

112TH CONGRESS
1ST SESSION

S. 150

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.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Health Care and Training for Older Workers Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COBRA CONTINUATION COVERAGE

Sec. 101. Extended COBRA continuation coverage for certain older workers.

Sec. 102. Repeal.

TITLE II—EMPLOYMENT AND TRAINING

Sec. 201. Definitions.

Sec. 202. Statewide employment and training activities.

Sec. 203. Local employment and training activities.

Sec. 204. Performance measures.

Sec. 205. Reporting.

Sec. 206. Incentive grants.

TITLE III—CLEARINGHOUSE OF BEST PRACTICES FOR HIRING AND RETAINING OLDER WORKERS

Sec. 301. Establishment.

Sec. 302. Annual updates.

1 **TITLE I—COBRA CONTINUATION**
2 **COVERAGE**

3 **SEC. 101. EXTENDED COBRA CONTINUATION COVERAGE**
4 **FOR CERTAIN OLDER WORKERS.**

5 (a) AMENDMENTS TO THE EMPLOYEE RETIREMENT
6 INCOME SECURITY ACT OF 1974.—Subparagraph (A) of
7 section 602(2) of the Employee Retirement Income Secu-
8 rity Act of 1974 (29 U.S.C. 1162(2)(A)) is amended by
9 adding at the end the following:

10 “(ix) SPECIAL RULE FOR CERTAIN
11 OLDER WORKERS.—

12 “(I) IN GENERAL.—Notwith-
13 standing any other provision of this
14 subparagraph, in the case of a quali-
15 fying event described in section
16 603(2) relating to a reduction of

1 hours of an employee described in
2 subclause (II), the date which is 36
3 months after the date of the quali-
4 fying event, except that the period of
5 coverage under this clause shall end
6 on the date on which the employee be-
7 comes entitled to benefits under title
8 XVIII of the Social Security Act
9 based on age.

10 “(II) EMPLOYEE DESCRIBED.—

11 An employee is described in this sub-
12 clause if such employee, on the date of
13 the qualifying event, is at least the
14 early retirement age (as defined in
15 section 216(l)(2) of the Social Secu-
16 rity Act) but not yet entitled to bene-
17 fits under title XVIII of the Social Se-
18 curity Act based on age.”.

19 (b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE
20 ACT.—Section 2202(2)(A) of the Public Health Service
21 Act (42 U.S.C. 300bb–2(2)(A)) is amended by inserting
22 after clause (vi) the following:

23 “(vii) SPECIAL RULE FOR CERTAIN
24 OLDER WORKERS.—

1 “(I) IN GENERAL.—Notwith-
2 standing any other provision of this
3 subparagraph, in the case of a quali-
4 fying event described in section
5 2203(2) relating to a reduction of
6 hours of an employee described in
7 subclause (II), the date which is 36
8 months after the date of the quali-
9 fying event, except that the period of
10 coverage under this clause shall end
11 on the date on which the employee be-
12 comes entitled to benefits under title
13 XVIII of the Social Security Act
14 based on age.

15 “(II) EMPLOYEE DESCRIBED.—
16 An employee is described in this sub-
17 clause if such employee, on the date of
18 the qualifying event, is at least the
19 early retirement age (as defined in
20 section 216(l)(2) of the Social Secu-
21 rity Act) but not yet entitled to bene-
22 fits under title XVIII of the Social Se-
23 curity Act based on age.”.

24 (c) AMENDMENTS TO THE INTERNAL REVENUE
25 CODE OF 1986.—Section 4980B(f)(2)(B)(i) of the Inter-

1 nal Revenue Code of 1986 is amended by inserting after
2 subclause (VIII) the following:

3 “(IX) SPECIAL RULE FOR CER-
4 TAIN OLDER WORKERS.—

5 “(aa) IN GENERAL.—Not-
6 withstanding any other provision
7 of this clause, in the case of a
8 qualifying event described in
9 paragraph (3)(B) relating to a
10 reduction of hours of an em-
11 ployee described in item (bb), the
12 date which is 36 months after
13 the date of the qualifying event,
14 except that the period of coverage
15 under this clause shall end on the
16 date on which the employee be-
17 comes entitled to benefits under
18 title XVIII of the Social Security
19 Act based on age.

20 “(bb) EMPLOYEE DE-
21 SCRIBED.—An employee is de-
22 scribed in this subclause if such
23 employee, on the date of the
24 qualifying event, is at least the
25 early retirement age (as defined

1 in section 216(1)(2) of the Social
2 Security Act) but not yet entitled
3 to benefits under title XVIII of
4 the Social Security Act based on
5 age.”.

6 **SEC. 102. REPEAL.**

7 The amendments made by section 101 shall be re-
8 pealed effective on January 1, 2014.

9 **TITLE II—EMPLOYMENT AND**
10 **TRAINING**

11 **SEC. 201. DEFINITIONS.**

12 Section 101 of the Workforce Investment Act of 1998
13 (29 U.S.C. 2801) is amended—

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

17 (2) by inserting after paragraph (16) the fol-
18 lowing:

19 “(17) **HARD-TO-SERVE POPULATIONS.**—The
20 term ‘hard-to-serve populations’ means populations
21 of individuals who are hard to serve, including dis-
22 placed homemakers, low-income individuals, Native
23 Americans, individuals with disabilities, older indi-
24 viduals, ex-offenders, homeless individuals, individ-
25 uals with limited English proficiency, individuals

1 who do not meet the definition of literacy in section
 2 203, individuals facing substantial cultural barriers,
 3 migrant and seasonal farmworkers, individuals with-
 4 in 2 years of exhausting lifetime eligibility under
 5 part A of title IV of the Social Security Act (42
 6 U.S.C. 601 et seq.), single parents (including single
 7 pregnant women), and such other groups as the
 8 Governor determines to be hard to serve.”.

9 **SEC. 202. STATEWIDE EMPLOYMENT AND TRAINING ACTIVI-**
 10 **TIES.**

11 Section 134(a)(3)(A) of the Workforce Investment
 12 Act of 1998 (29 U.S.C. 2864(a)(3)(A)) is amended—

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

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

15 and

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

17 “(vii) developing strategies for effec-
 18 tively serving hard-to-serve populations
 19 and for coordinating programs and services
 20 among one-stop partners; and”.

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

22 (a) INTENSIVE SERVICES.—Section 134(d)(3) of the
 23 Workforce Investment Act of 1998 (29 U.S.C.
 24 2864(d)(3)) is amended by striking subparagraph (A) and
 25 inserting the following:

1 “(A) IN GENERAL.—

2 “(i) ELIGIBILITY.—Except as pro-
3 vided in clause (iii), funds allocated to a
4 local area for adults under paragraph
5 (2)(A) or (3), as appropriate, of section
6 133(b), and funds allocated to the local
7 area for dislocated workers under section
8 133(b)(2)(B), shall be used to provide in-
9 tensive services to adults and dislocated
10 workers, respectively—

11 “(I) who are unemployed and
12 who, after an interview, evaluation, or
13 assessment, have been determined by
14 a one-stop operator or one-stop part-
15 ner to be—

16 “(aa) unlikely or unable to
17 obtain employment, that leads to
18 self-sufficiency or wages com-
19 parable to or higher than pre-
20 vious employment, through core
21 services described in paragraph
22 (2); and

23 “(bb) in need of intensive
24 services to obtain employment
25 that leads to self-sufficiency or

1 wages comparable to or higher
2 than previous employment; or

3 “(II) who are employed, but who,
4 after an interview, evaluation, or as-
5 sessment, are determined by a one-
6 stop operator or one-stop partner to
7 be in need of intensive services to ob-
8 tain or retain employment that leads
9 to self-sufficiency.

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

17 “(iii) SPECIAL RULE.—A new inter-
18 view, evaluation, or assessment of a partic-
19 ipant is not required under clause (i) if the
20 one-stop operator or one-stop partner de-
21 termines that it is appropriate to use a re-
22 cent assessment of the participant con-
23 ducted pursuant to another education or
24 training program.”.

1 (b) TRAINING SERVICES.—Section 134(d)(4) of such
2 Act (29 U.S.C. 2864(d)(4)) is amended by striking sub-
3 paragraph (A) and inserting the following:

4 “(A) IN GENERAL.—

5 “(i) ELIGIBILITY.—Except as pro-
6 vided in clause (iii), funds allocated to a
7 local area for adults under paragraph
8 (2)(A) or (3), as appropriate, of section
9 133(b), and funds allocated to the local
10 area for dislocated workers under section
11 133(b)(2)(B), shall be used to provide
12 training services to adults and dislocated
13 workers, respectively—

14 “(I) who, after an interview, eval-
15 uation, or assessment, and case man-
16 agement, have been determined by a
17 one-stop operator or one-stop partner,
18 as appropriate, to—

19 “(aa) be unlikely or unable
20 to obtain or retain employment,
21 that leads to self-sufficiency or
22 wages comparable to or higher
23 than previous employment,
24 through the intensive services de-
25 scribed in paragraph (3);

1 “(bb) be in need of training
2 services to obtain or retain em-
3 ployment that leads to self-suffi-
4 ciency or wages comparable to or
5 higher than previous employ-
6 ment; and

7 “(cc) have the skills and
8 qualifications to successfully par-
9 ticipate in the selected program
10 of training services;

11 “(II) who select programs of
12 training services that are directly
13 linked to the employment opportuni-
14 ties in the local area or region in-
15 volved or in another area to which the
16 adults or dislocated workers are will-
17 ing to commute or relocate;

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

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

24 “(ii) CONSIDERATION.—For purposes
25 of determining whether an adult or dis-

1 located worker meets the requirements of
2 clause (i)(I)(aa), a one-stop operator or
3 one-stop partner shall consider whether the
4 adult or dislocated worker is a member of
5 a hard-to-serve population.

6 “(iii) SPECIAL RULE.—A new inter-
7 view, evaluation, or assessment of a partic-
8 ipant is not required under clause (i) if the
9 one-stop operator or one-stop partner de-
10 termines that it is appropriate to use a re-
11 cent assessment of the participant con-
12 ducted pursuant to another education or
13 training program.”.

14 (c) LOCAL EMPLOYMENT AND TRAINING ACTIVI-
15 TIES.—Section 134(e)(1)(A) of such Act (29 U.S.C.
16 2864(e)(1)(A)) is amended—

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

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

21 (3) by adding at the end the following:

22 “(C) customer support to enable members
23 of hard-to-serve populations, including individ-
24 uals with disabilities, to navigate among mul-

1 tiple services and activities for such popu-
2 lations.”.

3 **SEC. 204. PERFORMANCE MEASURES.**

4 (a) STATE PERFORMANCE MEASURES.—Section
5 136(b)(3)(A)(iv)(II) of the Workforce Investment Act of
6 1998 (29 U.S.C. 2871(b)(3)(A)(iv)(II)) is amended—

7 (1) by striking “taking into account” and in-
8 serting “and shall ensure that the levels involved are
9 adjusted, using objective statistical methods, based
10 on”;

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

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

21 (b) LOCAL PERFORMANCE MEASURES.—Section
22 136(c)(3) of such Act (29 U.S.C. 2871(c)(3))—

23 (1) by striking “shall take into account” and
24 inserting “shall ensure that the levels involved are

1 adjusted, using objective statistical methods, based
2 on”;

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

6 (3) by inserting “(characteristics such as indi-
7 cators of poor work history, lack of work experience,
8 lack of educational and occupational skills attain-
9 ment, dislocation from high-wage and benefit em-
10 ployment, low levels of literacy or English pro-
11 ficiency, disability status, older individual status,
12 homelessness, ex-offender status, and welfare de-
13 pendency)” after “demographic”.

14 (c) WAGE RECORDS AND DOCUMENTED DATA.—Sec-
15 tion 136(f)(2) of such Act (29 U.S.C. 2871(f)(2)) is
16 amended—

17 (1) by striking “(2)” and all that follows
18 through “In” and inserting the following:

19 “(2) WAGE RECORDS AND DOCUMENTED
20 DATA.—

21 “(A) WAGE RECORDS.—In”; and

22 (2) by adding at the end the following:

23 “(B) DOCUMENTED DATA.—In measuring
24 the progress of the State with respect to older
25 individuals on State and local performance

1 measures relating to earnings, a State may use
2 documented data other than quarterly wage
3 records to determine the work schedule of the
4 older individuals, and may impute full-time
5 earnings to part-time workers who are older in-
6 dividuals.”.

7 **SEC. 205. REPORTING.**

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

10 (1) in subparagraph (E), by striking “(exclud-
11 ing participants who received only self-service and
12 informational activities)”;

13 (2) in subparagraph (F)—

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

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

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

19 “(ii) the number of participants in
20 each of the groups described in clause (i)
21 who have received services authorized
22 under this title, in the form of core serv-
23 ices described in section 134(d)(2), inten-
24 sive services described in section 134(d)(3),
25 training services described in section

1 134(d)(4), and followup services, respec-
2 tively;”.

3 **SEC. 206. INCENTIVE GRANTS.**

4 (a) USE OF FUNDS FOR STATEWIDE EMPLOYMENT
5 AND TRAINING ACTIVITIES.—Section 134(a)(2)(B) of the
6 Workforce Investment Act of 1998 (29 U.S.C.
7 2864(a)(2)(B)) is amended—

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

9 (2) in clause (vi), by striking the period and in-
10 serting “; and”; and

11 (3) by adding at the end the following:

12 “(vii) providing incentive grants to
13 local areas, in accordance with section
14 136(j).”.

15 (b) INCENTIVE GRANTS FOR LOCAL AREAS.—Section
16 136 of such Act (29 U.S.C. 2871) is amended by adding
17 at the end the following:

18 “(j) INCENTIVE GRANTS FOR LOCAL AREAS.—

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

24 “(2) BASIS.—The Governor shall award the
25 grants on the basis that the local areas—

1 “(A) have exceeded the performance meas-
 2 ures established under subsection (c)(2) relating
 3 to indicators described in subsection
 4 (b)(3)(A)(iii); or

5 “(B) have—

6 “(i) met the performance measures es-
 7 tablished under subsection (c)(2) relating
 8 to indicators described in subsection
 9 (b)(3)(A)(iii); and

10 “(ii) demonstrated exemplary per-
 11 formance in the State in serving hard-to-
 12 serve populations.

13 “(3) USE OF FUNDS.—The funds awarded to a
 14 local area under this subsection may be used to
 15 carry out activities authorized for local areas and
 16 such innovative projects or programs that increase
 17 coordination and enhance service to program partici-
 18 pants, particularly hard-to-serve populations, as may
 19 be approved by the Governor.”.

20 “(c) INCENTIVE GRANTS FOR STATES.—Section 503
 21 of such Act (20 U.S.C. 9273) is amended—

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

24 “(a) IN GENERAL.—

25 “(1) TIMELINE.—

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

6 “(B) BEGINNING JULY 1, 2012.—Beginning
7 on July 1, 2012, the Secretary shall award in-
8 centive grants to States for performance de-
9 scribed in paragraph (2) in carrying out innova-
10 tive programs consistent with the programs
11 under chapters 4 and 5 of subtitle B of title I,
12 to implement or enhance innovative and coordi-
13 nated programs consistent with the statewide
14 economic, workforce, and educational interests
15 of the State.

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

18 “(A) have exceeded the State adjusted lev-
19 els of performance for title I, the adjusted levels
20 of performance for title II, and the levels of
21 performance under the Carl D. Perkins Voca-
22 tional and Technical Education Act of 1998 (20
23 U.S.C. 2301 et seq.); or

24 “(B) have—

1 “(i) met the State adjusted levels of
2 performance for title I, the adjusted levels
3 of performance for title II, and the levels
4 of performance under the Carl D. Perkins
5 Vocational and Technical Education Act of
6 1998 (20 U.S.C. 2301 et seq.); and

7 “(ii) demonstrated exemplary per-
8 formance in serving hard-to-serve popu-
9 lations.

10 “(3) USE OF FUNDS.—The funds awarded to a
11 State under this section may be used to carry out
12 activities authorized for States under chapters 4 and
13 5 of subtitle B of title I, title II, and the Carl D.
14 Perkins Vocational and Technical Education Act of
15 1998 (20 U.S.C. 2301 et seq.), including demonstra-
16 tion projects, and for such innovative projects or
17 programs that increase coordination and enhance
18 service to program participants, particularly hard-to-
19 serve populations.”; and

20 (2) in subsection (b)(2), by striking subpara-
21 graph (C) and inserting the following:

22 “(C) the State meets the requirements of
23 subparagraph (A) or (B) of subsection (a)(2).”.

1 **TITLE III—CLEARINGHOUSE OF**
2 **BEST PRACTICES FOR HIRING**
3 **AND RETAINING OLDER**
4 **WORKERS**

5 **SEC. 301. ESTABLISHMENT.**

6 Not later than 6 months after the date of enactment
7 of this Act, the Secretary of Labor shall—

8 (1) identify best practices for hiring and retain-
9 ing older workers in the private and public sectors;
10 and

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

13 **SEC. 302. ANNUAL UPDATES.**

14 The Secretary of Labor shall update the practices
15 identified under section 301(1) and make such informa-
16 tion publicly available as provided under section 301(2)
17 on an annual basis.

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