

116TH CONGRESS
2D SESSION

S. 3494

To provide for temporary financing of short-time compensation programs.

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 temporary financing of short-time compensation programs.

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 “Layoff Prevention Act of 2020”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Temporary financing of short-time compensation payments in States with programs in law.
- Sec. 3. Temporary financing of short-time compensation agreements.
- Sec. 4. Grants for short-time compensation programs.
- Sec. 5. Assistance and guidance in implementing programs.

1 **SEC. 2. TEMPORARY FINANCING OF SHORT-TIME COM-**
2 **PENSATION PAYMENTS IN STATES WITH PRO-**
3 **GRAMS IN LAW.**

4 (a) PAYMENTS TO STATES.—

5 (1) IN GENERAL.—Subject to paragraph (3),
6 there shall be paid to a State an amount equal to
7 100 percent of the amount of short-time compensa-
8 tion paid under a short-time compensation program
9 (as defined in section 3306(v) of the Internal Rev-
10 enue Code of 1986) under the provisions of the
11 State law.

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

25 (3) LIMITATIONS ON PAYMENTS.—

1 (A) GENERAL PAYMENT LIMITATIONS.—

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

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

16 (b) APPLICABILITY.—

17 (1) IN GENERAL.—Payments to a State under
18 subsection (a) shall be available for weeks of unem-
19 ployment—

20 (A) beginning on or after the date of the
21 enactment of this Act; and

22 (B) ending on or before the date that is 5
23 years and 6 months after the date of the enact-
24 ment of this Act.

1 (2) FIVE-YEAR FUNDING LIMITATION FOR COM-
2 BINED PAYMENTS UNDER THIS SECTION AND SEC-
3 TION 3.—States may receive payments under this
4 section and section 3 with respect to a total of not
5 more than 260 weeks.

6 (c) NEW PROGRAMS.—Subject to paragraphs (1)(B)
7 and (2) of subsection (b), if at any point after the date
8 of the enactment of this Act the State enacts a State law
9 providing for the payment of short-time compensation
10 under a short-time compensation program that meets the
11 definition of such a program under section 3306(v) of the
12 Internal Revenue Code of 1986, the State shall be eligible
13 for payments under this section after the effective date
14 of such enactment.

15 (d) FUNDING AND CERTIFICATIONS.—

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

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

24 (e) DEFINITIONS.—In this section:

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

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

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

13 **SEC. 3. TEMPORARY FINANCING OF SHORT-TIME COM-**
14 **PENSATION AGREEMENTS.**

15 (a) FEDERAL-STATE AGREEMENTS.—

16 (1) IN GENERAL.—Any State which desires to
17 do so may enter into, and participate in, an agree-
18 ment under this section with the Secretary provided
19 that such State’s law does not provide for the pay-
20 ment of short-time compensation under a short-time
21 compensation program (as defined in section
22 3306(v) of the Internal Revenue Code of 1986).

23 (2) ABILITY TO TERMINATE.—Any State which
24 is a party to an agreement under this section may,

1 upon providing 30 days' written notice to the Sec-
2 retary, terminate such agreement.

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

4 (1) IN GENERAL.—Any agreement under this
5 section shall provide that the State agency of the
6 State will make payments of short-time compensa-
7 tion under a plan approved by the State. Such plan
8 shall provide that payments are made in accordance
9 with the requirements under section 3306(v) of the
10 Internal Revenue Code of 1986.

11 (2) LIMITATIONS ON PLANS.—

12 (A) GENERAL PAYMENT LIMITATIONS.—A
13 short-time compensation plan approved by a
14 State shall not permit the payment of short-
15 time compensation to an individual by the State
16 during a benefit year in excess of 26 times the
17 amount of regular compensation (including de-
18 pendents' allowances) under the State law pay-
19 able to such individual for a week of total un-
20 employment.

21 (B) EMPLOYER LIMITATIONS.—A short-
22 time compensation plan approved by a State
23 shall not provide payments to an individual if
24 such individual is employed by the participating

1 employer on a seasonal, temporary, or intermit-
2 tent basis.

3 (3) EMPLOYER PAYMENT OF COSTS.—Any
4 short-time compensation plan entered into by an em-
5 ployer must provide that the employer will pay the
6 State an amount equal to one-half of the amount of
7 short-time compensation paid under such plan. Such
8 amount shall be deposited in the State’s unemploy-
9 ment fund and shall not be used for purposes of cal-
10 culating an employer’s contribution rate under sec-
11 tion 3303(a)(1) of the Internal Revenue Code of
12 1986.

13 (c) PAYMENTS TO STATES.—

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

17 (A) one-half of the amount of short-time
18 compensation paid to individuals by the State
19 pursuant to such agreement; and

20 (B) any additional administrative expenses
21 incurred by the State by reason of such agree-
22 ment (as determined by the Secretary).

23 (2) TERMS OF PAYMENTS.—Payments made to
24 a State under paragraph (1) shall be payable by way
25 of reimbursement in such amounts as the Secretary

1 estimates the State will be entitled to receive under
2 this section for each calendar month, reduced or in-
3 creased, as the case may be, by any amount by
4 which the Secretary finds that the Secretary's esti-
5 mates for any prior calendar month were greater or
6 less than the amounts which should have been paid
7 to the State. Such estimates may be made on the
8 basis of such statistical, sampling, or other method
9 as may be agreed upon by the Secretary and the
10 State agency of the State involved.

11 (3) FUNDING.—There are appropriated, out of
12 moneys in the Treasury not otherwise appropriated,
13 such sums as may be necessary for purposes of car-
14 rying out this section.

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

19 (d) APPLICABILITY.—

20 (1) IN GENERAL.—An agreement entered into
21 under this section shall apply to weeks of unemploy-
22 ment—

23 (A) beginning on or after the date on
24 which such agreement is entered into; and

1 (B) ending on or before the date that is 2
2 years and 13 weeks after the date of the enact-
3 ment of this Act.

4 (2) TWO-YEAR FUNDING LIMITATION.—States
5 may receive payments under this section with re-
6 spect to a total of not more than 104 weeks.

7 (e) SPECIAL RULE.—If a State has entered into an
8 agreement under this section and subsequently enacts a
9 State law providing for the payment of short-time com-
10 pensation under a short-time compensation program that
11 meets the definition of such a program under section
12 3306(v) of the Internal Revenue Code of 1986, the
13 State—

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

17 (2) subject to paragraphs (1)(B) and (2) of sec-
18 tion 2(b), shall be eligible to receive payments under
19 section 2 after the effective date of such State law.

20 (f) DEFINITIONS.—In this section:

21 (1) SECRETARY.—The term “Secretary” means
22 the Secretary of Labor.

23 (2) STATE; STATE AGENCY; STATE LAW.—The
24 terms “State”, “State agency”, and “State law”
25 have the meanings given those terms in section 205

1 of the Federal-State Extended Unemployment Com-
2 pensation Act of 1970 (26 U.S.C. 3304 note).

3 **SEC. 4. GRANTS FOR SHORT-TIME COMPENSATION PRO-**
4 **GRAMS.**

5 (a) GRANTS.—

6 (1) FOR IMPLEMENTATION OR IMPROVED AD-
7 MINISTRATION.—The Secretary shall award grants
8 to States that enact short-time compensation pro-
9 grams (as defined in subsection (i)(2)) for the pur-
10 pose of implementation or improved administration
11 of such programs.

12 (2) FOR PROMOTION AND ENROLLMENT.—The
13 Secretary shall award grants to States that are eligi-
14 ble and submit plans for a grant under paragraph
15 (1) for such States to promote and enroll employers
16 in short-time compensation programs (as so de-
17 fined).

18 (3) ELIGIBILITY.—

19 (A) IN GENERAL.—The Secretary shall de-
20 termine eligibility criteria for the grants under
21 paragraphs (1) and (2).

22 (B) CLARIFICATION.—A State admin-
23 istering a short-time compensation program
24 that does not meet the definition of a short-
25 time compensation program under section

1 3306(v) of the Internal Revenue Code of 1986,
2 and a State with an agreement under section 3,
3 shall not be eligible to receive a grant under
4 this section until such time as the State law of
5 the State provides for payments under a short-
6 time compensation program that meets such
7 definition and such law.

8 (b) AMOUNT OF GRANTS.—

9 (1) IN GENERAL.—The maximum amount avail-
10 able for making grants to a State under paragraphs
11 (1) and (2) shall be equal to the amount obtained
12 by multiplying \$100,000,000 (less the amount used
13 by the Secretary under subsection (e)) by the same
14 ratio as would apply under subsection (a)(2)(B) of
15 section 903 of the Social Security Act (42 U.S.C.
16 1103) for purposes of determining such State's
17 share of any excess amount (as described in sub-
18 section (a)(1) of such section) that would have been
19 subject to transfer to State accounts, as of October
20 1, 2019, under the provisions of subsection (a) of
21 such section.

22 (2) AMOUNT AVAILABLE FOR DIFFERENT
23 GRANTS.—Of the maximum incentive payment deter-
24 mined under paragraph (1) with respect to a
25 State—

1 (A) one-third shall be available for a grant
2 under subsection (a)(1); and

3 (B) two-thirds shall be available for a
4 grant under subsection (a)(2).

5 (c) GRANT APPLICATION AND DISBURSAL.—

6 (1) APPLICATION.—Any State seeking a grant
7 under paragraph (1) or (2) of subsection (a) shall
8 submit an application to the Secretary at such time,
9 in such manner, and complete with such information
10 as the Secretary may require. In no case may the
11 Secretary award a grant under this section with re-
12 spect to an application that is submitted after De-
13 cember 31, 2023.

14 (2) NOTICE.—The Secretary shall, within 30
15 days after receiving a complete application, notify
16 the State agency of the State of the Secretary's find-
17 ings with respect to the requirements for a grant
18 under paragraph (1) or (2) (or both) of subsection
19 (a).

20 (3) CERTIFICATION.—If the Secretary finds
21 that the State law provisions meet the requirements
22 for a grant under subsection (a), the Secretary shall
23 thereupon make a certification to that effect to the
24 Secretary of the Treasury, together with a certifi-
25 cation as to the amount of the grant payment to be

1 transferred to the State account in the Unemploy-
2 ment Trust Fund (as established in section 904(a)
3 of the Social Security Act (42 U.S.C. 1104(a))) pur-
4 suant to that finding. The Secretary of the Treasury
5 shall make the appropriate transfer to the State ac-
6 count within 7 days after receiving such certifi-
7 cation.

8 (4) REQUIREMENT.—No certification of compli-
9 ance with the requirements for a grant under para-
10 graph (1) or (2) of subsection (a) may be made with
11 respect to any State whose—

12 (A) State law is not otherwise eligible for
13 certification under section 303 of the Social Se-
14 curity Act (42 U.S.C. 503) or approvable under
15 section 3304 of the Internal Revenue Code of
16 1986; or

17 (B) short-time compensation program is
18 subject to discontinuation or is not scheduled to
19 take effect within 12 months of the certifi-
20 cation.

21 (d) USE OF FUNDS.—The amount of any grant
22 awarded under this section shall be used for the implemen-
23 tation of short-time compensation programs and the over-
24 all administration of such programs and the promotion

1 and enrollment efforts associated with such programs,
2 such as through—

3 (1) the creation or support of rapid response
4 teams to advise employers about alternatives to lay-
5 offs;

6 (2) the provision of education or assistance to
7 employers to enable them to assess the feasibility of
8 participating in short-time compensation programs;
9 and

10 (3) the development or enhancement of systems
11 to automate—

12 (A) the submission and approval of plans;
13 and

14 (B) the filing and approval of new and on-
15 going short-time compensation claims.

16 (e) ADMINISTRATION.—The Secretary is authorized
17 to use 0.25 percent of the funds available under subsection
18 (g) to provide for outreach and to share best practices with
19 respect to this section and short-time compensation pro-
20 grams.

21 (f) RECOUPMENT.—The Secretary shall establish a
22 process under which the Secretary shall recoup the
23 amount of any grant awarded under paragraph (1) or (2)
24 of subsection (a) if the Secretary determines that, during

1 the 5-year period beginning on the first date that any such
2 grant is awarded to the State, the State—

3 (1) terminated the State’s short-time compensa-
4 tion program; or

5 (2) failed to meet appropriate requirements
6 with respect to such program (as established by the
7 Secretary).

8 (g) FUNDING.—There are appropriated, out of mon-
9 eys in the Treasury not otherwise appropriated, to the
10 Secretary, \$100,000,000 to carry out this section, to re-
11 main available without fiscal year limitation.

12 (h) REPORTING.—The Secretary may establish re-
13 porting requirements for States receiving a grant under
14 this section in order to provide oversight of grant funds.

15 (i) DEFINITIONS.—In this section:

16 (1) SECRETARY.—The term “Secretary” means
17 the Secretary of Labor.

18 (2) SHORT-TIME COMPENSATION PROGRAM.—
19 The term “short-time compensation program” has
20 the meaning given such term in section 3306(v) of
21 the Internal Revenue Code of 1986.

22 (3) STATE; STATE AGENCY; STATE LAW.—The
23 terms “State”, “State agency”, and “State law”
24 have the meanings given those terms in section 205

1 of the Federal-State Extended Unemployment Com-
2 pensation Act of 1970 (26 U.S.C. 3304 note).

3 **SEC. 5. ASSISTANCE AND GUIDANCE IN IMPLEMENTING**
4 **PROGRAMS.**

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

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

14 (2) provide technical assistance and guidance in
15 developing, enacting, and implementing such pro-
16 grams; and

17 (3) establish reporting requirements for States,
18 including reporting on—

19 (A) the number of estimated averted lay-
20 offs;

21 (B) the number of participating employers
22 and workers; and

23 (C) such other items as the Secretary of
24 Labor determines are appropriate.

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

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

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