

115TH CONGRESS
1ST SESSION

S. 1427

To provide States with the option of applying for and receiving temporary waivers for the States to experiment with new approaches that integrate Federal programs in order to provide more coordinated and holistic solutions to families in need, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2017

Mrs. ERNST (for herself, Mr. RUBIO, and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide States with the option of applying for and receiving temporary waivers for the States to experiment with new approaches that integrate Federal programs in order to provide more coordinated and holistic solutions to families in need, 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 “Economic Mobility,
5 Prosperity, and Opportunity with Waivers that Enable Re-
6 forms for States Act of 2017” or the “EMPOWERS Act
7 of 2017”.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) each State is in the best position to deter-
4 mine—

5 (A) the specific needs of the population of
6 the State; and

7 (B) how those needs should be addressed;
8 and

9 (2) the purpose of expanding the use of State
10 waivers in Federal antipoverty programs—

11 (A) is not to cut the aggregate amount of
12 Federal antipoverty spending; but

13 (B) is to allow States the flexibility to im-
14 prove the effectiveness of that spending.

15 **SEC. 3. TEMPORARY WAIVERS FOR FEDERAL ANTIPOVERTY**
16 **PROGRAMS.**

17 (a) DEFINITIONS.—In this section:

18 (1) BOARD.—The term “Board” means the
19 Interagency Board for Empowering Low-Income
20 Families established by subsection (b)(1).

21 (2) COVERED PROGRAM.—The term “covered
22 program” means—

23 (A) in the case of nutrition programs—

24 (i) the supplemental nutrition assist-
25 ance program established under the Food

1 and Nutrition Act of 2008 (7 U.S.C. 2011
2 et seq.);

3 (ii) the special supplemental nutrition
4 program for women, infants, and children
5 established by section 17 of the Child Nu-
6 trition Act of 1966 (42 U.S.C. 1786);

7 (iii) the commodity supplemental food
8 program established under section 5 of the
9 Agriculture and Consumer Protection Act
10 of 1973 (7 U.S.C. 612c note; Public Law
11 93–86);

12 (iv) the Senior Farmers’ Market Nu-
13 trition Program of the Department of Ag-
14 riculture;

15 (v) the emergency food assistance pro-
16 gram established under the Emergency
17 Food Assistance Act of 1983 (7 U.S.C.
18 7501 et seq.);

19 (vi) the congregate nutrition services
20 program carried out under subpart 1 of
21 part C of title III of the Older Americans
22 Act of 1965 (42 U.S.C. 3030e);

23 (vii) the home delivered nutrition serv-
24 ices program carried out under subpart 2
25 of part C of title III of the Older Ameri-

1 cans Act of 1965 (42 U.S.C. 3030f et
2 seq.); and

3 (viii) the nutrition services incentives
4 program carried out under section 311 of
5 the Older Americans Act of 1965 (42
6 U.S.C. 3030a);

7 (B) in the case of housing programs—

8 (i) the tenant-based rental assistance
9 program under section 8 of the United
10 States Housing Act of 1937 (42 U.S.C.
11 1437f);

12 (ii) the project-based rental assistance
13 program under section 8 of the United
14 States Housing Act of 1937 (42 U.S.C.
15 1437f);

16 (iii) assistance to public housing agen-
17 cies from the Capital Fund and Operating
18 Fund established under subsections (d)
19 and (e), respectively, of section 9 of the
20 United States Housing Act of 1937 (42
21 U.S.C. 1437g);

22 (iv) the single family rural housing
23 loan program under section 502 of the
24 Housing Act of 1949 (42 U.S.C. 1472);

1 (v) the rural rental assistance pro-
2 gram under section 521 of the Housing
3 Act of 1949 (42 U.S.C. 1490a);

4 (vi) the community development block
5 grant program under title I of the Housing
6 and Community Development Act of 1974
7 (42 U.S.C. 5301 et seq.);

8 (vii) the Home Investment Partner-
9 ships Program under title II of the Cran-
10 ston-Gonzalez National Affordable Housing
11 Act (42 U.S.C. 12721 et seq.); and

12 (viii) the neighborhood stabilization
13 program under title III of division B of the
14 Housing and Economic Recovery Act of
15 2008 (42 U.S.C. 5301 note);

16 (C) the temporary assistance for needy
17 families program established under part A of
18 title IV of the Social Security Act (42 U.S.C.
19 601 et seq.);

20 (D) the child and family services programs
21 carried out under subparts 1 and 2 of part B
22 of title IV of the Social Security Act (42 U.S.C.
23 621 et seq.);

24 (E) the program to provide Federal pay-
25 ments for foster care and adoption assistance

1 under part E of title IV of the Social Security
2 Act (42 U.S.C. 670 et seq.), including the John
3 H. Chafee Foster Care Independence Program
4 established under section 477 of the Social Se-
5 curity Act (42 U.S.C. 677);

6 (F) the block grant to States for social
7 services established under subtitle A of title XX
8 of the Social Security Act (42 U.S.C. 1397 et
9 seq.);

10 (G) the community services block grant
11 program carried out under the Community
12 Services Block Grant Act (42 U.S.C. 9901 et
13 seq.);

14 (H) the Weatherization Assistance Pro-
15 gram for Low-Income Persons established
16 under part A of title IV of the Energy Con-
17 servation and Production Act (42 U.S.C. 6861
18 et seq.);

19 (I) the Low-Income Home Energy Assist-
20 ance Program carried out under the Low-In-
21 come Home Energy Assistance Act of 1981 (42
22 U.S.C. 8621 et seq.);

23 (J) programs carried out under the Child
24 Care and Development Block Grant Act of
25 1990 (42 U.S.C. 9858 et seq.); and

1 (K) programs carried out under the Work-
 2 force Innovation and Opportunity Act (29
 3 U.S.C. 3101 et seq.).

4 (3) GOVERNOR.—The term “Governor” means
 5 the Governor or chief executive of a State.

6 (4) PARTICIPATING STATE.—The term “partici-
 7 pating State” means any of the States that apply
 8 for and receive approval to carry out a project.

9 (5) PROJECT.—The term “project” means a
 10 project described in subsection (c).

11 (6) STATE.—The term “State” means a State,
 12 the District of Columbia, the Commonwealth of
 13 Puerto Rico, a territory, or a possession that is eligi-
 14 ble to participate in the applicable covered program.

15 (b) INTERAGENCY BOARD FOR EMPOWERING LOW-
 16 INCOME FAMILIES.—

17 (1) IN GENERAL.—There is established an
 18 interagency board, to be known as the “Interagency
 19 Board for Empowering Low-Income Families”,
 20 which shall carry out this section.

21 (2) MEMBERSHIP.—The Board shall be com-
 22 posed of the following individuals:

23 (A) A Chairperson, who shall be appointed
 24 by the President, by and with the advice and
 25 consent of the Senate.

1 (B) The following agency heads (or a des-
 2 ignee of any of the agency heads):

3 (i) The Secretary of Agriculture.

4 (ii) The Secretary of Health and
 5 Human Services.

6 (iii) The Secretary of Housing and
 7 Urban Development.

8 (iv) The Secretary of Labor.

9 (v) The Attorney General.

10 (vi) The Director of the Office of
 11 Management and Budget.

12 (c) TEMPORARY WAIVERS FOR COVERED PRO-
 13 GRAMS.—

14 (1) IN GENERAL.—A Governor may apply to
 15 the Board for the State to carry out a project for
 16 a 4-year waiver to consolidate, replace, or alter eligi-
 17 bility requirements for two or more covered pro-
 18 grams.

19 (2) PROVISIONS EXCLUDED FROM WAIVER AU-
 20 THORITY.—A waiver shall not be granted under
 21 paragraph (1)—

22 (A) with respect to any provision of law re-
 23 lating to—

24 (i) civil rights or the prohibition of
 25 discrimination;

1 (ii) the purposes or goals of any cov-
2 ered program;

3 (iii) maintenance of effort require-
4 ments;

5 (iv) health or safety;

6 (v) labor standards under the Fair
7 Labor Standards Act of 1938 (29 U.S.C.
8 201 et seq.); or

9 (vi) environmental protection;

10 (B) in the case of a covered program de-
11 scribed in clauses (i) through (iii) of subsection
12 (a)(2)(B), with respect to any requirement
13 under section 5A of the United States Housing
14 Act of 1937 (42 U.S.C. 1437c-1);

15 (C) in the case of the supplemental nutri-
16 tion assistance program established under the
17 Food and Nutrition Act of 2008 (7 U.S.C.
18 2011 et seq.), with respect to any requirement
19 under—

20 (i) section 6 (if waiving a requirement
21 under that section would have the effect of
22 expanding eligibility for the program),
23 7(b), or 16(c) of that Act (7 U.S.C. 2015,
24 2016(b), 2025(c)); or

1 (ii) title IV of the Personal Responsi-
2 bility and Work Opportunity Reconciliation
3 Act of 1996 (8 U.S.C. 1601 et seq.);

4 (D) with respect to—

5 (i) any requirement that a State pass
6 through to a sub-State entity part or all of
7 an amount paid to the State;

8 (ii) the work requirements under sec-
9 tion 407 of the Social Security Act (42
10 U.S.C. 607);

11 (iii) section 241(a) of the Adult Edu-
12 cation and Family Literacy Act (29 U.S.C.
13 3331(a)); or

14 (iv) section 189(i)(3)(A)(i) of the
15 Workforce Innovation and Opportunity Act
16 (29 U.S.C. 3249(i)(3)(A)(i));

17 (E) if the waiver would—

18 (i) waive any funding restriction or
19 limitation provided in an appropriations
20 Act; or

21 (ii) have the effect of transferring ap-
22 propriated funds from one appropriations
23 account to another appropriations account;
24 or

1 (F) except as otherwise provided by stat-
2 ute, if the waiver would—

3 (i) waive any funding restriction ap-
4 plicable to a program authorized under an
5 Act that is not an appropriations Act (but
6 not including program requirements, such
7 as application procedures, performance
8 standards, reporting requirements, or eligi-
9 bility standards); or

10 (ii) have the effect of transferring
11 funds from a program for which there is
12 direct spending (as defined in section
13 250(c) of the Balanced Budget and Emer-
14 gency Deficit Control Act of 1985 (2
15 U.S.C. 900(c))) to another program.

16 (d) APPLICATION REQUIREMENTS.—To obtain a
17 waiver for two or more covered programs under a project,
18 a Governor shall submit to the Board an application that
19 describes—

20 (1) the programs and requirements of the cov-
21 ered programs under the project;

22 (2) the goals of the project;

23 (3) each change the State intends to make
24 under the project, including the manner in which the
25 change will—

1 (A) promote, with respect to program par-
2 ticipants—

3 (i) employment;

4 (ii) savings and financial literacy; and

5 (iii) family stability;

6 (B) reduce the dependence of program par-
7 ticipants on government assistance; and

8 (C) reduce poverty;

9 (4) the manner in which—

10 (A) program participants will be served
11 under the project, including eligibility criteria;

12 (B) program benefits will be reduced under
13 the project as the income of program partici-
14 pants is modified;

15 (C) funds will be used under the project,
16 including an assurance that all program funds
17 will be used to assist program participants, sub-
18 ject to subsection (h)(2);

19 (D) the State will evaluate the project by
20 contracting with an independent, third-party
21 evaluator, including a description of—

22 (i) the methodology that will be used
23 to evaluate the project;

24 (ii) the impacts and outcomes that
25 will be measured, and how those impacts

1 and outcomes relate to the goals of the
 2 project described under paragraph (2); and
 3 (iii) the data that the State will collect
 4 and provide to the evaluator that describes
 5 program participants and control group
 6 members, including—

- 7 (I) demographic characteristics;
- 8 (II) financial well-being;
- 9 (III) history of receipt of govern-
 10 ment benefits; and
- 11 (IV) if a program seeks to in-
 12 crease the employment or employ-
 13 ability of participants, any barriers to
 14 employment or work expenses;
- 15 (E) the project will be deficit neutral; and
- 16 (F) the State will use any potential cost
 17 savings on assistance to meet the needs of pro-
 18 gram participants, subject to subsection (h)(2);
 19 and

20 (5) in the case of a waiver for a covered pro-
 21 gram described in subsection (a)(2)(B), an assur-
 22 ance that public housing agencies received an oppor-
 23 tunity to provide input in the preparation of the ap-
 24 plication.

25 (e) EVALUATING AND APPROVING APPLICATIONS.—

1 (1) IN GENERAL.—A waiver to carry out a
2 project for a covered program under this section
3 shall be authorized only if the Board approves the
4 application for the project submitted under sub-
5 section (d).

6 (2) PUBLIC COMMENT.—The Board shall re-
7 ceive comments from the public, including stake-
8 holders in the State, for a 30-day period beginning
9 on the date of receipt of an application submitted by
10 a Governor.

11 (3) DECISION DEADLINE.—The Board shall
12 make a decision on an application submitted by a
13 Governor not later than 90 days after the date of re-
14 ceipt of the application.

15 (4) DISAPPROVAL.—If the Board disapproves
16 the application of a Governor—

17 (A) the Board shall provide the Governor
18 with a detailed explanation of the decision;

19 (B) the Governor may submit a modified
20 application to the Board for approval; and

21 (C) if a modified application is submitted,
22 the Board shall make a decision not later than
23 30 days after the date of receipt of the modified
24 application.

1 (5) EVALUATING APPLICATIONS.—In evaluating
2 an application to carry out a project, the Board
3 shall—

4 (A) evaluate the application on the basis of
5 the whether the project—

6 (i) promotes, with respect to program
7 participants—

8 (I) employment;

9 (II) savings and financial lit-
10 eracy; and

11 (III) family stability;

12 (ii) reduces the dependence of pro-
13 gram participants on government assist-
14 ance; and

15 (iii) reduces poverty;

16 (B) ensure that the project does not have
17 phase-out rates that result in a net loss in the
18 income of a program participant when the pro-
19 gram participant increases wages or hours
20 worked;

21 (C) define the value of \$1.00 in benefits as
22 equal to \$1.00 in earnings; and

23 (D) consider the extent to which the meth-
24 odology of the project evaluation and data col-
25 lection under subsection (d)(4)(D) will—

1 (i) produce rigorous results, using ex-
 2 perimental designs that use—

3 (I) random assignment; or

4 (II) if random assignment is not
 5 feasible, another reliable, evidence-
 6 based research methodology that al-
 7 lows for the strongest practicable
 8 causal inference; and

9 (ii) provide sufficient contextual infor-
 10 mation on the characteristics of the popu-
 11 lation served by the project, including de-
 12 mographic and geographic information, to
 13 assess the applicability of the project in
 14 other settings.

15 (6) NOTIFICATION.—Not later than 30 days
 16 after the date of approval of an application to carry
 17 out a project, the Board shall notify the congres-
 18 sional committees of jurisdiction of the approval.

19 (f) COORDINATION OF DATA AND INFORMATION.—
 20 Each head of an agency that administers a covered pro-
 21 gram shall cooperate with each participating State that
 22 obtains a waiver of eligibility requirements for the covered
 23 program to coordinate access to data and other informa-
 24 tion relating to the covered program.

25 (g) MODIFYING OR TERMINATING PROJECTS.—

1 (1) IN GENERAL.—A participating State may
2 submit a request to the Board to modify or termi-
3 nate a project if the participating State determines
4 that—

5 (A) the project is not meeting the goals of
6 the project; or

7 (B) the economic situation in the partici-
8 pating State makes the project no longer viable
9 to meet the needs of program participants.

10 (2) APPROVAL.—The Board may modify or ter-
11 minate a project if the Board determines that—

12 (A) the project is not meeting the goals of
13 the project; or

14 (B) the economic situation in the partici-
15 pating State makes the project no longer viable
16 to meet the needs of program participants.

17 (h) FUNDING.—

18 (1) IN GENERAL.—Subject to paragraph (2),
19 the Board shall ensure that—

20 (A) the level of funding for each partici-
21 pating State and the program participants of
22 the participating States receive for each pro-
23 gram year for the covered programs that are
24 subject to a project; equals

1 (B) the level of funding the participating
2 State and program participants of the partici-
3 pating State would receive for the program year
4 for the covered programs but for obtaining a
5 waiver to carry out the project.

6 (2) CAP ON FEDERAL FUNDING.—

7 (A) IN GENERAL.—With respect to any
8 year in which a participating State obtains a
9 waiver of eligibility requirements for a covered
10 program described in subparagraph (B), the
11 total amount that the head of the agency that
12 administers the covered program shall pay to
13 the participating State under the covered pro-
14 gram shall not exceed an amount that is equal
15 to the amount that the head of the agency paid
16 to the participating State under the covered
17 program for the previous year, as adjusted to
18 reflect changes in the Consumer Price Index
19 published by the Bureau of Labor Statistics of
20 the Department of Labor.

21 (B) COVERED PROGRAM DESCRIBED.—A
22 covered program referred to in subparagraph
23 (A) is a covered program under which the
24 amount that the Federal Government provides

1 to a State is dependent on the amount that the
2 State provides to the covered program.

3 (3) ADMINISTRATIVE EXPENSES.—A partici-
4 pating State may use amounts received through a
5 covered program for administrative expenses of car-
6 rying out the project in accordance with any require-
7 ments of the covered program for the use of
8 amounts for administrative expenses.

9 (i) EXISTING CONTRACTS.—In the case of a covered
10 program described in subsection (a)(2)(B), a participating
11 State shall fund any contract in effect on the day before
12 the date of commencement of the project for the term of
13 the contract.

○