

116TH CONGRESS
2D SESSION

S. 4276

To require the Secretary of Labor to establish a program for providing portable benefits to eligible workers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2020

Mr. WARNER (for himself and Mr. DAINES) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To require the Secretary of Labor to establish a program for providing portable benefits to eligible workers, 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 “Emergency Portable
5 Benefits for Independent Workers Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Many independent workers and workers in
9 alternative work arrangements, constituting a sizable
10 percentage of the workforce in the United States, do

1 not have access to benefits and protections typically
2 provided through traditional full-time employment.

3 (2) Workers in alternative work arrangements
4 include independent contractors, domestic workers,
5 temporary workers, the self-employed, and others in
6 contingent work arrangements.

7 (3) According to a 2017 survey by the Bureau
8 of Labor Statistics, workers in alternative work ar-
9 rangements as their primary form of occupation con-
10 stitute 10.1 percent of the labor force, roughly
11 16,000,000 Americans.

12 (4) In response to the global pandemic caused
13 by the coronavirus, Congress created the temporary
14 Pandemic Unemployment Assistance program under
15 title II of division A of the Coronavirus Aid, Relief,
16 and Economic Security Act (Public Law 116–136)
17 to provide access to unemployment insurance to pre-
18 viously ineligible workers, such as gig workers, free-
19 lancers, and the self-employed.

20 (5) The people of the United States should not
21 need an Act of Congress to have access to essential
22 benefits and protections during the next economic
23 downturn.

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

1 (1) CORONAVIRUS.—The term “coronavirus”
2 has the meaning given the term in section 506 of the
3 Coronavirus Preparedness and Response Supple-
4 mental Appropriations Act, 2020 (Public Law 116–
5 123).

6 (2) ELIGIBLE WORK.—The term “eligible work”
7 means any work performed for pay that is not in
8 connection with traditional full-time employment.

9 (3) ELIGIBLE WORKER.—The term “eligible
10 worker” means—

11 (A) any worker who is not a permanent
12 full-time employee of the parent entity hiring
13 the worker for the eligible work, including any
14 independent contractor, contract worker, self-
15 employed individual, freelance worker, or tem-
16 porary worker; and

17 (B) any worker not traditionally eligible
18 for unemployment compensation under the law
19 of the State, including such a worker who has
20 been affected by the coronavirus.

21 (4) PORTABLE BENEFITS.—The term “portable
22 benefits”—

23 (A) means work-related benefits that are
24 provided to eligible workers for eligible work in

1 a manner that allows the worker to maintain
2 the benefits upon changing jobs; and

3 (B) includes—

4 (i) contributions on behalf of the eligi-
5 ble worker made by a hiring entity (includ-
6 ing multiple entities, if applicable) in con-
7 nection with eligible work performed by the
8 worker for the entity, including entities
9 that facilitate the sale of such work;

10 (ii) contributions made by the eligible
11 worker;

12 (iii) contributions on behalf of the eli-
13 gible worker made by consumers;

14 (iv) contributions on behalf of the eli-
15 gible worker made by labor organizations
16 or worker advocate non-profit organiza-
17 tions;

18 (v) contributions made by a State or
19 local unit of government; or

20 (vi) a combination of two or more of
21 the contributions described in clauses (i)
22 through (v).

23 (5) SECRETARY.—The term “Secretary” means
24 the Secretary of Labor.

1 (6) STATE.—The term “State” means each of
2 the several States of the United States, the District
3 of Columbia, Puerto Rico, American Samoa, the
4 United States Virgin Islands, Guam, and the North-
5 ern Mariana Islands.

6 (7) WORKER ADVOCATE NON-PROFIT ORGANI-
7 ZATION.—The term “worker advocate non-profit or-
8 ganization” means an entity—

9 (A) that is an organization—

10 (i) described in section 501(c) of the
11 Internal Revenue Code of 1986 and ex-
12 empt from tax under section 501(a) of
13 such Code; or

14 (ii) wholly owned or controlled by an
15 organization described in clause (i);

16 (B) all of whose actions regarding pro-
17 viding benefits to workers are taken for the sole
18 purpose of maximizing benefits to the workers;

19 (C) that is neither owned nor controlled, in
20 whole or in part, by any entity that is not an
21 organization described in subparagraph (A)(i);
22 and

23 (D) that has a board of directors that
24 holds a fiduciary duty to the workers with re-
25 spect to provision of the benefits.

1 (8) WORK-RELATED BENEFITS.—The term
 2 “work-related benefits” means benefits of a type
 3 that are commonly provided to traditional full-time
 4 employees, such as workers’ compensation, paid
 5 leave, skills training, disability coverage, health in-
 6 surance coverage, retirement saving, income secu-
 7 rity, and short-term saving.

8 **SEC. 4. ESTABLISHMENT OF PORTABLE BENEFITS PRO-**
 9 **GRAM.**

10 (a) EMERGENCY PORTABLE BENEFITS PROGRAM
 11 ESTABLISHED.—

12 (1) IN GENERAL.—By not later than September
 13 1, 2020, the Secretary shall award funding, through
 14 allotments described in subsection (b), to States
 15 to—

16 (A) assist in the technology modernization
 17 necessary for the expansion of unemployment
 18 insurance; and

19 (B) support broad innovation and experi-
 20 mentation with respect to portable benefits.

21 (2) DURATION OF ALLOTMENTS.—Allotments
 22 awarded under this subsection shall be for not less
 23 than a 2-year period.

24 (b) FORMULA.—Each State’s allotment under this
 25 section shall bear the same relation to the amount avail-

1 able to carry out this section as the population of the State
2 bears to the population of all States.

3 (c) STATE REQUIREMENTS.—

4 (1) PLAN AND IMPLEMENTATION REQUIRE-
5 MENTS.—A State that accepts an allotment under
6 this section shall agree to—

7 (A) submit a plan for the use of the allot-
8 ment, in accordance with the requirements of
9 subsection (d), by not later than 90 days after
10 receiving the allotment; and

11 (B) fully implement the plan submitted
12 under subparagraph (A) by not later than 2
13 years after receiving the allotment.

14 (2) RETURN OF FUNDS.—A State that does not
15 wish to receive an allotment under this section or
16 does not submit a plan described in paragraph
17 (1)(A) by the deadline required under such para-
18 graph shall return the State's allotment to the Sec-
19 retary of the Labor.

20 (3) USE OF RETURNED FUNDS.—The Secretary
21 of Labor shall use any funds returned under para-
22 graph (2) to provide supplemental allotments to the
23 States that did submit a plan under paragraph (1),
24 in the same manner as under subsection (b).

25 (d) USES OF FUNDS.—

1 (1) USE OF FUNDS TO IMPROVE UNEMPLOY-
2 MENT COMPENSATION ADMINISTRATION.—A State
3 receiving an allotment under this section shall use
4 50 percent of the amount of such allotment for im-
5 proving the administration systems of its unemploy-
6 ment compensation law, including by taking such
7 steps as may be necessary to ensure adequate re-
8 sources in periods of high demand and by modern-
9 izing the information technology infrastructure used
10 for such administration.

11 (2) USE OF FUNDS TO ESTABLISH EXPERI-
12 MENTAL PORTABLE BENEFIT PROGRAMS.—A State
13 receiving an allotment under this section shall, in
14 partnership with a local government, labor organiza-
15 tion, or worker advocate nonprofit organization, use
16 50 percent of the amount of such allotment for the
17 design, implementation, and evaluation of new mod-
18 els or approaches for providing portable benefits to
19 eligible workers, including—

20 (A) innovative proposals for paid leave, in-
21 cluding paid family leave and medical leave,
22 paid sick days, and annual leave;

23 (B) providing a job seeker's allowance;

24 (C) retirement-related benefits;

1 (D) the long-term expansion of eligibility
2 for unemployment compensation; and

3 (E) other programs specific to local econo-
4 mies in the State.

5 **SEC. 5. REPORT TO CONGRESS.**

6 Not later than September 30, 2022, the Comptroller
7 General of the United States shall evaluate the outcome
8 of the allotments provided under section 4 and provide a
9 report on such evaluation to Congress. Such report shall
10 include an assessment of the impact of such allotments
11 on the compensation of workers receiving portable benefits
12 under section 4, in the aggregate and disaggregated by
13 socio-economic and racial or ethnic demographic variables.

14 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

15 (a) IN GENERAL.—There is authorized to be appro-
16 priated to carry out this Act \$500,000,000 for fiscal year
17 2021.

18 (b) AVAILABILITY.—Amounts appropriated under
19 subsection (a) shall remain available until expended.

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