

117TH CONGRESS
1ST SESSION

H. R. 2790

To establish jobs programs for long-term unemployed workers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2021

Mr. LEVIN of Michigan (for himself and Mr. KILMER) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To establish jobs programs for long-term unemployed 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 “Long-Term Unemploy-
5 ment Elimination Act of 2021”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to provide job opportuni-
8 ties for every long-term unemployed worker in the United
9 States.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) CAREER SERVICES.—The term “career serv-
4 ices” includes the services described in section
5 134(c)(2)(A) of the Workforce Innovation and Op-
6 portunity Act (29 U.S.C. 3174(c)(2)(A)).

7 (2) COVERED AREA.—The term “covered area”
8 means the local area in which a local board is car-
9 rying out a jobs program, or (in the circumstances
10 described in section 4(d)) the local area in which a
11 community-based organization is carrying out a jobs
12 program, under this Act.

13 (3) ELIGIBLE WORKER.—The term “eligible
14 worker” means an individual who—

15 (A) is not less than 18 years old;

16 (B) is authorized to be employed in the
17 United States for purposes of section 274A of
18 the Immigration and Nationality Act (8 U.S.C.
19 1324a);

20 (C) has not been employed or a full-time
21 student for a period of not less than 27 weeks
22 (except as modified under section 5(e)); and

23 (D) is currently seeking employment and
24 has been seeking employment for a period of
25 not less than 4 weeks (except as modified under
26 section 5(e)).

1 (4) INDIVIDUAL WITH A BARRIER TO EMPLOY-
2 MENT.—The term “individual with a barrier to em-
3 ployment” has the meaning given in section 3(24) of
4 the Workforce Innovation and Opportunity Act (29
5 U.S.C. 3102(24)), except that such term shall not
6 include individuals who meet the terms of the defini-
7 tion in that section solely on the basis of their status
8 as long-term unemployed individuals.

9 (5) ON-THE-JOB TRAINING.—The term “on-the-
10 job training” has the meaning given the term in sec-
11 tion 3(44) of the Workforce Innovation and Oppor-
12 tunity Act (29 U.S.C. 3102(44)), except that sub-
13 paragraph (B) of that section shall not apply.

14 (6) PARTICIPATING EMPLOYER.—The term
15 “participating employer” means an employer—

16 (A) that is—

17 (i) a government agency;

18 (ii) a nonprofit organization;

19 (iii) operating as an employment so-
20 cial enterprise; or

21 (iv) a business; and

22 (B) includes—

23 (i) an employer at the site of employ-
24 ment for an eligible worker in a program
25 position; or

1 (ii) a community-based organization
2 that acts as an employer of record by—

3 (I) assuming the roles and re-
4 sponsibilities assigned to employers
5 described in clause (i) under this Act;

6 (II) entering into an agreement
7 with an employer described in clause
8 (i) to set forth the terms and condi-
9 tions for employment of an eligible
10 worker in a program position in a jobs
11 program in accordance with the provi-
12 sions of this Act; and

13 (III) acting as an intermediary
14 between eligible workers and employ-
15 ers described in clause (i) to facilitate
16 participation in the jobs program in-
17 volved.

18 (7) PAYROLL TAXES.—The term “payroll
19 taxes” means taxes under section 3111, 3221, 3301,
20 or 3321 of the Internal Revenue Code of 1986, and
21 any similar State or local tax imposed on employers.

22 (8) PRE-APPRENTICESHIP.—The term “pre-ap-
23 prenticeship”, used with respect to a program,
24 means a program that is designed to prepare indi-
25 viduals to enter and succeed in a registered appren-

1 ticeship program and is carried out by an entity that
2 has a documented partnership with at least one
3 sponsor of a registered apprenticeship program.

4 (9) PROGRAM POSITION.—

5 (A) IN GENERAL.—The term “program po-
6 sition”, used with respect to a jobs program—

7 (i) means a position—

8 (I) in a temporary job that is de-
9 signed to lead to long-term employ-
10 ment; and

11 (II) that is provided along with,
12 as necessary, career services, sup-
13 portive services, and training services
14 to enable an individual to succeed in
15 the job and obtain and retain long-
16 term employment; and

17 (ii) includes—

18 (I) a position in a transitional
19 job;

20 (II) a position in a registered ap-
21 prenticeship program; and

22 (III) an approved national service
23 position made available under section
24 129 of the National and Community
25 Service Act of 1990 (42 U.S.C.

1 12581), including a position spon-
 2 sored under subsection (i) of that sec-
 3 tion, subject to subparagraph (B).

4 (B) RULE.—

5 (i) EMPLOYERS WITH CERTAIN PRO-
 6 GRAM POSITIONS.—A participating em-
 7 ployer for an eligible worker (or an em-
 8 ployer at the site of employment for an eli-
 9 gible worker) in a program position de-
 10 scribed in subparagraph (A)(ii)(III) shall
 11 be considered to be a service sponsor, as
 12 defined in section 101 of the National and
 13 Community Service Act of 1990 (42
 14 U.S.C. 12511).

15 (ii) ELIGIBLE WORKERS IN CERTAIN
 16 PROGRAM POSITIONS.—In parity with sec-
 17 tion 101(30) of the National and Commu-
 18 nity Service Act of 1990 (42 U.S.C.
 19 12511(30)), an eligible worker in such a
 20 program position shall not be considered to
 21 be an employee of the participating em-
 22 ployer (or of an employer at the site of em-
 23 ployment for the eligible worker).

24 (10) RECOGNIZED POSTSECONDARY CREDEN-
 25 TIAL.—The term “recognized postsecondary creden-

1 tial” means such a credential as defined in section
2 3 of the Workforce Innovation and Opportunity Act
3 (29 U.S.C. 3102), if the provider of the program
4 leading to the credential is identified under section
5 122(h) of such Act (29 U.S.C. 3152(h)).

6 (11) REGISTERED APPRENTICESHIP PRO-
7 GRAM.—The term “registered apprenticeship pro-
8 gram” means a program registered under the Act of
9 August 16, 1937 (commonly known as the “National
10 Apprenticeship Act”; 50 Stat. 664, chapter 663; 29
11 U.S.C. 50 et seq.).

12 (12) SECRETARY.—The term “Secretary”
13 means the Secretary of Labor.

14 (13) TRANSITIONAL JOB.—The term “transi-
15 tional job” means a job described in section
16 134(d)(5) of the Workforce Innovation and Oppor-
17 tunity Act (29 U.S.C. 3174(d)(5)), without regard
18 to the limitation described in that section on funding
19 for such jobs.

20 (14) WIOA TERMS.—The terms “adult edu-
21 cation and literacy activities”, “career pathway”,
22 “community-based organization”, “customized train-
23 ing”, “industry or sector partnership”, “in-demand
24 industry sector or occupation”, “integrated edu-
25 cation and training”, “local area”, “local board”,

“one-stop operator”, “poverty line”, “State area”, “State board”, “supportive services”, “training services”, and “veteran” have the meanings given the terms in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(15) WORKER-OWNED ENTERPRISE.—

(A) IN GENERAL.—The term “worker-owned enterprise” means—

(i) an eligible worker-owned cooperative, as defined in section 1042(c)(2) of the Internal Revenue Code of 1986; or

(ii) an enterprise for which the majority of the voting stock is owned by workers employed by such enterprise.

(B) VOTING STOCK.—For purposes of subparagraph (A)(ii), the share of the voting stock owned by workers shall include stock held by an employee stock ownership plan, as defined in section 4975(e)(7) of such Code.

SEC. 4. JOBS PROGRAMS FOR LONG-TERM UNEMPLOYED WORKERS.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish and administer a jobs initiative for eligible

1 workers, consisting of jobs programs carried out
2 through local boards.

3 (2) PARTNERSHIPS.—A local board may enter
4 into a partnership with one or more community-
5 based organizations to submit an application and
6 carry out a jobs program.

7 (3) AGREEMENTS.—In administering the initia-
8 tive, the Secretary shall enter into 4-year agree-
9 ments with local boards, under which the Secretary
10 shall provide payments to local boards. Such an
11 agreement shall specify which functions described in
12 this Act will be carried out by the local board, by the
13 community-based organization, and by the partner-
14 ship.

15 (4) PAYMENTS.—The Secretary shall make
16 such a payment in an amount that equals the eligi-
17 ble costs incurred by the local board—

18 (A) to provide wages and compensation for
19 program positions for eligible workers under
20 this section, minus any employer share of the
21 eligible costs of providing the wages and com-
22 pensation;

23 (B) to provide career services, supportive
24 services, and training services to eligible work-
25 ers under this section; and

1 (C) to administer the jobs program under
2 this section.

3 (b) LOCAL BOARD APPLICATION.—To be eligible to
4 enter into an agreement under subsection (a), a local
5 board shall submit an application to the Secretary at such
6 time, in such manner, and containing a 4-year plan that
7 includes such information as the Secretary may require,
8 including—

9 (1) the number of eligible workers that the local
10 board proposes to serve under the jobs program in-
11 volved and the estimated cost of serving that number
12 of workers;

13 (2) a plan for one-stop operators to identify the
14 issues preventing each eligible worker served by the
15 jobs program from securing employment, and to re-
16 duce the impact of those issues with career services,
17 supportive services, and training services;

18 (3) a description of how the local board will en-
19 gage labor organizations, joint labor-management or-
20 ganizations, community-based organizations, commu-
21 nity colleges, economic development agencies, and
22 career and technical education programs as partners
23 to provide training services to eligible workers, in-
24 cluding any—

1 (A) adult education and literacy activities,
2 including activities of English language acquisi-
3 tion, and integrated education and training pro-
4 grams;

5 (B) pre-apprenticeship and registered ap-
6 prenticeship programs; and

7 (C) career pathways;

8 (4) a description of how the local board will
9 support the creation and expansion of industry or
10 sector partnerships and alignment of the jobs pro-
11 gram with career pathways to improve outcomes for
12 eligible workers in program positions;

13 (5) proposed levels for the performance ac-
14 countability measures described in subsection (c);

15 (6) a description of the controls established by
16 the local board to assure that the local board—

17 (A) disburses funding to each participating
18 employer for all eligible costs described in sub-
19 section (h) incurred under the jobs program,
20 minus the employer share described in sub-
21 section (i);

22 (B) oversees participating employers to en-
23 sure compliance with program rules and collec-
24 tion of accurate data for performance account-

1 ability measures described in subsection (c);
2 and

3 (C) requests accurate advance payment or
4 reimbursement for the eligible costs described
5 in subsection (h), minus any employer share de-
6 scribed in subsection (i) of the eligible costs;

7 (7) a description of how the local board will col-
8 laborate with the corresponding State board to im-
9 plement the jobs program and align such program
10 with the plan submitted by the corresponding State
11 board under subtitle A of title I of the Workforce In-
12 novation and Opportunity Act (29 U.S.C. 3111 et
13 seq.);

14 (8) a description of how the local board will
15 align the activities carried out under the grant with
16 the activities carried out under—

17 (A) the plans submitted by the local board
18 under subtitle A of title I of the Workforce In-
19 novation and Opportunity Act (29 U.S.C. 3111
20 et seq.);

21 (B) the employment and training program
22 established by the corresponding State under
23 the supplemental nutrition assistance program
24 established under the Food and Nutrition Act
25 of 2008 (7 U.S.C. 2011 et seq.);

1 (C) the corresponding State program for
2 temporary assistance for needy families estab-
3 lished under part A of title IV of the Social Se-
4 curity Act (42 U.S.C. 601 et seq.);

5 (D) the national service plan submitted by
6 the corresponding State Commission on Na-
7 tional and Community Service under section
8 178 of the National and Community Service
9 Act of 1990 (42 U.S.C. 12638);

10 (E) programs established under the Second
11 Chance Act of 2007 (34 U.S.C. 60501 et seq.);

12 (F) employment and community develop-
13 ment programs carried out by the Secretary of
14 Housing and Urban Development;

15 (G) career and technical education pro-
16 grams authorized by the Carl D. Perkins Ca-
17 reer and Technical Education Act of 2006 (20
18 U.S.C. 2301 et seq.);

19 (H) the continuum of care projects (relat-
20 ing to ending homelessness) carried out under
21 applications submitted, by communities serving
22 an area that is substantially similar to the cov-
23 ered area, under subtitle C of title IV of the
24 McKinney-Vento Homeless Assistance Act (42
25 U.S.C. 11381 et seq.);

1 (I) programs to support competitive inte-
2 grated employment for individuals with disabil-
3 ities, including programs of vocational rehabili-
4 tation services under title I of the Rehabilita-
5 tion Act of 1973 (29 U.S.C. 720 et seq.) and
6 the Ticket to Work and Self-Sufficiency Pro-
7 gram carried out under section 1148 of the So-
8 cial Security Act (42 U.S.C. 1320b–19);

9 (J) the program of employment services
10 provided under the Wagner-Peyser Act (29
11 U.S.C. 49 et seq.); and

12 (K) employment and training programs for
13 veterans; and

14 (9) assurances that—

15 (A) prior to the placement of an eligible
16 worker in a program position, the local board
17 will consult with the appropriate local labor or-
18 ganization, if any, representing employees in
19 the covered area who are engaged in the same
20 or similar work as that proposed to be carried
21 out by the eligible worker, to prevent the dis-
22 placement and protect the rights of such em-
23 ployees; and

1 (B) the local board will comply with the
2 nondisplacement provisions of subsection (f)
3 and the grievance procedures of subsection (g).

4 (c) PERFORMANCE ACCOUNTABILITY.—

5 (1) IN GENERAL.—For each local board, the
6 performance accountability measures shall consist of
7 the indicators described in paragraph (2) and the
8 levels described in paragraph (3).

9 (2) INDICATORS.—The indicators for the per-
10 formance accountability measures shall consist of—

11 (A) the primary indicators of performance
12 described in section 116(b)(2)(A)(i) of the
13 Workforce Innovation and Opportunity Act (29
14 U.S.C. 3141(b)(2)(A)(i));

15 (B) the number of eligible workers placed
16 in jobs created by the jobs program of the local
17 board;

18 (C) for households with an eligible worker
19 who participated in the program, the average
20 increase in income by the end of such participa-
21 tion; and

22 (D) the percentage of program positions
23 filled by eligible workers who were individuals
24 with a barrier to employment.

1 (3) ACCEPTABLE OVERALL LEVELS OF PER-
 2 FORMANCE.—The local board shall reach agreement
 3 with the Secretary, acting in consultation with the
 4 Secretary of Education, on acceptable overall levels
 5 of performance for each indicator described in para-
 6 graph (2) for each year covered by the application
 7 submitted under subsection (b). In reaching such
 8 agreements, the local board and the Secretaries shall
 9 take into account—

10 (A) the purpose of this Act, as described in
 11 section 2, by seeking to provide job opportuni-
 12 ties for as many eligible workers as possible;
 13 and

14 (B) the factors described in section
 15 116(b)(3)(A)(v) of the Workforce Innovation
 16 and Opportunity Act (29 U.S.C.
 17 3141(b)(3)(A)(v)), except that references in
 18 that section to a State shall be considered to be
 19 references to a local area.

20 (4) REPORTING REQUIREMENT.—

21 (A) IN GENERAL.—The local board shall
 22 provide information specifying the board’s level
 23 of performance on the performance account-
 24 ability measures specified in this subsection, in-
 25 cluding disaggregated data specified under sub-

paragraph (B), as part of the local board performance reports established under section 116(d) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3141(d)).

(B) DISAGGREGATED DATA.—Each such performance report shall include data specifying the board’s level of performance with respect to individuals with barriers to employment, disaggregated by each subpopulation of such individuals, and by race, ethnicity, sex, and age.

(d) SANCTIONS FOR FAILURE TO MEET PERFORMANCE ACCOUNTABILITY MEASURES OR SUBMIT AN APPLICATION.—

(1) PERFORMANCE IMPROVEMENT PLAN AND TECHNICAL ASSISTANCE.—If a local board fails to meet performance accountability measures specified in subsection (c)—

(A) the local board shall develop a performance improvement plan; and

(B) the Secretary and State board may provide technical assistance, including assistance in the development of the performance improvement plan.

(2) REPEATED FAILURE TO MEET PERFORMANCE ACCOUNTABILITY MEASURES.—If a local board

1 fails to meet the performance accountability meas-
2 ures for at least 3 consecutive years, the Secretary
3 may enter into an agreement with a community-
4 based organization to carry out a jobs program serv-
5 ing the corresponding local area in place of the local
6 board.

7 (3) FAILURE TO SUBMIT APPLICATION.—

8 (A) IN GENERAL.—If a local board fails to
9 submit an application under subsection (b) by
10 the such date as the Secretary may require—

11 (i) the Secretary shall notify the local
12 board of the local board's failure to submit
13 such application; and

14 (ii) the Secretary and State board
15 may provide technical assistance to enable
16 the local board to submit such application.

17 (B) FAILURE TO SUBMIT APPLICATION
18 FOR 1 YEAR OR LONGER.—If a local board fails
19 to submit an application under subsection (b)
20 for 1 year or longer after the date described in
21 subparagraph (A), the Secretary may enter into
22 an agreement with a community-based organi-
23 zation to carry out a jobs program serving the
24 corresponding local area in place of the local
25 board.

1 (4) PROGRAMS CARRIED OUT BY COMMUNITY-
2 BASED ORGANIZATIONS.—

3 (A) APPLICATION.—A community-based
4 organization that seeks to carry out a jobs pro-
5 gram in place of a local board as described in
6 paragraph (2) or (3) shall submit an applica-
7 tion to the Secretary.

8 (B) SELECTION.—The Secretary shall se-
9 lect, on a competitive basis, community-based
10 organizations to carry out jobs programs as de-
11 scribed in paragraphs (2) and (3) for a local
12 area. The Secretary shall select such organiza-
13 tions based on their ability to implement a jobs
14 program that achieves the highest levels on the
15 performance accountability measures, taking
16 into account the factors described in section
17 116(b)(3)(A)(v) of the Workforce Innovation
18 and Opportunity Act (29 U.S.C.
19 3141(b)(3)(A)(v)), except that references in
20 that section to a State shall be considered to be
21 references to a local area, and meets the other
22 requirements specified in this Act.

23 (C) RENEWAL.—After the initial selection
24 under subparagraph (B), the Secretary shall,
25 every 4 years, hold a new competition to select

1 community-based organizations to carry out
2 jobs programs for local areas. The local board
3 for such an area may also submit an application
4 in such competition.

5 (D) IMPLEMENTATION.—This Act shall
6 apply to a community-based organization se-
7 lected under this paragraph as if the organiza-
8 tion was the local board for the corresponding
9 local area.

10 (e) PARTICIPATING EMPLOYER.—

11 (1) IN GENERAL.—Participating employers
12 shall be selected by a local board. An entity who
13 seeks to be a participating employer shall enter into
14 an agreement with the local board to act as a par-
15 ticipating employer under this subsection.

16 (2) SELECTION CRITERIA.—

17 (A) IN GENERAL.—To select participating
18 employers (including the renewal of such a se-
19 lection), the local board shall take into account
20 the considerations, and comply with the require-
21 ments, specified in subparagraphs (B) through
22 (H).

23 (B) WORKER FEEDBACK.—The local board
24 shall provide an opportunity for eligible workers
25 to provide feedback on participating employers,

1 and shall take this feedback into account when
2 determining whether to renew the selection of
3 an employer.

4 (C) LABOR ORGANIZATIONS.—

5 (i) IN GENERAL.—The local board
6 shall consider input from labor organiza-
7 tions and joint labor-management organi-
8 zations to select participating employers.

9 (ii) COLLECTIVE BARGAINING AGREE-
10 MENTS.—For a site of employment at
11 which workers are covered by a collective
12 bargaining agreement, the local board shall
13 not place a program participant in a pro-
14 gram position at the site without the con-
15 sent of all labor organizations and joint
16 labor-management organizations rep-
17 resenting workers at such site.

18 (D) LONG-TERM EMPLOYMENT PROS-
19 PECTS.—The local board shall consider whether
20 the employer under consideration is proposing
21 or providing an experience that will help eligible
22 workers secure long-term employment after the
23 program position ends, either with the partici-
24 pating employer or another employer.

25 (E) COMMUNITY IMPACT AND INPUT.—

1 (i) COMMUNITY IMPACT PREF-
2 ERENCE.—The local board shall consider
3 whether the employer is offering program
4 positions in which the work to be per-
5 formed is designed to have a positive im-
6 pact on the communities in the covered
7 area served through the jobs program, and
8 shall develop criteria for that positive im-
9 pact based on input from members of such
10 communities.

11 (ii) COMMUNITY INPUT.—The local
12 board shall also provide an opportunity for
13 such communities to provide input on how
14 a participating employer should be selected
15 and whether specific employers should be
16 selected, and shall take this input into ac-
17 count when selecting a participating em-
18 ployer.

19 (F) IN-DEMAND INDUSTRY SECTOR OR OC-
20 CUPATION.—The local board shall consider
21 whether the employer is offering program posi-
22 tions that lead to employment in an in-demand
23 industry sector or occupation.

24 (G) TYPE OF BUSINESS.—The local board
25 shall consider whether the employer is—

1 (i) a worker-owned enterprise; or

2 (ii) a small business concern owned
 3 and controlled by women, a small business
 4 concern owned and controlled by socially
 5 and economically disadvantaged individ-
 6 uals, a small business concern owned and
 7 controlled by veterans, or a qualified
 8 HUBZone small business concern, as those
 9 4 terms are defined in section 8(d)(3) of
 10 the Small Business Act (15 U.S.C.
 11 637(d)(3)).

12 (H) OTHER FACTORS.—The local board
 13 may consider other factors, besides the factors
 14 explicitly stated in this paragraph, that are rel-
 15 evant to achieving the performance account-
 16 ability measures and other requirements speci-
 17 fied in this Act.

18 (3) PARTICIPATING EMPLOYER DUTIES.—The
 19 participating employer shall—

20 (A) provide wages for each eligible worker
 21 in a program position at a rate that—

22 (i) is not less than the greatest of the
 23 3 rates described in subsection (h)(1)(B);

24 (ii) is not less than the customary
 25 rate paid by the employer for the same or

1 similar work performed by other employees
2 who—

3 (I) are not eligible workers in
4 program positions;

5 (II) are similarly situated in
6 similar occupations by the same em-
7 ployer; and

8 (III) have similar training, expe-
9 rience, and skills; and

10 (iii) is in accordance with any applica-
11 ble collective bargaining agreements at the
12 site of employment;

13 (B) provide benefits for each eligible work-
14 er in a program position—

15 (i) at the same level as is provided to
16 other employees who are not eligible work-
17 ers in program positions; and

18 (ii) in accordance with any applicable
19 collective bargaining agreements at the site
20 of employment;

21 (C) ensure that the site of employment is
22 a location where an eligible worker in a pro-
23 gram position who is an individual with a dis-
24 ability, as defined in section 7 of the Rehabilita-
25 tion Act of 1973 (29 U.S.C. 705), interacts

1 with other persons who are not such individuals
2 with disabilities (not including supervisory per-
3 sonnel or individuals who are providing services
4 to such worker) to the same extent as individ-
5 uals who are not such individuals with disabil-
6 ities and who are in comparable positions inter-
7 act with other persons;

8 (D) offer opportunities for advancement to
9 eligible workers in program positions, as appro-
10 priate, that are similar to those for other em-
11 ployees who are not eligible workers in program
12 positions; and

13 (E) fulfill legal and administrative duties
14 including payroll processing, tax withholding
15 and documentation, making deductions for any
16 applicable labor organization dues, and meeting
17 liability requirements such as workers' com-
18 pensation requirements.

19 (4) PAYMENT TO PARTICIPATING EMPLOYER.—

20 (A) WAGES AND COMPENSATION.—The
21 local board shall provide payment to the partici-
22 pating employer for all eligible costs described
23 in subsection (h) for wages and compensation
24 provided by the employer for eligible workers in

1 program positions, minus the employer share
2 described in subsection (i).

3 (B) EMPLOYER-PROVIDED TRAINING.—

4 The local board may enter into an agreement
5 with the participating employer under which the
6 employer provides on-the-job training or cus-
7 tomized training to eligible workers, and, sub-
8 ject to subsection (h)(3), the local board pro-
9 vides payment to reimburse the employer for
10 the cost of providing the training described in
11 the agreement.

12 (f) NONDISPLACEMENT.—

13 (1) NONDISPLACEMENT OF EXISTING EMPLOY-
14 EES.—The participating employer shall not place an
15 eligible worker hired for a jobs program in a position
16 under this Act if—

17 (A) employing such individual will result in
18 the layoff or partial displacement (such as a re-
19 duction in hours, wages, or employment bene-
20 fits) of an existing employee (as of the date of
21 the hiring) of the employer;

22 (B) such individual will assume any of the
23 duties or responsibilities of an employee who is
24 on strike;

1 (C) employing such individual infringes
2 upon the promotional opportunities of an exist-
3 ing employee (as of the date of the hiring) of
4 the employer; or

5 (D) such individual will perform the same
6 work or substantially the same work as that
7 performed by any individual, employed by the
8 employer at the site of employment, who—

9 (i) has been laid off or partially dis-
10 placed (as such term is described in sub-
11 paragraph (A)); and

12 (ii) has not been offered by to be re-
13 stored to the position the employee had im-
14 mediately prior to being laid off or par-
15 tially displaced.

16 (2) PROHIBITION ON ROTATION.—The partici-
17 pating employer may not make placements in a pro-
18 gram position by constantly rotating new eligible
19 workers into a permanent position temporarily, ex-
20 cept in circumstances in which—

21 (A) the employer reasonably intends to
22 promote each such eligible worker to a different
23 permanent position within the employer's busi-
24 ness at the end of that worker's employment in
25 the program position; or

1 (B) the program position is part of an on-
 2 the-job training program that leads to a recog-
 3 nized postsecondary credential.

4 (3) NONDISPLACEMENT OF GOVERNMENT EM-
 5 PLOYEES OR FUNCTIONS.—

6 (A) GOVERNMENT AGENCY.—A partici-
 7 pating employer that is a government agency
 8 may not place an eligible worker hired for a
 9 jobs program in an existing position (as of the
 10 date of the hiring) that is subject to civil service
 11 laws of a Federal, State, or local government.

12 (B) OTHER PARTICIPATING EMPLOYER.—
 13 A participating employer that is not a govern-
 14 ment agency may not use funds provided under
 15 this Act to provide services or carry out other
 16 functions that are customarily provided by a
 17 unit of State government or general local gov-
 18 ernment.

19 (4) LIMITATION ON PROGRAM POSITIONS FOR
 20 PARTICIPATING EMPLOYER.—

21 (A) IN GENERAL.—No more than 10 per-
 22 cent of the employees of a participating em-
 23 ployer may be in program positions funded
 24 under this Act, except as provided in any of
 25 subparagraphs (B) through (E).

1 (B) MINIMUM.—A participating employer
2 with fewer than 10 employees may employ 1 in-
3 dividual in a program position funded under
4 this Act.

5 (C) MAXIMUM.—A participating employer
6 with more than 1,000 employees may employ
7 not more than 100 individuals in program posi-
8 tions funded under this Act, unless the em-
9 ployer obtains permission under subparagraph
10 (D).

11 (D) PERMISSION.—

12 (i) IN GENERAL.—A local board may
13 grant permission for a participating em-
14 ployer to have a higher percentage or num-
15 ber of employees in program positions than
16 is allowed under subparagraph (A) or
17 (C)—

18 (I) under the circumstance de-
19 scribed in subclause (I) or (II) of
20 clause (ii); or

21 (II) under the circumstance de-
22 scribed in clause (ii)(III), with the
23 consent of all labor organizations and
24 joint labor-management organizations

1 representing workers at the site in-
2 volved.

3 (ii) CIRCUMSTANCES.—The cir-
4 cumstances described in this clause are
5 any of the following:

6 (I) A circumstance in which the
7 most recent 3-month average of the
8 unemployment rate in the covered
9 area is not less than 8 percent.

10 (II) A circumstance in which the
11 employer is a worker-owned enterprise
12 and worker-ownership is widely avail-
13 able to the employer's employees, in-
14 cluding eligible workers in program
15 positions.

16 (III) A circumstance in which a
17 collective bargaining agreement covers
18 eligible workers in program positions
19 at a site of employment.

20 (iii) DURATION.—

21 (I) IN GENERAL.—An employer
22 granted the permission described in
23 clause (i) under the circumstance de-
24 scribed in clause (ii)(I) may be grant-
25 ed such permission for a term of not

1 more than 2 years, subject to sub-
2 clause (II), regardless of whether the
3 unemployment rate in the covered
4 area falls below 8 percent during that
5 2-year period.

6 (II) RENEWAL.—If the permis-
7 sion is granted under a circumstance
8 described in clause (ii)(I) and is
9 scheduled to expire in 3 months or
10 less, and if the most recent 3-month
11 average of the unemployment rate in
12 the covered area is not less than 8
13 percent, the local board may renew
14 the permission for another term de-
15 scribed in subclause (I).

16 (E) APPLICATION TO GOVERNMENT AGEN-
17 CY.—If the employer is a Federal, State, or
18 local agency, the limitations described in sub-
19 paragraphs (A), (B), and (C) shall be applied
20 separately to each unit within that agency.

21 (F) MODIFICATION.—The requirements of
22 this paragraph may be modified under section
23 5(e).

24 (G) DEFINITION.—For purposes of this
25 paragraph and subsection (g), the term “par-

1 ticipating employer” shall not include a commu-
2 nity-based organization that acts as an em-
3 ployer of record and (even if a community-
4 based organization is so acting) shall include
5 the employer at the site.

6 (g) GRIEVANCE PROCEDURE.—

7 (1) IN GENERAL.—The local board shall estab-
8 lish and maintain a procedure for the filing and ad-
9 judication of grievances from participants, labor or-
10 ganizations, or joint labor-management organiza-
11 tions, and other interested individuals concerning
12 participating employers, including grievances relat-
13 ing to proposed placements of eligible workers with
14 such employers.

15 (2) DEADLINE FOR GRIEVANCES.—Except for a
16 grievance that alleges fraud or criminal activity, a
17 grievance shall be filed not later than 1 year after
18 the date of the alleged occurrence of the event that
19 is the subject of the grievance.

20 (3) DEADLINE FOR HEARING AND DECISION.—

21 (A) HEARING.—A hearing on any griev-
22 ance conducted under this subsection shall be
23 conducted not later than 30 days after the fil-
24 ing of such grievance.

1 (B) DECISION.—A decision on any such
2 grievance shall be made not later than 60 days
3 after the filing of such grievance.

4 (4) ARBITRATION.—

5 (A) IN GENERAL.—

6 (i) JOINTLY SELECTED ARBI-
7 TRATOR.—In the event of a decision on a
8 grievance that is adverse to the party who
9 filed the grievance, or 60 days after the fil-
10 ing of such grievance if no decision has
11 been reached, such party shall be per-
12 mitted to submit such grievance to binding
13 arbitration before a qualified arbitrator
14 who is jointly selected and independent of
15 the interested parties.

16 (ii) APPOINTED ARBITRATOR.—If the
17 parties cannot agree on an arbitrator, the
18 Secretary shall appoint an arbitrator from
19 a list of qualified arbitrators within 15
20 days after receiving a request for such ap-
21 pointment from one of the parties to the
22 grievance.

23 (B) DEADLINE FOR PROCEEDING.—An ar-
24 bitration proceeding shall be held not later than
25 45 days after the request for such arbitration

1 proceeding, or, if the arbitrator is appointed by
2 the Secretary in accordance with subparagraph
3 (A)(ii), not later than 30 days after the ap-
4 pointment of such arbitrator.

5 (C) DEADLINE FOR DECISION.—A decision
6 concerning a grievance shall be made not later
7 than 30 days after the date such arbitration
8 proceeding begins.

9 (D) COST.—

10 (i) IN GENERAL.—Except as provided
11 in clause (ii), the cost of an arbitration
12 proceeding shall be divided evenly between
13 the parties to the arbitration.

14 (ii) EXCEPTION.—If a participant,
15 labor organization, joint labor-management
16 organization, or other interested individual
17 described in paragraph (1) prevails under
18 a binding arbitration proceeding, the other
19 entity that is a party to such grievance
20 shall pay the total cost of such proceeding
21 and the attorneys' fees of such participant,
22 labor organization, or individual, as the
23 case may be.

24 (5) PROPOSED PLACEMENT.—If a grievance is
25 filed regarding a proposed placement of an eligible

1 worker with a participating employer, such place-
2 ment shall not be made unless the placement is con-
3 sistent with the resolution of the grievance pursuant
4 to this subsection.

5 (6) REMEDIES.—Remedies for a grievance filed
6 under this subsection include—

7 (A) suspension of payments for the partici-
8 pating employer;

9 (B) termination of such payments;

10 (C) prohibition of the placement described
11 in paragraph (5);

12 (D) in a case in which the grievance is
13 filed by an individual eligible worker or pro-
14 gram participant—

15 (i) the eligible worker’s selection to be
16 a program participant, or the program
17 participant’s reinstatement, as the case
18 may be; and

19 (ii) other changes in the terms and
20 conditions of employment applicable to the
21 individual; and

22 (E) in a case in which the grievance in-
23 volves a violation of subsection (f) and the em-
24 ployer of the displaced employee is the partici-
25 pating employer—

1 (i) reinstatement of the displaced em-
2 ployee to the position held by such em-
3 ployee prior to displacement;

4 (ii) payment of lost wages and bene-
5 fits of the displaced employee;

6 (iii) reestablishment of other relevant
7 terms, conditions, and privileges of employ-
8 ment of the displaced employee; and

9 (iv) such equitable relief as is nec-
10 essary to correct any violation of sub-
11 section (f) or to make the displaced em-
12 ployee whole.

13 (7) ENFORCEMENT.—Suits to enforce awards
14 under this subsection may be brought in any district
15 court of the United States having jurisdiction of the
16 parties, without regard to the amount in controversy
17 and without regard to the citizenship of the parties.

18 (8) EXISTING GRIEVANCE PROCEDURES.—Not-
19 withstanding any other provision of this subsection,
20 a grievance relating to a site of employment that is
21 covered by a collective bargaining agreement that in-
22 cludes a grievance procedure that applies to such
23 grievance shall be adjudicated under the terms of
24 such grievance procedure and not this subsection.
25 Nothing in this subsection shall be construed to limit

1 the application of any grievance procedure included
2 in a collective bargaining agreement.

3 (h) ELIGIBLE COSTS.—

4 (1) WAGES AND COMPENSATION.—

5 (A) IN GENERAL.—Subject to paragraph
6 (2), for purposes of this Act, the eligible costs
7 of providing wages and compensation shall be
8 the eligible costs of providing the wages de-
9 scribed in subparagraph (B), and the com-
10 pensation described in subparagraph (C), for el-
11 igible workers.

12 (B) WAGES.—The eligible costs described
13 in this subparagraph shall be the costs of pro-
14 viding wages at a rate that is the greatest of—

15 (i) the applicable minimum wage rate
16 under section 6(a)(1) of the Fair Labor
17 Standards Act of 1938 (29 U.S.C.
18 206(a)(1)) (not counting any rate author-
19 ized for employment under special certifi-
20 cates under section 14 of such Act (29
21 U.S.C. 214));

22 (ii) the applicable State or local min-
23 imum wage rate; or

24 (iii) a rate, calculated as an amount
25 per hour, with the amount determined by

1 dividing the poverty line for a family of 4
2 by 2,080.

3 (C) COMPENSATION.—The eligible costs
4 described in this subparagraph—

5 (i) subject to clause (ii), shall be
6 nonwage expenses that are directly related
7 to compensation for eligible workers, in-
8 cluding—

9 (I) costs for employer payroll
10 taxes;

11 (II) costs for employee benefits;

12 (III) costs to provide a national
13 service education award for approved
14 national service positions sponsored
15 under section 129(i) of the National
16 and Community Service Act of 1990
17 (42 U.S.C. 12581(i)); and

18 (IV) costs of fulfilling the duties
19 described in subsection (e)(3)(E); and

20 (ii) for each eligible worker, shall not
21 exceed 20 percent of the eligible costs of
22 providing the wages described in subpara-
23 graph (B).

24 (2) LIMITATION FOR DURATION OF WAGES AND
25 COMPENSATION.—

1 (A) IN GENERAL.—Subject to subpara-
 2 graph (B), an eligible cost related to wages and
 3 compensation for a program position is an ex-
 4 pense related to the first 12 months of the pro-
 5 gram position, subject to section 5(e).

6 (B) EXTENSION.—A local board may ex-
 7 tend the 12-month period described in subpara-
 8 graph (A) for not more than an additional 12
 9 months, subject to section 5(e), to the extent
 10 that such extension is necessary to cover the pe-
 11 riod of a program position that is part of an
 12 on-the-job training program that leads to a rec-
 13 ognized postsecondary credential.

14 (3) CAREER SERVICES, SUPPORTIVE SERVICES,
 15 AND TRAINING SERVICES.—

16 (A) AGGREGATE LIMIT.—The eligible costs
 17 of providing, or facilitating the provision of, ca-
 18 reer services, supportive services, and training
 19 services to eligible workers shall, in total, not
 20 exceed 20 percent of the total eligible costs of
 21 providing the wages described in paragraph
 22 (1)(B) to those eligible workers.

23 (B) FLEXIBILITY FOR INDIVIDUALS.—The
 24 limit in subparagraph (A) shall apply to the eli-
 25 gible costs for the total amount of such career

1 services, supportive services, and training serv-
2 ices provided by a jobs program to all eligible
3 workers, and shall not be construed to con-
4 stitute a separate limit on the eligible costs for
5 the career services, supportive services, and
6 training services so provided to each eligible
7 worker.

8 (C) MODIFICATION.—The requirements of
9 this paragraph may be modified under section
10 5(e).

11 (4) ADMINISTRATION.—

12 (A) LOCAL BOARDS.—The eligible costs in-
13 curred by a local board (and a State board,
14 under subparagraph (B)) of administering a
15 jobs program under this section shall not exceed
16 10 percent of the total eligible costs of pro-
17 viding the wages described in paragraph (1)(B)
18 to all eligible workers served by the jobs pro-
19 gram.

20 (B) STATE BOARDS.—A State board may
21 enter into an agreement with a local board to
22 receive a portion of the amount made available
23 under subparagraph (A) to carry out the re-
24 sponsibilities of the State board under sub-
25 section (k).

1 (C) SECRETARY.—Of the maximum
2 amount that the Secretary may make available
3 under subparagraph (A) with respect to a jobs
4 program, the Secretary may reserve not more
5 than 10 percent to administer the jobs program
6 under this section.

7 (5) MODIFICATION.—The requirements of para-
8 graphs (2), (3), and (4) may be modified under sec-
9 tion 5(e).

10 (i) EMPLOYER SHARE FOR WAGES AND COMPENSA-
11 TION.—

12 (1) IN GENERAL.—

13 (A) BASELINE.—Except as provided in
14 subparagraph (C), for a local board carrying
15 out a jobs program in a covered area where the
16 unemployment rate does not exceed 5 percent,
17 the employer share of the eligible costs for
18 wages and compensation shall be 33 percent.

19 (B) HIGHER UNEMPLOYMENT COVERED
20 AREAS.—Except as provided in subparagraph
21 (C), for a local board carrying out a jobs pro-
22 gram in a covered area where the unemploy-
23 ment rate exceeds 5 percent, the employer share
24 of those costs shall be the percentage (not less
25 than 0 percent) obtained by subtracting—

- 1 (i) 3.3 percentage points for every
2 half of a percentage point by which the un-
3 employment rate in the covered area ex-
4 ceeds 5 percent; from
5 (ii) 33 percent.

6 (C) SECOND YEAR FOR PROGRAM POSI-
7 TIONS LEADING TO RECOGNIZED POSTSEC-
8 ONDARY CREDENTIALS.—With respect to an eli-
9 gible worker who is in the second year of a pro-
10 gram position that is part of an on-the-job
11 training program, pre-apprenticeship program,
12 or registered apprenticeship program, that leads
13 to a recognized postsecondary credential, the
14 employer share of the eligible costs of wages
15 and compensation for the project shall be 50
16 percent. That employer share for such a worker
17 shall remain 50 percent regardless of any
18 change in the unemployment rate of the covered
19 area.

20 (2) RECALCULATION.—The employer share
21 under subparagraphs (A) and (B) of paragraph (1)
22 shall be recalculated for the local board once per cal-
23 endar quarter, using the unemployment rate from
24 the calendar quarter in the 12-month period pre-

1 ceding the calculation with the highest average un-
2 employment rate in the covered area.

3 (3) MODIFICATION.—The requirements of this
4 subsection may be modified under section 5(e).

5 (j) REQUIREMENTS FOR THE SECRETARY OF
6 LABOR.—The Secretary shall—

7 (1) oversee jobs programs funded under this
8 Act to ensure that program requirements are being
9 met, and verify that requests for Federal funding ac-
10 curately reflect eligible costs;

11 (2) perform random, periodic audits to deter-
12 mine compliance with this Act;

13 (3) provide payments to local boards for the eli-
14 gible costs described in subsection (h), minus any
15 employer share of the eligible costs described in sub-
16 section (i);

17 (4) evaluate the performance of jobs programs
18 carried out under this section, which may include en-
19 tering into agreements with other entities to conduct
20 such evaluations;

21 (5) establish a clearinghouse to identify and
22 publicize best practices used by local boards carrying
23 out such jobs programs this Act;

24 (6) provide technical assistance to local boards,
25 and to State boards that are providing assistance to

1 local boards, carrying out such jobs programs under
2 this Act;

3 (7) conduct outreach to State boards, local
4 boards, employers, and eligible workers to maximize
5 opportunities for participation in jobs programs by
6 eligible workers, in furtherance of the purpose of
7 this Act as described in section 2, by providing job
8 opportunities for as many eligible workers as pos-
9 sible; and

10 (8) administer this Act in consultation with the
11 Secretary of Education, the Secretary of Housing
12 and Urban Development, the Secretary of Health
13 and Human Services, the Attorney General, and the
14 Secretary of Veterans Affairs.

15 (k) ROLE OF STATE BOARDS.—In order to assist
16 local boards in carrying out programs under this Act, a
17 State board may—

18 (1) work with local boards to develop statewide
19 strategies to implement programs under this Act;

20 (2) align programs carried out under this Act
21 with the plan submitted by the State board under
22 subtitle A of title I of the Workforce Innovation and
23 Opportunity Act (29 U.S.C. 3111 et seq.);

1 (3) facilitate coordination of programs carried
2 out under this Act with the activities carried out
3 under—

4 (A) the employment and training program
5 established by the corresponding State under
6 the supplemental nutrition assistance program
7 established under the Food and Nutrition Act
8 of 2008 (7 U.S.C. 2011 et seq.);

9 (B) the corresponding State program for
10 temporary assistance for needy families estab-
11 lished under part A of title IV of the Social Se-
12 curity Act (42 U.S.C. 601 et seq.);

13 (C) the national service plan submitted by
14 the corresponding State Commission on Na-
15 tional and Community Service under section
16 178 of the National and Community Service
17 Act of 1990 (42 U.S.C. 12638); and

18 (D) the corresponding State plan for ca-
19 reer and technical education under part B of
20 title I of the Carl D. Perkins Career and Tech-
21 nical Education Act of 2006 (20 U.S.C. 2341
22 et seq.);

23 (4) assist local boards in the process of submit-
24 ting applications under this Act; and

1 (5) provide technical assistance to local boards
2 and employers participating in programs under this
3 Act.

4 (l) PAYMENT.—

5 (1) ADVANCE PAYMENT.—The Secretary may
6 provide a payment under this Act, as described in
7 subsection (a), for a quarter on the basis of an ad-
8 vance estimate of expenditures submitted by the
9 local board and any other investigation the Secretary
10 may find necessary.

11 (2) RETROSPECTIVE ADJUSTMENT.—The Sec-
12 retary may reduce or increase a payment referred to
13 in paragraph (1) for a quarter as necessary to ad-
14 just for any overpayment or underpayment resulting
15 from such a payment in a previous quarter.

16 (3) REIMBURSEMENT.—The Secretary may pro-
17 vide a reimbursement payment under this Act, as
18 described in subsection (a), for a quarter on the
19 basis of the actual expenditures of the local board,
20 if payment has not already been made under this
21 subsection for the same expenditure.

22 (m) MANDATORY FUNDING.—For the purpose of car-
23 rying out this section, there is authorized to be appro-
24 priated and there is appropriated, out of any money in
25 the Treasury not otherwise appropriated, such sums as

1 may be necessary for fiscal year 2021 and each subsequent
2 fiscal year.

3 **SEC. 5. GRANTS FOR HIGH-POVERTY AREAS AND AREAS**
4 **WITH CHRONICALLY LOW EMPLOYMENT**
5 **RATES.**

6 (a) DEFINITIONS.—In this section:

7 (1) HIGH-POVERTY AREA.—The term “high-
8 poverty area” means an area in which the poverty
9 rate, as determined by the Bureau of the Census,
10 has been not less than 20 percent for a period of not
11 less than 3 years.

12 (2) PRIME WORKING-AGE EMPLOYMENT-TO-
13 POPULATION RATION.—The term “prime working-
14 age employment-to-population ratio”, used with re-
15 spect to an area, means the ratio of the number of
16 individuals age 25 through 54 in the area who are
17 employed, to the number of individuals age 25
18 through 54 in the area.

19 (b) ESTABLISHMENT.—The Secretary shall award
20 grants on a competitive basis to local boards (including
21 community-based organizations, consistent with section
22 4(d)(4)(D)), that carry out jobs programs described in
23 section 4, to provide for added costs related to carrying
24 out the programs with modified standards specified in sub-
25 section (e), with the purpose of achieving economic devel-

1 opment and job growth through the programs. The Sec-
2 retary shall award the grants for periods of 4 years, and
3 pay such grants as provided under section 4(l).

4 (c) APPLICATION.—To be eligible to receive a grant
5 under this section, a local board shall submit an applica-
6 tion to the Secretary at such time, in such manner, and
7 containing such information as the Secretary may require,
8 including—

9 (1) a plan for the jobs program involved to
10 achieve performance accountability measures de-
11 scribed in section 4(c) through modified standards
12 described in subsection (e), and sustain that achieve-
13 ment in the long term without permanent support
14 from a grant awarded under this section;

15 (2) information that demonstrates stakeholder
16 engagement in the jobs program from the public and
17 private sectors, especially major institutions such as
18 institutions of higher education, hospitals, or other
19 large employers and organizations, that are located
20 in the covered area; and

21 (3) a plan to ensure that residents of the cov-
22 ered area are part of the operation of and benefit
23 from the results of the jobs program, which may in-
24 clude a plan to expand worker-owned enterprises, ex-
25 pand small local businesses, support start-up busi-

1 nesses owned by covered area residents, or give cov-
2 ered area residents a role in carrying out the jobs
3 program.

4 (d) PRIORITY.—In selecting a local board to receive
5 a grant under this section, the Secretary shall give priority
6 to local boards proposing to serve—

7 (1) high-poverty areas; or

8 (2) areas for which the prime working-age em-
9 ployment-to-population ratio has been low, relative
10 to that ratio for the United States, for a period of
11 not less than 3 years.

12 (e) MODIFICATION OF CERTAIN STANDARDS.—In
13 awarding a grant under this section to a local board, the
14 Secretary is authorized to modify 1 or more of the fol-
15 lowing standards for the program carried out by the local
16 board, if the Secretary determines that making such a
17 modification can be reasonably expected to help the pro-
18 gram achieve the performance accountability measures re-
19 ferred to in subsection (c)(1):

20 (1) The periods of time specified in subpara-
21 graphs (C) and (D) of section 3(3).

22 (2) The limitation on the percentage or number
23 of employees in program positions with a single par-
24 ticipating employer, as specified in section 4(f)(4).

1 (3) The allowable duration of funding for wages
2 and compensation as eligible costs, for a program
3 position, as specified in section 4(h)(2).

4 (4) The limitation on eligible costs for career
5 services, supportive services, and training services,
6 as specified in section 4(h)(3).

7 (5) The limitation on eligible costs for adminis-
8 tration, as specified in section 4(h)(4).

9 (6) The employer share of eligible costs for
10 wages and compensation, as specified in section 4(i).

11 (f) EVALUATIONS.—The Secretary shall—

12 (1) evaluate the performance of jobs programs
13 that receive funding under this section, which may
14 include entering into agreements with other entities
15 to conduct such evaluations; and

16 (2) identify and publicize best practices used by
17 local boards carrying out jobs programs that receive
18 funding under this section, through the clearing-
19 house described in section 4(j)(5).

20 (g) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to carry out this section
22 such sums as may be necessary for fiscal year 2021 and
23 each subsequent fiscal year.

○