To direct the Secretary of the Treasury to establish a grant program for employers adversely affected by COVID–19, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. JAYAPAL introduced the following bill; which was referred to the Committee on

A BILL

To direct the Secretary of the Treasury to establish a grant program for employers adversely affected by COVID–19, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Paycheck Recovery Act of 2020”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Paycheck recovery program.
SEC. 2. PAYCHECK RECOVERY PROGRAM.

(a) PROGRAM AUTHORIZED.—The Secretary of the Treasury (in this Act referred to as the “Secretary”) shall establish a grant program (in this Act referred to as the “Program”) to award grants to carry out the activities described in subsection (f).

(b) ELIGIBILITY.—

(1) LOSS OF REVENUE AND SMALL BUSINESSES.—

(A) LOSS OF REVENUE ELIGIBILITY.—The Secretary shall award a grant under the Program to an employer that submits an application under subsection (c) and has experienced, or anticipates experiencing, a loss of revenue as a result of the coronavirus disease 2019 (COVID–19)—

(i) for an employer that is not a new employer, in an amount that is at least 10 percent of the gross receipts of the employer for the corresponding 2019 period that relates to the calendar quarter in

Sec. 3. Conditions in general.
Sec. 4. Conditions relating to labor protections.
Sec. 5. Application of bankruptcy provisions.
Sec. 6. Rehiring bonus and Pandemic Unemployment Compensation.
Sec. 7. Audits and penalties.
Sec. 8. Paycheck recovery program implementation oversight board.
Sec. 9. Severability.
Sec. 10. Definitions.
which the employer submits such application; or

(ii) for a new employer, in an amount that is at least 10 percent of the gross receipts of the new employer for the period for which the new employer most recently filed employment tax information with the Secretary.

(B) SMALL BUSINESS ELIGIBILITY.—Regardless of whether the employer meets the requirements of subparagraph (A), the Secretary shall award a grant under the Program to an employer that submits an application under subsection (c) if—

(i) the employer employed 20 or fewer employees on March 1, 2020; and

(ii) the annual gross receipts of such employer for 2019 is an amount less than $3,000,000 or, in the case of a new employer, the projected annual gross receipts of such new employer (calculated by determining the median amount of gross receipts for the months for which the new employer has been in existence and multi-
plying the amount by 12) is an amount less than $3,000,000.

(2) INTERACTION WITH OTHER PROGRAMS.—

(A) IN GENERAL.—An employer is not eligible to receive a grant under the Program if the employer is simultaneously receiving assistance under—

(i) an employee retention tax credit pursuant to section 2301 of the CARES Act (Public Law 116–136);

(ii) the Exchange Stabilization Fund established under section 5302 of title 31, United States Code;

(iii) a covered loan under section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)); or

(iv) a Main Street Lending Program of the Federal Reserve System.

(B) CONVERSION OF ASSISTANCE FROM OTHER PROGRAMS.—The Secretary shall take such steps as are necessary to establish a process by which an employer who has received assistance under a program specified in subparagraph (A) may convert such assistance into a grant under the Program.
(3) **STAY-AT-HOME ORDERS.**—The existence or nonexistence of a stay-at-home order issued as a result of COVID–19 by the government of the State or locality in which an employer operates shall have no effect on the eligibility of the employer under the Program.

(e) **APPLICATIONS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), to receive a grant under the Program, an eligible employer shall submit to the Secretary an application in such form, at such time, and containing such information the Secretary determines appropriate, which shall include at a minimum a sworn declaration attesting to any loss of revenue experienced, or anticipated to be experienced, by the employer as a result of COVID–19.

(2) **SMALL BUSINESSES.**—

(A) **APPLICATION.**—The Secretary shall not require an employer that is eligible under subsection (b)(1)(B) to include in an application for a grant under the Program a sworn declaration attesting to any loss of revenue experienced, or anticipated to be experienced, by the employer as a result of COVID-19.
(B) Outreach and Technical Assistance.—The Secretary shall conduct outreach and provide technical assistance to small businesses to assist eligible small businesses in applying for grants under the Program.

(d) Amount of Grant.—

(1) Initial Grant.—Under the Program, the Secretary shall provide to an eligible employer an initial grant in an amount that is equal to the sum of—

(A) except as provided in paragraph (3) and subject to paragraph (4)—

(i) for an employer that is not a new employer, an amount calculated by multiplying the percentage of experienced or anticipated loss of revenue attested to in subsection (c) by the amount of wages provided by the employer to any covered employees or covered former employees during the corresponding 2019 period that relates to the period—

(I) beginning on the date that is the later of March 1, 2020, or the date on which the employer became eligible under subsection (b); and
(II) ending on the date that is 90 days after the date on which the Secretary provides the initial grant; or

(ii) for a new employer, an amount calculated by multiplying the percentage of experienced or anticipated loss of revenue attested to in subsection (e) by an amount determined by the Secretary based on the employment tax information statement filed with the Secretary by the new employer for the most recent month; and

(B) the amount that is 25 percent of the amount of wages provided by the employer to any covered employees or covered former employees during—

(i) for an employer that is not a new employer, the corresponding 2019 period specified in subparagraph (A)(i); or

(ii) for a new employer, the most recent month for which the new employer filed an employment tax information statement with the Secretary.

(2) Subsequent Grants.—With respect to the first full month beginning 90 days after the date on which the Secretary provides to an eligible employer
an initial grant under paragraph (1), and each
month thereafter until the date on which the Sec-
retary terminates the program, the Secretary shall
provide to such employer a grant in an amount that
is equal to the sum of—

(A) except as provided in paragraph (3)
and subject to paragraph (4)—

(i) for an employer that is not a new
employer, an amount calculated by multi-
plying the percentage of experienced or ant-
ticipated loss of revenue attested to in sub-
section (c) by the amount of wages pro-
vided by the employer to covered employees
and covered former employees during the
Corresponding 2019 period that relates to
such month; or

(ii) for a new employer, an amount
calculated by multiplying the percentage of
experienced or anticipated loss of revenue
attested to in subsection (c) by an amount
determined by the Secretary based on the
employment tax information statement
filed with the Secretary by the new em-
ployer for the most recent month; and
(B) the amount that is 25 percent of the amount of the amount of wages provided by the employer to any covered employees or covered former employees during—

(i) for an employer that is not a new employer, the corresponding 2019 period that relates to such month; or

(ii) for a new employer, the most recent month for which the new employer filed an employment tax information statement with the Secretary.

(3) SMALL BUSINESS AMOUNTS.—In calculating the amount of an initial or subsequent grant under the Program for an employer that was determined eligible under subsection (b)(1)(B), the Secretary shall add—

(A) subject to paragraph (4), the amount of wages provided by the employer to any covered employees or covered former employees during the period specified in paragraph (1), for an initial grant, or paragraph (2), for a subsequent grant; and

(B) the amount that is 25 percent of the amount of wages provided by the employer to
any covered employees or covered former employees during such period.

(4) **Salary Limitation.**—The amount of wages (excluding any benefits) provided by an employer to any covered employee or covered former employee of the employer which may be taken into account to determine a grant amount under this subsection shall not exceed $90,000 in annual salary (excluding any benefits) per employee.

(5) **Regulations.**—The Secretary may promulgate regulations on the formula for determining grant amounts pursuant to this subsection.

(e) **Condition on Acceptance of Funds.**—Before accepting grant funds awarded under the Program, an employer shall enter into an agreement with the Secretary, or otherwise certify, as determined appropriate by the Secretary, that the employer shall comply with each condition required under this section and sections 3 and 4.

(f) **Use of Funds.**—Grant funds awarded under the Program may only be used as follows:

(1) Grant funds in amounts determined under paragraphs (1)(A), (2)(A), or (3)(A) of subsection (d) may be used to pay any covered employees or covered former employees the amount of wages (sub-
ject to the salary limitation in subsection (d)(4))

provided by the employer to such employees——

(A) for an employer that is not a new em-
ployer, during the corresponding 2019 period
(adjusted, in the case of amounts determined
under paragraphs (1)(A) or (2)(A), for the per-
centage of experienced or anticipated loss of
revenue attested to in subsection (c)); or

(B) for a new employer, during the cor-
responding period for which the employer most
recently filed with the Secretary an employment
tax information statement (adjusted, in the case
of amounts determined under paragraphs
(1)(A) or (2)(A), for the percentage of experi-
enced or anticipated loss of revenue attested to
in subsection (c)).

(2) Grant funds in amounts determined under
paragraphs (1)(B), (2)(B), or (3)(B) of subsection
(d) may be used to pay fixed expenses of the em-
ployer, including expenses relating to rent, utilities,
mortgage payments, costs associated with vehicles or
equipment, and costs necessary to protect against or
minimize the effects of COVID-19, including the
cost of safety equipment.
(g) Repayment of Funds.—If a covered employee or covered former employee of an employer receiving a grant under the Program quits or is terminated for cause during a month for which the employer receives grant funds, the employer shall be required to repay to the Department of Treasury, on a no-interest basis and by the date that is not later than two years after the date on which such employee quits or is terminated, the pro rata grant amount received with respect to the wages of such employee.

(h) Termination.—

(1) In general.—The Secretary shall terminate the Program on the date on which the seasonally adjusted unemployment rate has remained below seven percent, as measured by the Bureau of Labor Statistics, for three consecutive months.

(2) Notice of potential termination.—The Secretary shall publish in the Federal Register notice of potential termination of the Program on any date on which the seasonally adjusted unemployment rate has remained below seven percent, as measured by the Bureau of Labor Statistics, for two consecutive months.
SEC. 3. CONDITIONS IN GENERAL.

(a) SHARE REPURCHASES.—An employer receiving a grant under the Program may not purchase an equity interest of the employer on a national securities exchange.

(b) PAYMENTS TO SHAREHOLDERS OR BONDHOLDERS.—An employer receiving a grant under the Program may not use grant funds awarded under the Program to make any distribution of funds, including stock dividends, to shareholders or bondholders of the employer.

(c) EXECUTIVE BONUSES.—An employer receiving a grant under the Program may not award an executive bonus to an employee of the employer during the period beginning on the date on which the employer receives an initial grant under the Program and ending on the date on which the Secretary terminates the Program.

(d) EXECUTIVE COMPENSATION.—If an employer receiving a grant under the Program employs a chief executive officer, during the period beginning on the date on which the employer receives an initial grant under the Program and ending on the date on which the Secretary terminates the Program, the employer may not provide to the chief executive officer—

(1) annual wages in excess of the amount that is—

(A) for an employer that is not a new employer, 50 times the median of the wages pro-
vided by the employer to employees of the em-
employer in 2019; or

(B) for a new employer, 50 times the an-
nual median of wages provided by the employer
to employees of the employer (calculated by de-
termining the median amount of monthly wages
paid during the months for which the new em-
ployer has been in existence and multiplying the
amount by 12); and

(2) in the case of termination of employment
with the employer, severance pay or other benefits
relating to the termination in excess of twice the
amount of—

(A) for an employer that is not a new em-
ployer, wages provided by the employer to the
chief executive officer in 2019; or

(B) for a new employer, the projected an-
nual median of wages provided by the employer
to the chief executive officer (calculated by de-
termining the median amount of monthly wages
paid during the months for which the new em-
ployer has been in existence and multiplying the
amount by 12).
SEC. 4. CONDITIONS RELATING TO LABOR PROTECTIONS.

(a) MAINTENANCE OF WORKFORCE; COLLECTIVE BARGAINING.—During the period beginning on the date on which an employer receives an initial grant under the Program and ending on the date that is 90 days after the date on which the Secretary terminates the Program—

(1) the employer shall make a good-faith effort to rehire and maintain covered former employees who were employed by the employer on or prior to March 1, 2020;

(2) the employer shall compensate the covered former employees rehired and maintained under paragraph (1) at a level that is not less than the level of wages received by the covered former employees prior to March 1, 2020;

(3) the employer may not abrogate any collective bargaining agreement entered into by the employer and the authorized representatives of the employees of the employer and in force on March 1, 2020;

(4) the employer shall remain neutral in any union organizing effort; and

(5) the employer shall refrain from conducting involuntary furloughs or reducing pay rates of the employees of the employer.
(b) Working and Travel Conditions.—For the duration of the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to COVID–19, an employer receiving a grant under the Program shall adhere to guidance published by the Director of the Centers for Disease Control and Prevention and all applicable public health authorities for providing safe conditions for employees, including by providing employees with adequate personal protective equipment and ensuring all facilities owned or operated by the employer are clean and sanitary.

SEC. 5. APPLICATION OF BANKRUPTCY PROVISIONS.

In the case of an employer receiving a grant under the Program that is a debtor under title 11 of the United States Code, S.2518 (115th Cong.) shall be deemed to be enacted.

SEC. 6. REHIRING BONUS AND PANDEMIC UNEMPLOYMENT COMPENSATION.

(a) Rehiring Bonus.—The Secretary may award to any covered former employee of an employer receiving a grant under the Program a rehiring bonus in the amount of $1,500 if the covered former employee—

(1) has been rehired or has otherwise returned to employment with the employer with the assistance of such grant; and
(2) earned less than $40,000 in wages in 2019.

(b) Disregard of Additional Compensation for Purposes of Medicaid and CHIP.—The monthly equivalent of any rehiring bonus paid to a covered former employee under subsection (a) shall be disregarded when determining income for any purpose under the programs established under titles XIX and title XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.).

(c) Additional Rehiring Bonus.—If the Pandemic Unemployment Compensation program established under the Relief for Workers Affected by Coronavirus Act (title II of division A of Public Law 116–136) continues after July 31, 2020, a covered former employee that received a rehiring bonus under subsection (a) shall be eligible for a $1,200 monthly stimulus check for every month that the Pandemic Unemployment Compensation program is extended.

SEC. 7. AUDITS AND PENALTIES.

(a) Audits.—Not later than one year after a grant is awarded under the Program, the Inspector General of the Department of Treasury (in this section referred to as the “Inspector General”) shall audit the grant recipient to determine—

(1) the amount of loss of revenue the grant recipient experienced as a result of COVID–19; and
whether any instance of overpayment occurred with respect to the grant.

(b) LOSS OF REVENUE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a grant recipient under the Program shall be required to repay to the Department of Treasury (on a no-interest basis and by a date determined by the Secretary that is not later than five years after the date on which the Secretary terminates the Program) the total amount of grant funds received under the Program if, as a result of an audit conducted under subsection (a), the Inspector General determines—

(A) in the case of a grant recipient that is not a new employer, that the grant recipient did not experience a decline in gross receipts, during a calendar year after receiving the grant, in an amount that was at least 10 percent of the gross receipts of the employer for 2019; or

(B) in the case of a grant recipient that is a new employer, that the grant recipient did not experience a decline in gross receipts, during a period that corresponds with the period for which the new employer had most recently filed employment tax information with the Secretary
prior to submitting the grant application under section 2(c), in an amount that was at least 10 percent of the gross receipts of the new employer for such period.

(2) SMALL BUSINESS EXCEPTION.—A grant recipient that was determined eligible for a grant under the Program pursuant to section 2(b)(1)(B) shall not be subject to this subsection.

(c) OVERPAYMENT PENALTIES.—

(1) FRAUDULENT OVERPAYMENT.—If, as a result of an audit conducted under subsection (a), the Inspector General determines that an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such non-disclosure the individual has received an amount under the Program to which the individual was not entitled—

(A) the Inspector General shall notify the individual of such determination; and

(B) the individual—

(i) shall be ineligible for subsequent grants under the Program; and
(ii) shall be required to repay to the Department of Treasury the amount to which the individual was not entitled by a date determined by the Secretary that is not later than two years after the date on which the Secretary terminates the Program.

(2) Non-fraudulent overpayment.—If, as a result of an audit conducted under subsection (a), the Inspector General determines that an individual has received an amount under the Program to which the individual was not entitled as the result of an action that is not specified in paragraph (1)—

(A) the Inspector General shall notify the individual of such determination; and

(B) the individual shall be required to repay to the Department of Treasury, on a no-interest basis, the amount to which the individual was not entitled by the date that is not later than two years after the date on which the Inspector General notified the individual under subparagraph (A).
SEC. 8. PAYCHECK RECOVERY PROGRAM IMPLEMENTATION OVERSIGHT BOARD.

(a) Establishment.—There is established in the legislative branch a Congressional Paycheck Recovery Program Implementation Oversight Board (in this section referred to as the “Oversight Board”).

(b) Duties.—The duties of the Oversight Board shall be to conduct oversight to ensure that an employer receiving a grant under the Program uses the grant funds in accordance with section (2)(f) and complies with the conditions agreed to under section (2)(e).

(c) Membership.—

(1) Number and Appointment.—The Oversight Board shall be composed of 12 members appointed by the Speaker of the House of Representatives and the majority leader of the Senate as follows:

(A) Four members of Congress appointed upon the recommendation of the minority leaders of the House of Representatives and the Senate.

(B) Four representatives from the private sector, including labor unions and management representatives.

(C) Four representatives from State or local government.
(2) CHAIRPERSON.—The chairperson of the Oversight Board shall be a member of the Oversight Board designated by the Speaker of the House of Representatives and the majority leader of the Senate.

(3) VICE CHAIRPERSON.—The vice chairperson of the Oversight Board shall be a member of the Oversight Board designated by the Speaker of the House of Representatives and the majority leader of the Senate upon the recommendation of the minority leaders of the House of Representatives and the Senate.

(4) VACANCIES.—A vacancy in the Oversight Board shall be filled in the same manner in which the original appointment was made.

(d) ADDITIONAL AUTHORITIES.—

(1) SUBPOENA.—The Oversight Board may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter the Oversight Board is empowered to investigate under subsection (b). The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.
(2) Obtaining Official Data.—The Oversight Board may secure directly from the Internal Revenue Service information necessary to enable it to carry out this section. Upon request of the Chairperson of the Oversight Board, the Commissioner of Internal Revenue shall furnish such information to the Oversight Board.

e) Termination.—The Oversight Board, and its authorities under this section, shall terminate on the expiration of the 15-day period beginning on the date on which the Secretary terminates the Program.

SEC. 9. SEVERABILITY.

If any provision of this Act (or the application of such provision to any person or circumstance) is held invalid, the remainder of this Act (or the application of such provision to other persons or circumstances) shall not be affected.

SEC. 10. DEFINITIONS.

In this Act:

(1) Authorized Representative.—The term “authorized representative” means an exclusive representative of employees, designated and authorized by the employees without interference, influence, or coercion by an employer of such employees.
(2) CORRESPONDING 2019 PERIOD.—The term “corresponding 2019 period” means, with respect to a month or period of months, that same month or period of months in 2019.

(3) COVERED EMPLOYEE.—The term “covered employee” means an individual—

(A) employed by a grant recipient under the Program on a full time, part-time, or other basis; and

(B) who is not receiving unemployment compensation, Pandemic Unemployment Compensation under section 2104 of the CARES Act (Public Law 116–136), or any other unemployment benefit while receiving funds under the Program.

(4) COVERED FORMER EMPLOYEE.—The term “covered former employee” means an individual—

(A) previously employed by a grant recipient under the Program;

(B) who has been furloughed or laid off by the grant recipient as a result of COVID–19; and

(C) who is not receiving unemployment compensation, Pandemic Unemployment Compensation under section 2104 of the CARES Act.
Act (Public Law 116–136), or any other unem-
ployment benefit while receiving funds under
the Program.

(5) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—
The term “eligible self-employed individual” has the
meaning given the term in section 7002(b) of the
Families First Coronavirus Response Act (Public

(6) EMPLOYER.—The term “employer”—

(A) has the meaning given such term in
section 3401 of the Internal Revenue Code of
1986 (26 U.S.C. 3401); and

(B) includes an eligible self-employed indi-
vidual.

(7) EXCHANGE.—The term “exchange” has the
meaning given the term in section 3 of the Securities

(8) NATIONAL SECURITIES EXCHANGE.—The
term “national securities exchange” means an ex-
change registered under section 6 of the Securities

(9) NEW EMPLOYER.—The term “new em-
ployer” means an employer (including any prede-
cessor) that was not in existence for any taxable
year ending before January 1, 2020.
(10) STATE.—The term “State” means each of the several States, the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and any other territory or possession of the United States.

(11) UNEMPLOYMENT COMPENSATION.—The term “unemployment compensation” has the meaning given such term in section 85 of the Internal Revenue Code of 1986 (26 U.S.C. 85).

(12) WAGES.—The terms “wages”—

(A) has the meaning given such term in section 3121 of the Internal Revenue Code of 1986 (26 U.S.C. 3121); and

(B) includes any healthcare benefits provided by an employer.