

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5083

To amend part A of title IV of the Social Security Act, to reward States for engaging individuals with disabilities in work activities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 2010

Ms. MOORE of Wisconsin introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend part A of title IV of the Social Security Act, to reward States for engaging individuals with disabilities in work activities, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promoting Fair Work  
5 Opportunities for Persons with Disabilities Act”.

1 **SEC. 2. AUTHORIZATION OF MODIFIED EMPLOYABILITY**  
2 **PLAN FOR INDIVIDUALS WITH DISABILITIES.**

3 (a) IN GENERAL.—Section 407(c)(2) of the Social  
4 Security Act (42 U.S.C. 607(c)(2)) is amended by adding  
5 at the end the following:

6 “(E) INDIVIDUALS WITH DISABILITIES  
7 COMPLYING WITH A MODIFIED EMPLOYABILITY  
8 PLAN DEEMED TO BE MEETING WORK PARTICI-  
9 PATION REQUIREMENTS.—

10 “(i) MODIFIED EMPLOYABILITY  
11 PLAN.—A State may develop a modified  
12 employability plan for an adult or minor  
13 child head of household recipient of assist-  
14 ance who has been determined by a quali-  
15 fied medical, mental health, addiction, or  
16 social services professional (as determined  
17 by the State) to have a disability, or who  
18 is caring for a family member with a dis-  
19 ability (as so determined). The modified  
20 employability plan shall—

21 “(I) include a determination that,  
22 because of the disability of the recipi-  
23 ent or the individual for whom the re-  
24 cipient is caring, reasonable modifica-  
25 tion of work activities, hourly partici-  
26 pation requirements, or both, is need-

1 ed in order for the recipient to partici-  
2 pate in work activities;

3 “(II) set forth the modified work  
4 activities in which the recipient is re-  
5 quired to participate;

6 “(III) set forth the number of  
7 hours per week for which the recipient  
8 is required to participate in such  
9 modified work activities based on the  
10 State’s evaluation of the family’s cir-  
11 cumstances;

12 “(IV) set forth the services, sup-  
13 ports, and modifications that the  
14 State will provide to the recipient or  
15 the recipient’s family;

16 “(V) be developed in cooperation  
17 with the recipient; and

18 “(VI) be reviewed not less than  
19 every 6 months.

20 “(ii) INCLUSION IN MONTHLY PAR-  
21 TICIPATION RATES.—For the purpose of  
22 determining monthly participation rates  
23 under subsection (b)(1)(B)(i), and notwith-  
24 standing paragraphs (1), (2)(A), (2)(B),  
25 (2)(C), and (2)(D) of this subsection and

1 subsection (d) of this section, a recipient is  
2 deemed to be engaged in work for a month  
3 in a fiscal year if—

4 “(I) the State has determined  
5 that the recipient is in substantial  
6 compliance with activities and hourly  
7 participation requirements set forth in  
8 a modified employability plan that  
9 meets the requirements set forth in  
10 clause (i); and

11 “(II) the State complies with the  
12 reporting requirement set forth in  
13 clause (iii) for the fiscal year in which  
14 the month occurs.

15 “(iii) REPORTS.—

16 “(I) REPORT BY STATE.—With  
17 respect to any fiscal year for which a  
18 State counts a recipient as engaged in  
19 work pursuant to a modified employ-  
20 ability plan, the State shall submit a  
21 report entitled ‘Annual State Report  
22 on TANF Recipients Participating in  
23 Work Activities Pursuant to Modified  
24 Employability Plans Due to Dis-  
25 ability’ to the Secretary not later than

1 March 31 of the succeeding fiscal  
2 year. The report shall provide the fol-  
3 lowing information:

4 “(aa) The aggregate number  
5 of recipients with modified em-  
6 ployability plans due to a dis-  
7 ability.

8 “(bb) The percentage of all  
9 recipients with modified employ-  
10 ability plans who substantially  
11 complied with activities set forth  
12 in the plans each month of the  
13 fiscal year.

14 “(cc) Information regarding  
15 the most prevalent types of phys-  
16 ical and mental impairments that  
17 provided the basis for the dis-  
18 ability determinations.

19 “(dd) The percentage of  
20 cases with a modified employ-  
21 ability plan in which the recipient  
22 had a disability, was caring for a  
23 child with a disability, or was  
24 caring for another family member  
25 with a disability.

1           “(ee) A description of the  
2           most prevalent types of modifica-  
3           tion in work activities or hours of  
4           participation that were included  
5           in the modified employability  
6           plans.

7           “(ff) A description of the  
8           qualifications of the staff who de-  
9           termined whether individuals had  
10          a disability, of the staff who de-  
11          termined that individuals needed  
12          modifications to their work re-  
13          quirements, and of the staff who  
14          developed the modified employ-  
15          ability plans.

16          “(II) REPORT BY SECRETARY.—  
17          The Secretary shall submit an annual  
18          report to Congress entitled ‘Efforts in  
19          State TANF Programs to Promote  
20          and Support Employment for Individ-  
21          uals with Disabilities’ not later than  
22          July 31 of each fiscal year that in-  
23          cludes information on State efforts to  
24          engage individuals with disabilities in  
25          work activities for the preceding fiscal

1 year. The report shall include the fol-  
2 lowing:

3 “(aa) The number of indi-  
4 viduals for whom each State has  
5 developed a modified employ-  
6 ability plan.

7 “(bb) The types of physical  
8 and mental impairments that  
9 provided the basis for the dis-  
10 ability determination, and wheth-  
11 er the individual with the dis-  
12 ability was an adult recipient or  
13 minor child head of household, a  
14 child, or a non-recipient family  
15 member.

16 “(cc) The types of modifica-  
17 tions that States have included in  
18 modified employability plans.

19 “(dd) The extent to which  
20 individuals with a modified em-  
21 ployability plan are participating  
22 in work activities.

23 “(ee) An analysis of the ex-  
24 tent to which the option to estab-  
25 lish such modified employability

plans was a factor in States' achieving or not achieving the minimum participation rates under subsection (a) for the fiscal year.

“(iv) DEFINITIONS.—

“(I) DISABILITY.—For purposes of this subparagraph, the term ‘disability’ means a mental or physical impairment, including substance abuse or addiction, that—

“(aa) constitutes or results in a substantial impediment to employment; or

“(bb) substantially limits one or more major life activities.

“(II) MODIFIED WORK ACTIVITIES.—For purposes of this subparagraph, the term ‘modified work activities’ means activities the State has determined will help the recipient become employable and which are not subject to and do not count against the limitations and requirements



1 under the preceding provisions of this  
2 subsection and of subsection (d).”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall take effect on October 1, 2010.

5 **SEC. 3. STATE OPTION TO EXCLUDE SSI APPLICANTS IN**  
6 **WORK PARTICIPATION RATE.**

7 (a) IN GENERAL.—Section 407(b)(5) of the Social  
8 Security Act (42 U.S.C. 607(b)(5)) is amended by striking  
9 “at its option, not require an individual” and all that fol-  
10 lows and inserting “at its option—

11 “(A) not require an individual who is a  
12 single custodial parent caring for a child who  
13 has not attained 12 months of age to engage in  
14 work, and may disregard such an individual in  
15 determining the participation rates under sub-  
16 section (a) of this section for not more than 12  
17 months;

18 “(B) disregard for purposes of determining  
19 such rates for any month, on a case-by-case  
20 basis, an individual who is an applicant for or  
21 a recipient of supplemental security income ben-  
22 efits under title XVI or of social security dis-  
23 ability insurance benefits under title II, if—

1           “(i) the State has determined that an  
2           application for such benefits has been filed  
3           by or on behalf of the individual;

4           “(ii) the State has determined that  
5           there is a reasonable basis to conclude that  
6           the individual meets the disability or blind-  
7           ness criteria applied under title II or XVI;

8           “(iii) there has been no final decision  
9           (including a decision for which no appeal is  
10          pending at the administrative or judicial  
11          level or for which the time period for filing  
12          such an appeal has expired) denying bene-  
13          fits; and

14          “(iv) not less than every 6 months,  
15          the State reviews the status of such appli-  
16          cation and determines that there is a rea-  
17          sonable basis to conclude that the indi-  
18          vidual continues to meet the disability or  
19          blindness criteria under title II or XVI;  
20          and

21          “(C) disregard for purposes of determining  
22          such rates for any month, on a case-by-case  
23          basis, an individual who the State has deter-  
24          mined would meet the disability criteria for sup-  
25          plemental security income benefits under title

1 XVI or social security disability insurance bene-  
2 fits under title II but for the requirement that  
3 the disability has lasted or is expected to last  
4 for a continuous period of not less than 12  
5 months.”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall take effect on October 1, 2010.

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