To promote labor force participation of older Americans, with the goals of increasing retirement security, reducing the projected shortage of experienced workers, maintaining future economic growth, and improving the Nation’s fiscal outlook.

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, January 5), 2011

Mr. KOHL introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To promote labor force participation of older Americans, with the goals of increasing retirement security, reducing the projected shortage of experienced workers, maintaining future economic growth, and improving the Nation’s fiscal outlook.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Health Care and Training for Older Workers Act”.

(b) Table of Contents.—The table of contents of this Act is as follows:
TITLE I—COBRA CONTINUATION COVERAGE

SEC. 101. EXTENDED COBRA CONTINUATION COVERAGE FOR CERTAIN OLDER WORKERS.

(a) Amendments to the Employee Retirement Income Security Act of 1974.—Subparagraph (A) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) is amended by adding at the end the following:

"(ix) Special rule for certain older workers.—

"(I) In general.—Notwithstanding any other provision of this subparagraph, in the case of a qualifying event described in section 603(2) relating to a reduction of
hours of an employee described in subclause (II), the date which is 36 months after the date of the qualifying event, except that the period of coverage under this clause shall end on the date on which the employee becomes entitled to benefits under title XVIII of the Social Security Act based on age.

“(II) Employee described.—An employee is described in this subclause if such employee, on the date of the qualifying event, is at least the early retirement age (as defined in section 216(l)(2) of the Social Security Act) but not yet entitled to benefits under title XVIII of the Social Security Act based on age.”.

(b) Amendments to the Public Health Service Act.—Section 2202(2)(A) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(A)) is amended by inserting after clause (vi) the following:

“(vii) Special rule for certain older workers.—
“(I) IN GENERAL.—Notwithstanding any other provision of this subparagraph, in the case of a qualifying event described in section 2203(2) relating to a reduction of hours of an employee described in subclause (II), the date which is 36 months after the date of the qualifying event, except that the period of coverage under this clause shall end on the date on which the employee becomes entitled to benefits under title XVIII of the Social Security Act based on age.

“(II) EMPLOYEE DESCRIBED.—An employee is described in this subclause if such employee, on the date of the qualifying event, is at least the early retirement age (as defined in section 216(l)(2) of the Social Security Act) but not yet entitled to benefits under title XVIII of the Social Security Act based on age.”.

(c) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—Section 4980B(f)(2)(B)(i) of the Inter-
nal Revenue Code of 1986 is amended by inserting after subclause (VIII) the following:

“(IX) SPECIAL RULE FOR CERTAIN OLDER WORKERS.—

“(aa) IN GENERAL.—Notwithstanding any other provision of this clause, in the case of a qualifying event described in paragraph (3)(B) relating to a reduction of hours of an employee described in item (bb), the date which is 36 months after the date of the qualifying event, except that the period of coverage under this clause shall end on the date on which the employee becomes entitled to benefits under title XVIII of the Social Security Act based on age.

“(bb) EMPLOYEE DESCRIBED.—An employee is described in this subclause if such employee, on the date of the qualifying event, is at least the early retirement age (as defined
in section 216(l)(2) of the Social Security Act) but not yet entitled to benefits under title XVIII of the Social Security Act based on age.”.

SEC. 102. REPEAL.

The amendments made by section 101 shall be repealed effective on January 1, 2014.

TITLE II—EMPLOYMENT AND TRAINING

SEC. 201. DEFINITIONS.

Section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801) is amended—

(1) by redesignating paragraphs (17) through (53) as paragraphs (18) through (54), respectively; and

(2) by inserting after paragraph (16) the following:

“(17) HARD-TO-SERVE POPULATIONS.—The term ‘hard-to-serve populations’ means populations of individuals who are hard to serve, including displaced homemakers, low-income individuals, Native Americans, individuals with disabilities, older individuals, ex-offenders, homeless individuals, individuals with limited English proficiency, individuals
who do not meet the definition of literacy in section 203, individuals facing substantial cultural barriers, migrant and seasonal farmworkers, individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), single parents (including single pregnant women), and such other groups as the Governor determines to be hard to serve.”.

**SEC. 202. STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.**


(1) in clause (vi), by striking “and” at the end;

(2) by redesignating clause (vii) as clause (viii); and

(3) by inserting after clause (vi) the following:

“(vii) developing strategies for effectively serving hard-to-serve populations and for coordinating programs and services among one-stop partners; and”.

**SEC. 203. LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.**

(a) INTENSIVE SERVICES.—Section 134(d)(3) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(d)(3)) is amended by striking subparagraph (A) and inserting the following:
“(A) IN GENERAL.—

“(i) ELIGIBILITY.—Except as provided in clause (iii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide intensive services to adults and dislocated workers, respectively—

“(I) who are unemployed and who, after an interview, evaluation, or assessment, have been determined by a one-stop operator or one-stop partner to be—

“(aa) unlikely or unable to obtain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through core services described in paragraph (2); and

“(bb) in need of intensive services to obtain employment that leads to self-sufficiency or
wages comparable to or higher than previous employment; or

“(II) who are employed, but who, after an interview, evaluation, or assessment, are determined by a one-stop operator or one-stop partner to be in need of intensive services to obtain or retain employment that leads to self-sufficiency.

“(ii) CONSIDERATION.—For purposes of determining whether an adult or dislocated worker meets the requirements of clause (i)(I)(aa), a one-stop operator or one-stop partner shall consider whether the adult or dislocated worker is a member of a hard-to-serve population.

“(iii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.”.
(b) Training Services.—Section 134(d)(4) of such Act (29 U.S.C. 2864(d)(4)) is amended by striking sub-paragraph (A) and inserting the following:

“(A) IN GENERAL.—

“(i) Eligibility.—Except as provided in clause (iii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide training services to adults and dislocated workers, respectively—

“(I) who, after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to—

“(aa) be unlikely or unable to obtain or retain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through the intensive services described in paragraph (3);
“(bb) be in need of training services to obtain or retain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; and

“(cc) have the skills and qualifications to successfully participate in the selected program of training services;

“(II) who select programs of training services that are directly linked to the employment opportunities in the local area or region involved or in another area to which the adults or dislocated workers are willing to commute or relocate;

“(III) who meet the requirements of subparagraph (B); and

“(IV) who are determined to be eligible in accordance with the priority system in effect under subparagraph (E).

“(ii) Consideration.—For purposes of determining whether an adult or dis-
located worker meets the requirements of clause (i)(I)(aa), a one-stop operator or one-stop partner shall consider whether the adult or dislocated worker is a member of a hard-to-serve population.

“(iii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.”.

(e) LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(e)(1)(A) of such Act (29 U.S.C. 2864(e)(1)(A)) is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(C) customer support to enable members of hard-to-serve populations, including individuals with disabilities, to navigate among mul-
tiple services and activities for such popu-
lations.”.

SEC. 204. PERFORMANCE MEASURES.


(1) by striking “taking into account” and inser-
ting “and shall ensure that the levels involved are
adjusted, using objective statistical methods, based on”;

(2) by inserting “(such as differences in unem-
ployment rates and job losses or gains in particular
industries)” after “economic conditions”; and

(3) by inserting “(such as indicators of poor
work history, lack of work experience, lack of edu-
cational or occupational skills attainment, dislocation
from high-wage and benefit employment, low levels
of literacy or English proficiency, disability status,
older individual status, homelessness, ex-offender
status, and welfare dependency)” after “program”.

(b) Local Performance Measures.—Section 136(c)(3) of such Act (29 U.S.C. 2871(c)(3))—

(1) by striking “shall take into account” and
inserting “shall ensure that the levels involved are
adjusted, using objective statistical methods, based on’’;

(2) by inserting ‘‘(characteristics such as unemployment rates and job losses or gains in particular industries)’’ after ‘‘economic’’; and

(3) by inserting ‘‘(characteristics such as indicators of poor work history, lack of work experience, lack of educational and occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, older individual status, homelessness, ex-offender status, and welfare dependency)’’ after ‘‘demographic’’.

(c) WAGE RECORDS AND DOCUMENTED DATA.—Section 136(f)(2) of such Act (29 U.S.C. 2871(f)(2)) is amended—

(1) by striking ‘‘(2)’’ and all that follows through ‘‘In’’ and inserting the following:

‘‘(2) WAGE RECORDS AND DOCUMENTED DATA.—

“(A) WAGE RECORDS.—In’’; and

(2) by adding at the end the following:

“(B) DOCUMENTED DATA.—In measuring the progress of the State with respect to older individuals on State and local performance
measures relating to earnings, a State may use documented data other than quarterly wage records to determine the work schedule of the older individuals, and may impute full-time earnings to part-time workers who are older individuals.”.

SEC. 205. REPORTING.

Section 136(d)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(d)(2)) is amended—

(1) in subparagraph (E), by striking “(excluding participants who received only self-service and informational activities)”;

(2) in subparagraph (F)—

(A) by striking “(F)” and inserting “(F)(i)”;

(B) by striking the period and inserting “; and”;

(C) by adding at the end the following:

“(ii) the number of participants in each of the groups described in clause (i) who have received services authorized under this title, in the form of core services described in section 134(d)(2), intensive services described in section 134(d)(3), training services described in section
SEC. 206. INCENTIVE GRANTS.

(a) USE OF FUNDS FOR STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(B)) is amended—

(1) in clause (v), by striking “and” at the end;

(2) in clause (vi), by striking the period and inserting “; and”;

(3) by adding at the end the following:

“(vii) providing incentive grants to local areas, in accordance with section 136(j).”.

(b) INCENTIVE GRANTS FOR LOCAL AREAS.—Section 136 of such Act (29 U.S.C. 2871) is amended by adding at the end the following:

“(j) INCENTIVE GRANTS FOR LOCAL AREAS.—

“(1) IN GENERAL.—From funds reserved under sections 128(a) and 133(a)(1), the Governor involved shall award incentive grants to local areas for performance described in paragraph (2) in carrying out programs under chapters 4 and 5.

“(2) BASIS.—The Governor shall award the grants on the basis that the local areas—
“(A) have exceeded the performance measures established under subsection (e)(2) relating to indicators described in subsection (b)(3)(A)(iii); or

“(B) have—

“(i) met the performance measures established under subsection (e)(2) relating to indicators described in subsection (b)(3)(A)(iii); and

“(ii) demonstrated exemplary performance in the State in serving hard-to-serve populations.

“(3) Use of Funds.—The funds awarded to a local area under this subsection may be used to carry out activities authorized for local areas and such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, as may be approved by the Governor.”.

(e) Incentive Grants for States.—Section 503 of such Act (20 U.S.C. 9273) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) In General.—

“(1) Timeline.—
“(A) PRIOR TO JULY 1, 2012.—Prior to July 1, 2012, the Secretary shall award a grant to each State in accordance with the provisions of this section as this section was in effect on July 1, 2003.

“(B) BEGINNING JULY 1, 2012.—Beginning on July 1, 2012, the Secretary shall award incentive grants to States for performance described in paragraph (2) in carrying out innovative programs consistent with the programs under chapters 4 and 5 of subtitle B of title I, to implement or enhance innovative and coordinated programs consistent with the statewide economic, workforce, and educational interests of the State.

“(2) BASIS.—The Secretary shall award the grants on the basis that States—

“(A) have exceeded the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); or

“(B) have—
“(i) met the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); and

“(ii) demonstrated exemplary performance in serving hard-to-serve populations.

“(3) USE OF FUNDS.—The funds awarded to a State under this section may be used to carry out activities authorized for States under chapters 4 and 5 of subtitle B of title I, title II, and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), including demonstration projects, and for such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations.”; and

(2) in subsection (b)(2), by striking subparagraph (C) and inserting the following:

“(C) the State meets the requirements of subparagraph (A) or (B) of subsection (a)(2).”.
TITLE III—CLEARINGHOUSE OF BEST PRACTICES FOR HIRING AND RETAINING OLDER WORKERS

SEC. 301. ESTABLISHMENT.
Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall—

(1) identify best practices for hiring and retaining older workers in the private and public sectors;

and

(2) make such information publicly available through the Internet.

SEC. 302. ANNUAL UPDATES.
The Secretary of Labor shall update the practices identified under section 301(1) and make such information publicly available as provided under section 301(2) on an annual basis.