by a vote of at least 6
 64 Councilmembers.

65 **30B-10. Board of Directors.**

66 (a) The president of the Workforce Development Corporation must serve
 67 as the executive director of the County's Workforce Development
 68 Board and the staff of the Workforce Development Corporation must
 69 also staff the County's Workforce Development Board.

70 (b) Each voting member must be either a resident of the County or a senior
 71 manager in a for-profit or nonprofit entity that has a significant presence
 72 in the County.

73 (c) A member must not be paid for service on the Board, but may be
 74 reimbursed for necessary travel expenses.

75 (d) A member is not subject to Chapter 19A because of serving on the
 76 Board. The Workforce Development Corporation's bylaws must
 77 protect against any conflict of interest or similar impropriety by
 78 members of the Board of Directors or the Executive Director or any
 79 other employees. The bylaws must include:

80 (1) a prohibition against self-dealing and collusive practices;

81 (2) a provision for the disclosure of a financial or similar interest of

82 any person in any matter before the corporation that would create
 83 a conflict of interest;

84 (3) a provision establishing conditions under which a person is
 85 disqualified from participating in decisions or other actions in
 86 which there is a conflict between the person's official duties and
 87 private interests;

88 (4) appropriate remedies for a violation of the bylaws, including
 89 removal or termination; and

90 (5) a policy to protect whistleblowers.

91 (e) Notwithstanding any inconsistent provision of County Code Section
 92 19A-21, a member of the Board of Directors or a staff member of the
 93 Workforce Development Corporation who engages in legislative,
 94 administrative, or executive advocacy as part of that person's duties is
 95 not required to register as a lobbyist under Article V of Chapter 19A
 96 because of that advocacy.

97 (f) The Board must direct the program, management, and finances of the
 98 Workforce Development Corporation.

99 **30B-11. Status; incorporation; bylaws.**

100 (a) To qualify as the County's Workforce Development Corporation, the
 101 Corporation's articles of incorporation must provide that the
 102 Corporation is:

103 (1) a Maryland nonprofit, non-stock corporation, the purposes and
 104 activities of which are limited to those that are permitted to be
 105 promoted or performed by a corporation that is recognized as
 106 exempt from federal income tax under 26 U.S.C. § 501, as
 107 amended;

108 (2) not an instrumentality of the County;

109 (3) incorporated for the purpose of serving as the County's
 110 Workforce Development Corporation and implementing the
 111 County's workforce development policies, as established by the
 112 Workforce Development Board;

113 (4) organized and operated under the laws of the State of Maryland;
 114 and

115 (5) headquartered in the County.

116 (b) The Workforce Development Corporation's bylaws may contain any
 117 provision necessary to govern and manage the Corporation that does
 118 not conflict with this Article. The Corporation may exercise all powers
 119 and is subject to all requirements which apply to non-stock corporations
 120 under the Corporations and Associations Article of the Maryland Code.

121 **30B-12. Workforce development program.**

122 (a) The Workforce Development Corporation's Board of Directors must
 123 recommend workforce development programs and associated
 124 performance measures to the Executive, Council, and Workforce
 125 Development Board each year to advance the policy objectives listed
 126 in Section 30B-8.

127 (b) The Workforce Development Corporation's workforce development
 128 programs may include a plan for sponsorship of private investment,
 129 marketing, and advocacy initiatives.

130 (c) The Workforce Development Corporation's Board and staff must meet
 131 with the Executive, the Council, and the Workforce Development
 132 Board at least annually regarding the Workforce Development
 133 Corporation's activities and finances.

134 **30B-13. Staff; support from County Government.**

135 (a) The Office of Management and Budget, the Department of Finance, and

136 other departments of County government and County-funded agencies,
 137 if the Workforce Development Corporation's Board of Directors
 138 requests, should provide relevant economic data to the Corporation.
 139 The research division of the County Planning Board must provide
 140 research support to the Corporation to the extent approved by the
 141 Council as part of the Planning Board's work program.

142 (b) The Workforce Development Corporation may raise public and private
 143 funds and may accept services from any source consistent with its
 144 purposes.

145 (c) The Workforce Development Corporation must:

146 (1) make public data sets available on the web to:

147 (A) improve public knowledge of the Corporation and its
 148 operations;

149 (B) further its mission; or

150 (C) increase its accountability and responsiveness; and

151 (2) provide the Executive, the Council, and the Workforce
 152 Development Board, upon request, all non-confidential data
 153 produced and received by the Corporation, including research,
 154 economic data, and minutes of Board meetings.

155 **30B-14. Report.**

156 The Workforce Development Corporation's Board of Directors must report
 157 annually on the activities and finances of the Corporation and provide an audited
 158 financial statement of the Corporation to the Executive, the Council, and the
 159 Workforce Development Board by November 1 of each year. The report must also
 160 include the Corporation's plan to solicit and receive additional public and private
 161 funding for its operations.

162 **Sec. 3. Expedited Effective Date.**

LEGISLATIVE REQUEST REPORT

Expedited Bill 40-15

Economic Development – Workforce Development – Amendments

DESCRIPTION:	The Bill would authorize the Council to designate a non-profit corporation to serve as the County's workforce development organization, assigns certain duties to that workforce development organization and amends the economic development laws..
PROBLEM:	Outside of the grant review process, County law does not presently provide a formal mechanism for the Council and Executive to designate a non-profit corporation as the County's workforce development organization.
GOALS AND OBJECTIVES:	Increase the effectiveness of the County's workforce development programs through the use of a non-profit corporation.
COORDINATION:	The Office of the County Executive.
FISCAL IMPACT:	None.
ECONOMIC IMPACT:	The creation of a non-profit corporation as the County's workforce development organization would have a positive effect on employment and personal income. The goals of the non-profit corporation would develop a comprehensive and demand-driven system of workforce development. Therefore with that goal, Bill #-15 would qualitatively have a positive impact on employment and personal income.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be requested.
SOURCE OF INFORMATION:	Edward Lattner, Office of the County Executive
APPLICATION WITHIN MUNICIPALITIES:	Not applicable.
PENALTIES:	N/A

Fiscal Impact Statement
Council Bill XX-15 & Economic Development – Workforce Amendments

1. Legislative Summary.

Bill XX-15 authorizes the Council to designate a non-profit corporation as the County's workforce development organization.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The legislation does not have a fiscal impact on the County. The County Council appropriated \$4,407,517 within the Department of Economic Development for workforce development programs in FY16. It is assumed that available unspent funds will be provided to the designated Workforce Development Corporation up to the original appropriation for no net impact on the County's budget. After FY16, County funding of the designated Workforce Development Corporation will be determined through the annual budget process.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

See #2 above. Revenues and expenditures for the following five years will be determined through the annual budget process.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

The legislation doesn't affect the County's pension or group insurance programs.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable for purposes of Bill XX-15, as the non-profit organization will use a private or commercial IT system.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Bill XX-15 does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Staff time from the County Attorney's Office (CAO), Department of Economic Development, Office of Management and Budget (OMB), and the County Executive's office (CEX) will be needed to transfer legal and fiscal responsibilities to the non-profit corporation. It is assumed that staff would require a total of approximately 100 hours to implement Bill XX-15 by the end of 2015, including four hours per week from DED and one hour per week from CAO, OMB, and CEX respectively.

Three of the current DED's Workforce Services Division staff will be needed for the next three to six months to ensure successful transfer of programs and services to the non-profit organization. This staff will also work with the State to ensure that Federal and State funds are transferred to the non-profit corporation and the close out of State and Federal grants is undertaken.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

As explained in #3, an additional appropriation is not needed to implement the bill. Future funding of the designated organization will be determined through the annual budget process.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

See #2 and #3 above.

13. Other fiscal impacts or comments.

None

14. The following contributed to and concurred with this analysis:

Peter Bang, Chief Operating Officer, Department of Economic Development
Barbara Kaufmann, Division Chief of Workforce Services, Department of Economic Development
Pofen Salem, Office of Management and Budget



Jennifer A. Hughes, Director
Office of Management and Budget

9/21/15

Date

Economic Impact Statement
Bill #-15, Economic Development – Workforce Development – Amendments

Background:

This legislation would:

- authorize the County Council to designate a non-profit corporation as the County's workforce development organization;
- assign certain duties to that workforce development organization; and
- generally amend the economic development law.

The Bill #-15 amends Chapter 30B Economic Development Corporation by adding Sections 30B-8, 30B-9, 30B-10, 30B-11, 30B-12, 30B-13, and 30B-14. This economic impact statement addresses Section 30B-8(a) under Policy Objectives. The amended language in that section reads:

“The success of Montgomery County's economic development goals is dependent upon a comprehensive and *demand-driven system workforce development* that:

- meets the talent attraction, development, and retention needs of strategic industries;
- meets the needs of the *underemployed and unemployed*; and
- develops career pathways that lead to sustainable wage jobs to support a thriving economy.”

1. The sources of information, assumptions, and methodologies used.

The sources of information used in the development of the economic impact statement are as follows:

- Maryland Department of Labor, Licensing and Regulation;
- Montgomery County Department of Economic Development – Workforce Investment Board;
- Bureau of Labor Statistics, U.S. Department of Labor;
- “Bridging the Gap”, The Urban Institute, May 2015.
- Andrew Sum and Ishwar Khatiwada, “The Nation's underemployed in the ‘Great Recession’ of 2007-09,” *Monthly Labor Review*, U.S. Department of Labor, November 2010;
- Robert P. Giloth, “Learning From the Field: Economic Growth and Workforce Development in the 1990s”, *Economic Development Quarterly*, Vol. 14, No. 4, November 2000.

Because of the various sources of information, data presented in this economic impact statement are specific to the nation, the State of Maryland, or Montgomery County. This

Economic Impact Statement
Bill #-15, Economic Development – Workforce Development – Amendments

section of the economic impact statement will present and discuss certain aspects of the underemployed based on the sources cited above.

According to the study entitled “Bridging the Gap”, the Urban Institute states that “there is no national estimate of the number of low-income parents who want or need workforce development programs. However, a review of the national data suggests the following key points:

- Of the 21 million parents who are low income, almost three out of five (58 percent) have low education levels (a high-school credential or less);
- Only about 1 in 10 low-income parents reports being enrolled in some form of education and training. A significant portion (about half) of low-income parents in education and training also work; and
- Whether looking at national data or data from specific workforce development programs, parents are underrepresented among low-income individuals in education and training.

The study also states “overall, the national data paint a picture of a large population of low-income parents who would likely benefit from workforce development programs, but the data also suggest that these parents may face challenges related to child care that could create barriers to their ability to access or succeed in these programs.”

While the Urban Institute states that there is no national estimate of low-income parents who want or need workforce development programs, the article in the *Monthly Labor Review* cited above, reports that during the October-November 2007 period there were approximately 4,201,000 underemployed nationally. As the country entered the Great Recession, that figure increased to 7,217,333 during the October-November 2008 period and increased to 8,907,333 during the October-November 2009 period.

The article also presented evidence regarding which workers were adversely affected the most by the increase in the underemployment during this period and which occupational jobs experienced high underemployment rates. Regarding race and age cohorts, the authors report that “workers in nearly every major age group and racial or ethnic group saw their underemployment rates more than double during this period.” Young adults between the ages of 20 and 24 years and teenagers between the ages of 16 and 19 years had the highest rates of underemployment with nearly 11 percent for 20 and 24-year-olds. Underemployment rates were lowest among Asians (4.7%), and White non-Hispanics (5.2%). Those rates rose to 7.5 percent for Black non-Hispanics workers and peaked at 12.0 percent for Hispanics.

The study also reported its findings on the underemployment rates by occupational groups with the highest rate (highest tier) that was among the following groups:

Economic Impact Statement
Bill #-15, Economic Development – Workforce Development – Amendments

- Transportation and material moving,
- Farm, fishing, and forestry,
- Low level sales;
- Personal care;
- Building and grounds cleaners;
- Food preparation and serving; and
- Construction and extraction.

The groups with the “modest” (i.e., lower rates than the highest tier) rate of underemployment were:

- Community and social service;
- Health care practitioners and technicians;
- Education, training, and library;
- High-level sales;
- Installation, maintenance, and repair;
- Office and administrative support;
- Production;
- Security/crossing guard;
- Health care support; and
- Arts, design, and entertainment.

Finally the underemployment rates among employed workers were highest among high school dropouts and high school graduates.

Another aspect of workforce development training is the concept of *workforce development*. According to Robert P. Giloth in “Learning From the Field: Economic Growth and Workforce Development in the 1990s”, the term workforce development “implies more than employment training in the narrow sense. It means substantial employer engagement, deep community connections, career advancement, integrative human service supports, contextual and industry-driving education and training, and networks.” However, workforce development becomes complex when applied to different sets of employers and jobseekers. Giloth contrasts workforce development into two categories: employer-linked or sectoral-linked workforce initiatives versus place-based or community/resident-focused job initiatives. The first category focuses on the demand side that emphasizes employer- or market-driven strategies. Sector-based practitioners begin where the good jobs are located and then work backward to creating “connections to low-income communities and skill-building pathways.” These jobs represent distinct occupations in a group of firms that share markets, technologies, or suppliers. The added section, Section 30B-8(a), to Chapter 30B in Bill #-15 is a sector-based initiative to workforce development in Montgomery County.

Based on data from the Bureau of Labor Statistics, U.S. Department of Labor, the incidence rate among the underemployed in the State of Maryland increased from 1.9

Economic Impact Statement
Bill #-15, Economic Development – Workforce Development – Amendments

percent in 2007 to 3.5 percent in 2014. The incidence rate is the difference in the unemployment rate for persons who are marginally attached to the labor force (total unemployed and discouraged workers) and those who are marginally attached plus involuntary part-time workers. Since the Great Recession, that difference, or incidence rate, increased from 1.9 percent in 2007 to peaks of between 3.8 and 4.0 percent in 2009-2011. Since that time, the rate decreased to 3.5 percent above the pre-recession level. Therefore, based on the BLS calculations, underemployment remains high at the State level. However, there are no comparable data for Montgomery County.

Private-sector employment in Montgomery County experienced a decrease from calendar year 2007 to calendar year 2014. According to data from the Maryland Department of Labor, Licensing and Regulation from the Quarterly Census of Employment and Earnings (QCEW) database, total private-sector employment declined from 380,492 in 2007 to 365,763, or nearly 15,000, by 2014. Of the ten industrial sectors, only three experienced an increase: education and health services, leisure and hospitality, and other services. Seven sectors in the service-providing group (91% of total private-sector employment) experienced declines in 2014 with the greatest declines occurring in financial activities (↓5,331); trade, transportation, and utilities (↓4,807), and professional and business services (↓4,407). Therefore, the highest rates of underemployment in Montgomery County may occur in these three sectors.

Finally, the *Monthly Labor Review* article discusses the incidence of underemployed based on education. The article reports that the highest incidence at the national level is among high school dropouts and high school graduates. According to data provided by the Office of Management and Budget and obtained from reports from the Montgomery County Public Schools, the graduation rate in the County declined from 91.6 percent during the 2006-2007 school year to 89.7 percent during the 2014-2015 school year. This cohort of Montgomery County residents would represent a high risk of not only unemployment but underemployment.

Data provided by DED and the County Executive's Six Point Economic Plan identified key industrial sectors and occupational categories for workforce development targets. The industrial sectors identified are bioscience; information technology, and cybersecurity; financial services; arts and hospitality; and corporate and regional headquarters, and health services.

The County's Workforce Investment Board (WIB) identified eight key occupational categories that include healthcare support occupations; health care practitioners and technical occupations; computer and mathematical occupations (including cybersecurity); life, physical, and social science occupations; office and administrative support occupations; management occupations; food preparation and service related occupations; and first-line supervisors of food preparation workers. Based on data provided by WIB, these eight occupations are projected to grow between 13.0 percent (management occupations) and 27.4 percent (computer and mathematical occupations) from CY2010 to CY2020.

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2. A description of any variable that could affect the economic impact estimates.

The variables that could affect the economic impact estimates are the employment opportunities available in those industry sectors that experienced a decline since 2007 and the change in the graduation rate among high school students.

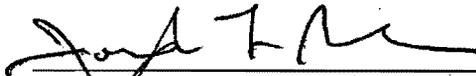
3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

The creation of a non-profit corporation as the County's workforce development organization would have a positive effect on employment and personal income. The goals of the non-profit corporation would develop a comprehensive and demand-driven system of workforce development. Therefore with that goal, Bill #-15 would qualitatively have a positive impact on employment and personal income.

4. If a Bill is likely to have no economic impact, why is that the case?

Please see paragraph #3.

5. The following contributed to or concurred with this analysis: David Platt and Rob Hagedoorn, Finance.



Joseph F. Beach, Director
Department of Finance

9-22-15
Date



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

September 22, 2015

TO: George Leventhal, President
County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Expedited Bill xx-15, Economic Development – Workforce Development -
Amendments

I am attaching for Council introduction proposed legislation to replace the County's Department of Economic Development's Division of Workforce Services with a non-profit corporation that will be responsible for implementing the policies of the County's Workforce Development Board. To achieve this I am recommending the following amendments to Montgomery County Code, Chapter 30B, Economic Development Corporation by adding Sections 30B-2 and 30B-4 and adding Sections 30B-8, 30B-9, 30B-10, 30B-11, 30B-12, 30B-13, and 30B-14. The proposed amendments authorize the Council, by resolution approved by the County Executive, to designate a non-profit corporation as the County's workforce development organization, assign certain duties to that workforce development organization, and amend the economic development laws.

I made a decision to privatize the workforce development programs and activities based on input from key stakeholders including businesses, the non-profit community, and County educational institutions, and by looking at successful workforce development organizational models in other jurisdictions. This is part of a larger effort to improve Montgomery County's economic competitiveness and better meet the workforce needs of our strategic industries as well as those of the unemployed and underemployed. The envisioned system will work closely with the County's new Economic Development Corporation, and will use the County's comprehensive economic strategy as an important tool to guide workforce development programs and activities.

My staff stands ready to work with the Council on this important legislation, which I urge the Council to enact in the near future.

IL/ts