

117TH CONGRESS
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H. R. 5821

To provide additional benefits to American workers whose employment has been impacted as a result of the transition to a clean energy economy.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 2, 2021

Mr. LEVIN of Michigan (for himself, Mr. TONKO, Mr. GARCÍA of Illinois, Mr. RASKIN, Mr. MCGOVERN, Ms. NEWMAN, Mr. COURTNEY, Mr. CASTEN, Mr. BOWMAN, Mr. LOWENTHAL, Ms. CASTOR of Florida, Ms. BONAMICI, Mr. GARAMENDI, Ms. BARRAGÁN, Ms. BLUNT ROCHESTER, and Mr. DESAULNIER) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide additional benefits to American workers whose employment has been impacted as a result of the transition to a clean energy economy.

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 “American Energy
5 Worker Opportunity Act of 2021”.

1 **SEC. 2. OFFICE OF AMERICAN ENERGY WORKERS.**

2 (a) ESTABLISHMENT OF OFFICE.—Not later than 60
3 days after the date of enactment of this Act, there shall
4 be established within the Department of the Treasury an
5 office to be known as the Office of American Energy
6 Workers. The Office of American Energy Workers shall
7 be headed by an Assistant Secretary who shall be ap-
8 pointed by the Secretary of the Treasury (referred to in
9 this section as the “Secretary”).

10 (b) RESPONSIBILITIES OF ASSISTANT SECRETARY.—
11 The Secretary, acting through the Assistant Secretary,
12 shall be responsible for—

13 (1) hiring personnel and making employment
14 decisions with regard to such personnel;

15 (2) issuing such regulations as may be nec-
16 essary to carry out the purposes of this section;

17 (3) entering into cooperative agreements with
18 other agencies and departments to ensure the effi-
19 ciency of the administration of this section;

20 (4) determining eligibility for benefits provided
21 under this section and providing such benefits to
22 qualified individuals;

23 (5) preventing fraud and abuse relating to such
24 benefits;

25 (6) establishing and maintaining a system of
26 records relating to the administration of this section;

1 (7) ensuring that the Office of American En-
2 ergy Workers is designed a manner that maximizes
3 efficiency and ease of use by qualified individuals,
4 which may include establishment and deployment of
5 mobile field or satellite offices within eligible coun-
6 ties (as defined by the Secretary);

7 (8) consulting with the Secretary of Labor with
8 respect to the benefits provided under this section to
9 avoid duplication with other Federal programs to as-
10 sist qualified individuals; and

11 (9) administering the programs established
12 under this section.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—Begin-
14 ning in fiscal year 2022 and in each fiscal year thereafter,
15 there is authorized to be appropriated, out of moneys in
16 the Treasury not otherwise appropriated, such sums as
17 may be necessary to administer the office established
18 under subsection (a).

19 (d) ADMINISTRATION.—

20 (1) NOTIFICATION.—

21 (A) IN GENERAL.—Not later than the date
22 that is 90 days before the date of the closure
23 of a coal mine or fossil-fuel intensive plant, the
24 operator of such mine or plant shall provide no-
25 tice to the Secretary with respect to such clo-

1 sure, including such information as is deter-
2 mined necessary by the Secretary to determine
3 the eligibility of any former employee of such
4 mine or plant for any benefits provided under
5 this section, as well as the amount of such ben-
6 efits.

7 (B) COMPLIANCE.—In determining compli-
8 ance with the notification requirement of sub-
9 paragraph (A), the Secretary shall confirm the
10 compliance, as applicable, of the coal mine or
11 fossil-fuel intensive plant with the notification
12 requirements of the Worker Adjustment and
13 Retraining Notification Act (29 U.S.C. 2101 et
14 seq.) through communication with the Secretary
15 of Labor and, as appropriate, the State or the
16 chief elected official of the unit of local govern-
17 ment within which the closure of such coal mine
18 or fossil-fuel intensive plant is to occur.

19 (2) CLOSURE.—For purposes of this section,
20 the term “closure” means—

21 (A) with respect to any coal mine, any re-
22 duction in production occurring after the date
23 of enactment of this Act which is accompanied
24 by permanent layoffs; and

(B) with respect to any fossil-fuel intensive plant, the permanent closure of one or more generating units occurring after the date of enactment of this Act which is accompanied by permanent layoffs.

(3) FOSSIL-FUEL INTENSIVE PLANT.—For purposes of this section—

(A) IN GENERAL.—The term “fossil-fuel intensive plant” means a fixed facility for which the primary purpose is processing or utilization of fossil fuels for—

(i) the generation of energy or electric power; or

(ii) the production of fuels.

(B) OIL REFINERIES.—The term “fossil-fuel intensive plant” shall include oil refineries.

(4) QUALIFIED INDIVIDUAL.—

(A) IN GENERAL.—For purposes of this section, the term “qualified individual” means—

(i) any individual—

(I) whose employment was terminated as the result of the closure of a coal mine or a fossil-fuel intensive plant;

1 (II) who, prior to such closure,
2 was continually employed at such
3 mine or plant—

4 (aa) for a period of not less
5 than 12 months; and

6 (bb) for an average of not
7 less than 30 hours a week during
8 the 12-month period preceding
9 such closure; and

10 (III) for whom the applicable in-
11 formation has been provided to the
12 Secretary pursuant to paragraph (1);
13 and

14 (ii) any individual who has been deter-
15 mined, pursuant to subparagraph (C), to
16 be a fossil-fuel dependent worker.

17 (B) RAILROAD AND ALLIED INDUSTRIES
18 WORKERS.—Pursuant to regulations issued by
19 the Secretary, the term “qualified individual”
20 shall include any individual—

21 (i) whose employment as a railroad
22 worker, or whose employment involves coal
23 transportation, maintenance, and supply,
24 was terminated;

(ii) whose income during the 12-month period preceding the closure of a coal mine or a fossil-fuel intensive plant has been substantially dependent on the continued operation of such mine or plant (as determined by the Secretary, in coordination with the Secretary of Labor); and

(iii) who has applied for benefits provided under this section and has provided the Secretary with such information as determined appropriate by the Secretary.

(C) FOSSIL-FUEL DEPENDENT WORKER.—

For purposes of subparagraph (A)(ii), the term “fossil-fuel dependent worker” means an individual who, as determined by the Secretary (in coordination with the Secretary of Labor and the Secretary of Energy), is—

(i) employed in a fossil-fuel intensive industry at a fixed facility or work site which has been determined to be likely to close within the following 3-year-period; and

(ii) eligible for benefits provided under this section based on need.

(e) WAGE REPLACEMENT.—

1 (1) IN GENERAL.—

2 (A) PAYMENT.—In the case of any quali-
3 fied individual, during the applicable period, the
4 Secretary shall provide such individual with
5 payments in an amount which, for each month
6 during such period, is equal to—

7 (i) the average amount of monthly re-
8 muneration for employment paid to such
9 individual during the 12-month period
10 prior to the termination of their employ-
11 ment (as described in subsection (d)(4));
12 minus

13 (ii) an amount equal to the sum of—

14 (I) except as provided under
15 paragraph (5)(B), any wages (as de-
16 fined in section 3121(a)) received by
17 such individual with respect to em-
18 ployment (as defined in section
19 3121(b)) during such month;

20 (II) any payments made to such
21 individual pursuant to a Federal ben-
22 efit program during such month; plus

23 (III) any unemployment com-
24 pensation (as defined in section 85(b))

1 of the Internal Revenue Code of
2 1986) during such month.

3 (B) NOTIFICATION.—During the applicable
4 period, a qualified individual shall notify the
5 Secretary with respect to any wages, payments,
6 or compensation described in subparagraph
7 (A)(ii).

8 (C) COMPLIANCE.—

9 (i) IN GENERAL.—Notwithstanding
10 section 6103 of the Internal Revenue Code
11 of 1986, with respect to any qualified indi-
12 vidual who receives a payment under this
13 subsection for any month, if the Secretary
14 determines that such individual failed to
15 comply with the requirement under sub-
16 paragraph (B) with respect to such month,
17 such individual shall be subject to a pen-
18 alty in an amount equal to the lesser of—

19 (I) the amount of such payment
20 for such month; or

21 (II) the amount determined
22 under subparagraph (A)(ii) with re-
23 spect to such month.

24 (ii) NO ADDITIONAL PAYMENTS.—

1 (I) IN GENERAL.—No payment
2 shall be allowed under this subsection
3 for any month during the disallowance
4 period.

5 (II) DISALLOWANCE PERIOD.—
6 For purposes of subclause (I), the dis-
7 allowance period shall be any month
8 during the applicable period beginning
9 prior to the date on which an indi-
10 vidual described in clause (i) has
11 made full payment with respect to any
12 penalty imposed under such clause.

13 (2) APPLICABLE PERIOD.—For purposes of this
14 subsection, the term “applicable period” means, with
15 respect to any qualified individual, the 60-month pe-
16 riod subsequent to the termination of their employ-
17 ment (as described in subsection (d)(4)).

18 (3) FREQUENCY OF PAYMENT.—Any payment
19 required to be provided to a qualified individual
20 under this subsection shall be provided by the Sec-
21 retary on a basis which is not less frequent than
22 once per month during the applicable period.

23 (4) ADJUSTMENT FOR INFLATION.—For pur-
24 poses of any payment described in paragraph (1)
25 which is provided to a qualified individual during a

1 calendar year beginning after the date that the em-
2 ployment of such individual was terminated, such
3 amount shall be adjusted in a manner similar to the
4 cost-of-living adjustment determined under section
5 1(f)(3) of the Internal Revenue Code of 1986 for
6 such calendar year.

7 (5) TAX TREATMENT.—Any amount provided to
8 a qualified individual under this subsection shall be
9 treated as—

10 (A) gross income for purposes of the Inter-
11 nal Revenue Code of 1986; and

12 (B) for purposes of section 3101 of such
13 Code, wages received by the individual with re-
14 spect to employment.

15 (f) HEALTH INSURANCE BENEFITS.—

16 (1) IN GENERAL.—The Secretary shall provide
17 the following health insurance benefits:

18 (A) In the case of a qualified individual
19 who is receiving continuation coverage pursuant
20 to part 6 of subtitle B of title I of the Em-
21 ployee Retirement Income Security Act of 1974
22 (29 U.S.C. 1161 et seq.) and section 4980B of
23 the Internal Revenue Code of 1986, the Sec-
24 retary shall transfer, each month, to the group
25 health plan (or health insurance issuer offering

1 health insurance coverage in connection with
2 such a plan) of such qualified individual, the
3 amount required to cover the same percentage
4 of the qualified individual's monthly premium
5 (including coverage for any qualified bene-
6 ficiaries) that such individual's former employer
7 contributed toward such premium during the
8 individual's employment.

9 (B) In the case of a qualified individual
10 who is not eligible for continuation coverage as
11 described in subparagraph (A), the Secretary
12 shall transfer to the qualified individual, each
13 month, an amount equal to the amount that the
14 individual's former employer contributed each
15 month towards premiums for enrollment of the
16 individual and qualified beneficiaries in a group
17 health plan (including any health insurance cov-
18 erage offered in connection with such a plan),
19 adjusted in accordance with the average in-
20 crease in health insurance premiums for plans
21 offered at the gold level of coverage (as de-
22 scribed in section 1302(d)(1) of the Patient
23 Protection and Affordable Care Act (42 U.S.C.
24 18022(d)(1))) in the individual market in the
25 applicable State. This amount shall not be con-

1 sidered as gross income for purposes of the In-
2 ternal Revenue Code of 1986 provided that the
3 individual provides proof that it has been used
4 to purchase health insurance coverage that
5 qualifies as minimum essential coverage (as de-
6 fined in section 5000A(f) of the Internal Rev-
7 enue Code of 1986).

8 (2) REDUCTION OF PREMIUMS PAYABLE BY IN-
9 DIVIDUALS.—In the case of a qualified individual
10 and qualified beneficiaries receiving benefits de-
11 scribed in paragraph (1)(A) during the applicable
12 period of coverage described in paragraph (3)(A),
13 such individual and beneficiaries shall be treated for
14 purposes of part 6 of subtitle B of title I of the Em-
15 ployee Retirement Income Security Act of 1974 (29
16 U.S.C. 1161 et seq.) and section 4980B of the In-
17 ternal Revenue Code of 1986 as having paid in full
18 the amount of such premium for a month if such
19 qualified individual and qualified beneficiary pays
20 the total monthly premium due, less the amount of
21 benefits paid on behalf of such individual and bene-
22 ficiaries pursuant to paragraph (1)(A).

23 (3) PERIOD OF COVERAGE WITH RESPECT TO
24 COBRA CONTINUATION COVERAGE.—For purposes of
25 this subsection, the following shall apply:

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), with respect to a qualified individual
3 or qualified beneficiary who is receiving con-
4 tinuation coverage pursuant to part 6 of sub-
5 title B of title I of the Employee Retirement In-
6 come Security Act of 1974 (29 U.S.C. 1161 et
7 seq.) and 4980B of the Internal Revenue Code
8 of 1986, the period of coverage described in sec-
9 tion 602(2) of the Employee Retirement Income
10 Security Act of 1974 (29 U.S.C. 1162(2)) and
11 section 4980B(f)(2)(B) of the Internal Revenue
12 Code of 1986 is deemed to extend to the date
13 which is 5 years after termination of the quali-
14 fied individual’s employment.

15 (B) END OF PLAN.—With respect to a
16 qualified individual and qualified beneficiaries
17 described in subparagraph (A), if the employer
18 ceases to provide any group health plan to any
19 employee before the period of coverage de-
20 scribed in such subparagraph ends, or if the
21 qualified individual and qualified beneficiaries
22 become ineligible for continuation coverage
23 (other than for reasons described in paragraph
24 (4)(A)(ii)), such qualified individual and quali-

1 fied beneficiaries shall be eligible for benefits
2 described in paragraph (1)(B).

3 (4) DURATION OF BENEFITS.—

4 (A) BENEFITS WITH RESPECT TO COBRA
5 CONTINUATION COVERAGE.—The benefits de-
6 scribed in paragraph (1)(A) shall continue until
7 the earlier of—

8 (i) the date that is 5 years after clo-
9 sure of a coal mine or fossil-fuel intensive
10 plant; or

11 (ii) the date on which the qualified in-
12 dividual or qualified beneficiary becomes
13 ineligible for continuation coverage pursu-
14 ant to subparagraph (C) or (D)(ii) of sec-
15 tion 602(2) of Employee Retirement In-
16 come Security Act of 1974 (29 U.S.C.
17 1162(2)) or clause (iii) or (iv) of section
18 4980B(f)(2)(B) of the Internal Revenue
19 Code of 1986.

20 (B) OTHER BENEFITS.—The benefits de-
21 scribed in paragraph (1)(B) shall continue until
22 the date that is 5 years after closure of a coal
23 mine or fossil-fuel intensive plant.

24 (C) SPECIAL RULE.—With respect to a
25 qualified individual and qualified beneficiaries,

1 section 602(2)(C) of the Employee Retirement
2 Income Security Act of 1974 and section
3 4980B(f)(2)(B)(iii) of the Internal Revenue
4 Code of 1986 shall apply only if, with respect
5 to such individual and beneficiaries, at least 2
6 consecutive premium payments are not made.

7 (5) OUTREACH.—The Secretary of Labor, in
8 consultation with the Secretary of the Treasury and
9 the Secretary of Health and Human Services, shall
10 provide outreach consisting of public education and
11 enrollment assistance relating to premium assistance
12 provided under this subsection, that targets employ-
13 ers, group health plan administrators, public assist-
14 ance programs, States, health insurance issuers, and
15 other entities as determined appropriate by such
16 Secretaries. Such outreach shall initially focus on in-
17 dividuals electing COBRA continuation coverage. In-
18 formation on premium assistance, including enroll-
19 ment, shall be made available on the websites of the
20 Departments of Labor, Treasury, and Health and
21 Human Services.

22 (6) DEFINITIONS.—In this subsection—

23 (A) the terms “group health plan”, “health
24 insurance coverage”, and “health insurance
25 issuer” have the meanings given such terms in

1 section 733 of the Employee Retirement Income
2 Security Act of 1974 (29 U.S.C. 1191b); and

3 (B) the term “qualified beneficiary” has
4 the meaning given such term in section
5 607(3)(A) of the Employee Retirement Income
6 Security Act of 1974 (29 U.S.C. 1167(3)(A)).

7 (g) RETIREMENT SAVINGS CONTRIBUTIONS.—

8 (1) IN GENERAL.—In the case of a qualified in-
9 dividual, the Secretary shall pay to such individual
10 amounts equal to the amount of employer contribu-
11 tions (other than elective deferrals) which were made
12 to a qualified retirement plan (as defined in section
13 4974(c) of the Internal Revenue Code of 1986) of
14 the individual as of the last month the individual
15 was employed by the employer. Such payments shall
16 be made on the same schedule as employer contribu-
17 tions under the plan.

18 (2) TAX TREATMENT OF CONTRIBUTIONS.—If
19 the qualified individual demonstrates that the pay-
20 ments made under paragraph (1) are contributed to
21 a qualified retirement plan (as so defined) of the in-
22 dividual, such payments shall be treated for pur-
23 poses of the Internal Revenue Code of 1986 as if
24 they had been made as employer contributions.

25 (h) EDUCATIONAL BENEFITS.—

1 (1) DEFINITIONS.—In this subsection:

2 (A) CHILD.—The term “child” means,
3 with respect to any qualified individual, a son
4 or daughter of such individual.

5 (B) PUBLIC, IN-STATE INSTITUTION OR
6 VOCATIONAL SCHOOL.—The term “public, in-
7 State institution or vocational school” means a
8 public institution of higher education (as de-
9 fined in section 101(a) of the Higher Education
10 Act of 1965 (20 U.S.C. 1001(a))), or a public
11 vocational school, of the State in which the
12 qualified individual or child resides.

13 (2) IN GENERAL.—The Secretary of Education
14 shall carry out a program of educational assistance
15 for any qualified individual and child of a qualified
16 individual that is comparable to the program of edu-
17 cation assistance administered by the Secretary of
18 Veterans Affairs under chapter 33 of title 38,
19 United States Code, except that—

20 (A) a qualified individual, and each child
21 of a qualified individual, may receive the edu-
22 cational assistance provided under the program;
23 and

24 (B) the educational assistance shall only be
25 available for use—

1 (i) at a public, in-State institution or
2 vocational school; or

3 (ii) for a program of training services
4 included on the most recent list of eligible
5 training programs issued under section
6 122(d) of the Workforce Innovation and
7 Opportunity Act (29 U.S.C. 3152(d)) by
8 the Governor of the State in which the
9 qualified individual or child of a qualified
10 individual resides.

11 (i) PRIORITY FOR EMPLOYMENT.—The Secretary, in
12 coordination with the Secretary of Labor, the Secretary
13 of Commerce, and the Secretary of Energy, shall, with re-
14 spect to any clean energy grants which are made available
15 after the date of enactment of this Act, give priority to
16 employers that intend to hire qualified individuals.

17 (j) EFFECTIVE DATE.—This section shall take effect
18 on the date of the establishment of the Office of American
19 Energy Workers (as described in subsection (a)).

○