

115TH CONGRESS
1ST SESSION

S. 1651

To provide for temporary financing of short-time compensation programs.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2017

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

A BILL

To provide for temporary financing of short-time
compensation programs.

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; TABLE OF CONTENTS.**

4 (a) IN GENERAL.—This Act may be cited as the
5 “Layoff Prevention Act of 2017”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Temporary financing of short-time compensation payments in States with programs in law.
- Sec. 3. Temporary financing of short-time compensation agreements.
- Sec. 4. Grants for short-time compensation programs.
- Sec. 5. Assistance and guidance in implementing programs.

1 **SEC. 2. TEMPORARY FINANCING OF SHORT-TIME COM-**
2 **PENSATION PAYMENTS IN STATES WITH PRO-**
3 **GRAMS IN LAW.**

4 (a) PAYMENTS TO STATES.—

5 (1) IN GENERAL.—Subject to paragraph (3),
6 there shall be paid to a State an amount equal to
7 100 percent of the amount of short-time compensa-
8 tion paid under a short-time compensation program
9 (as defined in section 3306(v) of the Internal Rev-
10 enue Code of 1986) under the provisions of the
11 State law.

12 (2) TERMS OF PAYMENTS.—Payments made to
13 a State under paragraph (1) shall be payable by way
14 of reimbursement in such amounts as the Secretary
15 estimates the State will be entitled to receive under
16 this section for each calendar month, reduced or in-
17 creased, as the case may be, by any amount by
18 which the Secretary finds that the Secretary's esti-
19 mates for any prior calendar month were greater or
20 less than the amounts which should have been paid
21 to the State. Such estimates may be made on the
22 basis of such statistical, sampling, or other method
23 as may be agreed upon by the Secretary and the
24 State agency of the State involved.

25 (3) LIMITATIONS ON PAYMENTS.—

1 (A) GENERAL PAYMENT LIMITATIONS.—

2 No payments shall be made to a State under
 3 this section for short-time compensation paid to
 4 an individual by the State during a benefit year
 5 in excess of 26 times the amount of regular
 6 compensation (including dependents' allow-
 7 ances) under the State law payable to such in-
 8 dividual for a week of total unemployment.

9 (B) EMPLOYER LIMITATIONS.—No pay-
 10 ments shall be made to a State under this sec-
 11 tion for benefits paid to an individual by the
 12 State under a short-time compensation program
 13 if such individual is employed by the partici-
 14 pating employer on a seasonal, temporary, or
 15 intermittent basis.

16 (b) APPLICABILITY.—

17 (1) IN GENERAL.—Payments to a State under
 18 subsection (a) shall be available for weeks of unem-
 19 ployment—

20 (A) beginning on or after the date of the
 21 enactment of this Act; and

22 (B) ending on or before the date that is 5
 23 years and 6 months after the date of the enact-
 24 ment of this Act.

1 (2) FIVE-YEAR FUNDING LIMITATION FOR COM-
 2 BINED PAYMENTS UNDER THIS SECTION AND SEC-
 3 TION 3.—States may receive payments under this
 4 section and section 3 with respect to a total of not
 5 more than 260 weeks.

6 (c) NEW PROGRAMS.—Subject to paragraphs (1)(B)
 7 and (2) of subsection (b), if at any point after the date
 8 of the enactment of this Act the State enacts a State law
 9 providing for the payment of short-time compensation
 10 under a short-time compensation program that meets the
 11 definition of such a program under section 3306(v) of the
 12 Internal Revenue Code of 1986, as added by section
 13 2161(a), the State shall be eligible for payments under
 14 this section after the effective date of such enactment.

15 (d) FUNDING AND CERTIFICATIONS.—

16 (1) FUNDING.—There are appropriated, out of
 17 moneys in the Treasury not otherwise appropriated,
 18 such sums as may be necessary for purposes of car-
 19 rying out this section.

20 (2) CERTIFICATIONS.—The Secretary shall
 21 from time to time certify to the Secretary of the
 22 Treasury for payment to each State the sums pay-
 23 able to such State under this section.

24 (e) DEFINITIONS.—In this section:

1 (1) SECRETARY.—The term “Secretary” means
2 the Secretary of Labor.

3 (2) STATE; STATE AGENCY; STATE LAW.—The
4 terms “State”, “State agency”, and “State law”
5 have the meanings given those terms in section 205
6 of the Federal-State Extended Unemployment Com-
7 pensation Act of 1970 (26 U.S.C. 3304 note).

8 (f) TECHNICAL CORRECTION TO DEFINITION.—Sec-
9 tion 3306(v)(6) of the Internal Revenue Code of 1986 (26
10 U.S.C. 3306) is amended by striking “Workforce Invest-
11 ment Act of 1998” and inserting “Workforce Innovation
12 and Opportunity Act”.

13 **SEC. 3. TEMPORARY FINANCING OF SHORT-TIME COM-**
14 **PENSATION AGREEMENTS.**

15 (a) FEDERAL-STATE AGREEMENTS.—

16 (1) IN GENERAL.—Any State which desires to
17 do so may enter into, and participate in, an agree-
18 ment under this section with the Secretary provided
19 that such State’s law does not provide for the pay-
20 ment of short-time compensation under a short-time
21 compensation program (as defined in section
22 3306(v) of the Internal Revenue Code of 1986).

23 (2) ABILITY TO TERMINATE.—Any State which
24 is a party to an agreement under this section may,

1 upon providing 30 days' written notice to the Sec-
 2 retary, terminate such agreement.

3 (b) PROVISIONS OF FEDERAL-STATE AGREEMENT.—

4 (1) IN GENERAL.—Any agreement under this
 5 section shall provide that the State agency of the
 6 State will make payments of short-time compensa-
 7 tion under a plan approved by the State. Such plan
 8 shall provide that payments are made in accordance
 9 with the requirements under section 3306(v) of the
 10 Internal Revenue Code of 1986.

11 (2) LIMITATIONS ON PLANS.—

12 (A) GENERAL PAYMENT LIMITATIONS.—A
 13 short-time compensation plan approved by a
 14 State shall not permit the payment of short-
 15 time compensation to an individual by the State
 16 during a benefit year in excess of 26 times the
 17 amount of regular compensation (including de-
 18 pendents' allowances) under the State law pay-
 19 able to such individual for a week of total un-
 20 employment.

21 (B) EMPLOYER LIMITATIONS.—A short-
 22 time compensation plan approved by a State
 23 shall not provide payments to an individual if
 24 such individual is employed by the participating

1 employer on a seasonal, temporary, or intermit-
 2 tent basis.

3 (3) EMPLOYER PAYMENT OF COSTS.—Any
 4 short-time compensation plan entered into by an em-
 5 ployer must provide that the employer will pay the
 6 State an amount equal to one-half of the amount of
 7 short-time compensation paid under such plan. Such
 8 amount shall be deposited in the State’s unemploy-
 9 ment fund and shall not be used for purposes of cal-
 10 culating an employer’s contribution rate under sec-
 11 tion 3303(a)(1) of the Internal Revenue Code of
 12 1986.

13 (c) PAYMENTS TO STATES.—

14 (1) IN GENERAL.—There shall be paid to each
 15 State with an agreement under this section an
 16 amount equal to—

17 (A) one-half of the amount of short-time
 18 compensation paid to individuals by the State
 19 pursuant to such agreement; and

20 (B) any additional administrative expenses
 21 incurred by the State by reason of such agree-
 22 ment (as determined by the Secretary).

23 (2) TERMS OF PAYMENTS.—Payments made to
 24 a State under paragraph (1) shall be payable by way
 25 of reimbursement in such amounts as the Secretary

1 estimates the State will be entitled to receive under
2 this section for each calendar month, reduced or in-
3 creased, as the case may be, by any amount by
4 which the Secretary finds that the Secretary's esti-
5 mates for any prior calendar month were greater or
6 less than the amounts which should have been paid
7 to the State. Such estimates may be made on the
8 basis of such statistical, sampling, or other method
9 as may be agreed upon by the Secretary and the
10 State agency of the State involved.

11 (3) FUNDING.—There are appropriated, out of
12 moneys in the Treasury not otherwise appropriated,
13 such sums as may be necessary for purposes of car-
14 rying out this section.

15 (4) CERTIFICATIONS.—The Secretary shall
16 from time to time certify to the Secretary of the
17 Treasury for payment to each State the sums pay-
18 able to such State under this section.

19 (d) APPLICABILITY.—

20 (1) IN GENERAL.—An agreement entered into
21 under this section shall apply to weeks of unemploy-
22 ment—

23 (A) beginning on or after the date on
24 which such agreement is entered into; and

1 (B) ending on or before the date that is 2
 2 years and 13 weeks after the date of the enact-
 3 ment of this Act.

4 (2) TWO-YEAR FUNDING LIMITATION.—States
 5 may receive payments under this section with re-
 6 spect to a total of not more than 104 weeks.

7 (e) SPECIAL RULE.—If a State has entered into an
 8 agreement under this section and subsequently enacts a
 9 State law providing for the payment of short-time com-
 10 pensation under a short-time compensation program that
 11 meets the definition of such a program under section
 12 3306(v) of the Internal Revenue Code of 1986, the
 13 State—

14 (1) shall not be eligible for payments under this
 15 section for weeks of unemployment beginning after
 16 the effective date of such State law; and

17 (2) subject to paragraphs (1)(B) and (2) of sec-
 18 tion 2(b), shall be eligible to receive payments under
 19 section 2 after the effective date of such State law.

20 (f) DEFINITIONS.—In this section:

21 (1) SECRETARY.—The term “Secretary” means
 22 the Secretary of Labor.

23 (2) STATE; STATE AGENCY; STATE LAW.—The
 24 terms “State”, “State agency”, and “State law”
 25 have the meanings given those terms in section 205

1 of the Federal-State Extended Unemployment Com-
2 pensation Act of 1970 (26 U.S.C. 3304 note).

3 **SEC. 4. GRANTS FOR SHORT-TIME COMPENSATION PRO-**
4 **GRAMS.**

5 (a) GRANTS.—

6 (1) FOR IMPLEMENTATION OR IMPROVED AD-
7 MINISTRATION.—The Secretary shall award grants
8 to States that enact short-time compensation pro-
9 grams (as defined in subsection (i)(2)) for the pur-
10 pose of implementation or improved administration
11 of such programs.

12 (2) FOR PROMOTION AND ENROLLMENT.—The
13 Secretary shall award grants to States that are eligi-
14 ble and submit plans for a grant under paragraph
15 (1) for such States to promote and enroll employers
16 in short-time compensation programs (as so de-
17 fined).

18 (3) ELIGIBILITY.—

19 (A) IN GENERAL.—The Secretary shall de-
20 termine eligibility criteria for the grants under
21 paragraphs (1) and (2).

22 (B) CLARIFICATION.—A State admin-
23 istering a short-time compensation program, in-
24 cluding a program being administered by a
25 State that is participating in the transition

1 under the provisions of sections 301(a)(3) and
2 302(c), that does not meet the definition of a
3 short-time compensation program under section
4 3306(v) of the Internal Revenue Code of 1986,
5 and a State with an agreement under section 3,
6 shall not be eligible to receive a grant under
7 this section until such time as the State law of
8 the State provides for payments under a short-
9 time compensation program that meets such
10 definition and such law.

11 (b) AMOUNT OF GRANTS.—

12 (1) IN GENERAL.—The maximum amount avail-
13 able for making grants to a State under paragraphs
14 (1) and (2) shall be equal to the amount obtained
15 by multiplying \$100,000,000 (less the amount used
16 by the Secretary under subsection (e)) by the same
17 ratio as would apply under subsection (a)(2)(B) of
18 section 903 of the Social Security Act (42 U.S.C.
19 1103) for purposes of determining such State's
20 share of any excess amount (as described in sub-
21 section (a)(1) of such section) that would have been
22 subject to transfer to State accounts, as of October
23 1, 2016, under the provisions of subsection (a) of
24 such section.

1 (2) AMOUNT AVAILABLE FOR DIFFERENT
2 GRANTS.—Of the maximum incentive payment deter-
3 mined under paragraph (1) with respect to a
4 State—

5 (A) one-third shall be available for a grant
6 under subsection (a)(1); and

7 (B) two-thirds shall be available for a
8 grant under subsection (a)(2).

9 (c) GRANT APPLICATION AND DISBURSAL.—

10 (1) APPLICATION.—Any State seeking a grant
11 under paragraph (1) or (2) of subsection (a) shall
12 submit an application to the Secretary at such time,
13 in such manner, and complete with such information
14 as the Secretary may require. In no case may the
15 Secretary award a grant under this section with re-
16 spect to an application that is submitted after De-
17 cember 31, 2020.

18 (2) NOTICE.—The Secretary shall, within 30
19 days after receiving a complete application, notify
20 the State agency of the State of the Secretary’s find-
21 ings with respect to the requirements for a grant
22 under paragraph (1) or (2) (or both) of subsection
23 (a).

24 (3) CERTIFICATION.—If the Secretary finds
25 that the State law provisions meet the requirements

1 for a grant under subsection (a), the Secretary shall
2 thereupon make a certification to that effect to the
3 Secretary of the Treasury, together with a certifi-
4 cation as to the amount of the grant payment to be
5 transferred to the State account in the Unemploy-
6 ment Trust Fund (as established in section 904(a)
7 of the Social Security Act (42 U.S.C. 1104(a))) pur-
8 suant to that finding. The Secretary of the Treasury
9 shall make the appropriate transfer to the State ac-
10 count within 7 days after receiving such certifi-
11 cation.

12 (4) REQUIREMENT.—No certification of compli-
13 ance with the requirements for a grant under para-
14 graph (1) or (2) of subsection (a) may be made with
15 respect to any State whose—

16 (A) State law is not otherwise eligible for
17 certification under section 303 of the Social Se-
18 curity Act (42 U.S.C. 503) or approvable under
19 section 3304 of the Internal Revenue Code of
20 1986; or

21 (B) short-time compensation program is
22 subject to discontinuation or is not scheduled to
23 take effect within 12 months of the certifi-
24 cation.

1 (d) USE OF FUNDS.—The amount of any grant
2 awarded under this section shall be used for the implemen-
3 tation of short-time compensation programs and the over-
4 all administration of such programs and the promotion
5 and enrollment efforts associated with such programs,
6 such as through—

7 (1) the creation or support of rapid response
8 teams to advise employers about alternatives to lay-
9 offs;

10 (2) the provision of education or assistance to
11 employers to enable them to assess the feasibility of
12 participating in short-time compensation programs;
13 and

14 (3) the development or enhancement of systems
15 to automate—

16 (A) the submission and approval of plans;
17 and

18 (B) the filing and approval of new and on-
19 going short-time compensation claims.

20 (e) ADMINISTRATION.—The Secretary is authorized
21 to use 0.25 percent of the funds available under subsection
22 (g) to provide for outreach and to share best practices with
23 respect to this section and short-time compensation pro-
24 grams.

1 (f) RECOUPMENT.—The Secretary shall establish a
 2 process under which the Secretary shall recoup the
 3 amount of any grant awarded under paragraph (1) or (2)
 4 of subsection (a) if the Secretary determines that, during
 5 the 5-year period beginning on the first date that any such
 6 grant is awarded to the State, the State—

7 (1) terminated the State’s short-time compensa-
 8 tion program; or

9 (2) failed to meet appropriate requirements
 10 with respect to such program (as established by the
 11 Secretary).

12 (g) FUNDING.—There are appropriated, out of mon-
 13 eys in the Treasury not otherwise appropriated, to the
 14 Secretary, \$100,000,000 to carry out this section, to re-
 15 main available without fiscal year limitation.

16 (h) REPORTING.—The Secretary may establish re-
 17 porting requirements for States receiving a grant under
 18 this section in order to provide oversight of grant funds.

19 (i) DEFINITIONS.—In this section:

20 (1) SECRETARY.—The term “Secretary” means
 21 the Secretary of Labor.

22 (2) SHORT-TIME COMPENSATION PROGRAM.—
 23 The term “short-time compensation program” has
 24 the meaning given such term in section 3306(v) of
 25 the Internal Revenue Code of 1986.

1 (3) STATE; STATE AGENCY; STATE LAW.—The
 2 terms “State”, “State agency”, and “State law”
 3 have the meanings given those terms in section 205
 4 of the Federal-State Extended Unemployment Com-
 5 pensation Act of 1970 (26 U.S.C. 3304 note).

6 **SEC. 5. ASSISTANCE AND GUIDANCE IN IMPLEMENTING**
 7 **PROGRAMS.**

8 (a) IN GENERAL.—In order to assist States in estab-
 9 lishing, qualifying, and implementing short-time com-
 10 pensation programs (as defined in section 3306(v) of the
 11 Internal Revenue Code of 1986), the Secretary of Labor
 12 (in this section referred to as the “Secretary”) shall—

13 (1) develop model legislative language which
 14 may be used by States in developing and enacting
 15 such programs and periodically review and revise
 16 such model legislative language;

17 (2) provide technical assistance and guidance in
 18 developing, enacting, and implementing such pro-
 19 grams;

20 (3) establish reporting requirements for States,
 21 including reporting on—

22 (A) the number of estimated averted lay-
 23 offs;

24 (B) the number of participating employers
 25 and workers; and

1 (C) such other items as the Secretary of
2 Labor determines are appropriate.

3 (b) MODEL LANGUAGE AND GUIDANCE.—The model
4 language and guidance developed under subsection (a)
5 shall allow sufficient flexibility by States and participating
6 employers while ensuring accountability and program in-
7 tegrity.

8 (c) CONSULTATION.—In developing the model legisla-
9 tive language and guidance under subsection (a), and in
10 order to meet the requirements of subsection (b), the Sec-
11 retary shall consult with employers, labor organizations,
12 State workforce agencies, and other program experts.

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