

116TH CONGRESS
1ST SESSION

S. 2416

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

AUGUST 1, 2019

Ms. ERNST (for herself, Mr. RUBIO, Mr. BRAUN, Mr. PERDUE, and Mr. SCOTT of South Carolina) 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-

1 forms for States Act of 2019” or the “EMPOWERS Act
2 of 2019”.

3 **SEC. 2. SENSE OF CONGRESS.**

4 It is the sense of Congress that—

5 (1) each State is in the best position to deter-
6 mine—

7 (A) the specific needs of the population of
8 the State; and

9 (B) how those needs should be addressed;
10 and

11 (2) the purpose of expanding the use of State
12 waivers in Federal antipoverty programs—

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

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

17 **SEC. 3. TEMPORARY WAIVERS FOR FEDERAL ANTIPOVERTY**
18 **PROGRAMS.**

19 (a) DEFINITIONS.—In this section:

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

23 (2) COVERED PROGRAM.—The term “covered
24 program” means—

25 (A) in the case of nutrition programs—

1 (i) the supplemental nutrition assist-
2 ance program established under the Food
3 and Nutrition Act of 2008 (7 U.S.C. 2011
4 et seq.);

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

9 (iii) the commodity supplemental food
10 program established under section 5 of the
11 Agriculture and Consumer Protection Act
12 of 1973 (7 U.S.C. 612c note; Public Law
13 93–86);

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

17 (v) the emergency food assistance pro-
18 gram established under the Emergency
19 Food Assistance Act of 1983 (7 U.S.C.
20 7501 et seq.);

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

1 (vii) the home delivered nutrition serv-
2 ices program carried out under subpart 2
3 of part C of title III of the Older Ameri-
4 cans Act of 1965 (42 U.S.C. 3030f et
5 seq.); and

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

10 (B) in the case of housing programs—

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

15 (ii) the project-based rental assistance
16 program under section 8 of the United
17 States Housing Act of 1937 (42 U.S.C.
18 1437f);

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

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

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

7 (vi) the community development block
8 grant program under title I of the Housing
9 and Community Development Act of 1974
10 (42 U.S.C. 5301 et seq.);

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

15 (viii) the neighborhood stabilization
16 program under title III of division B of the
17 Housing and Economic Recovery Act of
18 2008 (42 U.S.C. 5301 note);

19 (C) the temporary assistance for needy
20 families program established under part A of
21 title IV of the Social Security Act (42 U.S.C.
22 601 et seq.);

23 (D) the child and family services programs
24 carried out under subparts 1 and 2 of part B

1 of title IV of the Social Security Act (42 U.S.C.
2 621 et seq.);

3 (E) the program to provide Federal pay-
4 ments for foster care and adoption assistance
5 under part E of title IV of the Social Security
6 Act (42 U.S.C. 670 et seq.), including the John
7 H. Chafee Foster Care Independence Program
8 established under section 477 of the Social Se-
9 curity Act (42 U.S.C. 677);

10 (F) the block grant to States for social
11 services established under subtitle A of title XX
12 of the Social Security Act (42 U.S.C. 1397 et
13 seq.);

14 (G) the community services block grant
15 program carried out under the Community
16 Services Block Grant Act (42 U.S.C. 9901 et
17 seq.);

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

23 (I) the Low-Income Home Energy Assist-
24 ance Program carried out under the Low-In-

1 come Home Energy Assistance Act of 1981 (42
2 U.S.C. 8621 et seq.);

3 (J) programs carried out under the Child
4 Care and Development Block Grant Act of
5 1990 (42 U.S.C. 9858 et seq.); and

6 (K) programs carried out under the Work-
7 force Innovation and Opportunity Act (29
8 U.S.C. 3101 et seq.).

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

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

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

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

20 (b) INTERAGENCY BOARD FOR EMPOWERING LOW-
21 INCOME FAMILIES.—

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

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

3 (A) A Chairperson, who shall be appointed
4 by the President, by and with the advice and
5 consent of the Senate.

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

8 (i) The Secretary of Agriculture.

9 (ii) The Secretary of Health and
10 Human Services.

11 (iii) The Secretary of Housing and
12 Urban Development.

13 (iv) The Secretary of Labor.

14 (v) The Attorney General.

15 (vi) The Director of the Office of
16 Management and Budget.

17 (c) TEMPORARY WAIVERS FOR COVERED PRO-
18 GRAMS.—

19 (1) IN GENERAL.—A Governor may apply to
20 the Board for the State to carry out a project for
21 a 4-year waiver to consolidate, replace, or alter eligi-
22 bility requirements for two or more covered pro-
23 grams.

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

4 (A) with respect to any provision of law re-
5 lating to—

6 (i) civil rights or the prohibition of
7 discrimination;

8 (ii) the purposes or goals of any cov-
9 ered program;

10 (iii) maintenance of effort require-
11 ments;

12 (iv) health or safety;

13 (v) labor standards under the Fair
14 Labor Standards Act of 1938 (29 U.S.C.
15 201 et seq.); or

16 (vi) environmental protection;

17 (B) in the case of a covered program de-
18 scribed in clauses (i) through (iii) of subsection
19 (a)(2)(B), with respect to any requirement
20 under section 5A of the United States Housing
21 Act of 1937 (42 U.S.C. 1437c–1);

22 (C) in the case of the supplemental nutri-
23 tion assistance program established under the
24 Food and Nutrition Act of 2008 (7 U.S.C.

1 2011 et seq.), with respect to any requirement
2 under—

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

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

11 (D) with respect to—

12 (i) any requirement that a State pass
13 through to a sub-State entity part or all of
14 an amount paid to the State;

15 (ii) the work requirements under sec-
16 tion 407 of the Social Security Act (42
17 U.S.C. 607);

18 (iii) section 241(a) of the Adult Edu-
19 cation and Family Literacy Act (29 U.S.C.
20 3331(a)); or

21 (iv) section 189(i)(3)(A)(i) of the
22 Workforce Innovation and Opportunity Act
23 (29 U.S.C. 3249(i)(3)(A)(i));

24 (E) if the waiver would—

1 (i) waive any funding restriction or
 2 limitation provided in an appropriations
 3 Act; or

4 (ii) have the effect of transferring ap-
 5 propriated funds from one appropriations
 6 account to another appropriations account;
 7 or

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

10 (i) waive any funding restriction ap-
 11 plicable to a program authorized under an
 12 Act that is not an appropriations Act (but
 13 not including program requirements, such
 14 as application procedures, performance
 15 standards, reporting requirements, or eligi-
 16 bility standards); or

17 (ii) have the effect of transferring
 18 funds from a program for which there is
 19 direct spending (as defined in section
 20 250(c) of the Balanced Budget and Emer-
 21 gency Deficit Control Act of 1985 (2
 22 U.S.C. 900(c))) to another program.

23 (d) APPLICATION REQUIREMENTS.—To obtain a
 24 waiver for two or more covered programs under a project,

1 a Governor shall submit to the Board an application that
2 describes—

3 (1) the programs and requirements of the cov-
4 ered programs under the project;

5 (2) the goals of the project;

6 (3) each change the State intends to make
7 under the project, including the manner in which the
8 change will—

9 (A) promote, with respect to program par-
10 ticipants—

11 (i) employment;

12 (ii) savings and financial literacy; and

13 (iii) family stability;

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

16 (C) reduce poverty;

17 (4) the manner in which—

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

20 (B) program benefits will be reduced under
21 the project as the income of program partici-
22 pants is modified;

23 (C) funds will be used under the project,
24 including an assurance that all program funds

1 will be used to assist program participants, sub-
2 ject to subsection (h)(2);

3 (D) the State will evaluate the project by
4 contracting with an independent, third-party
5 evaluator, including a description of—

6 (i) the methodology that will be used
7 to evaluate the project;

8 (ii) the impacts and outcomes that
9 will be measured, and how those impacts
10 and outcomes relate to the goals of the
11 project described under paragraph (2); and

12 (iii) the data that the State will collect
13 and provide to the evaluator that describes
14 program participants and control group
15 members, including—

16 (I) demographic characteristics;

17 (II) financial well-being;

18 (III) history of receipt of govern-
19 ment benefits; and

20 (IV) if a program seeks to in-
21 crease the employment or employ-
22 ability of participants, any barriers to
23 employment or work expenses;

24 (E) the project will be deficit neutral; and

1 (F) the State will use any potential cost
 2 savings on assistance to meet the needs of pro-
 3 gram participants, subject to subsection (h)(2);
 4 and

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

10 (e) EVALUATING AND APPROVING APPLICATIONS.—

11 (1) IN GENERAL.—A waiver to carry out a
 12 project for a covered program under this section
 13 shall be authorized only if the Board approves the
 14 application for the project submitted under sub-
 15 section (d).

16 (2) PUBLIC COMMENT.—The Board shall re-
 17 ceive comments from the public, including stake-
 18 holders in the State, for a 30-day period beginning
 19 on the date of receipt of an application submitted by
 20 a Governor.

21 (3) DECISION DEADLINE.—The Board shall
 22 make a decision on an application submitted by a
 23 Governor not later than 90 days after the date of re-
 24 ceipt of the application.

1 (4) DISAPPROVAL.—If the Board disapproves
2 the application of a Governor—

3 (A) the Board shall provide the Governor
4 with a detailed explanation of the decision;

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

7 (C) if a modified application is submitted,
8 the Board shall make a decision not later than
9 30 days after the date of receipt of the modified
10 application.

11 (5) EVALUATING APPLICATIONS.—In evaluating
12 an application to carry out a project, the Board
13 shall—

14 (A) evaluate the application on the basis of
15 the whether the project—

16 (i) promotes, with respect to program
17 participants—

18 (I) employment;

19 (II) savings and financial lit-
20 eracy; and

21 (III) family stability;

22 (ii) reduces the dependence of pro-
23 gram participants on government assist-
24 ance; and

25 (iii) reduces poverty;

1 (B) ensure that the project does not have
 2 phase-out rates that result in a net loss in the
 3 income of a program participant when the pro-
 4 gram participant increases wages or hours
 5 worked;

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

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

11 (i) produce rigorous results, using ex-
 12 perimental designs that use—

13 (I) random assignment; or

14 (II) if random assignment is not
 15 feasible, another reliable, evidence-
 16 based research methodology that al-
 17 lows for the strongest practicable
 18 causal inference; and

19 (ii) provide sufficient contextual infor-
 20 mation on the characteristics of the popu-
 21 lation served by the project, including de-
 22 mographic and geographic information, to
 23 assess the applicability of the project in
 24 other settings.

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

5 (f) COORDINATION OF DATA AND INFORMATION.—
6 Each head of an agency that administers a covered pro-
7 gram shall cooperate with each participating State that
8 obtains a waiver of eligibility requirements for the covered
9 program to coordinate access to data and other informa-
10 tion relating to the covered program.

11 (g) MODIFYING OR TERMINATING PROJECTS.—

12 (1) IN GENERAL.—A participating State may
13 submit a request to the Board to modify or termi-
14 nate a project if the participating State determines
15 that—

16 (A) the project is not meeting the goals of
17 the project; or

18 (B) the economic situation in the partici-
19 pating State makes the project no longer viable
20 to meet the needs of program participants.

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

23 (A) the project is not meeting the goals of
24 the project; or

1 (B) the economic situation in the partici-
 2 pating State makes the project no longer viable
 3 to meet the needs of program participants.

4 (h) FUNDING.—

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

7 (A) the level of funding for each partici-
 8 pating State and the program participants of
 9 the participating States receive for each pro-
 10 gram year for the covered programs that are
 11 subject to a project; equals

12 (B) the level of funding the participating
 13 State and program participants of the partici-
 14 pating State would receive for the program year
 15 for the covered programs but for obtaining a
 16 waiver to carry out the project.

17 (2) CAP ON FEDERAL FUNDING.—

18 (A) IN GENERAL.—With respect to any
 19 year in which a participating State obtains a
 20 waiver of eligibility requirements for a covered
 21 program described in subparagraph (B), the
 22 total amount that the head of the agency that
 23 administers the covered program shall pay to
 24 the participating State under the covered pro-
 25 gram shall not exceed an amount that is equal

1 to the amount that the head of the agency paid
 2 to the participating State under the covered
 3 program for the previous year, as adjusted to
 4 reflect changes in the Consumer Price Index
 5 published by the Bureau of Labor Statistics of
 6 the Department of Labor.

7 (B) COVERED PROGRAM DESCRIBED.—A
 8 covered program referred to in subparagraph
 9 (A) is a covered program under which the
 10 amount that the Federal Government provides
 11 to a State is dependent on the amount that the
 12 State provides to the covered program.

13 (3) ADMINISTRATIVE EXPENSES.—A partici-
 14 pating State may use amounts received through a
 15 covered program for administrative expenses of car-
 16 rying out the project in accordance with any require-
 17 ments of the covered program for the use of
 18 amounts for administrative expenses.

19 (i) EXISTING CONTRACTS.—In the case of a covered
 20 program described in subsection (a)(2)(B), a participating
 21 State shall fund any contract in effect on the day before
 22 the date of commencement of the project for the term of
 23 the contract.

○