

Michael Enzi Voluntary Protection Program Act Overview



*“The Secretary of Labor shall establish a program of entering into **cooperative agreements** with employers to encourage the establishment of **comprehensive safety and health management systems...**”*

- Sec.2(a); S.925 & H.R. 1706, the Michael Enzi Voluntary Protection Program Act; 118th Congress

What is the Michael Enzi Voluntary Protection Program Act?

The Michael Enzi Voluntary Protection Program Act¹ represents a bipartisan effort to ensure the long-term future of OSHA’s Voluntary Protection Program so that it may continue to positively impact worker safety not only on VPP sites, but for employers across the country.

Named after the late Senator Michael Enzi (R-WY), who was a champion of OSHA’s Voluntary Protection Program, the VPP Act simply requires that the Department of Labor maintain VPP as a permanent cooperative program within OSHA. Key provisions of the bill include:

- Establishing requirements for participation: an application to join, onsite evaluation, periodic reevaluation and monitoring – the same requirements currently in place.
- Exemptions from OSHA’s programmed inspections: VPP sites are currently exempt, however they remain subject to imminent danger and whistleblower inspections, in addition to their regular evaluation audits every 3-5 years.
- VPP remains free: the VPP Act ensures that, “The Secretary of Labor shall not require any form of payment from an employer to qualify or participate in the Program.” Meaning, VPP—the gold standard of safety & health management systems—remains free for use by any company or site committed to achieving world-class safety and health performance.
- No additional appropriations: Section 3 of the VPP Act states that, “There are authorized to be appropriated to carry out this Act sums as may be necessary.” Since VPP is currently included in OSHA’s budget (and makes up less than 1% of expenditures at that), any additional funding requests remain in OSHA’s hands.

Why is the VPP Act necessary?

OSHA’s Voluntary Protection Program is a discretionary program, meaning that, even after 40+ years of collaboration and success between management, labor and OSHA, it exists in a state of perpetual flux. As administrations—and priorities—change, VPP is constantly at risk of being reduced in scope or eliminated altogether². This uncertainty surrounding the program can contribute to a company’s willingness to commit employees and resources, instead focusing on third-party safety & health management systems that lack the backing—and oversight—of OSHA. Furthermore, companies who choose not to participate in VPP also choose not to provide employees to participate in the Special Government Employee (SGE) program—a free source of supplementary employees available to OSHA and other federal agencies wholly funded by employers.

The VPP Act would remove this threat by transitioning VPP from a discretionary program to a permanent fixture within OSHA. The Act’s primary purpose is to ensure that VPP continues its legacy of

¹ <https://www.congress.gov/bill/118th-congress/senate-bill/925/text>

² <https://www.ishn.com/articles/88558-acting-osh-boss-barab-vows-increased-enforcement-less-vpp-emphasis-5-4>

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innovation and advancement of safety and health best practices while protecting workers well into the future.

What are the next steps?

VPPPA is currently seeking a primary sponsor in the Senate for the Michael Enzi VPP Act in the 119th Congress following the retirement of Sen. Mike Braun (R-IN). In previous sessions, Sens. Young (R-IN) and Bennet (D-CO) have cosponsored the legislation, and the expectation is that one or both will step up and sponsor the Act.

On the House side, Rep. Diana Harshbarger (R-TN1) has sponsored the legislation previously with various cosponsors, most notably Rep. Mike Thompson (D-CA4) in the 118th Congress.

What are the potential obstacles?

A modified version of the VPP Act was minutes from being introduced for voice vote on the Senate floor in May 2023. However, this version, which included user fees (which the late Sen. Enzi opposed), was met with GOP opposition.

While VPP is a program that enjoys tremendous support from nearly 500 local unions³ (OSHA requires union workplaces to have each trade sign to participate; without full agreement, participation in VPP cannot proceed), leadership at some national and international labor organizations are non-supportive of the program. Their argument against VPP, which results in, on average, 53% fewer injuries and incidents in participating workplaces⁴, seems to center around the belief that funding for OSHA's compliance assistance programs reduces funds available for enforcement activities.

Is there a path forward for the Michael Enzi VPP Act?

In short, yes. A number of factors have now aligned to create the conditions for successful passage of the Act. Chief among them are GOP control of the House, Senate and White House. VPP is a program that maintains strong long-term support from some of the nation's largest employers (Cintas, Honeywell, Valero to name a few). A favorable legislative and regulatory environment for business should include support for cooperative programs that focus on helping versus punishing businesses. The nominee to serve as Secretary of Labor, Lori Chavez-DeRemer (R-OR5), enjoys support from both business and labor organizations critical to passage of the Act. Finally, the apparent desire to reduce political tensions in Washington, coupled with the bipartisan support that the Act has achieved in previous sessions, could translate into an early bipartisan win for both parties.

Codification of OSHA's Voluntary Protection Program requires no additional appropriations and cements the legacies of both Senator Michael Enzi and one of government's best examples of working with the private sector for good.

For more information or to schedule an education session with VPPPA members, please contact Chris Williams at cwilliams@vpppa.org or 703.761.6504.

³ <https://www.osha.gov/vpp/byunion>

⁴ <https://www.osha.gov/vpp/evaluation2021>