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1ST SESSION

S. 2966

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 2021

Mr. BROWN (for himself, Mr. CASEY, Mr. WHITEHOUSE, Ms. BALDWIN, Mr. BENNET, Ms. DUCKWORTH, Ms. SMITH, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Energy
5 Worker Opportunity Act of 2021”.

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

7 (a) ESTABLISHMENT OF OFFICE.—Not later than 60
8 days after the date of enactment of this Act, there shall
9 be established within the Department of the Treasury an

1 office to be known as the Office of American Energy
2 Workers. The Office of American Energy Workers shall
3 be headed by an Assistant Secretary who shall be ap-
4 pointed by the Secretary of the Treasury (referred to in
5 this section as the “Secretary”).

6 (b) RESPONSIBILITIES OF ASSISTANT SECRETARY.—

7 The Secretary, acting through the Assistant Secretary,
8 shall be responsible for—

9 (1) hiring personnel and making employment
10 decisions with regard to such personnel;

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

13 (3) entering into cooperative agreements with
14 other agencies and departments to ensure the effi-
15 ciency of the administration of this section;

16 (4) determining eligibility for benefits provided
17 under this section and providing such benefits to
18 qualified individuals;

19 (5) preventing fraud and abuse relating to such
20 benefits;

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

23 (7) ensuring that the Office of American En-
24 ergy Workers is designed a manner that maximizes
25 efficiency and ease of use by qualified individuals,

1 which may include establishment and deployment of
2 mobile field or satellite offices within eligible coun-
3 ties (as defined by the Secretary);

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

8 (9) administering the programs established
9 under this section.

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

16 (d) ADMINISTRATION.—

17 (1) NOTIFICATION.—

18 (A) IN GENERAL.—Not later than the date
19 that is 90 days before the date of the closure
20 of a coal mine or fossil-fuel intensive plant, the
21 operator of such mine or plant shall provide no-
22 tice to the Secretary with respect to such clo-
23 sure, including such information as is deter-
24 mined necessary by the Secretary to determine
25 the eligibility of any former employee of such

1 mine or plant for any benefits provided under
2 this section, as well as the amount of such ben-
3 efits.

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

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

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

22 (B) with respect to any fossil-fuel intensive
23 plant, the permanent closure of 1 or more gen-
24 erating units occurring after the date of enact-

1 ment of this Act which is accompanied by per-
2 manent layoffs.

3 (3) FOSSIL-FUEL INTENSIVE PLANT.—For pur-
4 poses of this section—

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

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

11 (ii) the production of fuels.

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

14 (4) QUALIFIED INDIVIDUAL.—

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

18 (i) any individual—

19 (I) whose employment was termi-
20 nated as the result of the closure of a
21 coal mine or a fossil-fuel intensive
22 plant;

23 (II) who, prior to such closure,
24 was continually employed at such
25 mine or plant—

1 (aa) for a period of not less
2 than 12 months; and

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

7 (III) for whom the applicable in-
8 formation has been provided to the
9 Secretary pursuant to paragraph (1);
10 and

11 (ii) any individual who has been deter-
12 mined, pursuant to subparagraph (C), to
13 be a fossil-fuel dependent worker.

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

18 (i) whose employment as a railroad
19 worker, or whose employment involves coal
20 transportation, maintenance, and supply,
21 was terminated;

22 (ii) whose income during the 12-
23 month period preceding the closure of a
24 coal mine or a fossil-fuel intensive plant
25 has been substantially dependent on the

continued operation of such mine or plant
(as determined by the Secretary, in coordi-
nation with the Secretary of Labor); and

(iii) who has applied for benefits pro-
vided under this section and has provided
the Secretary with such information as de-
termined appropriate by the Secretary.

(C) FOSSIL-FUEL DEPENDENT WORKER.—

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

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

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

(e) WAGE REPLACEMENT.—

(1) IN GENERAL.—

(A) PAYMENT.—In the case of any quali-
fied individual, during the applicable period, the
Secretary shall provide such individual with

1 payments in an amount which, for each month
 2 during such period, is equal to—

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

9 (ii) an amount equal to the sum of—

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

16 (II) any payments made to such
 17 individual pursuant to a Federal ben-
 18 efit program during such month; plus

19 (III) any unemployment com-
 20 pensation (as defined in section 85(b)
 21 of the Internal Revenue Code of
 22 1986) during such month.

23 (B) NOTIFICATION.—During the applicable
 24 period, a qualified individual shall notify the
 25 Secretary with respect to any wages, payments,

or compensation described in subparagraph
(A)(ii).

(C) COMPLIANCE.—

(i) IN GENERAL.—Notwithstanding section 6103 of the Internal Revenue Code of 1986, with respect to any qualified individual who receives a payment under this subsection for any month, if the Secretary determines that such individual failed to comply with the requirement under subparagraph (B) with respect to such month, such individual shall be subject to a penalty in an amount equal to the lesser of—

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

(II) the amount determined under subparagraph (A)(ii) with respect to such month.

(ii) NO ADDITIONAL PAYMENTS.—

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

(II) DISALLOWANCE PERIOD.—

For purposes of subclause (I), the dis-

1 allowance period shall be any month
2 during the applicable period beginning
3 prior to the date on which an indi-
4 vidual described in clause (i) has
5 made full payment with respect to any
6 penalty imposed under such clause.

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

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

17 (4) ADJUSTMENT FOR INFLATION.—For pur-
18 poses of any payment described in paragraph (1)
19 which is provided to a qualified individual during a
20 calendar year beginning after the date that the em-
21 ployment of such individual was terminated, such
22 amount shall be adjusted in a manner similar to the
23 cost-of-living adjustment determined under section
24 1(f)(3) of the Internal Revenue Code of 1986 for
25 such calendar year.

1 (5) TAX TREATMENT.—Any amount provided to
2 a qualified individual under this subsection shall be
3 treated as—

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

6 (B) for purposes of section 3101 of such
7 Code, wages received by the individual with re-
8 spect to employment.

9 (f) HEALTH INSURANCE BENEFITS.—

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

12 (A) In the case of a qualified individual
13 who is receiving continuation coverage pursuant
14 to part 6 of subtitle B of title I of the Em-
15 ployee Retirement Income Security Act of 1974
16 (29 U.S.C. 1161 et seq.) and section 4980B of
17 the Internal Revenue Code of 1986, the Sec-
18 retary shall transfer, each month, to the group
19 health plan (or health insurance issuer offering
20 health insurance coverage in connection with
21 such a plan) of such qualified individual, the
22 amount required to cover the same percentage
23 of the qualified individual's monthly premium
24 (including coverage for any qualified bene-
25 ficiaries) that such individual's former employer

1 contributed toward such premium during the
2 individual's employment.

3 (B) In the case of a qualified individual
4 who is not eligible for continuation coverage as
5 described in subparagraph (A), the Secretary
6 shall transfer to the qualified individual, each
7 month, an amount equal to the amount that the
8 individual's former employer contributed each
9 month towards premiums for enrollment of the
10 individual and qualified beneficiaries in a group
11 health plan (including any health insurance cov-
12 erage offered in connection with such a plan),
13 adjusted in accordance with the average in-
14 crease in health insurance premiums for plans
15 offered at the gold level of coverage (as de-
16 scribed in section 1302(d)(1) of the Patient
17 Protection and Affordable Care Act (42 U.S.C.
18 18022(d)(1))) in the individual market in the
19 applicable State. This amount shall not be con-
20 sidered as gross income for purposes of the In-
21 ternal Revenue Code of 1986 provided that the
22 individual provides proof that it has been used
23 to purchase health insurance coverage that
24 qualifies as minimum essential coverage (as de-

1 fined in section 5000A(f) of the Internal Rev-
2 enue Code of 1986).

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

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

21 (A) IN GENERAL.—Subject to subpara-
22 graph (B), with respect to a qualified individual
23 or qualified beneficiary who is receiving con-
24 tinuation coverage pursuant to part 6 of sub-
25 title B of title I of the Employee Retirement In-

1 come Security Act of 1974 (29 U.S.C. 1161 et
2 seq.) and 4980B of the Internal Revenue Code
3 of 1986, the period of coverage described in sec-
4 tion 602(2) of the Employee Retirement Income
5 Security Act of 1974 (29 U.S.C. 1162(2)) and
6 section 4980B(f)(2)(B) of the Internal Revenue
7 Code of 1986 is deemed to extend to the date
8 which is 5 years after termination of the quali-
9 fied individual's employment.

10 (B) END OF PLAN.—With respect to a
11 qualified individual and qualified beneficiaries
12 described in subparagraph (A), if the employer
13 ceases to provide any group health plan to any
14 employee before the period of coverage de-
15 scribed in such subparagraph ends, or if the
16 qualified individual and qualified beneficiaries
17 become ineligible for continuation coverage
18 (other than for reasons described in paragraph
19 (4)(A)(ii)), such qualified individual and quali-
20 fied beneficiaries shall be eligible for benefits
21 described in paragraph (1)(B).

22 (4) DURATION OF BENEFITS.—

23 (A) BENEFITS WITH RESPECT TO COBRA
24 CONTINUATION COVERAGE.—The benefits de-

scribed in paragraph (1)(A) shall continue until
the earlier of—

(i) the date that is 5 years after closure of a coal mine or fossil-fuel intensive plant; or

(ii) the date on which the qualified individual or qualified beneficiary becomes ineligible for continuation coverage pursuant to subparagraph (C) or (D)(ii) of section 602(2) of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) or clause (iii) or (iv) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986.

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

(C) SPECIAL RULE.—With respect to a qualified individual and qualified beneficiaries, section 602(2)(C) of the Employee Retirement Income Security Act of 1974 and section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986 shall apply only if, with respect

1 to such individual and beneficiaries, at least 2
2 consecutive premium payments are not made.

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

18 (6) DEFINITIONS.—In this subsection—

19 (A) the terms “group health plan”, “health
20 insurance coverage”, and “health insurance
21 issuer” have the meanings given such terms in
22 section 733 of the Employee Retirement Income
23 Security Act of 1974 (29 U.S.C. 1191b); and

24 (B) the term “qualified beneficiary” has
25 the meaning given such term in section

1 607(3)(A) of the Employee Retirement Income
2 Security Act of 1974 (29 U.S.C. 1167(3)(A)).

3 (g) RETIREMENT SAVINGS CONTRIBUTIONS.—

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

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

21 (h) EDUCATIONAL BENEFITS.—

22 (1) DEFINITIONS.—In this subsection:

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

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

(2) IN GENERAL.—The Secretary of Education shall carry out a program of educational assistance for any qualified individual and child of a qualified individual that is comparable to the program of education assistance administered by the Secretary of Veterans Affairs under chapter 33 of title 38, United States Code, except that—

(A) a qualified individual, and each child of a qualified individual, may receive the educational assistance provided under the program; and

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

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

(ii) for a program of training services included on the most recent list of eligible

1 training programs issued under section
2 122(d) of the Workforce Innovation and
3 Opportunity Act (29 U.S.C. 3152(d)) by
4 the Governor of the State in which the
5 qualified individual or child of a qualified
6 individual resides.

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

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

○