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1ST SESSION

S. 804

To streamline and address overlap in the Federal workforce investment system, steer Federal training dollars toward skills needed by industry, establish incentives for accountability through a Pay for Performance pilot program, and provide new access to the National Directory of New Hires, to measure performance and better connect the unemployed to jobs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 24, 2013

Mr. PORTMAN (for himself and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To streamline and address overlap in the Federal workforce investment system, steer Federal training dollars toward skills needed by industry, establish incentives for accountability through a Pay for Performance pilot program, and provide new access to the National Directory of New Hires, to measure performance and better connect the unemployed to jobs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Careers through Re-
3 sponsive, Efficient, and Effective Retraining Act.”.

4 **SEC. 2. STEERING FEDERAL TRAINING DOLLARS TOWARD**
5 **SKILLS NEEDED BY INDUSTRY.**

6 (a) DEFINITIONS.—Section 101 of the Workforce In-
7 vestment Act of 1998 (29 U.S.C. 2801) is amended by
8 adding at the end the following:

9 “(54) CREDENTIAL.—

10 “(A) INDUSTRY-RECOGNIZED.—The term
11 ‘industry-recognized’, used with respect to a
12 credential, means a credential that is sought or
13 accepted by employers within the industry sec-
14 tor involved as recognized, preferred, or re-
15 quired for recruitment, screening, hiring, or ad-
16 vancement. If a credential is not yet available
17 for a certain skill that is so sought or accepted,
18 completion of an industry-recognized training
19 program shall be considered to be an industry-
20 recognized credential, for the purposes of this
21 paragraph.

22 “(B) NATIONALLY PORTABLE.—The term
23 ‘nationally portable’, used with respect to cre-
24 dential, means a credential that is sought or ac-
25 cepted as described in subparagraph (A) across
26 multiple States.

1 “(C) REGIONALLY RELEVANT.—The term
2 ‘regionally relevant’, used with respect to a cre-
3 dential, means a credential that is determined
4 by the Governor and the head of the State
5 workforce agency to be sought or accepted as
6 described in subparagraph (A) in that State
7 and neighboring States.

8 “(55) STATE WORKFORCE AGENCY.—The term
9 ‘State workforce agency’ means the lead State agen-
10 cy with responsibility for workforce investment ac-
11 tivities carried out under subtitle B.”.

12 (b) YOUTH ACTIVITIES.—Section 129(c)(1)(C) of the
13 Workforce Investment Act of 1998 (29 U.S.C.
14 2854(c)(1)(C)) is amended—

15 (1) by redesignating clauses (ii) through (iv) as
16 clauses (iii) through (v), respectively; and

17 (2) by inserting after clause (i) the following:

18 “(ii) training, with priority consider-
19 ation given, after consultation with the
20 Governor and the head of the State work-
21 force agency and beginning not later than
22 6 months after the date of enactment of
23 the Careers through Responsive, Efficient,
24 and Effective Retraining Act, to programs
25 that lead to an industry-recognized, nation-

1 ally portable, and regionally relevant cre-
2 dential, if the local board determines that
3 such programs are available and appro-
4 priate;”.

5 (c) GENERAL EMPLOYMENT AND TRAINING ACTIVI-
6 TIES.—Section 134(d)(4)(F) of the Workforce Investment
7 Act of 1998 (29 U.S.C. 2864(d)(4)(F)) is amended by
8 adding at the end the following:

9 “(iv) PRIORITY FOR PROGRAMS THAT
10 PROVIDE AN INDUSTRY-RECOGNIZED, NA-
11 TIONALLY PORTABLE, AND REGIONALLY
12 RELEVANT CREDENTIAL.—In selecting and
13 approving programs of training services
14 under this section, a one-stop operator and
15 employees of a one-stop center referred to
16 in subsection (c) shall, after consultation
17 with the Governor and the head of the
18 State workforce agency and beginning not
19 later than 6 months after the date of en-
20 actment of the Careers through Respon-
21 sive, Efficient, and Effective Retraining
22 Act, give priority consideration to pro-
23 grams (approved by the appropriate State
24 agency and local board in conjunction with
25 section 122) that lead to an industry-rec-

1 ognized, nationally portable, and regionally
2 relevant credential.

3 “(v) RULE OF CONSTRUCTION.—
4 Nothing in clause (iv) or section
5 129(e)(1)(C) shall be construed to require
6 an entity with responsibility for selecting
7 or approving a workforce investment activi-
8 ties program to select a program that leads
9 to a credential specified in clause (iv).”.

10 (d) STATE ADMINISTRATION.—

11 (1) GENERAL EMPLOYMENT AND TRAINING AC-
12 TIVITIES.—Section 122(b)(2)(D) of the Workforce
13 Investment Act of 1998 (29 U.S.C. 2842(b)(2)(D))
14 is amended—

15 (A) in clause (ii), by striking “and” at the
16 end;

17 (B) in clause (iii), by striking the period
18 and inserting “; and”; and

19 (C) by adding at the end the following:

20 “(iv) in the case of a provider of a
21 program of training services that leads to
22 an industry-recognized, nationally portable,
23 and regionally relevant credential, that the
24 program leading to the credential meets
25 such quality criteria (which may be accred-

1 itation by a State-recognized, third party
2 accrediting agency) as the Governor (in
3 consultation with representatives of the rel-
4 evant industry sectors and labor groups)
5 shall establish not later than 6 months
6 after the date of enactment of the Careers
7 through Responsive, Efficient, and Effec-
8 tive Retraining Act.”.

9 (2) YOUTH ACTIVITIES.—Section 123 of the
10 Workforce Investment Act of 1998 (29 U.S.C. 2843)
11 is amended by inserting “(including such quality cri-
12 teria (which may be accreditation by a State-recog-
13 nized, third party accrediting agency) as the Gov-
14 ernor (in consultation with representatives of the rel-
15 evant industry sectors and labor groups) shall estab-
16 lish not later than 6 months after the date of enact-
17 ment of the Careers through Responsive, Efficient,
18 and Effective Retraining Act for a training program
19 that leads to an industry-recognized, nationally port-
20 able, and regionally relevant credential)” after
21 “plan”.

22 (e) REPORT ON INDUSTRY-RECOGNIZED CREDEN-
23 TIALS.—Section 122 of the Workforce Investment Act of
24 1998 (29 U.S.C. 2842) is amended by adding at the end
25 the following:

1 “(j) REPORT ON INDUSTRY-RECOGNIZED CREDEN-
2 TIALS.—

3 “(1) DATA COLLECTION.—Each State shall
4 submit to the Secretary data on programs deter-
5 mined, under section 129(e)(1)(C) or
6 134(d)(4)(F)(iv), to lead to industry-recognized and
7 regionally relevant credentials, and on the need of
8 that State for such credentials.

9 “(2) REPORT.—Based on data provided by the
10 States under paragraph (1), the Secretary shall an-
11 nually compile the data and prepare a report identi-
12 fying industry-recognized credentials that are region-
13 ally relevant or nationally portable. The report shall
14 include information on the needs of each State and
15 of the Nation for such credentials.

16 “(3) AVAILABILITY.—The Secretary shall make
17 the report available and easily searchable on a
18 website.

19 “(4) RULE OF CONSTRUCTION.—Nothing in
20 this subsection shall be construed as an official en-
21 dorsement of a credential by the Department of
22 Labor.”.

1 **SEC. 3. ESTABLISHING INCENTIVES FOR ACCOUNTABILITY.**

2 (a) PROGRAM.—Subtitle B of title I of the Workforce
3 Investment Act of 1998 is amended by inserting after sec-
4 tion 112 (29 U.S.C. 2822) the following:

5 **“SEC. 112A. PAY FOR PERFORMANCE PILOT PROGRAM.**

6 “(a) ESTABLISHMENT.—

7 “(1) IN GENERAL.—Not later than 1 year after
8 the date of enactment of the Careers through Re-
9 sponsive, Efficient, and Effective Retraining Act, the
10 Secretary of Labor shall establish a Pay for Per-
11 formance pilot program. The Secretary shall select
12 not fewer than 5 States, including at least 1 rural
13 State and at least 1 non-rural State, to participate
14 in the pilot program by carrying out a Pay for Per-
15 formance State program.

16 “(2) VOLUNTARY NATURE OF PROGRAM.—
17 Nothing in this subtitle shall be construed to require
18 a State to participate in the pilot program without
19 the State’s consent.

20 “(3) DEFINITION.—In this subsection, the term
21 ‘rural State’ means a State that has a population
22 density of 52 or fewer persons per square mile, or
23 a State in which the largest county has fewer than
24 150,000 people, as determined on the basis of the
25 most recent decennial census of population con-

1 ducted pursuant to section 141 of title 13, United
2 States Code.

3 “(b) SUBMISSION OF PLANS.—To be eligible to par-
4 ticipate in the pilot program, a State shall submit to the
5 Secretary and obtain approval of a Pay for Performance
6 plan described in section 112(e) as a supplement to the
7 State plan described in section 112. The State shall sub-
8 mit the supplement in accordance with such process as
9 the Secretary may specify after consultation with States.

10 “(c) IMPLEMENTATION.—

11 “(1) IN GENERAL.—In a State that carries out
12 a Pay for Performance State program, the State
13 shall reserve and the local areas shall use the
14 amount described in paragraph (2) to provide a por-
15 tion of the training services authorized under section
16 134(d)(4) (referred to in this section as ‘training
17 services’) under the State’s Pay for Performance
18 plan, in addition to the other requirements of this
19 Act.

20 “(2) AMOUNT.—The amount reserved under
21 paragraph (1) shall be—

22 “(A) a portion of not more than 25 per-
23 cent, as determined by the State, of the funds
24 available to be allocated under section 133(b)
25 within the State, and estimated by the State to

1 be available for training services, for the fiscal
2 year involved; and

3 “(B) a portion of not more than 17.5 per-
4 cent, as determined by the State, of the grant
5 funds awarded under section 211(b) for the
6 State (which portion shall be taken from the
7 funds described in paragraphs (2) and (3) of
8 section 222(a)) for the fiscal year involved.

9 “(d) TRAINING AND TECHNICAL ASSISTANCE.—The
10 Secretary shall provide, by grant or contract, training and
11 technical assistance to States, and local areas in States,
12 carrying out a Pay for Performance State program.

13 “(e) STATE REPORTS.—Each State carrying out a
14 Pay for Performance State program shall annually pre-
15 pare and submit to the Secretary a report regarding the
16 performance of the State on the outcome measures de-
17 scribed in section 112(e)(2)(C).

18 “(f) EVALUATIONS.—

19 “(1) IN GENERAL.—Not later than 1 year after
20 the conclusion of the transition period described in
21 section 112(e)(2)(H), the Secretary shall enter into
22 an arrangement for an entity to carry out an inde-
23 pendent evaluation of Pay for Performance State
24 programs carried out under this subtitle.

1 “(2) CONTENTS.—For each Pay for Perform-
2 ance State program, the entity shall evaluate the
3 program design and performance on the outcome
4 measures, evaluate (wherever possible) the level of
5 satisfaction with the program among employers and
6 employees benefiting from the program, and esti-
7 mate public returns on investment, including such
8 returns as reduced dependence on public assistance,
9 reduced unemployment, and increased tax revenue
10 paid by participants exiting the program for employ-
11 ment.

12 “(3) REPORT.—The entity shall prepare a re-
13 port containing the results of the evaluation, and
14 submit the report to the Secretary, not later than 18
15 months after the conclusion of the transition period.

16 “(g) REPORT TO CONGRESS.—Not later than 3
17 months after the submission of the report described in
18 subsection (f)(3), the Secretary shall prepare and submit
19 to Congress a report that contains the results of the eval-
20 uations described in subsection (f) and recommendations.
21 The recommendation shall include the Secretary’s opin-
22 ions concerning whether the pilot program should be con-
23 tinued and whether the pay for performance model should
24 be expanded within this Act, and related considerations.

25 “(h) PERFORMANCE.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), section 136 of this Act shall not apply to
3 a State, or a local area in a State, with respect to
4 activities carried out through a Pay for Performance
5 State program.

6 “(2) FISCAL AND MANAGEMENT ACCOUNT-
7 ABILITY INFORMATION SYSTEMS.—Section 136(f)(1)
8 shall apply with respect to reporting and monitoring
9 of the use of funds under this section for activities
10 described in paragraph (1).”.

11 (b) PAY FOR PERFORMANCE PLAN.—Section 112 of
12 the Workforce Investment Act of 1998 (29 U.S.C. 2822)
13 is amended by adding at the end the following:

14 “(e) PAY FOR PERFORMANCE PLANS.—

15 “(1) IN GENERAL.—For a State seeking to
16 carry out a Pay for Performance State program (re-
17 ferred to in this subsection as a ‘State program’)
18 under the pilot program described in section 112A,
19 the State plan shall include a plan supplement, con-
20 sisting of a Pay for Performance plan developed by
21 the State and local areas in the State.

22 “(2) CONTENTS.—The Pay for Performance
23 plan shall, with respect to the State program—

24 “(A) provide for technical support to local
25 areas and providers in order to carry out a pay

1 for performance model, which shall at a min-
2 imum provide assistance with data collection
3 and data entry requirements;

4 “(B) specify target populations who are el-
5 igible to receive training services authorized
6 under section 134(d)(4) (referred to in this sub-
7 section as ‘training services’) through the State
8 program, with appropriate consideration of and
9 participation targets for special participant pop-
10 ulations that face multiple barriers to employ-
11 ment, as defined in section 134(d)(4)(G)(iv);

12 “(C) specify employment placement, em-
13 ployment retention, and earnings outcome
14 measures and timetables for each target popu-
15 lation;

16 “(D) provide for curricula in terms of com-
17 petencies required for education and career ad-
18 vancement that are, where feasible, tied to in-
19 dustry-recognized credentials and related stand-
20 ards (where the quality of the program leading
21 to the credential or standard is recognized by
22 the State or local area involved), or State li-
23 censing requirements;

24 “(E) describe how the State or local areas
25 will provide information to participants in the

1 State program about appropriate support serv-
2 ices, where feasible, including career assessment
3 and counseling, case management, child care,
4 transportation, financial aid, and job placement
5 services;

6 “(F) specify a fixed amount that, except as
7 provided in subparagraph (H), local areas in
8 the State will pay to providers of training serv-
9 ices in the State program, for each eligible par-
10 ticipant who achieves the applicable outcome
11 measures or is an excepted participant de-
12 scribed in subparagraph (G)(i), according to the
13 timetables described in subparagraph (C),
14 which amount—

15 “(i) shall represent 115 percent of the
16 historical cost of providing training serv-
17 ices to a participant under this subtitle, as
18 established by the State or local area in-
19 volved; and

20 “(ii) may vary by target population;

21 “(G) provide assurances that—

22 “(i) no funds reserved for the State
23 program will be paid to a provider for a
24 participant who does not achieve the out-
25 come measures according to the timetables,

1 except for a participant who does not
2 achieve the outcome measures through no
3 fault of the provider, as determined by the
4 Governor in consultation with the head of
5 the State board, relevant local boards, and
6 at least 1 representative of the State’s pro-
7 viders of training services; and

8 “(ii) each local area in the State will
9 reallocate funds not paid to a provider, be-
10 cause the achievement described in clause
11 (i) did not occur, for further activities
12 under the State program in the local area;
13 and

14 “(H) specify a transition period of not
15 more than 1 year during which the reserved
16 funds may be paid to providers of training serv-
17 ices based on the previous year’s performance
18 on the core indicators of performance described
19 in 136(b)(2)(A)(i), in order to enable the pro-
20 viders to begin to provide services under the
21 State program and adjust to a pay for perform-
22 ance model, including adjusting by—

23 “(i) developing partnerships with local
24 employers; and

1 “(ii) seeking financial support and
2 volunteer services from private sector
3 sources.

4 “(3) APPROVAL.—In determining whether to
5 approve the plan supplement, the Secretary shall
6 consider the quality of the data system the State will
7 use to track performance on outcome measures in
8 carrying out a Pay for Performance plan.”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) USE OF FUNDS.—Section 211(b)(2) of the
11 Workforce Investment Act of 1998 (20 U.S.C.
12 9211(b)(2)) is amended by inserting “or training
13 services in accordance with section 112A(c)” before
14 the period at the end.

15 (2) FUNDING.—Section 223(a) of the Work-
16 force Investment Act of 1998 (20 U.S.C. 9223(a))
17 is amended—

18 (A) by redesignating paragraph (8) as
19 paragraph (12), and moving that paragraph to
20 the end of that section 223(a); and

21 (B) by inserting after paragraph (7) the
22 following:

23 “(8) Providing training services in accordance
24 with section 112A(c).”.

1 **SEC. 4. PROVIDING A JOB TRAINING REORGANIZATION**
2 **PLAN FOR THE FEDERAL WORKFORCE IN-**
3 **VESTMENT SYSTEM.**

4 (a) DEFINITIONS.—In this section:

5 (1) FEDERAL JOB TRAINING PROGRAM.—The
6 term “Federal job training program” means any
7 federally funded employment and training program,
8 including the programs identified in the Government
9 Accountability Office report.

10 (2) GOVERNMENT ACCOUNTABILITY OFFICE RE-
11 PORT.—The term “Government Accountability Of-
12 fice report” means the January 2011 report of the
13 Government Accountability Office entitled “Multiple
14 Employee and Training Programs: Providing Infor-
15 mation on Colocating Services and Consolidating Ad-
16 ministrative Structures Could Promote Efficiencies”
17 (GAO–11–92).

18 (3) INDIVIDUAL WITH A BARRIER TO EMPLOY-
19 MENT.—The term “individual with a barrier to em-
20 ployment” means a job seeker who—

21 (A) is economically disadvantaged;

22 (B) has limited English proficiency;

23 (C) requires remedial education;

24 (D) is an older worker;

25 (E) is an individual who has completed a
26 sentence for a criminal offense; or

1 (F) has another barrier to employment, as
2 defined by the Director of the Office of Man-
3 agement and Budget.

4 (b) REORGANIZATION PLAN.—

5 (1) PREPARATION.—The Director of the Office
6 of Management and Budget (referred to in this sec-
7 tion as the “Director”) shall prepare a plan to reor-
8 ganize Federal job training programs to increase
9 their efficiency, integration, and alignment. The plan
10 shall include a proposal to decrease the number of
11 Federal job training programs without decreasing
12 services or accessibility to services for eligible job
13 training participants, including individuals with bar-
14 riers to employment. In preparing the plan, the Di-
15 rector shall demonstrate that the Director consid-
16 ered the findings of the Government Accountability
17 Office report, and input from the States, heads of
18 the affected Federal departments and agencies, local
19 workforce investment boards, businesses, workforce
20 advocates and community organizations, labor orga-
21 nizations, and relevant education-related organiza-
22 tions.

23 (2) SUBMISSION.—Not later than 12 months
24 after the date of enactment of this Act, the Director

1 shall submit the reorganization plan to the appro-
2 priate committees of Congress.

3 **SEC. 5. USING THE NATIONAL DIRECTORY OF NEW HIRES**
4 **INFORMATION TO ASSIST IN ADMINISTRA-**
5 **TION OF WORKFORCE INVESTMENT ACT OF**
6 **1998 PROGRAMS.**

7 Section 453(j) of the Social Security Act (42 U.S.C.
8 653(j)) is amended by adding at the end the following:

9 “(12) INFORMATION COMPARISONS AND DIS-
10 CLOSURE TO ASSIST IN ADMINISTRATION OF WORK-
11 FORCE INVESTMENT ACT PROGRAMS.—

12 “(A) IN GENERAL.—If, for purposes of ad-
13 ministering a program of workforce investment
14 activities carried out under subtitle B of title I
15 of the Workforce Investment Act of 1998, a
16 State agency responsible for the administration
17 of such program transmits to the Secretary the
18 names and social security account numbers of
19 individuals, the Secretary shall disclose to such
20 State agency information on such individuals
21 and their employers maintained in the National
22 Directory of New Hires, subject to this para-
23 graph.

24 “(B) CONDITION ON DISCLOSURE BY THE
25 SECRETARY.—The Secretary shall make a dis-

1 closure under subparagraph (A) only to the ex-
2 tent that the Secretary determines that the dis-
3 closure would not interfere with the effective
4 operation of the program under this part.

5 “(C) USE AND DISCLOSURE OF INFORMA-
6 TION BY STATE AGENCIES.—

7 “(i) IN GENERAL.—A State agency
8 may not use or disclose information pro-
9 vided under this paragraph except for pur-
10 poses of administering a program referred
11 to in subparagraph (A) (including meas-
12 uring performance under section 136 of
13 the Workforce Investment Act of 1998 and
14 preparing reports under subsection (d) of
15 such section, subject to this paragraph).

16 “(ii) INFORMATION SECURITY.—The
17 State agency shall have in effect data secu-
18 rity and control policies that the Secretary
19 finds adequate to ensure the security of in-
20 formation obtained under this paragraph
21 and to ensure that access to such informa-
22 tion is restricted to authorized persons for
23 purposes of authorized uses and disclo-
24 sures.

1 “(iii) PENALTY FOR MISUSE OF IN-
2 FORMATION.—An officer or employee of
3 the State agency who fails to comply with
4 this subparagraph shall be subject to the
5 sanctions under subsection (l)(2) to the
6 same extent as if such officer or employee
7 was an officer or employee of the United
8 States.

9 “(D) PROCEDURAL REQUIREMENTS.—
10 State agencies requesting information under
11 this paragraph shall adhere to uniform proce-
12 dures established by the Secretary governing in-
13 formation requests and data matching under
14 this paragraph.

15 “(E) WAIVER OF REQUIREMENT TO REIM-
16 BURSE COSTS.—Notwithstanding subsection
17 (k)(3), a State agency shall not be required to
18 reimburse the Secretary for the costs incurred
19 by the Secretary in furnishing information re-
20 quested under this paragraph to the State
21 agency.”.

○