

116TH CONGRESS
2D SESSION

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. PANNETTA, 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.

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 “State Paid Leave for
5 America Now (PLAN) Act”.

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

3 (a) IN GENERAL.—There are appropriated to the
4 Secretary of the Treasury such sums as necessary to make
5 payments to States to reimburse eligible State expendi-
6 tures in accordance with this section.

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

10 (1) made during the period beginning on Janu-
11 ary 27, 2020, and ending on December 31, 2021,
12 with respect to any qualified paid leave program;
13 and

14 (2) consisting of any of the following:

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

17 (B) Subject to subsection (d), the reim-
18 bursement of benefits paid by a private em-
19 ployer or insurer—

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

22 (ii) offering such a program on the
23 basis of reimbursement of tax relief pro-
24 vided by the State.

25 (C) The administrative costs to the State
26 of operating a qualified paid leave program

1 maintained by the State or issuing reimburse-
2 ments described in subparagraph (B).

3 (c) QUALIFIED PAID LEAVE PROGRAM.—

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

13 (2) APPLICABLE PAID LEAVE BENEFITS.—

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

23 (B) EXCEPTIONS.—A paid leave benefit
24 described in this paragraph does not include—

1 (i) any form of accrued paid leave or
2 any form of paid leave for which accrued
3 paid leave is required to be substituted;

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

9 (iii) any paid leave with respect to
10 which any taxpayer is eligible for a credit
11 under division G of the Families First
12 Coronavirus Response Act (Public Law
13 116–127).

14 (3) CIRCUMSTANCES RELATED TO COVID-19.—

15 For purposes of this section, a benefit is paid for
16 circumstances related to COVID-19 if, in order to be
17 eligible for such benefit, the recipient must be an in-
18 dividual who (as determined by the qualified paid
19 leave program under the law of the State)—

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

22 (B) is under quarantine (including self-im-
23 posed quarantine or self-isolation) at the in-
24 struction of a health care provider, employer, or
25 a local, State, or Federal official—

1 (i) in order to prevent the spread of
2 COVID-19; or

3 (ii) due to underlying health condi-
4 tions that put the individual at high risk if
5 they contract COVID-19;

6 (C) is engaged in caregiving for an indi-
7 vidual who has a current or presumptive diag-
8 nosis of COVID-19 from a health care provider
9 or is under quarantine as described in subpara-
10 graph (B); or

11 (D) meets such other circumstances re-
12 lated to COVID-19 as the law of the State or
13 the Secretary of the Treasury (in consultation
14 with the Secretary of Health and Human Serv-
15 ices and the Secretary of Labor) may provide.

16 (d) RESTRICTION ON CERTAIN REIMBURSEMENTS.—
17 A State may not treat an expenditure described in sub-
18 section (b)(2) with respect to a qualified paid leave pro-
19 gram as an eligible State expenditure—

20 (1) with respect to benefits paid by the State
21 under such program as described in subparagraph
22 (A) of such subsection, if the State, during the pe-
23 riod described in subsection (b)(1) or during the 6-
24 month period immediately following such period, re-
25 stricts 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-

itures to the State for reimbursement, unless the premium increase is directly and proportionally tied to expanded or increased paid leave program benefits mandated by law or to increased utilization unrelated 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 replacement rate, maximum benefits or coverage) with respect to any such plan; and

(ii) in any case in which the private employer 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 subsection (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-

1 ment under this section shall certify to the Sec-
2 retary of the Treasury an initial estimate of the
3 total amount of eligible State expenditures the
4 State expects to make with respect to calendar
5 years 2020 and 2021.

6 (B) FINAL REPORT.—Not later than July
7 1, 2023, each such State shall certify a final re-
8 port of the total amount of eligible State ex-
9 penditures made with respect to such calendar
10 years. Such report shall also include—

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

14 (ii) the average duration of benefit re-
15 ceipt with respect to each such eligibility
16 category and type of leave; and

17 (iii) any demographic information
18 about recipients, disaggregated by eligi-
19 bility category and type of leave, which is
20 collected by the State or private insurer
21 during the application process.

22 Not later than December 31, 2023, the Sec-
23 retary of the Treasury shall submit a report to
24 Congress providing aggregate data summarizing
25 such final report. Such final report shall not in-

1 clude any individually identifiable information
2 or any information which is protected by State
3 or Federal privacy law, and nothing in this sub-
4 paragraph shall be construed to require a State
5 or private insurer to collect any information
6 from applicants beyond the extent information
7 described in clause (iii) is collected during the
8 application process.

9 (2) TIMING OF PAYMENTS.—The Secretary of
10 the Treasury shall make payments under this section
11 on a quarterly basis during calendar years 2020 and
12 2021 beginning on December 31, 2020, based on an
13 amount equal to 75 percent of the initial estimates
14 received pursuant to paragraph (1)(A).

15 (3) RECONCILIATION.—Not later than Sep-
16 tember 30, 2023, the Secretary of the Treasury shall
17 reconcile with each State amounts paid pursuant to
18 paragraph (2) with the final report submitted by the
19 State pursuant to paragraph (1)(B), and shall pay
20 additional amounts to the State or collect overpay-
21 ments as necessary based on the amount specified in
22 such final report.

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

1 **SEC. 3. STUDY.**

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

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

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