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2D SESSION

S. 3599

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

SEPTEMBER 20, 2012

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.

17 “(B) NATIONALLY PORTABLE.—The term
18 ‘nationally portable,’ used with respect to cre-
19 dential, means a credential that is sought or ac-
20 cepted as described in subparagraph (A) across
21 multiple States.

22 “(C) REGIONALLY RELEVANT.—The term
23 ‘regionally relevant,’ used with respect to a cre-
24 dential, means a credential that is determined
25 by the Governor and the head of the State
26 workforce agency to be sought or accepted as

1 described in subparagraph (A) in that State
2 and neighboring States.

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

7 (b) YOUTH ACTIVITIES.—Section 129(c)(1)(C) of the
8 Workforce Investment Act of 1998 (29 U.S.C.
9 2854(c)(1)(C)) is amended—

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

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

13 “(ii) training, with priority consider-
14 ation given, after consultation with the
15 Governor and the head of the State work-
16 force agency and beginning not later than
17 6 months after the date of enactment of
18 the Careers through Responsive, Efficient,
19 and Effective Retraining Act, to programs
20 that lead to an industry-recognized, nation-
21 ally portable, and regionally relevant cre-
22 dential, if the local board determines that
23 such programs are available and appro-
24 priate;”.

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

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

24 “(v) RULE OF CONSTRUCTION.—
25 Nothing in clause (iv) or section

1 129(c)(1)(C) shall be construed to require
 2 an entity with responsibility for selecting
 3 or approving a workforce investment activi-
 4 ties program to select a program that leads
 5 to a credential specified in clause (iv).”.

6 (d) STATE ADMINISTRATION.—

7 (1) GENERAL EMPLOYMENT AND TRAINING AC-
 8 TIVITIES.—Section 122(b)(2)(D) of the Workforce
 9 Investment Act of 1998 (29 U.S.C. 2842(b)(2)(D))
 10 is amended—

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

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

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

16 “(iv) in the case of a provider of a
 17 program of training services that leads to
 18 an industry-recognized, nationally portable,
 19 and regionally relevant credential, that the
 20 program leading to the credential meets
 21 such quality criteria as the Governor shall
 22 establish not later than 6 months after the
 23 date of enactment of the Careers through
 24 Responsive, Efficient, and Effective Re-
 25 training Act.”.

1 (2) YOUTH ACTIVITIES.—Section 123 of the
 2 Workforce Investment Act of 1998 (29 U.S.C. 2843)
 3 is amended by inserting “(including such quality cri-
 4 teria as the Governor shall establish not later than
 5 6 months after the date of enactment of the Careers
 6 through Responsive, Efficient, and Effective Re-
 7 training Act for a training program that leads to an
 8 industry-recognized, nationally portable, and region-
 9 ally relevant credential)” after “plan”.

10 (e) REPORT ON INDUSTRY-RECOGNIZED CREDEN-
 11 TIALS.—Section 122 of the Workforce Investment Act of
 12 1998 (29 U.S.C. 2842) is amended by adding at the end
 13 the following:

14 “(j) REPORT ON INDUSTRY-RECOGNIZED CREDEN-
 15 TIALS.—

16 “(1) DATA COLLECTION.—Each State shall
 17 submit to the Secretary data on programs deter-
 18 mined, under section 129(c)(1)(C) or
 19 134(d)(4)(F)(iv), to lead to industry-recognized and
 20 regionally relevant credentials, and on the need of
 21 that State for such credentials.

22 “(2) REPORT.—Based on data provided by the
 23 States under paragraph (1), the Secretary shall an-
 24 nually compile the data and prepare a report identi-
 25 fying industry-recognized credentials that are region-

1 ally relevant or nationally portable. The report shall
 2 include information on the needs of each State and
 3 of the Nation for such credentials.

4 “(3) AVAILABILITY.—The Secretary shall make
 5 the report available on a Web site.

6 “(4) RULE OF CONSTRUCTION.—Nothing in
 7 this subsection shall be construed as an official en-
 8 dorsement of a credential by the Department of
 9 Labor.”.

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

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

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

15 “(a) ESTABLISHMENT.—

16 “(1) IN GENERAL.—Not later than 1 year after
 17 the date of enactment of the Careers through Re-
 18 sponsive, Efficient, and Effective Retraining Act, the
 19 Secretary of Labor shall establish a Pay for Per-
 20 formance pilot program. The Secretary shall select
 21 not fewer than 5 States, including at least 1 rural
 22 State, to participate in the pilot program by carrying
 23 out a Pay for Performance State program.

24 “(2) VOLUNTARY NATURE OF PROGRAM.—
 25 Nothing in this subtitle shall be construed to require

1 a State to participate in the pilot program without
 2 the State's consent.

3 “(3) DEFINITION.—In this subsection, the term
 4 ‘rural State’ means a State that has a population
 5 density of 52 or fewer persons per square mile, or
 6 a State in which the largest county has fewer than
 7 150,000 people, as determined on the basis of the
 8 most recent decennial census of population con-
 9 ducted pursuant to section 141 of title 13, United
 10 States Code.

11 “(b) SUBMISSION OF PLANS.—To be eligible to par-
 12 ticipate in the pilot program, a State shall submit to the
 13 Secretary and obtain approval of a Pay for Performance
 14 plan described in section 112(e) as a supplement to the
 15 State plan described in section 112. The State shall sub-
 16 mit the supplement in accordance with such process as
 17 the Secretary may specify after consultation with States.

18 “(c) IMPLEMENTATION.—

19 “(1) IN GENERAL.—In a State that carries out
 20 a Pay for Performance State program, the State
 21 shall reserve and the local areas shall use the
 22 amount described in paragraph (2) to provide a por-
 23 tion of the training services authorized under section
 24 134(d)(4) (referred to in this section as ‘training
 25 services’) under the State's Pay for Performance

1 plan, in addition to the other requirements of this
2 Act.

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

5 “(A) a portion of not more than 25 per-
6 cent, as determined by the State, of the funds
7 available to be allocated under section 133(b)
8 within the State, and estimated by the State to
9 be available for training services, for the fiscal
10 year involved; and

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

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

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

1 “(f) EVALUATIONS.—

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

8 “(2) CONTENTS.—For each Pay for Perform-
9 ance State program, the entity shall evaluate the
10 program design and performance on the outcome
11 measures, and estimate public returns on invest-
12 ment, including such returns as reduced dependence
13 on public assistance, reduced unemployment, and in-
14 creased tax revenue paid by participants exiting the
15 program for employment.

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

20 “(g) REPORT TO CONGRESS.—Not later than 3
21 months after the submission of the report described in
22 subsection (f)(3), the Secretary shall prepare and submit
23 to Congress a report that contains the results of the eval-
24 uations described in subsection (f) and recommendations.
25 The recommendation shall include the Secretary’s opin-

1 ions concerning whether the pilot program should be con-
 2 tinued and whether the pay for performance model should
 3 be expanded within this Act, and related considerations.

4 “(h) PERFORMANCE.—

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

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

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

18 “(e) PAY FOR PERFORMANCE PLANS.—

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

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

3 “(A) provide for technical support to local
4 areas and providers in order to carry out a pay
5 for performance model, which shall at a min-
6 imum provide assistance with data collection
7 and data entry requirements;

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

16 “(C) specify employment placement, em-
17 ployment retention, and earnings outcome
18 measures and timetables for each target popu-
19 lation;

20 “(D) provide for curricula in terms of com-
21 petencies required for education and career ad-
22 vancement that are, where feasible, tied to in-
23 dustry-recognized credentials and related stand-
24 ards, or State licensing requirements;

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

8 “(F) specify a fixed amount that, except as
9 provided in subparagraph (H), local areas in
10 the State will pay to providers of training serv-
11 ices in the State program, for each eligible par-
12 ticipant who achieves the applicable outcome
13 measures, according to the timetables described
14 in subparagraph (C), 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-

1 come measures according to the timetables;
2 and

3 “(ii) each local area in the State will
4 reallocate funds not paid to a provider, be-
5 cause the achievement described in clause
6 (i) did not occur, for further activities
7 under the State program in the local area;
8 and

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

18 “(i) developing partnerships with local
19 employers; and

20 “(ii) seeking financial support and
21 volunteer services from private sector
22 sources.

23 “(3) APPROVAL.—In determining whether to
24 approve the plan supplement, the Secretary shall
25 consider the quality of the data system the State will

1 use to track performance on outcome measures in
 2 carrying out a Pay for Performance plan.”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) USE OF FUNDS.—Section 211(b)(2) of the
 5 Workforce Investment Act of 1998 (20 U.S.C.
 6 9211(b)(2)) is amended by inserting “or training
 7 services in accordance with section 112A(c)” before
 8 the period at the end.

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

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

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

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

19 **SEC. 4. PROVIDING A JOB TRAINING REORGANIZATION**
 20 **PLAN FOR THE FEDERAL WORKFORCE IN-**
 21 **VESTMENT SYSTEM.**

22 (a) DEFINITIONS.—In this section:

23 (1) FEDERAL JOB TRAINING PROGRAM.—The
 24 term “Federal job training program” means any
 25 federally funded employment and training program,

1 including the programs identified in the Government
2 Accountability Office report.

3 (2) GOVERNMENT ACCOUNTABILITY OFFICE RE-
4 PORT.—The term “Government Accountability Of-
5 fice report” means the January 2011 report of the
6 Government Accountability Office entitled “Multiple
7 Employee and Training Programs: Providing Infor-
8 mation on Colocating Services and Consolidating Ad-
9 ministrative Structures Could Promote Efficiencies”
10 (GAO–11–92).

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

14 (A) is economically disadvantaged;

15 (B) has limited English proficiency;

16 (C) requires remedial education;

17 (D) is an older worker;

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

20 (F) has another barrier to employment, as
21 defined by the Director of the Office of Man-
22 agement and Budget.

23 (b) REORGANIZATION PLAN.—

24 (1) PREPARATION.—The Director of the Office
25 of Management and Budget (referred to in this sec-

1 tion as the “Director”) shall prepare a plan to reor-
 2 ganize Federal job training programs to increase
 3 their efficiency, integration, and alignment. The plan
 4 shall include a proposal to decrease the number of
 5 Federal job training programs without decreasing
 6 services or accessibility to services for eligible job
 7 training participants, including individuals with bar-
 8 riers to employment. In preparing the plan, the Di-
 9 rector shall demonstrate that the Director consid-
 10 ered the findings of the Government Accountability
 11 Office report, and input from the States, local work-
 12 force investment boards, businesses, workforce advo-
 13 cates and community organizations, labor organiza-
 14 tions, and relevant education-related organizations.

15 (2) SUBMISSION.—Not later than 12 months
 16 after the date of enactment of this Act, the Director
 17 shall submit the reorganization plan to the appro-
 18 priate committees of Congress.

19 **SEC. 5. USING THE NATIONAL DIRECTORY OF NEW HIRES**
 20 **INFORMATION TO ASSIST IN ADMINISTRA-**
 21 **TION OF WORKFORCE INVESTMENT ACT PRO-**
 22 **GRAMS.**

23 Section 453(j) of the Social Security Act (42 U.S.C.
 24 653(j)) is amended by adding at the end the following:

1 “(12) INFORMATION COMPARISONS AND DIS-
2 CLOSURE TO ASSIST IN ADMINISTRATION OF WORK-
3 FORCE INVESTMENT ACT PROGRAMS.—

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

16 “(B) CONDITION ON DISCLOSURE BY THE
17 SECRETARY.—The Secretary shall make a dis-
18 closure under subparagraph (A) only to the ex-
19 tent that the Secretary determines that the dis-
20 closure would not interfere with the effective
21 operation of the program under this part.

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

24 “(i) IN GENERAL.—A State agency
25 may not use or disclose information pro-

1 vided under this paragraph except for pur-
2 poses of administering a program referred
3 to in subparagraph (A) (including meas-
4 uring performance under section 136 of
5 the Workforce Investment Act of 1998 and
6 preparing reports under subsection (d) of
7 such section, subject to this paragraph).

8 “(ii) INFORMATION SECURITY.—The
9 State agency shall have in effect data secu-
10 rity and control policies that the Secretary
11 finds adequate to ensure the security of in-
12 formation obtained under this paragraph
13 and to ensure that access to such informa-
14 tion is restricted to authorized persons for
15 purposes of authorized uses and disclo-
16 sures.

17 “(iii) PENALTY FOR MISUSE OF IN-
18 FORMATION.—An officer or employee of
19 the State agency who fails to comply with
20 this subparagraph shall be subject to the
21 sanctions under subsection (l)(2) to the
22 same extent as if such officer or employee
23 was an officer or employee of the United
24 States.

1 “(D) PROCEDURAL REQUIREMENTS.—
2 State agencies requesting information under
3 this paragraph shall adhere to uniform proce-
4 dures established by the Secretary governing in-
5 formation requests and data matching under
6 this paragraph.

7 “(E) WAIVER OF REQUIREMENT TO REIM-
8 BURSE COSTS.—Notwithstanding subsection
9 (k)(3), a State agency shall not be required to
10 reimburse the Secretary for the costs incurred
11 by the Secretary in furnishing information re-
12 quested under this paragraph to the State
13 agency.”.

○