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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Careers through Responsive, Efficient, and Effective Retraining Act.”

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

(a) DEFINITIONS.—Section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801) is amended by adding at the end the following:

“(54) CREDENTIAL.—

“(A) INDUSTRY-RECOGNIZED.—The term ‘industry-recognized’, used with respect to a credential, means a credential that is sought or accepted by employers within the industry sector involved as recognized, preferred, or required for recruitment, screening, hiring, or advancement. If a credential is not yet available for a certain skill that is so sought or accepted, completion of an industry-recognized training program shall be considered to be an industry-recognized credential, for the purposes of this paragraph.

“(B) NATIONALLY PORTABLE.—The term ‘nationally portable’, used with respect to credential, means a credential that is sought or accepted as described in subparagraph (A) across multiple States.
“(C) Regionally relevant.—The term ‘regionally relevant’, used with respect to a credential, means a credential that is determined by the Governor and the head of the State workforce agency to be sought or accepted as described in subparagraph (A) in that State and neighboring States.

“(55) State workforce agency.—The term ‘State workforce agency’ means the lead State agency with responsibility for workforce investment activities carried out under subtitle B.”.

(b) Youth Activities.—Section 129(c)(1)(C) of the Workforce Investment Act of 1998 (29 U.S.C. 2854(c)(1)(C)) is amended—

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

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

“(ii) training, with priority consideration given, after consultation with the Governor and the head of the State workforce agency and beginning not later than 6 months after the date of enactment of the Careers through Responsive, Efficient, and Effective Retraining Act, to programs that lead to an industry-recognized, nation-
ally portable, and regionally relevant credential, if the local board determines that such programs are available and appropriate;”.

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

“(iv) PRIORITY FOR PROGRAMS THAT PROVIDE AN INDUSTRY-RECOGNIZED, NATIONALLY PORTABLE, AND REGIONALLY RELEVANT CREDENTIAL.—In selecting and approving programs of training services under this section, a one-stop operator and employees of a one-stop center referred to in subsection (e) shall, after consultation with the Governor and the head of the State workforce agency and beginning not later than 6 months after the date of enactment of the Careers through Responsive, Efficient, and Effective Retraining Act, give priority consideration to programs (approved by the appropriate State agency and local board in conjunction with section 122) that lead to an industry-rec-
ognized, nationally portable, and regionally relevant credential.

“(v) RULE OF CONSTRUCTION.—Nothing in clause (iv) or section 129(c)(1)(C) shall be construed to require an entity with responsibility for selecting or approving a workforce investment activities program to select a program that leads to a credential specified in clause (iv).”.

(d) STATE ADMINISTRATION.—

(1) GENERAL EMPLOYMENT AND TRAINING ACTIVITIES.—Section 122(b)(2)(D) of the Workforce Investment Act of 1998 (29 U.S.C. 2842(b)(2)(D)) is amended—

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

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

(C) by adding at the end the following:

“(iv) in the case of a provider of a program of training services that leads to an industry-recognized, nationally portable, and regionally relevant credential, that the program leading to the credential meets such quality criteria (which may be accred-
itation by a State-recognized, third party accrediting agency) as the Governor (in consultation with representatives of the relevant industry sectors and labor groups) shall establish not later than 6 months after the date of enactment of the Careers through Responsive, Efficient, and Effective Retraining Act.”.

(2) YOUTH ACTIVITIES.—Section 123 of the Workforce Investment Act of 1998 (29 U.S.C. 2843) is amended by inserting “(including such quality criteria (which may be accreditation by a State-recognized, third party accrediting agency) as the Governor (in consultation with representatives of the relevant industry sectors and labor groups) shall establish not later than 6 months after the date of enactment of the Careers through Responsive, Efficient, and Effective Retraining Act for a training program that leads to an industry-recognized, nationally portable, and regionally relevant credential)” after “plan”.

(c) REPORT ON INDUSTRY-RECOGNIZED CREDENTIALS.—Section 122 of the Workforce Investment Act of 1998 (29 U.S.C. 2842) is amended by adding at the end the following:
“(j) Report on Industry-Recognized Credentials.—

“(1) Data Collection.—Each State shall submit to the Secretary data on programs determined, under section 129(e)(1)(C) or 134(d)(4)(F)(iv), to lead to industry-recognized and regionally relevant credentials, and on the need of that State for such credentials.

“(2) Report.—Based on data provided by the States under paragraph (1), the Secretary shall annually compile the data and prepare a report identifying industry-recognized credentials that are regionally relevant or nationally portable. The report shall include information on the needs of each State and of the Nation for such credentials.

“(3) Availability.—The Secretary shall make the report available and easily searchable on a website.

“(4) Rule of Construction.—Nothing in this subsection shall be construed as an official endorsement of a credential by the Department of Labor.”.
SEC. 3. ESTABLISHING INCENTIVES FOR ACCOUNTABILITY.

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

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

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Careers through Responsive, Efficient, and Effective Retraining Act, the Secretary of Labor shall establish a Pay for Performance pilot program. The Secretary shall select not fewer than 5 States, including at least 1 rural State and at least 1 non-rural State, to participate in the pilot program by carrying out a Pay for Performance State program.

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

“(3) DEFINITION.—In this subsection, the term ‘rural State’ means a State that has a population density of 52 or fewer persons per square mile, or a State in which the largest county has fewer than 150,000 people, as determined on the basis of the most recent decennial census of population con-
ducted pursuant to section 141 of title 13, United States Code.

“(b) SUBMISSION OF PLANS.—To be eligible to participate in the pilot program, a State shall submit to the Secretary and obtain approval of a Pay for Performance plan described in section 112(e) as a supplement to the State plan described in section 112. The State shall submit the supplement in accordance with such process as the Secretary may specify after consultation with States.

“(c) IMPLEMENTATION.—

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

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

“(A) a portion of not more than 25 percent, as determined by the State, of the funds available to be allocated under section 133(b) within the State, and estimated by the State to
be available for training services, for the fiscal year involved; and

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

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

“(e) STATE REPORTS.—Each State carrying out a Pay for Performance State program shall annually prepare and submit to the Secretary a report regarding the performance of the State on the outcome measures described in section 112(e)(2)(C).

“(f) EVALUATIONS.—

“(1) IN GENERAL.—Not later than 1 year after the conclusion of the transition period described in section 112(e)(2)(H), the Secretary shall enter into an arrangement for an entity to carry out an independent evaluation of Pay for Performance State programs carried out under this subtitle.
“(2) CONTENTS.—For each Pay for Performance State program, the entity shall evaluate the program design and performance on the outcome measures, evaluate (wherever possible) the level of satisfaction with the program among employers and employees benefiting from the program, and estimate public returns on investment, including such returns as reduced dependence on public assistance, reduced unemployment, and increased tax revenue paid by participants exiting the program for employment.

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

“(g) REPORT TO CONGRESS.—Not later than 3 months after the submission of the report described in subsection (f)(3), the Secretary shall prepare and submit to Congress a report that contains the results of the evaluations described in subsection (f) and recommendations. The recommendation shall include the Secretary’s opinions concerning whether the pilot program should be continued and whether the pay for performance model should be expanded within this Act, and related considerations.

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

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

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

“(e) PAY FOR PERFORMANCE PLANS.—

“(1) IN GENERAL.—For a State seeking to carry out a Pay for Performance State program (referred to in this subsection as a ‘State program’) under the pilot program described in section 112A, the State plan shall include a plan supplement, consisting of a Pay for Performance plan developed by the State and local areas in the State.

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

“(A) provide for technical support to local areas and providers in order to carry out a pay
for performance model, which shall at a minimum provide assistance with data collection and data entry requirements;

“(B) specify target populations who are eligible to receive training services authorized under section 134(d)(4) (referred to in this subsection as ‘training services’) through the State program, with appropriate consideration of and participation targets for special participant populations that face multiple barriers to employment, as defined in section 134(d)(4)(G)(iv);

“(C) specify employment placement, employment retention, and earnings outcome measures and timetables for each target population;

“(D) provide for curricula in terms of competencies required for education and career advancement that are, where feasible, tied to industry-recognized credentials and related standards (where the quality of the program leading to the credential or standard is recognized by the State or local area involved), or State licensing requirements;

“(E) describe how the State or local areas will provide information to participants in the
State program about appropriate support services, where feasible, including career assessment and counseling, case management, child care, transportation, financial aid, and job placement services;

“(F) specify a fixed amount that, except as provided in subparagraph (H), local areas in the State will pay to providers of training services in the State program, for each eligible participant who achieves the applicable outcome measures or is an excepted participant described in subparagraph (G)(i), according to the timetables described in subparagraph (C), which amount—

“(i) shall represent 115 percent of the historical cost of providing training services to a participant under this subtitle, as established by the State or local area involved; and

“(ii) may vary by target population;

“(G) provide assurances that—

“(i) no funds reserved for the State program will be paid to a provider for a participant who does not achieve the outcome measures according to the timetables,
except for a participant who does not achieve the outcome measures through no fault of the provider, as determined by the Governor in consultation with the head of the State board, relevant local boards, and at least 1 representative of the State’s providers of training services; and

“(ii) each local area in the State will reallocate funds not paid to a provider, because the achievement described in clause (i) did not occur, for further activities under the State program in the local area; and

“(H) specify a transition period of not more than 1 year during which the reserved funds may be paid to providers of training services based on the previous year’s performance on the core indicators of performance described in 136(b)(2)(A)(i), in order to enable the providers to begin to provide services under the State program and adjust to a pay for performance model, including adjusting by—

“(i) developing partnerships with local employers; and
“(ii) seeking financial support and volunteer services from private sector sources.

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

(e) CONFORMING AMENDMENTS.—

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

(2) FUNDING.—Section 223(a) of the Workforce Investment Act of 1998 (20 U.S.C. 9223(a)) is amended—

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

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

“(8) Providing training services in accordance with section 112A(e).”.
SEC. 4. PROVIDING A JOB TRAINING REORGANIZATION PLAN FOR THE FEDERAL WORKFORCE INVESTMENT SYSTEM.

(a) DEFINITIONS.—In this section:

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


(3) INDIVIDUAL WITH A BARRIER TO EMPLOYMENT.—The term “individual with a barrier to employment” means a job seeker who—

(A) is economically disadvantaged;

(B) has limited English proficiency;

(C) requires remedial education;

(D) is an older worker;

(E) is an individual who has completed a sentence for a criminal offense; or
(F) has another barrier to employment, as defined by the Director of the Office of Management and Budget.

(b) REORGANIZATION PLAN.—

(1) PREPARATION.—The Director of the Office of Management and Budget (referred to in this section as the “Director”) shall prepare a plan to reorganize Federal job training programs to increase their efficiency, integration, and alignment. The plan shall include a proposal to decrease the number of Federal job training programs without decreasing services or accessibility to services for eligible job training participants, including individuals with barriers to employment. In preparing the plan, the Director shall demonstrate that the Director considered the findings of the Government Accountability Office report, and input from the States, heads of the affected Federal departments and agencies, local workforce investment boards, businesses, workforce advocates and community organizations, labor organizations, and relevant education-related organizations.

(2) SUBMISSION.—Not later than 12 months after the date of enactment of this Act, the Director
shall submit the reorganization plan to the appropriate committees of Congress.

SEC. 5. USING THE NATIONAL DIRECTORY OF NEW HIRES INFORMATION TO ASSIST IN ADMINISTRATION OF WORKFORCE INVESTMENT ACT OF 1998 PROGRAMS.

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

“(12) INFORMATION COMPARISONS AND DISCLOSURE TO ASSIST IN ADMINISTRATION OF WORKFORCE INVESTMENT ACT PROGRAMS.—

“(A) IN GENERAL.—If, for purposes of administering a program of workforce investment activities carried out under subtitle B of title I of the Workforce Investment Act of 1998, a State agency responsible for the administration of such program transmits to the Secretary the names and social security account numbers of individuals, the Secretary shall disclose to such State agency information on such individuals and their employers maintained in the National Directory of New Hires, subject to this paragraph.

“(B) CONDITION ON DISCLOSURE BY THE SECRETARY.—The Secretary shall make a dis-
closure under subparagraph (A) only to the extent that the Secretary determines that the disclosure would not interfere with the effective operation of the program under this part.

“(C) USE AND DISCLOSURE OF INFORMATION BY STATE AGENCIES.—

“(i) IN GENERAL.—A State agency may not use or disclose information provided under this paragraph except for purposes of administering a program referred to in subparagraph (A) (including measuring performance under section 136 of the Workforce Investment Act of 1998 and preparing reports under subsection (d) of such section, subject to this paragraph).

“(ii) INFORMATION SECURITY.—The State agency shall have in effect data security and control policies that the Secretary finds adequate to ensure the security of information obtained under this paragraph and to ensure that access to such information is restricted to authorized persons for purposes of authorized uses and disclosures.
“(iii) Penalty for misuse of information.—An officer or employee of the State agency who fails to comply with this subparagraph shall be subject to the sanctions under subsection (l)(2) to the same extent as if such officer or employee was an officer or employee of the United States.

“(D) Procedural requirements.—State agencies requesting information under this paragraph shall adhere to uniform procedures established by the Secretary governing information requests and data matching under this paragraph.

“(E) Waiver of requirement to reimburse costs.—Notwithstanding subsection (k)(3), a State agency shall not be required to reimburse the Secretary for the costs incurred by the Secretary in furnishing information requested under this paragraph to the State agency.”.