

116TH CONGRESS
2D SESSION

S. 3496

To provide for Federal financing of short-time compensation programs during public health emergencies.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2020

Mr. REED (for himself, Mr. WHITEHOUSE, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for Federal financing of short-time compensation programs during public health emergencies.

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) IN GENERAL.—This Act may be cited as the
5 “Preventing Layoffs During a Public Health Emergency
6 Act of 2020”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Federal financing of short-time compensation payments during a public health emergency in States with programs in law.

Sec. 3. Temporary Federal financing of short-time compensation agreements during a public health emergency.

Sec. 4. Assistance and guidance in implementing short-time compensation programs.

1 **SEC. 2. FEDERAL FINANCING OF SHORT-TIME COMPENSA-**
 2 **TION PAYMENTS DURING A PUBLIC HEALTH**
 3 **EMERGENCY IN STATES WITH PROGRAMS IN**
 4 **LAW.**

5 (a) PAYMENTS TO STATES.—

6 (1) IN GENERAL.—Subject to paragraph (3)
 7 and subsections (b) and (c), there shall be paid to
 8 a State an amount equal to 100 percent of the
 9 amount of short-time compensation paid under a
 10 short-time compensation program (as defined in sec-
 11 tion 3306(v) of the Internal Revenue Code of 1986)
 12 under the provisions of the State law in any area of
 13 the State for which a public health emergency has
 14 been declared.

15 (2) TERMS OF PAYMENTS.—Payments made to
 16 a State under paragraph (1) shall be payable by way
 17 of reimbursement in such amounts as the Secretary
 18 estimates the State will be entitled to receive under
 19 this section for each calendar month, reduced or in-
 20 creased, as the case may be, by any amount by
 21 which the Secretary finds that the Secretary's esti-
 22 mates for any prior calendar month were greater or
 23 less than the amounts which should have been paid
 24 to the State. Such estimates may be made on the

1 basis of such statistical, sampling, or other method
2 as may be agreed upon by the Secretary and the
3 State agency of the State involved.

4 (3) LIMITATIONS ON PAYMENTS.—

5 (A) GENERAL PAYMENT LIMITATIONS.—

6 No payments shall be made to a State under
7 this section for short-time compensation paid to
8 an individual by the State during a benefit year
9 in excess of 26 times the amount of regular
10 compensation (including dependents' allow-
11 ances) under the State law payable to such in-
12 dividual for a week of total unemployment.

13 (B) EMPLOYER LIMITATIONS.—No pay-
14 ments shall be made to a State under this sec-
15 tion for benefits paid to an individual by the
16 State under a short-time compensation program
17 if such individual is employed by the partici-
18 pating employer on a seasonal, temporary, or
19 intermittent basis.

20 (b) APPLICABILITY DURING A PUBLIC HEALTH
21 EMERGENCY AND FOR 1 YEAR AFTER THE END OF SUCH
22 EMERGENCY.—Payments to a State under subsection (a)
23 shall be available, with respect to an area, for weeks of
24 unemployment—

1 (1) beginning on or after the date of the dec-
 2 laration of a public health emergency for the area
 3 (but in no case earlier than the date of the enact-
 4 ment of this Act); and

5 (2) ending on or before the date that is 1 year
 6 after the date of the termination of such declaration
 7 for such area.

8 (c) NEW PROGRAMS.—Subject to subsection (b), if
 9 at any point after the date of enactment of this Act a
 10 State enacts a State law providing for the payment of
 11 short-time compensation under a short-time compensation
 12 program that meets the definition of such a program
 13 under section 3306(v) of the Internal Revenue Code of
 14 1986, the State shall be eligible for payments under this
 15 section after the effective date of such enactment.

16 (d) FUNDING AND CERTIFICATIONS.—

17 (1) FUNDING.—There are appropriated, out of
 18 moneys in the Treasury not otherwise appropriated,
 19 such sums as may be necessary for purposes of car-
 20 rying out this section.

21 (2) CERTIFICATIONS.—The Secretary shall
 22 from time to time certify to the Secretary of the
 23 Treasury for payment to each State the sums pay-
 24 able to such State under this section.

25 (e) DEFINITIONS.—In this section:

1 (1) PUBLIC HEALTH EMERGENCY.—The term
 2 “public health emergency” means a public health
 3 emergency declared for an area by—

4 (A) the Secretary of Health and Human
 5 Services under section 319 of the Public Health
 6 Service Act (42 U.S.C. 247d); or

7 (B) a State public health official with the
 8 authority to declare such an emergency for the
 9 area.

10 (2) SECRETARY.—The term “Secretary” means
 11 the Secretary of Labor.

12 (3) STATE; STATE AGENCY; STATE LAW.—The
 13 terms “State”, “State agency”, and “State law”
 14 have the meanings given those terms in section 205
 15 of the Federal-State Extended Unemployment Com-
 16 pensation Act of 1970 (26 U.S.C. 3304 note).

17 (f) TECHNICAL CORRECTION TO DEFINITION.—Sec-
 18 tion 3306(v)(6) of the Internal Revenue Code of 1986 (26
 19 U.S.C. 3306) is amended by striking “Workforce Invest-
 20 ment Act of 1998” and inserting “Workforce Innovation
 21 and Opportunity Act”.

22 **SEC. 3. TEMPORARY FEDERAL FINANCING OF SHORT-TIME**
 23 **COMPENSATION AGREEMENTS DURING A**
 24 **PUBLIC HEALTH EMERGENCY.**

25 (a) FEDERAL-STATE AGREEMENTS.—

1 (1) IN GENERAL.—Any State which desires to
 2 do so may enter into, and participate in, an agree-
 3 ment under this section with the Secretary provided
 4 that such State’s law does not provide for the pay-
 5 ment of short-time compensation under a short-time
 6 compensation program (as defined in section
 7 3306(v) of the Internal Revenue Code of 1986).

8 (2) ABILITY TO TERMINATE.—Any State which
 9 is a party to an agreement under this section may,
 10 upon providing 30 days’ written notice to the Sec-
 11 retary, terminate such agreement.

12 (b) PROVISIONS OF FEDERAL-STATE AGREEMENT.—

13 (1) IN GENERAL.—Subject to paragraph (2)
 14 and subsections (d) and (e), any agreement under
 15 this section shall provide that the State agency of
 16 the State will make payments of short-time com-
 17 pensation under a plan approved by the State in any
 18 area of the State for which a public health emer-
 19 gency has been declared. Such plan shall provide
 20 that payments are made in accordance with the re-
 21 quirements under section 3306(v) of the Internal
 22 Revenue Code of 1986.

23 (2) LIMITATIONS ON PLANS.—

24 (A) GENERAL PAYMENT LIMITATIONS.—A
 25 short-time compensation plan approved by a

1 State shall not permit the payment of short-
 2 time compensation to an individual by the State
 3 during a benefit year in excess of 26 times the
 4 amount of regular compensation (including de-
 5 pendents' allowances) under the State law pay-
 6 able to such individual for a week of total un-
 7 employment.

8 (B) EMPLOYER LIMITATIONS.—A short-
 9 time compensation plan approved by a State
 10 shall not provide payments to an individual if
 11 such individual is employed by the participating
 12 employer on a seasonal, temporary, or intermit-
 13 tent basis.

14 (3) EMPLOYER PAYMENT OF COSTS.—Any
 15 short-time compensation plan entered into by an em-
 16 ployer must provide that the employer will pay the
 17 State an amount equal to one-half of the amount of
 18 short-time compensation paid under such plan. Such
 19 amount shall be deposited in the State's unemploy-
 20 ment fund and shall not be used for purposes of cal-
 21 culating an employer's contribution rate under sec-
 22 tion 3303(a)(1) of the Internal Revenue Code of
 23 1986.

24 (c) PAYMENTS TO STATES.—

1 (1) IN GENERAL.—There shall be paid to each
2 State with an agreement under this section an
3 amount equal to—

4 (A) one-half of the amount of short-time
5 compensation paid to individuals by the State
6 pursuant to such agreement; and

7 (B) any additional administrative expenses
8 incurred by the State by reason of such agree-
9 ment (as determined by the Secretary).

10 (2) TERMS OF PAYMENTS.—Payments made to
11 a State under paragraph (1) shall be payable by way
12 of reimbursement in such amounts as the Secretary
13 estimates the State will be entitled to receive under
14 this section for each calendar month, reduced or in-
15 creased, as the case may be, by any amount by
16 which the Secretary finds that the Secretary's esti-
17 mates for any prior calendar month were greater or
18 less than the amounts which should have been paid
19 to the State. Such estimates may be made on the
20 basis of such statistical, sampling, or other method
21 as may be agreed upon by the Secretary and the
22 State agency of the State involved.

23 (3) FUNDING.—There are appropriated, out of
24 moneys in the Treasury not otherwise appropriated,

1 such sums as may be necessary for purposes of car-
 2 rying out this section.

3 (4) CERTIFICATIONS.—The Secretary shall
 4 from time to time certify to the Secretary of the
 5 Treasury for payment to each State the sums pay-
 6 able to such State under this section.

7 (d) APPLICABILITY DURING A PUBLIC HEALTH
 8 EMERGENCY AND FOR 1 YEAR AFTER THE END OF SUCH
 9 EMERGENCY.—

10 (1) IN GENERAL.—Subject to paragraph (2),
 11 after an agreement is entered into under this sec-
 12 tion, such agreement shall apply, with respect to an
 13 area, to weeks of unemployment—

14 (A) beginning on or after the date of the
 15 declaration of a public health emergency for the
 16 area; and

17 (B) ending on or before the date that is 1
 18 year after the date of the termination of such
 19 declaration for such area.

20 (2) TERMINATION.—No payments shall be
 21 made under an agreement under this section for
 22 weeks of unemployment beginning on or after the
 23 date that is 2 years after the date of enactment of
 24 this Act.

1 (e) SPECIAL RULE.—If a State has entered into an
 2 agreement under this section and subsequently enacts a
 3 State law providing for the payment of short-time com-
 4 pensation under a short-time compensation program that
 5 meets the definition of such a program under section
 6 3306(v) of the Internal Revenue Code of 1986, the
 7 State—

8 (1) shall not be eligible for payments under this
 9 section for weeks of unemployment beginning after
 10 the effective date of such State law; and

11 (2) shall be eligible to receive payments under
 12 the provisions of section 2 after the effective date of
 13 such State law.

14 (f) DEFINITIONS.—In this section:

15 (1) PUBLIC HEALTH EMERGENCY.—The term
 16 “public health emergency” means a public health
 17 emergency declared for an area by—

18 (A) the Secretary of Health and Human
 19 Services under section 319 of the Public Health
 20 Service Act (42 U.S.C. 247d); or

21 (B) a State public health official with the
 22 authority to declare such an emergency for the
 23 area.

24 (2) SECRETARY.—The term “Secretary” means
 25 the Secretary of Labor.

1 (3) STATE; STATE AGENCY; STATE LAW.—The
2 terms “State”, “State agency”, and “State law”
3 have the meanings given those terms in section 205
4 of the Federal-State Extended Unemployment Com-
5 pensation Act of 1970 (26 U.S.C. 3304 note).

6 **SEC. 4. ASSISTANCE AND GUIDANCE IN IMPLEMENTING**
7 **SHORT-TIME COMPENSATION PROGRAMS.**

8 (a) IN GENERAL.—In order to assist States in estab-
9 lishing, qualifying, and implementing short-time com-
10 pensation programs (as defined in section 3306(v) of the
11 Internal Revenue Code of 1986), the Secretary of Labor
12 (in this section referred to as the “Secretary”) shall—

13 (1) develop model legislative language which
14 may be used by States in developing and enacting
15 such programs and periodically review and revise
16 such model legislative language;

17 (2) provide technical assistance and guidance in
18 developing, enacting, and implementing such pro-
19 grams; and

20 (3) establish reporting requirements for States,
21 including reporting on—

22 (A) the number of estimated averted lay-
23 offs;

24 (B) the number of participating employers
25 and workers; and

1 (C) such other items as the Secretary of
2 Labor determines are appropriate.

3 (b) MODEL LANGUAGE AND GUIDANCE.—The model
4 language and guidance developed under subsection (a)
5 shall allow sufficient flexibility by States and participating
6 employers while ensuring accountability and program in-
7 tegrity.

8 (c) CONSULTATION.—In developing the model legisla-
9 tive language and guidance under subsection (a), and in
10 order to meet the requirements of subsection (b), the Sec-
11 retary shall consult with employers, labor organizations,
12 State workforce agencies, and other program experts.

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