H. R. 7744

To provide Federal reimbursement of qualified State paid leave programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2020

Mr. Gomez (for himself, Ms. DeLauro, Mr. Danny K. Davis of Illinois, Mr. Carson of Indiana, Ms. Judy Chu of California, Mr. Cisneros, Mr. Gottheimer, Mrs. Hayes, Mr. Huffman, Ms. Jayapal, Mr. Khanna, Mr. Langevin, Mr. Lowenthal, Ms. Moore, Ms. Norton, Mr. Panetta, Mr. Pascrell, Ms. Porter, Ms. Sánchez, Mr. San Nicolas, Ms. Sherrill, Ms. Speier, and Mr. Suozzi) introduced the following bill; which was referred to the Committee on Education and Labor.

A BILL

To provide Federal reimbursement of qualified State paid leave programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “State Paid Leave for America Now (PLAN) Act”.

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SEC. 2. FEDERAL REIMBURSEMENT OF QUALIFIED STATE PAID LEAVE PROGRAMS.

(a) IN GENERAL.—There are appropriated to the Secretary of the Treasury such sums as necessary to make payments to States to reimburse eligible State expenditures in accordance with this section.

(b) ELIGIBLE STATE EXPENDITURE.—For purposes of this section, the term “eligible State expenditure” means any expenditure by a State—

(1) made during the period beginning on January 27, 2020, and ending on December 31, 2021, with respect to any qualified paid leave program; and

(2) consisting of any of the following:

(A) The payment of benefits by the State under such program.

(B) Subject to subsection (d), the reimbursement of benefits paid by a private employer or insurer—

(i) required to maintain such program under the law of the State; or

(ii) offering such a program on the basis of reimbursement of tax relief provided by the State.

(C) The administrative costs to the State of operating a qualified paid leave program.
maintained by the State or issuing reimburse-
ments described in subparagraph (B).

(c) QUALIFIED PAID LEAVE PROGRAM.—

(1) IN GENERAL.—For purposes of this section,
the term “qualified paid leave program” means any
program maintained by a State, or by a private em-
ployer or insurer required to maintain such program
under the law of the State, that provides paid leave
benefits described in paragraph (2), but only to the
extent that such benefits are paid for circumstances
related to COVID-19 (as determined pursuant to
paragraph (3)).

(2) APPLICABLE PAID LEAVE BENEFITS.—

(A) IN GENERAL.—Except as provided in
subparagraph (B), a paid leave benefit de-
scribed in this paragraph is a benefit which pro-
vides full or partial wage replacement to em-
ployees on the basis of specifically defined
qualifying events defined under the law or pro-
gram policy of a State and which ends either
when the qualifying event is no longer applica-
ble or a set period of benefits is exhausted.

(B) EXCEPTIONS.—A paid leave benefit
described in this paragraph does not include—
(i) any form of accrued paid leave or any form of paid leave for which accrued paid leave is required to be substituted;

(ii) any form of compensation paid in remedy for a workplace injury, illness, or death or in exchange for forfeiting any right of action against the employer for a workplace injury, illness, or death; or

(iii) any paid leave with respect to which any taxpayer is eligible for a credit under division G of the Families First Coronavirus Response Act (Public Law 116–127).

(3) CIRCUMSTANCES RELATED TO COVID-19.—For purposes of this section, a benefit is paid for circumstances related to COVID-19 if, in order to be eligible for such benefit, the recipient must be an individual who (as determined by the qualified paid leave program under the law of the State)—

(A) has a current or presumptive diagnosis of COVID-19 from a health care provider;

(B) is under quarantine (including self-imposed quarantine or self-isolation) at the instruction of a health care provider, employer, or a local, State, or Federal official—
(i) in order to prevent the spread of COVID-19; or
(ii) due to underlying health conditions that put the individual at high risk if they contract COVID-19;
(C) is engaged in caregiving for an individual who has a current or presumptive diagnosis of COVID-19 from a health care provider or is under quarantine as described in subparagraph (B); or
(D) meets such other circumstances related to COVID-19 as the law of the State or the Secretary of the Treasury (in consultation with the Secretary of Health and Human Services and the Secretary of Labor) may provide.

(d) RESTRICTION ON CERTAIN REIMBURSEMENTS.—A State may not treat an expenditure described in subsection (b)(2) with respect to a qualified paid leave program as an eligible State expenditure—
(1) with respect to benefits paid by the State under such program as described in subparagraph (A) of such subsection, if the State, during the period described in subsection (b)(1) or during the 6-month period immediately following such period, restricts eligibility or reduces program benefits (in-
cluding with respect to duration of leave, wage replacement rate, or maximum benefits or coverage) related to such program; and

(2) with respect to benefits paid by a private employer or insurer as described in subparagraph (B) of such subsection, unless the private employer or insurer receiving reimbursement under such subsection provides assurances to the satisfaction of the State that—

(A) the private employer or insurer has in effect procedures—

(i) to determine whether a benefit is paid for circumstances related to COVID-19 that comply with the standard established in subsection (c)(3); and

(ii) to report such determinations to the State; and

(B)(i) during the period described in subsection (b)(1) and during the 6-month period beginning on the date on which the entity receives such reimbursement from the State, the private employer or insurer will not—

(I) raise any premium (if applicable) with respect to any plan for which the private employer or insurer submitted expend-
iters to the State for reimbursement, un-
less the premium increase is directly and
proportionally tied to expanded or in-
creased paid leave program benefits man-
dated by law or to increased utilization un-
related to circumstances related to
COVID-19 (as determined pursuant to
paragraph (3)); or

(II) reduce any benefit (including with
respect to duration of leave, wage replace-
ment rate, maximum benefits or coverage)
with respect to any such plan; and

(ii) in any case in which the private em-
ployer or insurer violates clause (i), the private
employer or insurer agrees to repay the State
any such reimbursement received.

In any case in which a private employer or insurer repays
any amount to a State pursuant to paragraph (2)(B)(ii),
the State shall repay to the Secretary of the Treasury such
portion of payments received by the State under sub-
section (a) as pertain to such amount.

(e) TIMING AND PROCEDURE FOR PAYMENTS.—

(1) CERTIFICATIONS BY STATES.—

(A) INITIAL ESTIMATE.—Not later than
September 30, 2020, each State seeking a pay-
ment under this section shall certify to the Secretary of the Treasury an initial estimate of the total amount of eligible State expenditures the State expects to make with respect to calendar years 2020 and 2021.

(B) Final report.—Not later than July 1, 2023, each such State shall certify a final report of the total amount of eligible State expenditures made with respect to such calendar years. Such report shall also include—

(i) the number of benefit claims that qualified for reimbursement, by eligibility category and type of leave;

(ii) the average duration of benefit receipt with respect to each such eligibility category and type of leave; and

(iii) any demographic information about recipients, disaggregated by eligibility category and type of leave, which is collected by the State or private insurer during the application process.

Not later than December 31, 2023, the Secretary of the Treasury shall submit a report to Congress providing aggregate data summarizing such final report. Such final report shall not in-
clude any individually identifiable information or any information which is protected by State or Federal privacy law, and nothing in this subparagraph shall be construed to require a State or private insurer to collect any information from applicants beyond the extent information described in clause (iii) is collected during the application process.

(2) TIMING OF PAYMENTS.—The Secretary of the Treasury shall make payments under this section on a quarterly basis during calendar years 2020 and 2021 beginning on December 31, 2020, based on an amount equal to 75 percent of the initial estimates received pursuant to paragraph (1)(A).

(3) RECONCILIATION.—Not later than September 30, 2023, the Secretary of the Treasury shall reconcile with each State amounts paid pursuant to paragraph (2) with the final report submitted by the State pursuant to paragraph (1)(B), and shall pay additional amounts to the State or collect overpayments as necessary based on the amount specified in such final report.

(f) DEFINITION OF STATE.—For purposes of this section, the term “State” means any of the 50 States or the District of Columbia.
SEC. 3. STUDY.

(a) IN GENERAL.—The Comptroller General shall conduct a study to examine the potential impact on the economy had a national paid leave program been in effect during and after the COVID-19 pandemic.

(b) REPORT.—Not later than December 31, 2022, the Comptroller General shall submit a report to Congress on the results of the study under subsection (a).