

109TH CONGRESS  
1ST SESSION

# S. 1826

To amend the Internal Revenue Code of 1986 to allow a credit to encourage employers to offer flexible and phased work opportunities to older workers, to expand the credit for dependent care expenses to cover eldercare expenses, to extend COBRA coverage for certain older workers who lose health insurance coverage due to a reduction in work, to improve older workers' access to job training services, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 2005

Mr. KOHL (for himself and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a credit to encourage employers to offer flexible and phased work opportunities to older workers, to expand the credit for dependent care expenses to cover eldercare expenses, to extend COBRA coverage for certain older workers who lose health insurance coverage due to a reduction in work, to improve older workers' access to job training services, 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; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Older Worker Opportunity Act”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of  
5 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—TAX INCENTIVES**

Sec. 101. Tax credit for older workers in flexible and phased work programs.

Sec. 102. Expansion of dependent care credit to eldercare expenses.

**TITLE II—COBRA CONTINUATION COVERAGE**

Sec. 201. Extended COBRA continuation coverage for certain older workers.

**TITLE III—EMPLOYMENT AND TRAINING**

Sec. 301. Definitions.

Sec. 302. Statewide employment and training activities.

Sec. 303. Local employment and training activities.

Sec. 304. Performance measures.

Sec. 305. Reporting.

Sec. 306. Incentive grants.

**TITLE IV—FEDERAL TASK FORCE ON OLDER WORKERS**

Sec. 401. Federal task force on older workers.

6 **TITLE I—TAX INCENTIVES**

7 **SEC. 101. TAX CREDIT FOR OLDER WORKERS IN FLEXIBLE**  
8 **AND PHASED WORK PROGRAMS.**

9 (a) Congress finds that—

10 (1) most older workers expect to work past tra-  
11 ditional retirement age;

12 (2) most older workers would prefer not to  
13 work a traditional full-time schedule;

14 (3) older workers’ preference for flexible and  
15 phased work is not matched by opportunities cur-  
16 rently offered by employers;

1           (4) many older workers would choose to work  
2 longer if they were offered flexible and phased work  
3 opportunities, which would also reduce employer  
4 costs by increasing employee retention; and

5           (5) many older workers would like to gradually  
6 transition into retirement instead of taking full re-  
7 tirement immediately.

8           (b) FLEXIBLE AND PHASED WORK CREDIT.—Sub-  
9 part D of part IV of subchapter A of chapter 1 of the  
10 Internal Revenue Code of 1986 (relating to business re-  
11 lated credits) is amended by adding at the end the fol-  
12 lowing new section:

13 **“SEC. 45N. FLEXIBLE AND PHASED WORK CREDIT.**

14           “(a) IN GENERAL.—For purposes of section 38, in  
15 the case of an eligible employer, the flexible and phased  
16 work credit determined under this section for the taxable  
17 year shall be equal to 40 percent of the qualified wages  
18 for such year.

19           “(b) ELIGIBLE EMPLOYER.—For purposes of this  
20 section, the term ‘eligible employer’ means an employer  
21 which—

22           “(1) maintains a qualified trust (within the  
23 meaning of section 401(a)), and

24           “(2) provides health insurance coverage (as de-  
25 fined in section 9832(b)(1)(A)) to employees and

1 pays no less than 60 percent of the cost of such  
2 health insurance coverage with respect to each full-  
3 time employee receiving such coverage.

4 “(c) QUALIFIED WAGES DEFINED.—For purposes of  
5 this section—

6 “(1) QUALIFIED WAGES.—The term ‘qualified  
7 wages’ means the wages paid or incurred by an eligi-  
8 ble employer during the taxable year to individuals  
9 whom at the time such wages are paid or incurred—

10 “(A) have attained the age of 59½, and

11 “(B) are participating in a formal flexible  
12 work program or a formal phased work pro-  
13 gram.

14 “(2) WAGES.—

15 “(A) IN GENERAL.—The term ‘wages’ has  
16 the meaning given such term by subsection (b)  
17 of section 3306 (determined without regard to  
18 any dollar limitation contained in such section).

19 “(B) OTHER RULES.—Rules similar to the  
20 rules of paragraph (2) and (3) of section 51(c)  
21 shall apply for purposes of this section.

22 “(C) TERMINATION.—The term ‘wages’  
23 shall not include any amount paid or incurred  
24 to an individual after December 31, 2010.

1           “(3) ONLY FIRST \$6,000 OF WAGES PER YEAR  
2           TAKEN INTO ACCOUNT.—The amount of the quali-  
3           fied wages which may be taken into account with re-  
4           spect to any individual shall not exceed \$6,000 per  
5           year.

6           “(d) FORMAL FLEXIBLE WORK PROGRAM.—For  
7           purposes of this section—

8           “(1) IN GENERAL.—The term ‘formal flexible  
9           work program’ means a program of an eligible em-  
10          ployer—

11           “(A) which consists of core time and flex  
12          time,

13           “(B) under which core time does not ex-  
14          ceed—

15           “(i) 20 hours per week,

16           “(ii) 3 days per week, or

17           “(iii) 1,000 hours per year, and

18           “(C) which meets the requirements of sub-  
19          section (f).

20           “(2) CORE TIME.—The term ‘core time’ means  
21          the specific time—

22           “(A) during which an employee is required  
23          to perform services related to employment, and

24           “(B) which is determined by the employer.

1           “(3) FLEX TIME.—The term ‘flex time’ means  
2           the time other than core time—

3                   “(A) during which an employee is required  
4                   to perform services related to employment, and

5                   “(B) which is determined at the election of  
6                   the employee.

7           “(e) FORMAL PHASED WORK PROGRAM.—For pur-  
8           poses of this section, the term ‘formal phased work pro-  
9           gram’ means—

10                   “(1) a program of an eligible employer—

11                           “(A) under which the employer and an em-  
12                           ployee enter into an agreement, in good faith,  
13                           that the employee’s work schedule will be no  
14                           more than 80 percent of the work schedule of  
15                           a similarly situated full-time employee, and

16                           “(B) which meets the requirements of sub-  
17                           section (f), or

18                   “(2) any phased retirement program of an eligi-  
19                   ble employer which—

20                           “(A) is authorized by the Secretary, and

21                           “(B) meets the requirements of subsection  
22                           (f).

23           “(f) REQUIREMENTS.—A program shall not be con-  
24           sidered a formal flexible work program or a formal phased

1 work program under this section unless such program  
2 meets the following requirements:

3           “(1) DURATION OF PROGRAM.—The program  
4 shall allow for participation for a period of at least  
5 1 year.

6           “(2) NO CHANGE IN HEALTH BENEFITS.—With  
7 respect to a participant whose work schedule is no  
8 less than 20 percent of the work schedule of a simi-  
9 larly situated full-time employee—

10           “(A) such participant shall be entitled to  
11 the same health insurance coverage to which a  
12 similarly situated full-time employee would be  
13 entitled,

14           “(B) the employer shall contribute the  
15 same percentage of the cost of health insurance  
16 coverage for such participant as the employer  
17 would contribute for a similarly situated full-  
18 time employee, and

19           “(C) such participant shall be entitled to  
20 participate in a retiree health benefits plan of  
21 the employer in the same manner as a similarly  
22 situated full-time employee, except that service  
23 credited under the plan for any plan year shall  
24 be equal to the ratio of the participant’s work  
25 schedule during such year to the work schedule

1 of a similarly situated full-time employee during  
2 such year.

3 “(3) NO REDUCTION IN PENSION BENEFITS.—

4 “(A) DEFINED BENEFIT PLANS.—

5 “(i) A participant shall be entitled to  
6 participate in a defined benefit plan (with-  
7 in the meaning of section 414(j)) of the  
8 employer in the same manner as a simi-  
9 larly situated full-time employee.

10 “(ii) Service credited to a participant  
11 under the plan for any plan year shall be  
12 equal to the ratio of the participant’s work  
13 schedule during such year to the work  
14 schedule of a similarly situated full-time  
15 employee during such year.

16 “(iii) If the plan uses final average  
17 earnings to determine benefits, final aver-  
18 age earnings of the participant shall be no  
19 less than such earnings were before the  
20 participant entered the program.

21 “(B) DEFINED CONTRIBUTION PLANS.—A  
22 participant shall be entitled to participate in a  
23 defined contribution plan (within the meaning  
24 of section 414(i)) of the employer in the same  
25 manner as a similarly situated full-time em-



1           employee, and the employer shall match the par-  
2           ticipant's contributions at the same rate that  
3           the employer would match the contributions of  
4           a similarly situated full-time employee.

5           “(C) NO FORFEITURE OF PENSION BENE-  
6           FITS.—The pension benefits of a participant  
7           shall not be forfeited under the rules of section  
8           411(a)(3)(B) or section 203(a)(3)(B) of the  
9           Employee Retirement Income Security Act of  
10          1974 with respect to a participant who has at-  
11          tained normal retirement age as of the end of  
12          the plan year.

13          “(4) NONDISCRIMINATION RULE.—Eligibility to  
14          participate in the program shall not discriminate in  
15          favor of highly compensated employees (within the  
16          meaning of section 414(q)).

17          “(g) CERTAIN INDIVIDUALS INELIGIBLE.—For pur-  
18          poses of this section, rules similar to the rules of para-  
19          graphs (1) and (2) of section 51(i) and section 52 shall  
20          apply.

21          “(h) REGULATIONS.—The Secretary may prescribe  
22          such regulations as are necessary to carry out the pur-  
23          poses of this section, including simplified rules to satisfy  
24          the requirements of subsection (f)(3)(C) taking into ac-

1 count the requirements of section 411 and section 203 of  
2 the Employee Retirement Income Security Act of 1974.”.

3 (c) CREDIT MADE PART OF GENERAL BUSINESS  
4 CREDIT.—Subsection (b) of section 38 of the Internal  
5 Revenue Code of 1986 is amended by striking “and” at  
6 the end of paragraph (25), by striking the period at the  
7 end of paragraph (26) and inserting “, plus”, and by add-  
8 ing at the end the following new paragraph:

9 “(27) the flexible and phased work credit deter-  
10 mined under section 45N(a).”.

11 (d) NO DOUBLE BENEFIT.—Subsection (a) of section  
12 280C of the Internal Revenue Code of 1986 is amended  
13 by inserting “45N(a),” after “45A(a),”.

14 (e) CLERICAL AMENDMENT.—The table of sections  
15 for subpart D of part IV of subchapter A of chapter 1  
16 of the Internal Revenue Code of 1986 is amended by add-  
17 ing at the end the following new item:

“Sec. 45N. Flexible and phased work credit.”.

18 (f) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to wages paid after December 31,  
20 2005.

21 **SEC. 102. EXPANSION OF DEPENDENT CARE CREDIT TO**  
22 **ELDERCARE EXPENSES.**

23 (a) IN GENERAL.—Paragraph (1) of section 21(b) of  
24 the Internal Revenue Code of 1986 (relating to qualifying  
25 individual) is amended by striking “or” at the end of sub-

1 paragraph (B), by striking the period at the end of sub-  
 2 paragraph (C) and inserting “, or”, and by adding at the  
 3 end the following new subparagraph:

4 “(D) an individual who—

5 “(i) has attained retirement age (as  
 6 defined in section 216(l)(1) of the Social  
 7 Security Act) before the end of the taxable  
 8 year of the taxpayer,

9 “(ii) is the spouse of the taxpayer or  
 10 has a relationship to the taxpayer de-  
 11 scribed in subparagraph (B), (C), (D), (F),  
 12 or (G) of section 152(d)(2), and

13 “(iii) is a chronically ill individual  
 14 (within the meaning of section  
 15 7702B(e)(2)).”.

16 (b) EXPENSES FOR CARE OUTSIDE OF HOUSE-  
 17 HOLD.—

18 (1) IN GENERAL.—Subparagraph (B) of section  
 19 21(b)(2) of the Internal Revenue Code of 1986 is  
 20 amended by striking “or” at the end of clause (i),  
 21 by redesignating clause (ii) as clause (iii), and by in-  
 22 sserting after clause (i) the following new clause:

23 “(ii) a qualifying individual described  
 24 in paragraph (1)(D), or”.

1           (2) CONFORMING AMENDMENT.—Clause (iii) of  
 2 section 21(b)(2)(B), as redesignated by paragraph  
 3 (1), is amended by striking “paragraph (1)(A)” and  
 4 inserting “subparagraph (A) or (D) of paragraph  
 5 (1)”.

6           (c) CONFORMING AMENDMENTS.—

7           (1) The heading of section 21 of the Internal  
 8 Revenue Code of 1986 is amended by striking “**AND**  
 9 **DEPENDENT CARE SERVICES**” and inserting “,  
 10 **DEPENDENT CARE, AND ELDERCARE SERV-**  
 11 **ICES**”.

12           (2) The item relating to section 21 in the table  
 13 of sections for subpart A of part IV of subchapter  
 14 A of chapter 1 of such Code is amended striking  
 15 “and dependent care services” and inserting “, de-  
 16 pendent care, and eldercare services”.

17           (d) EFFECTIVE DATE.—The amendments made by  
 18 this section shall apply to taxable years beginning after  
 19 December 31, 2005.

20                                   **TITLE II—COBRA**  
 21                                   **CONTINUATION COVERAGE**  
 22 **SEC. 201. EXTENDED COBRA CONTINUATION COVERAGE**  
 23                                   **FOR CERTAIN OLDER WORKERS.**

24           (a) AMENDMENTS TO THE EMPLOYEE RETIREMENT  
 25 INCOME SECURITY ACT OF 1974.—Section 602 of the

1 Employee Retirement Income Security Act of 1974 (29  
2 U.S.C. 1162) is amended—

3 (1) in paragraph (2)(A), by adding at the end  
4 the following:

5 “(vi) SPECIAL RULE FOR CERTAIN  
6 OLDER WORKERS.—

7 “(I) IN GENERAL.—Notwith-  
8 standing any other provision of this  
9 subparagraph, in the case of a quali-  
10 fying event described in section  
11 603(2) relating to a reduction of  
12 hours of an employee described in  
13 subclause (II), the date which is 36  
14 months after the date of the quali-  
15 fying event, except that the period of  
16 coverage under this clause shall end  
17 on the date on which the employee be-  
18 comes entitled to benefits under title  
19 XVIII of the Social Security Act  
20 based on age.

21 “(II) EMPLOYEE DESCRIBED.—  
22 An employee is described in this sub-  
23 clause if such employee, on the date of  
24 the qualifying event, is at least the  
25 early retirement age (as defined in

1 section 216(l)(2) of the Social Secu-  
 2 rity Act) but not yet entitled to bene-  
 3 fits under title XVIII of the Social Se-  
 4 curity Act based on age.”; and

5 (2) in paragraph (3), by adding at the end the  
 6 following: “In the case of an individual described in  
 7 paragraph (2)(A)(vi), any reference in subparagraph  
 8 (A) of this paragraph to ‘102 percent’ is deemed a  
 9 reference to ‘120 percent’ for any month after the  
 10 18th month of continuation coverage provided for  
 11 under such paragraph (2)(A)(vi).”.

12 (b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE  
 13 ACT.—Section 2202 of the Public Health Service Act (42  
 14 U.S.C. 300bb-2) is amended—

15 (1) in paragraph (2)(A), by inserting after  
 16 clause (iv) the following:

17 “(v) SPECIAL RULE FOR CERTAIN  
 18 OLDER WORKERS.—

19 “(I) IN GENERAL.—Notwith-  
 20 standing any other provision of this  
 21 subparagraph, in the case of a quali-  
 22 fying event described in section  
 23 2203(2) relating to a reduction of  
 24 hours of an employee described in  
 25 subclause (II), the date which is 36

1 months after the date of the quali-  
2 fying event, except that the period of  
3 coverage under this clause shall end  
4 on the date on which the employee be-  
5 comes entitled to benefits under title  
6 XVIII of the Social Security Act  
7 based on age.

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

17 (2) in paragraph (3), by adding at the end the  
18 following: “In the case of an individual described in  
19 paragraph (2)(A)(v), any reference in subparagraph  
20 (A) of this paragraph to ‘102 percent’ is deemed a  
21 reference to ‘120 percent’ for any month after the  
22 18th month of continuation coverage provided for  
23 under such paragraph (2)(A)(v).”.

1 (c) AMENDMENTS TO THE INTERNAL REVENUE  
2 CODE OF 1986.—Section 4980B(f) of the Internal Rev-  
3 enue Code of 1986 is amended—

4 (1) in paragraph (2)(B)(i), by inserting after  
5 subclause (V) the following:

6 “(VI) SPECIAL RULE FOR CER-  
7 TAIN OLDER WORKERS.—

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

23 “(bb) EMPLOYEE DE-  
24 SCRIBED.—An employee is de-  
25 scribed in this subclause if such



1 employee, on the date of the  
2 qualifying event, is at least the  
3 early retirement age (as defined  
4 in section 216(1)(2) of the Social  
5 Security Act) but not yet entitled  
6 to benefits under title XVIII of  
7 the Social Security Act based on  
8 age.”; and

9 (2) in paragraph (2)(C) by adding at the end  
10 the following: “In the case of an individual described  
11 in subparagraph (B)(i)(VI), any reference in clause  
12 (i) of this subparagraph to ‘102 percent’ is deemed  
13 a reference to ‘120 percent’ for any month after the  
14 18th month of continuation coverage provided for  
15 under such subparagraph (B)(i)(VI).”.

## 16 **TITLE III—EMPLOYMENT AND** 17 **TRAINING**

### 18 **SEC. 301. DEFINITIONS.**

19 Section 101 of the Workforce Investment Act of 1998  
20 (29 U.S.C. 2801) is amended—

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

24 (2) by inserting after paragraph (16) the fol-  
25 lowing:

1           “(17) **HARD-TO-SERVE POPULATIONS.**—The  
 2 term ‘hard-to-serve populations’ means populations  
 3 of individuals who are hard to serve, including dis-  
 4 placed homemakers, low-income individuals, Native  
 5 Americans, individuals with disabilities, older indi-  
 6 viduals, ex-offenders, homeless individuals, individ-  
 7 uals with limited English proficiency, individuals  
 8 who do not meet the definition of literacy in section  
 9 203, individuals facing substantial cultural barriers,  
 10 migrant and seasonal farmworkers, individuals with-  
 11 in 2 years of exhausting lifetime eligibility under  
 12 part A of title IV of the Social Security Act (42  
 13 U.S.C. 601 et seq.), single parents (including single  
 14 pregnant women), and such other groups as the  
 15 Governor determines to be hard to serve.”.

16 **SEC. 302. STATEWIDE EMPLOYMENT AND TRAINING ACTIVI-**  
 17 **TIES.**

18           Section 134(a)(3)(A) of such Act (29 U.S.C. 2864  
 19 (a)(3)(A)) is amended—

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

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

22           and

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

24                           “(vii) developing strategies for effec-  
 25                           tively serving hard-to-serve populations

1 and for coordinating programs and services  
2 among one-stop partners; and”.

3 **SEC. 303. LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.**

4 (a) INTENSIVE SERVICES.—Section 134(d)(3) of  
5 such Act (29 U.S.C. 2864(d)(3)) is amended by striking  
6 subparagraph (A) and inserting the following:

7 “(A) IN GENERAL.—

8 “(i) ELIGIBILITY.—Except as pro-  
9 vided in clause (iii), funds allocated to a  
10 local area for adults under paragraph  
11 (2)(A) or (3), as appropriate, of section  
12 133(b), and funds allocated to the local  
13 area for dislocated workers under section  
14 133(b)(2)(B), shall be used to provide in-  
15 tensive services to adults and dislocated  
16 workers, respectively—

17 “(I) who are unemployed and  
18 who, after an interview, evaluation, or  
19 assessment, have been determined by  
20 a one-stop operator or one-stop part-  
21 ner to be—

22 “(aa) unlikely or unable to  
23 obtain employment, that leads to  
24 self-sufficiency or wages com-  
25 parable to or higher than pre-

1           vious employment, through core  
2           services described in paragraph  
3           (2); and

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

9           “(II) who are employed, but who,  
10          after an interview, evaluation, or as-  
11          sessment, are determined by a one-  
12          stop operator or one-stop partner to  
13          be in need of intensive services to ob-  
14          tain or retain employment that leads  
15          to self-sufficiency.

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

23          “(iii) SPECIAL RULE.—A new inter-  
24          view, evaluation, or assessment of a partic-  
25          ipant is not required under clause (i) if the

1           one-stop operator or one-stop partner de-  
2           termines that it is appropriate to use a re-  
3           cent assessment of the participant con-  
4           ducted pursuant to another education or  
5           training program.”.

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

9           “(A) IN GENERAL.—

10           “(i) ELIGIBILITY.—Except as pro-  
11           vided in clause (iii), funds allocated to a  
12           local area for adults under paragraph  
13           (2)(A) or (3), as appropriate, of section  
14           133(b), and funds allocated to the local  
15           area for dislocated workers under section  
16           133(b)(2)(B), shall be used to provide  
17           training services to adults and dislocated  
18           workers, respectively—

19           “(I) who, after an interview, eval-  
20           uation, or assessment, and case man-  
21           agement, have been determined by a  
22           one-stop operator or one-stop partner,  
23           as appropriate, to—

24           “(aa) be unlikely or unable  
25           to obtain or retain employment,

1 that leads to self-sufficiency or  
2 wages comparable to or higher  
3 than previous employment,  
4 through the intensive services de-  
5 scribed in paragraph (3);

6 “(bb) be in need of training  
7 services to obtain or retain em-  
8 ployment that leads to self-suffi-  
9 ciency or wages comparable to or  
10 higher than previous employ-  
11 ment; and

12 “(cc) have the skills and  
13 qualifications to successfully par-  
14 ticipate in the selected program  
15 of training services;

16 “(II) who select programs of  
17 training services that are directly  
18 linked to the employment opportuni-  
19 ties in the local area or region in-  
20 volved or in another area to which the  
21 adults or dislocated workers are will-  
22 ing to commute or relocate;

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

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

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

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

20                  (c) LOCAL EMPLOYMENT AND TRAINING ACTIVI-  
21                  TIES.—Section 134(e)(1)(A) of such Act (29 U.S.C.  
22                  2864(e)(1)(A)) is amended—

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

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

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

4                   “(C) customer support to enable members  
5                   of hard-to-serve populations, including individ-  
6                   uals with disabilities, to navigate among mul-  
7                   tiple services and activities for such popu-  
8                   lations.”.

9   **SEC. 304. PERFORMANCE MEASURES.**

10       (a) STATE PERFORMANCE MEASURES.—Section  
11 136(b)(3)(A)(iv)(II) of the Workforce Investment Act of  
12 1998 (29 U.S.C. 2871(b)(3)(A)(iv)(II)) is amended—

13           (1) by striking “taking into account” and in-  
14           serting “and shall ensure that the levels involved are  
15           adjusted, using objective statistical methods, based  
16           on”;

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

20           (3) by inserting “(such as indicators of poor  
21           work history, lack of work experience, lack of edu-  
22           cational or occupational skills attainment, dislocation  
23           from high-wage and benefit employment, low levels  
24           of literacy or English proficiency, disability status,



1 older individual status, homelessness, ex-offender  
2 status, and welfare dependency)” after “program”.

3 (b) LOCAL PERFORMANCE MEASURES.—Section  
4 136(c)(3) (29 U.S.C. 2871(c)(3))—

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

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

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

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

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

1           “(2) WAGE RECORDS AND DOCUMENTED  
2 DATA.—

3           “(A) WAGE RECORDS.—In”; and  
4 (2) by adding at the end the following:

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

14 **SEC. 305. REPORTING.**

15       Section 136(d)(2) of such Act (29 U.S.C.  
16 2871(d)(2)) is amended—

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

20           (2) in subparagraph (F)—

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

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

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

1           “(ii) the number of participants in  
2           each of the groups described in clause (i)  
3           who have received services authorized  
4           under this title, in the form of core serv-  
5           ices described in section 134(d)(2), inten-  
6           sive services described in section 134(d)(3),  
7           training services described in section  
8           134(d)(4), and followup services, respec-  
9           tively;”.

10 **SEC. 306. INCENTIVE GRANTS.**

11           (a) USE OF FUNDS FOR STATEWIDE EMPLOYMENT  
12 AND TRAINING ACTIVITIES.—Section 134(a)(2)(B) of the  
13 Workforce Investment Act of 1998 (29 U.S.C.  
14 2864(a)(2)(B)) is amended—

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

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

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

19                   “(vii) providing incentive grants to  
20                   local areas, in accordance with section  
21                   136(j).”.

22           (b) INCENTIVE GRANTS FOR LOCAL AREAS.—Section  
23 136 of such Act is amended by adding at the end the fol-  
24           lowing:

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

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

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

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

12           “(B) have—

13           “(i) met the performance measures es-  
14 tablished under subsection (c)(2) relating  
15 to indicators described in subsection  
16 (b)(3)(A)(iii); and

17           “(ii) demonstrated exemplary per-  
18 formance in the State in serving hard-to-  
19 serve populations.

20           “(3) USE OF FUNDS.—The funds awarded to a  
21 local area under this subsection may be used to  
22 carry out activities authorized for local areas and  
23 such innovative projects or programs that increase  
24 coordination and enhance service to program partici-

1 pants, particularly hard-to-serve populations, as may  
2 be approved by the Governor.”.

3 (c) INCENTIVE GRANTS FOR STATES.—Section 503  
4 of the Workforce Investment Act of 1998 (20 U.S.C.  
5 9273) is amended—

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

8 “(a) IN GENERAL.—

9 “(1) TIMELINE.—

10 “(A) PRIOR TO JULY 1, 2006.—Prior to  
11 July 1, 2006, the Secretary shall award a grant  
12 to each State in accordance with the provisions  
13 of this section as this section was in effect on  
14 July 1, 2003.

15 “(B) BEGINNING JULY 1, 2006.—Beginning  
16 on July 1, 2006, the Secretary shall award in-  
17 centive grants to States for performance de-  
18 scribed in paragraph (2) in carrying out innova-  
19 tive programs consistent with the programs  
20 under chapters 4 and 5 of subtitle B of title I,  
21 to implement or enhance innovative and coordi-  
22 nated programs consistent with the statewide  
23 economic, workforce, and educational interests  
24 of the State.

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

3           “(A) have exceeded the State adjusted lev-  
4 els of performance for title I, the adjusted levels  
5 of performance for title II, and the levels of  
6 performance under the Carl D. Perkins Voca-  
7 tional and Technical Education Act of 1998 (20  
8 U.S.C. 2301 et seq.); or

9           “(B) have—

10           “(i) met the State adjusted levels of  
11 performance for title I, the adjusted levels  
12 of performance for title II, and the levels  
13 of performance under the Carl D. Perkins  
14 Vocational and Technical Education Act of  
15 1998 (20 U.S.C. 2301 et seq.); and

16           “(ii) demonstrated exemplary per-  
17 formance in serving hard-to-serve popu-  
18 lations.

19           “(3) USE OF FUNDS.—The funds awarded to a  
20 State under this section may be used to carry out  
21 activities authorized for States under chapters 4 and  
22 5 of subtitle B of title I, title II, and the Carl D.  
23 Perkins Vocational and Technical Education Act of  
24 1998 (20 U.S.C. 2301 et seq.), including demonstra-  
25 tion projects, and for such innovative projects or

1 programs that increase coordination and enhance  
 2 service to program participants, particularly hard-to-  
 3 serve populations.”; and

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

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

8 **TITLE IV—FEDERAL TASK**  
 9 **FORCE ON OLDER WORKERS**

10 **SEC. 401. FEDERAL TASK FORCE ON OLDER WORKERS.**

11 (a) ESTABLISHMENT.—Not later than 90 days after  
 12 the date of enactment of this Act, the Secretary of Labor  
 13 shall establish a Federal Task Force on Older Workers  
 14 (referred to in this Act as the “Task Force”).

15 (b) MEMBERSHIP.—The Task Force established pur-  
 16 suant to subsection (a) shall be composed of representa-  
 17 tives from all relevant Federal agencies that have regu-  
 18 latory jurisdiction over, or a clear policy interest in, issues  
 19 relating to older workers, including the Internal Revenue  
 20 Service, the Social Security Administration, the Equal  
 21 Employment Opportunity Commission, and the Adminis-  
 22 tration on Aging of the Department of Health and Human  
 23 Services.

24 (c) ACTIVITIES.—

1           (1) AFTER ONE YEAR.—Not later than 1 year  
2 after the date of establishment of the Task Force,  
3 the Task Force shall—

4           (A) identify statutory and regulatory provi-  
5 sions in current law that tend to limit opportu-  
6 nities for older workers, and develop legislative  
7 and regulatory proposals to address such limita-  
8 tions;

9           (B) identify best practices in the private  
10 sector for hiring and retaining older workers,  
11 and serve as a clearinghouse of such informa-  
12 tion; and

13           (C) assess the effectiveness and cost of  
14 programs that Federal agencies have imple-  
15 mented to hire and retain older workers (includ-  
16 ing the Senior Environmental Employment  
17 (SEE) Program of the Environmental Protec-  
18 tion Agency), and recommend cost-effective pro-  
19 grams for all Federal agencies to hire and re-  
20 tain older workers.

21           (2) AFTER THREE YEARS.—Not later than 3  
22 years after the date of establishment of the Task  
23 Force, the Task Force shall—

24           (A) assess the effectiveness of the provi-  
25 sions of this Act; and



1           (B) organize a Conference on the Aging  
2           Workforce, which shall include the participation  
3           of senior, business, labor, and other interested  
4           organizations.

5           (3) REPORT.—The Task Force shall submit a  
6           report to Congress on the activities of the Task  
7           Force pursuant to paragraph (1). Such report shall  
8           be made available to the public.

9           (d) CONSULTATION.—In carrying out activities pur-  
10          suant to this section, the Task Force shall consult with  
11          senior, business, labor, and other interested organizations.

12          (e) APPLICABILITY OF FACA; TERMINATION OF  
13          TASK FORCE.—

14               (1) FACA.—The Federal Advisory Committee  
15               Act (5 U.S.C. App.) shall not apply to the Task  
16               Force established pursuant to this Act.

17               (2) TERMINATION.—The Task Force shall ter-  
18               minate 30 days after the date the Task Force com-  
19               pletes all of its duties under this Act.

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