

116TH CONGRESS
1ST SESSION

S. 1920

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

IN THE SENATE OF THE UNITED STATES

JUNE 20, 2019

Mr. VAN HOLLEN (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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 2019”.

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

9 (2) ELIGIBLE WORKER.—The term “eligible
10 worker” means an individual who—

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

12 (B) is authorized to be employed in the
13 United States for purposes of section 274A of
14 the Immigration and Nationality Act (8 U.S.C.
15 1324a);

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

19 (D) is currently seeking employment and
20 has been seeking employment for a period of
21 not less than 4 weeks (except as modified under
22 section 5(e)).

23 (3) INDIVIDUAL WITH A BARRIER TO EMPLOY-
24 MENT.—The term “individual with a barrier to em-
25 ployment” has the meaning given in section 3(24) of
26 the Workforce Innovation and Opportunity Act (29

1 U.S.C. 3102(24)), except that such term shall not
2 include individuals who meet the terms of the defini-
3 tion in that section solely on the basis of their status
4 as long-term unemployed individuals.

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

10 (5) PARTICIPATING EMPLOYER.—The term
11 “participating employer” means an employer—

12 (A) that is—

13 (i) a government agency;

14 (ii) a nonprofit organization; or

15 (iii) a business; and

16 (B) includes—

17 (i) an employer at the site of employ-
18 ment for an eligible worker in a program
19 position; or

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

22 (I) assuming the roles and re-
23 sponsibilities assigned to employers
24 described in clause (i) under this Act;

1 (II) entering into an agreement
2 with an employer described in clause
3 (i) to set forth the terms and condi-
4 tions for employment of an eligible
5 worker in a program position in a jobs
6 program in accordance with the provi-
7 sions of this Act; and

8 (III) acting as an intermediary
9 between eligible workers and employ-
10 ers described in clause (i) to facilitate
11 participation in the jobs program in-
12 volved.

13 (6) PAYROLL TAXES.—The term “payroll
14 taxes” means taxes under section 3111, 3221, 3301,
15 or 3321 of the Internal Revenue Code of 1986, and
16 any similar State or local tax imposed on employers.

17 (7) PRE-APPRENTICESHIP.—The term “pre-ap-
18 prenticeship”, used with respect to a program,
19 means a program that is designed to prepare indi-
20 viduals to enter and succeed in a registered appren-
21 ticeship program and is carried out by an entity that
22 has a documented partnership with at least one
23 sponsor of a registered apprenticeship program.

24 (8) PROGRAM POSITION.—

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

3 (i) means a position—

4 (I) in a temporary job that is de-
5 signed to lead to long-term employ-
6 ment; and

7 (II) that is provided along with,
8 as necessary, supportive services and
9 training services to enable an indi-
10 vidual to succeed in the job and ob-
11 tain and retain long-term employ-
12 ment; and

13 (ii) includes—

14 (I) a position in a transitional
15 job;

16 (II) a position in a registered ap-
17 prenticeship program; and

18 (III) an approved national service
19 position made available under section
20 129 of the National and Community
21 Service Act of 1990 (42 U.S.C.
22 12581), including a position spon-
23 sored under subsection (i) of that sec-
24 tion, subject to subparagraph (B).

25 (B) RULE.—

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

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

20 (9) RECOGNIZED POSTSECONDARY CREDEN-
21 TIAL.—The term “recognized postsecondary creden-
22 tial” means such a credential as defined in section
23 3 of the Workforce Innovation and Opportunity Act
24 (29 U.S.C. 3102), if the provider of the program

1 leading to the credential is identified under section
2 122(h) of such Act (29 U.S.C. 3152(h)).

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

9 (11) SECRETARY.—The term “Secretary”
10 means the Secretary of Labor.

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

17 (13) WIOA TERMS.—The terms “adult edu-
18 cation and literacy activities”, “career pathway”,
19 “community-based organization”, “customized train-
20 ing”, “industry or sector partnership”, “in-demand
21 industry sector or occupation”, “integrated edu-
22 cation and training”, “local area”, “local board”,
23 “one-stop operator”, “poverty line”, “State area”,
24 “State board”, “supportive services”, and “training
25 services” have the meanings given the terms in sec-

1 tion 3 of the Workforce Innovation and Opportunity
2 Act (29 U.S.C. 3102).

3 (14) WORKER-OWNED ENTERPRISE.—

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

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

9 (ii) an enterprise for which the major-
10 ity of the voting stock is owned by workers
11 employed by such enterprise.

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

17 **SEC. 4. JOBS PROGRAMS FOR LONG-TERM UNEMPLOYED**
18 **WORKERS.**

19 (a) IN GENERAL.—

20 (1) ESTABLISHMENT.—The Secretary shall es-
21 tablish and administer a jobs initiative for eligible
22 workers, consisting of jobs programs carried out
23 through local boards.

24 (2) PARTNERSHIPS.—A local board may enter
25 into a partnership with one or more community-

1 based organizations to submit an application and
2 carry out a jobs program.

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

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

14 (A) to provide wages and compensation for
15 program positions for eligible workers under
16 this section, minus any employer share of the
17 eligible costs of providing the wages and com-
18 pensation;

19 (B) to provide supportive services and
20 training services to eligible workers under this
21 section; and

22 (C) to administer the jobs program under
23 this section.

24 (b) LOCAL BOARD APPLICATION.—To be eligible to
25 enter into an agreement under subsection (a), a local

1 board shall submit an application to the Secretary at such
2 time, in such manner, and containing a 4-year plan that
3 includes such information as the Secretary may require,
4 including—

5 (1) the number of eligible workers that the local
6 board proposes to serve under the jobs program in-
7 volved and the estimated cost of serving that number
8 of workers;

9 (2) a plan for one-stop operators to identify the
10 issues preventing each eligible worker served by the
11 jobs program from securing employment, and to re-
12 duce the impact of those issues with supportive serv-
13 ices and training services;

14 (3) a description of how the local board will en-
15 gage labor organizations, community-based organiza-
16 tions, community colleges, economic development
17 agencies, and area career and technical education
18 schools as partners to provide training services to el-
19 igible workers, including any—

20 (A) adult education and literacy activities,
21 including activities of English language acquisi-
22 tion, and integrated education and training pro-
23 grams;

24 (B) pre-apprenticeship programs; and

25 (C) career pathways;

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

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

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

10 (A) disburses funding to each participating
11 employer for all eligible costs described in sub-
12 section (h) incurred under the jobs program,
13 minus the employer share described in sub-
14 section (i);

15 (B) oversees participating employers to en-
16 sure compliance with program rules and collec-
17 tion of accurate data for performance account-
18 ability measures described in subsection (c);
19 and

20 (C) requests accurate advance payment or
21 reimbursement for the eligible costs described
22 in subsection (h), minus any employer share de-
23 scribed in subsection (i) of the eligible costs;

1 (7) a description of how the local board will
2 align the activities carried out under the grant with
3 the activities carried out under—

4 (A) the plans submitted by the cor-
5 responding State board and local board under
6 subtitle A of title I of the Workforce Innovation
7 and Opportunity Act (29 U.S.C. 3111 et seq.);

8 (B) the employment and training program
9 established by the corresponding State under
10 the supplemental nutrition assistance program
11 established under the Food and Nutrition Act
12 of 2008 (7 U.S.C. 2011 et seq.);

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

17 (D) the national service plan submitted by
18 the corresponding State Commission on Na-
19 tional and Community Service under section
20 178 of the National and Community Service
21 Act of 1990 (42 U.S.C. 12638);

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

1 (F) employment and community develop-
2 ment programs carried out by the Secretary of
3 Housing and Urban Development;

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

8 (H) the continuum of care projects (relat-
9 ing to ending homelessness) carried out under
10 applications submitted, by communities serving
11 an area that is substantially similar to the cov-
12 ered area, under subtitle C of title IV of the
13 McKinney-Vento Homeless Assistance Act (42
14 U.S.C. 11381 et seq.); and

15 (I) programs to support competitive inte-
16 grated employment for individuals with disabil-
17 ities, including programs of vocational rehabili-
18 tation services under title I of the Rehabilita-
19 tion Act of 1973 (29 U.S.C. 720 et seq.) and
20 the Ticket to Work and Self-Sufficiency Pro-
21 gram carried out under section 1148 of the So-
22 cial Security Act (42 U.S.C. 1320b–19); and

23 (8) assurances that—

24 (A) prior to the placement of an eligible
25 worker in a program position, the local board

1 will consult with the appropriate local labor or-
2 ganization, if any, representing employees in
3 the covered area who are engaged in the same
4 or similar work as that proposed to be carried
5 out by the eligible worker, to prevent the dis-
6 placement and protect the rights of such em-
7 ployees; and

8 (B) the local board will comply with the
9 nondisplacement provisions of subsection (f)
10 and the grievance procedures of subsection (g).

11 (c) PERFORMANCE ACCOUNTABILITY.—

12 (1) IN GENERAL.—For each local board, the
13 performance accountability measures shall consist of
14 the indicators described in paragraph (2) and the
15 levels described in paragraph (3).

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

18 (A) the primary indicators of performance
19 described in section 116(b)(2)(A)(i) of the
20 Workforce Innovation and Opportunity Act (29
21 U.S.C. 3141(b)(2)(A)(i));

22 (B) the number of eligible workers placed
23 in jobs created by the jobs program of the local
24 board;

1 (C) for households with an eligible worker
2 who participated in the program, the average
3 increase in income by the end of such participa-
4 tion; and

5 (D) the percentage of program positions
6 filled by eligible workers who were individuals
7 with a barrier to employment.

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

17 (A) the purpose of this Act, as described in
18 section 2, by seeking to provide job opportuni-
19 ties for as many eligible workers as possible;
20 and

21 (B) the factors described in section
22 116(b)(3)(A)(v) of the Workforce Innovation
23 and Opportunity Act (29 U.S.C.
24 3141(b)(3)(A)(v)), except that references in

1 that section to a State shall be considered to be
 2 references to a local area.

3 (4) REPORTING REQUIREMENT.—

4 (A) IN GENERAL.—The local board shall
 5 provide information specifying the board’s level
 6 of performance on the performance account-
 7 ability measures specified in this subsection, in-
 8 cluding disaggregated data specified under sub-
 9 paragraph (B), as part of the local board per-
 10 formance reports established under section
 11 116(d) of the Workforce Innovation and Oppor-
 12 tunity Act (29 U.S.C. 3141(d)).

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

19 (d) SANCTIONS FOR FAILURE TO MEET PERFORM-
 20 ANCE ACCOUNTABILITY MEASURES OR SUBMIT AN APPLI-
 21 CATION.—

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

1 (A) the local board shall develop a per-
2 formance improvement plan; and

3 (B) the Secretary and State board may
4 provide technical assistance, including assist-
5 ance in the development of the performance im-
6 provement plan.

7 (2) REPEATED FAILURE TO MEET PERFORM-
8 ANCE ACCOUNTABILITY MEASURES.—If a local board
9 fails to meet the performance accountability meas-
10 ures for at least 2 consecutive years, the Secretary
11 may enter into an agreement with a community-
12 based organization to carry out a jobs program serv-
13 ing the corresponding local area in place of the local
14 board.

15 (3) FAILURE TO SUBMIT APPLICATION.—If a
16 local board fails to submit an application under sub-
17 section (b) for a year, the Secretary may enter into
18 an agreement with a community-based organization
19 to carry out a jobs program serving the cor-
20 responding local area in place of the local board.

21 (4) PROGRAMS CARRIED OUT BY COMMUNITY-
22 BASED ORGANIZATIONS.—

23 (A) APPLICATION.—A community-based
24 organization that seeks to carry out a jobs pro-
25 gram in place of a local board as described in

1 paragraph (2) or (3) shall submit an applica-
2 tion to the Secretary.

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

18 (C) RENEWAL.—After the initial selection
19 under subparagraph (B), the Secretary shall,
20 every 4 years, hold a new competition to select
21 community-based organizations to carry out
22 jobs programs for local areas. The local board
23 for such an area may also submit an application
24 in such competition.

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

6 (e) PARTICIPATING EMPLOYER.—

7 (1) IN GENERAL.—A participating employer
8 shall be selected by a local board. An entity who
9 seeks to be a participating employer shall enter into
10 an agreement with the local board to act as a par-
11 ticipating employer under this subsection.

12 (2) SELECTION CRITERIA.—

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

19 (B) WORKER FEEDBACK.—The local board
20 shall provide an opportunity for eligible workers
21 to provide feedback on participating employers,
22 and shall take this feedback into account when
23 determining whether to renew the selection of
24 an employer.

25 (C) LABOR ORGANIZATIONS.—

1 (i) IN GENERAL.—The local board
2 shall consider input from labor organiza-
3 tions to select participating employers.

4 (ii) COLLECTIVE BARGAINING AGREE-
5 MENTS.—For a site of employment at
6 which workers are covered by a collective
7 bargaining agreement, the local board shall
8 not place a program participant in a pro-
9 gram position at the site without the con-
10 sent of all labor organizations representing
11 workers at such site.

12 (D) LONG-TERM EMPLOYMENT PROS-
13 PECTS.—The local board shall consider whether
14 the employer under consideration is proposing
15 or providing an experience that will help eligible
16 workers secure long-term employment after the
17 program position ends, either with the partici-
18 pating employer or another employer.

19 (E) COMMUNITY IMPACT AND INPUT.—

20 (i) COMMUNITY IMPACT PREF-
21 ERENCE.—The local board shall consider
22 whether the employer is offering program
23 positions in which the work to be per-
24 formed is designed to have a positive im-
25 pact on the communities in the local area

1 served through the jobs program, and shall
2 develop criteria for that positive impact
3 based on input from members of such com-
4 munities.

5 (ii) COMMUNITY INPUT.—The local
6 board shall also provide an opportunity for
7 such communities to provide input on how
8 a participating employer should be selected
9 and whether specific employers should be
10 selected, and shall take this input into ac-
11 count when selecting a participating em-
12 ployer.

13 (F) IN-DEMAND INDUSTRY SECTOR OR OC-
14 CUPATION.—The local board shall consider
15 whether the employer is offering program posi-
16 tions that lead to employment in an in-demand
17 industry sector or occupation.

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

20 (i) a worker-owned enterprise; or

21 (ii) a small business concern owned
22 and controlled by women, a small business
23 concern owned and controlled by socially
24 and economically disadvantaged individ-
25 uals, a small business concern owned and

1 controlled by veterans, or a qualified
2 HUBZone small business concern, as those
3 4 terms are defined in section 8(d)(3) of
4 the Small Business Act (15 U.S.C.
5 637(d)(3)).

6 (H) OTHER FACTORS.—The local board
7 may consider other factors, besides the factors
8 explicitly stated in this paragraph, that are rel-
9 evant to achieving the performance account-
10 ability measures and other requirements speci-
11 fied in this Act.

12 (3) PARTICIPATING EMPLOYER DUTIES.—The
13 participating employer shall—

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

16 (i) is not less than the greatest of the
17 3 rates described in subsection (h)(1)(B);
18 and

19 (ii) is the same as the customary rate
20 paid by the employer for the same or simi-
21 lar work performed by other employees
22 who—

23 (I) are not eligible workers in
24 program positions;

1 (II) are similarly situated in
2 similar occupations by the same em-
3 ployer; and

4 (III) have similar training, expe-
5 rience, and skills;

6 (B) provide benefits for each eligible work-
7 er in a program position at the same level as
8 is provided to other employees who are not eli-
9 gible workers in program positions;

10 (C) ensure that the site of employment is
11 a location where an eligible worker in a pro-
12 gram position who is an individual with a dis-
13 ability, as defined in section 7 of the Rehabilita-
14 tion Act of 1973 (29 U.S.C. 705), interacts
15 with other persons who are not such individuals
16 with disabilities (not including supervisory per-
17 sonnel or individuals who are providing services
18 to such worker) to the same extent as individ-
19 uals who are not such individuals with disabil-
20 ities and who are in comparable positions inter-
21 act with other persons;

22 (D) offer opportunities for advancement to
23 eligible workers in program positions, as appro-
24 priate, that are similar to those for other em-

1 employees who are not eligible workers in program
2 positions; and

3 (E) fulfill legal and administrative duties
4 including payroll processing, tax withholding
5 and documentation, and meeting liability re-
6 quirements such as workers' compensation re-
7 quirements.

8 (4) PAYMENT TO PARTICIPATING EMPLOYER.—

9 (A) WAGES AND COMPENSATION.—The
10 local board shall provide payment to the partici-
11 pating employer for all eligible costs described
12 in subsection (h) for wages and compensation
13 provided by the employer for eligible workers in
14 program positions, minus the employer share
15 described in subsection (i).

16 (B) EMPLOYER-PROVIDED TRAINING.—

17 The local board may enter into an agreement
18 with the participating employer under which the
19 employer provides on-the-job training or cus-
20 tomized training to eligible workers, and, sub-
21 ject to subsection (h)(3), the local board pro-
22 vides payment to reimburse the employer for
23 the cost of providing the training described in
24 the agreement.

25 (f) NONDISPLACEMENT.—

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

5 (A) employing such individual will result in
6 the layoff or partial displacement (such as a re-
7 duction in hours, wages, or employment bene-
8 fits) of an existing employee (as of the date of
9 the hiring) of the employer;

10 (B) such individual will assume any of the
11 duties or responsibilities of an employee who is
12 on strike;

13 (C) employing such individual infringes
14 upon the promotional opportunities of an exist-
15 ing employee (as of the date of the hiring) of
16 the employer; or

17 (D) such individual will perform the same
18 work or substantially the same work as that
19 performed by any individual, employed by the
20 employer at the site of employment, who—

21 (i) has been laid off or partially dis-
22 placed (as such term is described in sub-
23 paragraph (A)); and

24 (ii) has not been offered to be re-
25 stored to the position the employee had im-

1 mediately prior to being laid off or par-
2 tially displaced.

3 (2) PROHIBITION ON ROTATION.—The partici-
4 pating employer may not make placements in a pro-
5 gram position by constantly rotating new eligible
6 workers into a permanent position temporarily, ex-
7 cept in circumstances in which—

8 (A) the employer reasonably intends to
9 promote each such eligible worker to a different
10 permanent position within the employer’s busi-
11 ness at the end of that worker’s employment in
12 the program position; or

13 (B) the program position is part of an on-
14 the-job training program that leads to a recog-
15 nized postsecondary credential.

16 (3) NONDISPLACEMENT OF GOVERNMENT EM-
17 PLOYEES OR FUNCTIONS.—

18 (A) GOVERNMENT AGENCY.—A partici-
19 pating employer that is a government agency
20 may not place an eligible worker hired for a
21 jobs program in an existing position (as of the
22 date of the hiring) that is subject to civil service
23 laws of a Federal, State, or local government.

24 (B) OTHER PARTICIPATING EMPLOYER.—
25 A participating employer that is not a govern-

1 ment agency may not use funds provided under
2 this Act to provide services or carry out other
3 functions that are customarily provided by a
4 unit of State government or general local gov-
5 ernment.

6 (4) LIMITATION ON PROGRAM POSITIONS FOR
7 PARTICIPATING EMPLOYER.—

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

13 (B) MINIMUM.—A participating employer
14 with fewer than 10 employees may employ 1 in-
15 dividual in a program position funded under
16 this Act.

17 (C) MAXIMUM.—A participating employer
18 with more than 1,000 employees may employ
19 not more than 100 individuals in program posi-
20 tions funded under this Act, unless the em-
21 ployer obtains permission under subparagraph
22 (D).

23 (D) PERMISSION.—

24 (i) IN GENERAL.—A local board may
25 grant permission for a participating em-

1 employer to have a higher percentage or num-
2 ber of employees in program positions than
3 is allowed under subparagraph (A) or
4 (C)—

5 (I) under the circumstance de-
6 scribed in subclause (I) or (II) of
7 clause (ii); or

8 (II) under the circumstance de-
9 scribed in clause (ii)(III), with the
10 consent of all labor organizations rep-
11 resenting workers at the site involved.

12 (ii) CIRCUMSTANCES.—The cir-
13 cumstances described in this clause are
14 any of the following:

15 (I) A circumstance in which the
16 most recent 3-month average of the
17 unemployment rate in the covered
18 area is not less than 8 percent.

19 (II) A circumstance in which the
20 employer is a worker-owned enterprise
21 and worker-ownership is widely avail-
22 able to the employer's employees, in-
23 cluding eligible workers in program
24 positions.

1 (III) A circumstance in which a
2 collective bargaining agreement covers
3 eligible workers in program positions
4 at a site of employment.

5 (iii) DURATION.—

6 (I) IN GENERAL.—An employer
7 granted the permission described in
8 clause (i) under the circumstance de-
9 scribed in clause (ii)(I) may be grant-
10 ed such permission for a term of not
11 more than 2 years, subject to sub-
12 clause (II), regardless of whether the
13 unemployment rate in the covered
14 area falls below 8 percent during that
15 2-year period.

16 (II) RENEWAL.—If the permis-
17 sion is granted under a circumstance
18 described in clause (ii)(I) and is
19 scheduled to expire in 3 months or
20 less, and if the most recent 3-month
21 average of the unemployment rate in
22 the covered area is not less than 8
23 percent, the local board may renew
24 the permission for another term de-
25 scribed in subclause (I).

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

6 (F) MODIFICATION.—The requirements of
7 this paragraph may be modified under section
8 5(e).

9 (G) DEFINITION.—For purposes of this
10 paragraph and subsection (g), the term “par-
11 ticipating employer” shall not include a commu-
12 nity-based organization that acts as an em-
13 ployer of record and (even if a community-
14 based organization is so acting) shall include
15 the employer at the site.

16 (g) GRIEVANCE PROCEDURE.—

17 (1) IN GENERAL.—The local board shall estab-
18 lish and maintain a procedure for the filing and ad-
19 judication of grievances from participants, labor or-
20 ganizations, and other interested individuals con-
21 cerning participating employers, including grievances
22 relating to proposed placements of eligible workers
23 with such employers.

24 (2) DEADLINE FOR GRIEVANCES.—Except for a
25 grievance that alleges fraud or criminal activity, a

1 grievance shall be made not later than 1 year after
2 the date of the alleged occurrence of the event that
3 is the subject of the grievance.

4 (3) DEADLINE FOR HEARING AND DECISION.—

5 (A) HEARING.—A hearing on any grievance
6 conducted under this subsection shall be
7 conducted not later than 30 days after the fil-
8 ing of such grievance.

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

12 (4) ARBITRATION.—

13 (A) IN GENERAL.—

14 (i) JOINTLY SELECTED ARBI-
15 TRATOR.—In the event of a decision on a
16 grievance that is adverse to the party who
17 filed the grievance, or 60 days after the fil-
18 ing of such grievance if no decision has
19 been reached, such party shall be per-
20 mitted to submit such grievance to binding
21 arbitration before a qualified arbitrator
22 who is jointly selected and independent of
23 the interested parties.

24 (ii) APPOINTED ARBITRATOR.—If the
25 parties cannot agree on an arbitrator, the

1 Secretary shall appoint an arbitrator from
2 a list of qualified arbitrators within 15
3 days after receiving a request for such ap-
4 pointment from one of the parties to the
5 grievance.

6 (B) DEADLINE FOR PROCEEDING.—An ar-
7 bitration proceeding shall be held not later than
8 45 days after the request for such arbitration
9 proceeding, or, if the arbitrator is appointed by
10 the Secretary in accordance with subparagraph
11 (A)(ii), not later than 30 days after the ap-
12 pointment of such arbitrator.

13 (C) DEADLINE FOR DECISION.—A decision
14 concerning a grievance shall be made not later
15 than 30 days after the date such arbitration
16 proceeding begins.

17 (D) COST.—

18 (i) IN GENERAL.—Except as provided
19 in clause (ii), the cost of an arbitration
20 proceeding shall be divided evenly between
21 the parties to the arbitration.

22 (ii) EXCEPTION.—If a participant,
23 labor organization, or other interested indi-
24 vidual described in paragraph (1) prevails
25 under a binding arbitration proceeding, the

1 other entity that is a party to such grievance
2 shall pay the total cost of such proceeding
3 and the attorneys' fees of such
4 participant, labor organization, or individual,
5 as the case may be.

6 (5) PROPOSED PLACEMENT.—If a grievance is
7 filed regarding a proposed placement of an eligible
8 worker with a participating employer, such placement
9 shall not be made unless the placement is consistent
10 with the resolution of the grievance pursuant
11 to this subsection.

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

14 (A) suspension of payments for the participating
15 employer;

16 (B) termination of such payments;

17 (C) prohibition of the placement described
18 in paragraph (5);

19 (D) in a case in which the grievance is
20 filed by an individual eligible worker or program
21 participant—

22 (i) the eligible worker's selection to be
23 a program participant, or the program
24 participant's reinstatement, as the case
25 may be; and

1 (ii) other changes in the terms and
2 conditions of employment applicable to the
3 individual; and

4 (E) in a case in which the grievance in-
5 volves a violation of subsection (f) and the em-
6 ployer of the displaced employee is the partici-
7 pating employer—

8 (i) reinstatement of the displaced em-
9 ployee to the position held by such em-
10 ployee prior to displacement;

11 (ii) payment of lost wages and bene-
12 fits of the displaced employee;

13 (iii) reestablishment of other relevant
14 terms, conditions, and privileges of employ-
15 ment of the displaced employee; and

16 (iv) such equitable relief as is nec-
17 essary to correct any violation of sub-
18 section (f) or to make the displaced em-
19 ployee whole.

20 (7) ENFORCEMENT.—Suits to enforce awards
21 under this subsection may be brought in any district
22 court of the United States having jurisdiction of the
23 parties, without regard to the amount in controversy
24 and without regard to the citizenship of the parties.

25 (h) ELIGIBLE COSTS.—

1 (1) WAGES AND COMPENSATION.—

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

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

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

19 (ii) the applicable State or local min-
20 imum wage rate; or

21 (iii) a rate, calculated as an amount
22 per hour, with the amount determined by
23 dividing the poverty line for a family of 4
24 by 2,080.

1 (C) COMPENSATION.—The eligible costs
2 described in this subparagraph—

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

7 (I) costs for employer payroll
8 taxes;

9 (II) costs for employee benefits;

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

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

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

22 (2) LIMITATION FOR DURATION OF WAGES AND
23 COMPENSATION.—

24 (A) IN GENERAL.—Subject to subpara-
25 graph (B), an eligible cost related to wages and

1 compensation for a program position is an ex-
2 pense related to the first 12 months of the pro-
3 gram position, subject to section 5(e).

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

12 (3) SUPPORTIVE SERVICES AND TRAINING
13 SERVICES.—

14 (A) AGGREGATE LIMIT.—The eligible costs
15 of providing, or facilitating the provision of,
16 supportive services and training services to eli-
17 gible workers shall, in total, not exceed 20 per-
18 cent of the total eligible costs of providing the
19 wages described in paragraph (1)(B) to those
20 eligible workers.

21 (B) FLEXIBILITY FOR INDIVIDUALS.—The
22 limit in subparagraph (A) shall apply to the eli-
23 gible costs for the total amount of supportive
24 services and training services provided by a jobs
25 program to all eligible workers, and shall not be

1 construed to constitute a separate limit on the
2 eligible costs for the supportive services and
3 training services so provided to each eligible
4 worker.

5 (C) MODIFICATION.—The requirements of
6 this paragraph may be modified under section
7 5(e).

8 (4) ADMINISTRATION.—

9 (A) LOCAL BOARDS.—The eligible costs in-
10 curred by a local board of administering a jobs
11 program under this section shall not exceed 10
12 percent of the total eligible costs of providing
13 the wages described in paragraph (1)(B) to all
14 eligible workers served by the jobs program.

15 (B) SECRETARY.—Of the maximum
16 amount that the Secretary may make available
17 under subparagraph (A) with respect to a jobs
18 program, the Secretary may reserve not more
19 than 10 percent to administer the jobs program
20 under this section.

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

24 (i) EMPLOYER SHARE FOR WAGES AND COMPENSA-
25 TION.—

1 (1) IN GENERAL.—

2 (A) BASELINE.—Except as provided in
3 subparagraph (C), for a local board carrying
4 out a jobs program in a covered area where the
5 unemployment rate does not exceed 5 percent,
6 the employer share of the eligible costs for
7 wages and compensation shall be 33 percent.

8 (B) HIGHER UNEMPLOYMENT COVERED
9 AREAS.—Except as provided in subparagraph
10 (C), for a local board carrying out a jobs pro-
11 gram in a covered area where the unemploy-
12 ment rate exceeds 5 percent, the employer share
13 of those costs shall be the percentage (not less
14 than 0 percent) obtained by subtracting—

15 (i) 3.3 percentage points for every
16 half of a percentage point by which the un-
17 employment rate in the covered area ex-
18 ceeds 5 percent; from

19 (ii) 33 percent.

20 (C) SECOND YEAR FOR PROGRAM POSI-
21 TIONS LEADING TO RECOGNIZED POSTSEC-
22 ONDARY CREDENTIALS.—With respect to an eli-
23 gible worker who is in the second year of a pro-
24 gram position that is part of an on-the-job
25 training program that leads to a recognized

1 postsecondary credential, the employer share of
2 the eligible costs of wages and compensation for
3 the project shall be 50 percent. That employer
4 share for such a worker shall remain 50 percent
5 regardless of any change in the unemployment
6 rate of the covered area.

7 (2) RECALCULATION.—The employer share
8 under subparagraphs (A) and (B) of paragraph (1)
9 shall be recalculated for the local board once per cal-
10 endar quarter, using the unemployment rate from
11 the calendar quarter in the 12-month period pre-
12 ceding the calculation with the highest average un-
13 employment rate in the covered area.

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

16 (j) REQUIREMENTS FOR THE SECRETARY OF
17 LABOR.—The Secretary shall—

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

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

24 (3) provide payments to local boards for the eli-
25 gible costs described in subsection (h), minus any

1 employer share of the eligible costs described in sub-
2 section (i);

3 (4) evaluate the performance of jobs programs
4 carried out under this section;

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

8 (6) provide technical assistance to local boards,
9 and to State boards that are providing assistance to
10 local boards, carrying out such jobs programs under
11 this Act;

12 (7) conduct outreach to State boards, local
13 boards, employers, and eligible workers to maximize
14 opportunities for participation in jobs programs by
15 eligible workers, in furtherance of the purpose of
16 this Act as described in section 2, by providing job
17 opportunities for as many eligible workers as pos-
18 sible; and

19 (8) administer this Act in consultation with the
20 Secretary of Education, the Secretary of Housing
21 and Urban Development, the Secretary of Health
22 and Human Services, the Attorney General, and the
23 Secretary of Veterans Affairs.

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

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

6 (2) facilitate coordination of programs carried
7 out under this Act with the activities carried out
8 under—

9 (A) the plan submitted by the cor-
10 responding State board under subtitle A of title
11 I of the Workforce Innovation and Opportunity
12 Act (29 U.S.C. 3111 et seq.);

13 (B) the employment and training program
14 established by the corresponding State under
15 the supplemental nutrition assistance program
16 established under the Food and Nutrition Act
17 of 2008 (7 U.S.C. 2011 et seq.);

18 (C) the corresponding State program for
19 temporary assistance for needy families estab-
20 lished under part A of title IV of the Social Se-
21 curity Act (42 U.S.C. 601 et seq.); and

22 (D) the national service plan submitted by
23 the corresponding State Commission on Na-
24 tional and Community Service under section

1 178 of the National and Community Service
2 Act of 1990 (42 U.S.C. 12638);

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

5 (4) provide technical assistance to local boards
6 and employers participating in programs under this
7 Act.

8 (l) PAYMENT.—

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

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

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

1 (m) MANDATORY FUNDING.—For the purpose of car-
2 rying out this section, there is authorized to be appro-
3 priated and there is appropriated, out of any money in
4 the Treasury not otherwise appropriated, such sums as
5 may be necessary for fiscal year 2020 and each subsequent
6 fiscal year.

7 **SEC. 5. GRANTS FOR HIGH-POVERTY AREAS AND AREAS**
8 **WITH CHRONICALLY LOW EMPLOYMENT**
9 **RATES.**

10 (a) DEFINITIONS.—In this section:

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

16 (2) PRIME WORKING-AGE EMPLOYMENT-TO-
17 POPULATION RATIO.—The term “prime working-age
18 employment-to-population ratio”, used with respect
19 to an area, means the ratio of the number of individ-
20 uals age 25 through 54 in the area who are em-
21 ployed, to the number of individuals age 25 through
22 54 in the area.

23 (b) ESTABLISHMENT.—The Secretary shall award
24 grants on a competitive basis to local boards (including
25 community-based organizations, consistent with section

1 4(d)(4)(D)), that carry out jobs programs described in
2 section 4, to provide for added costs related to carrying
3 out the programs with modified standards specified in sub-
4 section (e), with the purpose of achieving economic devel-
5 opment and job growth through the programs. The Sec-
6 retary shall award the grants for periods of 4 years, and
7 pay such grants as provided under section 4(l).

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

13 (1) a credible plan for the jobs program in-
14 volved to achieve performance accountability meas-
15 ures described in section 4(c) through modified
16 standards described in subsection (e), and sustain
17 that achievement in the long term without perma-
18 nent support from a grant awarded under this sec-
19 tion;

20 (2) information that demonstrates stakeholder
21 engagement in the jobs program from the public and
22 private sectors, especially major institutions such as
23 institutions of higher education, hospitals, or other
24 large employers and organizations, that are located
25 in the covered area; and

1 (3) a credible plan to ensure that residents of
2 the covered area are part of the operation of and
3 benefit from the results of the jobs program, which
4 may include a plan to expand worker-owned enter-
5 prises, expand small local businesses, support start-
6 up businesses owned by covered area residents, or
7 give covered area residents a role in carrying out the
8 jobs program.

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

12 (1) high-poverty areas; or

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

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

1 (1) The periods of time specified in subpara-
2 graphs (C) and (D) of section 3(2).

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

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

9 (4) The limitation on eligible costs for sup-
10 portive services and training services, as specified in
11 section 4(h)(3).

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

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

16 (f) EVALUATIONS.—The Secretary shall—

17 (1) evaluate the performance of jobs programs
18 that receive funding under this section; and

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

23 (g) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section

- 1 such sums as may be necessary for fiscal year 2020 and
- 2 each subsequent fiscal year.

○