

ELEVATE Act

Section by Section Summary

Section 1: Short Title

This act may be cited as the “Economic Ladders to End Volatility and Advance Training and Employment (ELEVATE) Act of 2018”.

Section 2: Establishment and Operation of the Program

- Amends the Social Security Act to add a new Title XIII (“Reemployment and Other Job Related Assistance and Benefits”) and Subpart A (“Employment, Training and Supportive Services Program”).

Purpose and Definitions

- Provides states funds to:
 - Promote subsidized employment programs for public and private sector jobs.
 - Expand the availability of jobs during economic downturns or in areas with persistently high unemployment and poverty.
 - Provide economically and socially disadvantaged individuals (such as the long-term unemployed, people with criminal records, former foster youth, and other economically and socially disadvantaged populations) with the ability to gain job experience.
 - Provide employers with new pathways into the workforce development system enabling them to have a greater role in the training and hiring of new workers and labor market re-entrants.
 - Allow for sufficient state flexibility to design programs targeted at community-specific workforce gaps and employer needs.
- Defines eligible individuals assessed as unlikely to find regular, subsidized employment due to: being an individual with barriers to employment ([using WIOA definition](#)); being a [dislocated worker](#); or, local or national economic conditions.
- Defines employment services to include subsidized job placement in the public, private for-profit, private non-profit, or social enterprise sector and includes payment or reimbursement of employer subsidies for wages, the employer share of payroll taxes, employer costs for unemployment insurance, employer costs for workers’ compensation premiums, and costs attributable to supervision and other administration directly related to the employment of an eligible individual in the subsidized job placement.
- Defines supportive services to be consistent with the WIOA definition of the term with the addition of stipends for those in unpaid training, legal services, and legal and other supplemental services.
- Defines evidence standards for the employment and training services as:
 - Tier-1 practices include those that:
 - Offer a new or potentially more effective strategy for addressing widely shared challenges;
 - Have not been systematically studied but are supported by a strong logic model; and
 - Depart from existing workforce strategies.
 - Tier-2 practices include those that:

- Expand knowledge about the efficacy of a workforce strategy and provide more information about the feasibility of implementing proven workforce strategies in different contexts and have been implemented by a state program and evaluated, and the evaluation results indicate some potential for positive impacts on participants or system-wide outcomes; or
 - Have not been previously implemented by the state, but are supported by strong evidence of positive change in an outcome and have been evaluated before using a quasi-experimental or random assignment design, and evaluation findings indicate some statistically significant positive change.
- Tier-3 practices include those that:
 - Previously have been implemented by a program funded by a state;
 - Previously have been evaluated using a random assignment design and the evaluation findings indicate some positive impacts on participant or system wide outcomes; and
 - Support a significant expansion of structural or service delivery reform ideas.

State Plan Requirements

- As a condition of payment, requires states submit to the Secretary of Health and Human Services a plan that describes:
 1. The state’s strategy for creating or expanding programs that offers subsidized employment for eligible individuals and moving such individuals into unsubsidized employment;
 2. How such strategy fits with the state’s overall strategy for, and assessment of, the state’s workforce needs;
 3. The employment services, training and other services or activities, and supportive services to be provided under the state program funded under this part;
 4. Which specific populations of eligible individuals the state will serve, with a focus on how the state plans to assess and serve the eligible individuals with serious or multiple barriers to employment;
 5. The strategies the state will use for outreach and engagement with eligible populations to ensure that such populations are aware of subsidized employment opportunities in their community;
 6. The strategies the state will use for outreach, engagement, and ongoing collaboration with employers to promote employers’ use of the program and ensure they have the training necessary to support eligible individuals;
 7. The strategies the state will use, based on such assessments, to create employability plans for eligible individuals participating in the state program funded under this part and, based on such plans, assign and provide eligible individuals with employment services, training and other services and activities, and supportive services;
 8. How the state will coordinate the state program funded under this part with other relevant systems and programs based on the populations identified which may include criminal justice, child support, juvenile justice, child welfare, homeless services and other human services and workforce development programs of the

state, including programs supported through the Workforce Innovation and Opportunity Act; and

9. A plan for regular, rigorous evaluation of the state program, including how the state plans to measure program outcomes and impacts.
- Requires state to verify new funding will supplement not supplant existing state expenditures.
 - Requires submission of state plan at least 90 days prior to state beginning to operate a program and subsequent state plans to be submitted at the same time and in the same manner as the state WIOA plan.
 - Requires approval of state plan by the Secretary of Health and Human Services in consultation with the Secretaries of the Departments of Labor and Education.

Use of Funds

- Allows states to use funds to provide eligible individuals with employment, training, and supportive services (services such as child and dependent care and transportation that are necessary to enable an individual to participate in employment activities); training employers to use the program; and, for the proper and efficient administration of the state program.
- Requires a minimum of 70 percent of funds paid to each state to be directed toward direct employment services (employer costs of wages, employer share of payroll and unemployment taxes, and workers' compensation premiums).
- States are required to utilize evidence-based practices that meet the requirements for being considered a Tier-1, Tier-2, or Tier-3 practice for employment and training services and may only receive funds for training, services, and supports that directly result in employment. These criteria may be waived in an economic downturn.
 - Beginning with the 21st fiscal year quarter for which the state carries out the program, at least 50 percent of the total amount expended by the state must be for employment and training services and supports that meet the requirements of a Tier-2 or Tier-3 practice. This criteria is also suspended during downturns.
- States are eligible to receive funding to conduct an evaluation if:
 - The state submits to the Secretary a description of the proposed evaluation and the Secretary determines that the design and approach of the proposed evaluation is rigorous, will measure program outcomes and impacts, and is likely to yield information that is credible and will be useful to the state; and
 - Unless waived by the Secretary, the state contributes to the cost of the evaluation, from non-federal sources, an amount equal to at least 25 percent of the cost of the proposed evaluation.

Payments to States

- States are eligible to receive the federal medical assistance percentage (FMAP) for the total amount expended by the state during the quarter to provide eligible individuals with employment and training services and supports and for the proper and efficient administration of the program.
- States will receive increased federal support during economic downturns up to a maximum of full federal funding in severe downturns. If the total unemployment in a quarter is:

- equal to or greater than 6.5 percent but less than 7 percent, the federal share is FMAP + 20 pts;
 - equal to or greater than 7 percent but less than 7.5 percent, the federal share is FMAP + 30 pts;
 - equal to or greater than 7.5 percent but less than 8 percent, the federal share is FMAP + 40 pts; and
 - equal to or greater than 8 percent, the federal share is FMAP + 50 pts or 100, whichever is lesser.
- Maintenance of Effort - As a condition of receiving payments the total amount of state expenditures for employment and training services and supports provided through programs such as WIOA, shall not be less than the amount of such expenditures for fiscal year 2017.
- Caps administrative expenses at 15 percent.
- Authorizes two years of grant funding (at such sums as are necessary), with no matching requirement for states for planning, implementation and technical assistance.

Other Program Requirements

- States must establish procedures to conduct assessment and employability plans that:
 - Assess an eligible individual's job skills, education, past work experience, and potential barriers to employment within 30 days of the eligible individual commencing the state program; and
 - Based on such assessment, create an individualized employability plan for each eligible individual participating in the program that specifies the ultimate employment goal of the eligible individual and the employment and training services and supports that will lead to such goal and will be provided by the state.
 - Requires workers with subsidized jobs to be assessed near the end of the subsidy period to determine whether the individual will remain with the current employer or receive additional employment, training or other services to maintain employment.
- Employment standards and criteria for subsidized jobs:
 - Subsidies for the job placement may only be used by a public or private sector employer for costs attributable to the hiring of, compensation for, or on-the-job training of, the eligible individual.
 - A public or private sector employer is not eligible to be paid a subsidy that exceeds 120 percent of wage costs.
 - An eligible individual in a subsidized job placement cannot be paid less than the prevailing minimum wage and be covered by all relevant employment and labor laws in the jurisdiction.
 - A subsidized job placement for an eligible individual cannot exceed six months unless the placement is extended to accommodate time needed for training.
 - Employers participating in the program must make a good faith effort to hire the individual placed in a subsidized job in their company if the individual has demonstrated satisfactory performance and there is an available job.
 - If an eligible individual is unemployed for at least six weeks after completing a transitional job placement, the eligible individual may apply for a new subsidized job placement but only with a different public or private sector employer.

- Six month duration limit on length of job placement may be waived in periods of high unemployment.
- A public or private sector employer cannot use an eligible individual subsidized job placement to displace an employee, position, or volunteer, or to partially displace any employee, position, or volunteer such as through a reduction in hours, wages, or employment benefits or displace an employee participating in a strike or union activities.

Reports; Research

- States must submit quarterly reports to the Secretary including the data and information required by the Secretary.
- The Secretary must study and submit annual reports to Congress that measures the performance of the State programs, include information on the categories of individuals and employers served, and describe the types of funded activities.
- The Secretary must coordinate with the Secretary of Labor on aligning performance measures and regulations for this state program and those funded under WIOA.
- The Secretary must create new performance measures that address income gains, poverty reduction, and poverty alleviation for eligible individuals and their families participating in the state programs.
- The Secretary, in consultation with the Secretary of Labor, shall determine the data states should collect and report and the extent to which that data collection and reporting and required evaluations can be coordinated with the data collection, reporting, and evaluations required for the state programs funded under WIOA.
- Requires the HHS Inspector General to biennially audit a sample of state programs to ensure compliance with program requirements and to identify and protect against any waste, fraud, or abuse.

Tribal Programs

- Allows any tribe or consortium operating a TANF program to also be eligible to receive direct funding from HHS for the operation of an employment and training program and receive a federal match at the tribal FMAP rate.

Direct Funding and Administration for Programs Operated by Local Governments

- The Secretary must establish procedures for a local government, or a consortium of local governments to establish a program if their state does not elect to establish a state program.

Pro-Worker Demonstration Projects

- Authorizes a demonstration authority through which states, local government, and tribes or tribal consortia may test innovative strategies to promote the identification of and subsidized job placement with “Pro-Worker Employers.”
- Establishes standards and certification process for “Pro-Worker Employers” which, at a minimum, must ensure an employer does the following:
 - Offers predictability. The employer has scheduling practices with predictable work hours.

- Provides Family-Friendly Benefits. The employer offers paid family and medical leave programs, paid sick days, health insurance, child care, paid time off, and other benefits that contribute to work-life balance, and seeks to provide similar or portable benefits to freelance, independent contractors, consultants, outsourced and non-permanent workers, or other contingent workers.
- Ensure Adequate Pay. The employer pays employees a living wage that enables the employees to meet their basic needs and has policies to ensure fair compensation for freelance, independent contractors, consultants, outsourced and non-permanent workers, or other contingent workers by adopting clear contractual language and committing to on-time payments.
- Invest in Employee Growth and Development. The employer provides in-house or through employee stipends and other financial assistance, access to education and training opportunities and promotes career pathways for entry-level workers which demonstrably improve income and job responsibilities.
- Reward Workers When Company Does Well. The employer has profit-sharing practices or other mechanisms that ensure workers benefit when the company grows or increases profits.

Section 3: Self-Employment Assistance Benefits and Relocation Assistance Benefits

- Establishes a new Social Security Title XIII Part B for self-employment and relocation assistance benefits.

Self-Employment Assistance Benefits

- Individuals eligible for self-employment assistance shall receive benefits in an amount equal to half their prior earnings up to a cap of the unemployment insurance benefit cap in the state in which the individual resides for a maximum of 26 weeks.

Relocation Assistance Benefits

- Individuals eligible for relocation assistance benefits may receive a maximum benefit of \$2,000 (which can be adjusted upwards to account for family size) to cover up to 90 percent of the reasonable and necessary expenses for relocating the individual, the individual's family, and household effects, including subsistence and transportation expenses.

Administrative Provisions

- Self-employment and relocation assistance benefits shall be administered by the Social Security Administration, in consultation with the Department of Labor.
- Benefits applications may be submitted:
 - online
 - in SSA field offices
 - through WIOA one-stop centers
 - at Small Business Administration offices
- Requires promulgation of regulations.
- Applies existing process for overpayments and underpayments and fraud penalties for Social Security benefits to self-employment and relocation assistance.

Program Performance Incentives

- Requires the Secretary to enter into an agreement with the National Academy of Sciences to evaluate and analyze the relationships between engagement, impacts and outcome measures. The evaluation shall also examine the issue of program performance and include recommendations to Congress on whether and how program performance might be tied to fiscal incentives.

Miscellaneous Provisions

- Exempts self-employment and relocation benefits from federal taxation.
- Prohibits concurrent receipt of unemployment insurance and self-employment assistance.

Definitions

- Individuals eligible for self-employment assistance are those who:
 - Are eligible for regular unemployment benefits;
 - Are ineligible for regular unemployment benefits but have become unemployed in the most recent 12 weeks through no fault of their own; OR
 - Were self-employed, with sufficient earnings but lost a hiring contract; AND
 - Have a viable business plan as determined by their state Department of Labor, workforce board, or Small Business Administration.
- Individuals eligible for relocation assistance are those who:
 - Are dislocated workers;
 - Are long-term unemployed individuals; or
 - Are underemployed individuals; and
 - Have filed for relocation assistance and obtained a suitable offer of work or have a reasonable expectation of obtaining such work in a new geographic region.

Office of Reemployment Assistance

- Establishes an Office of Reemployment Assistance within the Social Security Administration.

Section 4: Employee Retention Work Opportunity Credit

- Creates a new Employee Retention Credit for employers that retain workers hired through the ELEVATE program for two years.
- Sets the credit value equal to 40 percent of the eligible individual's second year of wages up to a cap of \$6,000.
- Requires a GAO study to evaluate:
 - Whether the retention credit had a meaningful impact on retention as compared with other currently existing and previous subsidized employment programs; and
 - Whether such retention credit was easily understood by employers and had an impact on hiring decisions.

Section 5: Conforming Amendments

Section 6: Effective Dates