

116TH CONGRESS
2D SESSION

S. 4316

To provide Federal reimbursement of qualified State paid leave programs,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2020

Mr. WHITEHOUSE (for himself, Mr. REED, and Mrs. GILLIBRAND) introduced
the following bill; which was read twice and referred to the Committee
on Finance

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”.

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

8 (a) IN GENERAL.—There are appropriated to the
9 Secretary of the Treasury such sums as necessary to make

1 payments to States to reimburse eligible State expendi-
 2 tures in accordance with this section.

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

6 (1) made during the period beginning on Janu-
 7 ary 27, 2020, and ending on December 31, 2021,
 8 with respect to any qualified paid leave program;
 9 and

10 (2) consisting of any of the following:

11 (A) The payment of benefits by the State
 12 under such program.

13 (B) Subject to subsection (d), the reim-
 14 bursement of benefits paid by a private em-
 15 ployer or insurer—

16 (i) required to maintain such program
 17 under the law of the State; or

18 (ii) offering such a program on the
 19 basis of reimbursement of tax relief pro-
 20 vided by the State.

21 (C) The administrative costs to the State
 22 of operating a qualified paid leave program
 23 maintained by the State or issuing reimburse-
 24 ments described in subparagraph (B).

25 (c) QUALIFIED PAID LEAVE PROGRAM.—

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

10 (2) APPLICABLE PAID LEAVE BENEFITS.—

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

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

22 (i) any form of accrued paid leave or
23 any form of paid leave for which accrued
24 paid leave is required to be substituted;

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

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

11 (3) CIRCUMSTANCES RELATED TO COVID–19.—

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

17 (A) has a current or presumptive diagnosis
18 of COVID–19 from a health care provider;

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

23 (i) in order to prevent the spread of
24 COVID–19; or

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

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

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

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

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

1 placement rate, or maximum benefits or coverage)
2 related to such program; and

3 (2) with respect to benefits paid by a private
4 employer or insurer as described in subparagraph
5 (B) of such subsection, unless the private employer
6 or insurer receiving reimbursement under such sub-
7 section provides assurances to the satisfaction of the
8 State that—

9 (A) the private employer or insurer has in
10 effect procedures—

11 (i) to determine whether a benefit is
12 paid for circumstances related to COVID-
13 19 that comply with the standard estab-
14 lished in subsection (c)(3); and

15 (ii) to report such determinations to
16 the State; and

17 (B)(i) during the period described in sub-
18 section (b)(1) and during the 6-month period
19 beginning on the date on which the entity re-
20 ceives such reimbursement from the State, the
21 private employer or insurer will not—

22 (I) raise any premium (if applicable)
23 with respect to any plan for which the pri-
24 vate employer or insurer submitted expend-
25 itures to the State for reimbursement, un-

1 less the premium increase is directly and
2 proportionally tied to expanded or in-
3 creased paid leave program benefits man-
4 dated by law or to increased utilization un-
5 related to circumstances related to
6 COVID-19 (as determined pursuant to
7 subsection (c)(3)); or

8 (II) reduce any benefit (including with
9 respect to duration of leave, wage replace-
10 ment rate, or maximum benefits or cov-
11 erage) with respect to any such plan; and

12 (ii) in any case in which the private em-
13 ployer or insurer violates clause (i), the private
14 employer or insurer agrees to repay the State
15 any such reimbursement received.

16 In any case in which a private employer or insurer repays
17 any amount to a State pursuant to paragraph (2)(B)(ii),
18 the State shall repay to the Secretary of the Treasury such
19 portion of payments received by the State under sub-
20 section (a) as pertain to such amount.

21 (e) TIMING AND PROCEDURE FOR PAYMENTS.—

22 (1) CERTIFICATIONS BY STATES.—

23 (A) INITIAL ESTIMATE.—Not later than
24 September 30, 2020, each State seeking a pay-
25 ment under this section shall certify to the Sec-

1 retary of the Treasury an initial estimate of the
2 total amount of eligible State expenditures the
3 State expects to make with respect to calendar
4 years 2020 and 2021.

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

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

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

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

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

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

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

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

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

1 **SEC. 3. STUDY.**

2 (a) **IN GENERAL.**—The Comptroller General of the
3 United States shall conduct a study to examine the poten-
4 tial impact on the economy had a national paid leave pro-
5 gram been in effect during and after the COVID–19 pan-
6 demic.

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

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