

AMENDMENT NO. _____ Calendar No. _____

Purpose: Providing emergency assistance and health care response for individuals, families and businesses affected by the 2020 coronavirus pandemic.

IN THE SENATE OF THE UNITED STATES—116th Cong., 2d Sess.

H. R. 748

To amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Coronavirus Aid, Relief, and Economic Security Act” or the “CARES Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.

DIVISION A—KEEPING WORKERS PAID AND EMPLOYED, HEALTH CARE SYSTEM ENHANCEMENTS, AND ECONOMIC STABILIZATION

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TITLE I—KEEPING AMERICAN WORKERS PAID AND EMPLOYED
ACT

- Sec. 1101. Definitions.
- Sec. 1102. Paycheck protection program.
- Sec. 1103. Entrepreneurial development.
- Sec. 1104. State trade expansion program.
- Sec. 1105. Waiver of matching funds requirement under the women’s business center program.
- Sec. 1106. Loan forgiveness.
- Sec. 1107. Direct appropriations.
- Sec. 1108. Minority business development agency.
- Sec. 1109. United States Treasury Program Management Authority.
- Sec. 1110. Emergency EIDL grants.
- Sec. 1111. Resources and services in languages other than English.
- Sec. 1112. Subsidy for certain loan payments.
- Sec. 1113. Bankruptcy.
- Sec. 1114. Emergency rulemaking authority.

TITLE II—ASSISTANCE FOR AMERICAN WORKERS, FAMILIES, AND
BUSINESSES

Subtitle A—Unemployment Insurance Provisions

- Sec. 2101. Short title.
- Sec. 2102. Pandemic Unemployment Assistance.
- Sec. 2103. Emergency unemployment relief for governmental entities and non-profit organizations.
- Sec. 2104. Emergency increase in unemployment compensation benefits.
- Sec. 2105. Temporary full Federal funding of the first week of compensable regular unemployment for States with no waiting week.
- Sec. 2106. Emergency State staffing flexibility.
- Sec. 2107. Pandemic emergency unemployment compensation.
- Sec. 2108. Temporary financing of short-time compensation payments in States with programs in law.
- Sec. 2109. Temporary financing of short-time compensation agreements.
- Sec. 2110. Grants for short-time compensation programs.
- Sec. 2111. Assistance and guidance in implementing programs.
- Sec. 2112. Waiver of the 7-day waiting period for benefits under the Railroad Unemployment Insurance Act.
- Sec. 2113. Enhanced benefits under the Railroad Unemployment Insurance Act.
- Sec. 2114. Extended unemployment benefits under the Railroad Unemployment Insurance Act.
- Sec. 2115. Funding for the DOL Office of Inspector General for oversight of unemployment provisions.
- Sec. 2116. Implementation.

Subtitle B—Rebates and Other Individual Provisions

- Sec. 2201. 2020 recovery rebates for individuals.
- Sec. 2202. Special rules for use of retirement funds.
- Sec. 2203. Temporary waiver of required minimum distribution rules for certain retirement plans and accounts.
- Sec. 2204. Allowance of partial above the line deduction for charitable contributions.

Sec. 2205. Modification of limitations on charitable contributions during 2020.

Subtitle C—Business Provisions

Sec. 2301. Employee retention credit for employers subject to closure due to COVID-19.

Sec. 2302. Delay of payment of employer payroll taxes.

Sec. 2303. Modifications for net operating losses.

Sec. 2304. Modification of limitation on losses for taxpayers other than corporations.

Sec. 2305. Modification of credit for prior year minimum tax liability of corporations.

Sec. 2306. Modifications of limitation on business interest.

Sec. 2307. Technical amendments regarding qualified improvement property.

TITLE III—SUPPORTING AMERICA’S HEALTH CARE SYSTEM IN
THE FIGHT AGAINST THE CORONAVIRUS

Subtitle A—Health Provisions

Sec. 3001. Short title.

PART I—ADDRESSING SUPPLY SHORTAGES

SUBPART A—MEDICAL PRODUCT SUPPLIES

Sec. 3101. National Academies report on America’s medical product supply chain security.

Sec. 3102. Requiring the strategic national stockpile to include certain types of medical supplies.

Sec. 3103. Treatment of respiratory protective devices as covered countermeasures.

SUBPART B—MITIGATING EMERGENCY DRUG SHORTAGES

Sec. 3111. Prioritize reviews of drug applications; incentives.

Sec. 3112. Additional manufacturer reporting requirements in response to drug shortages.

SUBPART C—PREVENTING MEDICAL DEVICE SHORTAGES

Sec. 3121. Discontinuance or interruption in the production of medical devices.

PART II—ACCESS TO HEALTH CARE FOR COVID-19 PATIENTS

SUBPART A—COVERAGE OF TESTING AND PREVENTIVE SERVICES

Sec. 3201. Coverage of diagnostic testing for COVID-19.

Sec. 3202. Pricing of diagnostic testing.

Sec. 3203. Rapid coverage of preventive services and vaccines for coronavirus.

SUBPART B—SUPPORT FOR HEALTH CARE PROVIDERS

Sec. 3211. Supplemental awards for health centers.

Sec. 3212. Telehealth network and telehealth resource centers grant programs.

Sec. 3213. Rural health care services outreach, rural health network development, and small health care provider quality improvement grant programs.

Sec. 3214. United States Public Health Service Modernization.

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- Sec. 3215. Limitation on liability for volunteer health care professionals during COVID-19 emergency response.
- Sec. 3216. Flexibility for members of National Health Service Corps during emergency period.

SUBPART C—MISCELLANEOUS PROVISIONS

- Sec. 3221. Confidentiality and disclosure of records relating to substance use disorder.
- Sec. 3222. Nutrition services.
- Sec. 3223. Continuity of service and opportunities for participants in community service activities under title V of the Older Americans Act of 1965.
- Sec. 3224. Guidance on protected health information.
- Sec. 3225. Reauthorization of healthy start program.
- Sec. 3226. Importance of the blood supply.

PART III—INNOVATION

- Sec. 3301. Removing the cap on OTA during public health emergencies.
- Sec. 3302. Priority zoonotic animal drugs.

PART IV—HEALTH CARE WORKFORCE

- Sec. 3401. Reauthorization of health professions workforce programs.
- Sec. 3402. Health workforce coordination.
- Sec. 3403. Education and training relating to geriatrics.
- Sec. 3404. Nursing workforce development.

Subtitle B—Education Provisions

- Sec. 3501. Short title.
- Sec. 3502. Definitions.
- Sec. 3503. Campus-based aid waivers.
- Sec. 3504. Use of supplemental educational opportunity grants for emergency aid.
- Sec. 3505. Federal work-study during a qualifying emergency.
- Sec. 3506. Adjustment of subsidized loan usage limits.
- Sec. 3507. Exclusion from Federal Pell Grant duration limit.
- Sec. 3508. Institutional refunds and Federal student loan flexibility.
- Sec. 3509. Satisfactory academic progress.
- Sec. 3510. Continuing education at affected foreign institutions.
- Sec. 3511. National emergency educational waivers.
- Sec. 3512. HBCU Capital financing.
- Sec. 3513. Temporary relief for federal student loan borrowers.
- Sec. 3514. Provisions related to the Corporation for National and Community Service.
- Sec. 3515. Workforce response activities.
- Sec. 3516. Technical amendments.
- Sec. 3517. Waiver authority and reporting requirement for institutional aid.
- Sec. 3518. Authorized uses and other modifications for grants.
- Sec. 3519. Service obligations for teachers.

Subtitle C—Labor Provisions

- Sec. 3601. Limitation on paid leave.
- Sec. 3602. Emergency Paid Sick Leave Act Limitation.

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- Sec. 3603. Regulatory Authorities under the Emergency Paid Sick Leave Act.
- Sec. 3604. Unemployment insurance.
- Sec. 3605. OMB Waiver of Paid Family and Paid Sick Leave.
- Sec. 3606. Paid leave for rehired employees.
- Sec. 3607. Advance refunding of credits.
- Sec. 3608. Expansion of DOL Authority to postpone certain deadlines.
- Sec. 3609. Single-employer plan funding rules.
- Sec. 3610. Application of cooperative and small employer charity pension plan rules to certain charitable employers whose primary exempt purpose is providing services with respect to mothers and children.

Subtitle D—Finance Committee

- Sec. 3701. Exemption for telehealth services.
- Sec. 3702. Inclusion of certain over-the-counter medical products as qualified medical expenses.
- Sec. 3703. Increasing Medicare telehealth flexibilities during emergency period.
- Sec. 3704. Enhancing Medicare telehealth services for Federally qualified health centers and rural health clinics during emergency period.
- Sec. 3705. Temporary waiver of requirement for face-to-face visits between home dialysis patients and physicians.
- Sec. 3706. Use of telehealth to conduct face-to-face encounter prior to recertification of eligibility for hospice care during emergency period.
- Sec. 3707. Encouraging use of telecommunications systems for home health services furnished during emergency period.
- Sec. 3708. Improving care planning for Medicare home health services.
- Sec. 3709. Adjustment of sequestration.
- Sec. 3710. Medicare hospital inpatient prospective payment system add-on payment for COVID–19 patients during emergency period.
- Sec. 3711. Increasing access to post-acute care during emergency period.
- Sec. 3712. Revising payment rates for durable medical equipment under the Medicare program through duration of emergency period.
- Sec. 3713. Coverage of the COVID-19 vaccine under part B of the Medicare program without any cost-sharing.
- Sec. 3714. Requiring Medicare prescription drug plans and MA–PD plans to allow during the COVID-19 emergency period for fills and refills of covered part D drugs for up to a 3-month supply.
- Sec. 3715. Providing home and community-based services in acute care hospitals.
- Sec. 3716. Clarification regarding uninsured individuals.
- Sec. 3717. Amendments relating to reporting requirements with respect to clinical diagnostic laboratory tests.

Subtitle E—Health and Human Services Extenders

PART I—MEDICARE PROVISIONS

- Sec. 3801. Extension of the work geographic index floor under the Medicare program.
- Sec. 3802. Extension of funding for quality measure endorsement, input, and selection.
- Sec. 3803. Extension of funding outreach and assistance for low-income programs.

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PART II—MEDICAID PROVISIONS

- Sec. 3811. Extension of the Money Follows the Person rebalancing demonstration program.
- Sec. 3812. Extension of spousal impoverishment protections.
- Sec. 3813. Delay of DSH reductions.
- Sec. 3814. Extension and expansion of Community Mental Health Services demonstration program.

PART III—HUMAN SERVICES AND OTHER HEALTH PROGRAMS

- Sec. 3821. Extension of sexual risk avoidance education program.
- Sec. 3822. Extension of personal responsibility education program.
- Sec. 3823. Extension of demonstration projects to address health professions workforce needs.
- Sec. 3824. Extension of the temporary assistance for needy families program and related programs.

PART IV—PUBLIC HEALTH PROVISIONS

- Sec. 3831. Extension for community health centers, the National Health Service Corps, and teaching health centers that operate GME programs.
- Sec. 3832. Diabetes programs.

PART V—MISCELLANEOUS PROVISIONS

- Sec. 3841. Prevention of duplicate appropriations for fiscal year 2020.

Subtitle F—Over-the-Counter Drugs

PART I—OTC DRUG REVIEW

- Sec. 3851. Regulation of certain nonprescription drugs that are marketed without an approved drug application.
- Sec. 3852. Misbranding.
- Sec. 3853. Drugs excluded from the over-the-counter drug review.
- Sec. 3854. Treatment of Sunscreen Innovation Act.
- Sec. 3855. Annual update to Congress on appropriate pediatric indication for certain OTC cough and cold drugs.
- Sec. 3856. Technical corrections.

PART II—USER FEES

- Sec. 3861. Finding.
- Sec. 3862. Fees relating to over-the-counter drugs.

TITLE IV—ECONOMIC STABILIZATION AND ASSISTANCE TO SEVERELY DISTRESSED SECTORS OF THE UNITED STATES ECONOMY

- Sec. 4001. Short title.
- Sec. 4002. Definitions.
- Sec. 4003. Emergency relief and taxpayer protections.
- Sec. 4004. Limitation on certain employee compensation.
- Sec. 4005. Continuation of certain air service.
- Sec. 4006. Coordination with secretary of transportation.
- Sec. 4007. Suspension of certain aviation excise taxes.

- Sec. 4008. Transaction account guarantee authority.
- Sec. 4009. Temporary Government in the Sunshine Act relief.
- Sec. 4010. Temporary hiring flexibility.
- Sec. 4011. Temporary lending limit waiver.
- Sec. 4012. Temporary relief for community banks.
- Sec. 4013. Temporary relief from troubled debt restructurings.
- Sec. 4014. Optional temporary relief from current expected credit losses.
- Sec. 4015. Non-applicability of restrictions on ESF during national emergency.
- Sec. 4016. Temporary credit union provisions.
- Sec. 4017. Increasing access to materials necessary for national security and pandemic recovery.
- Sec. 4018. Reports.
- Sec. 4019. Direct appropriation.
- Sec. 4020. COVID–19 borrowing authority for the United States Postal Service.
- Sec. 4021. Rule of construction.
- Sec. 4022. Termination of authority.

TITLE V—BUDGETARY PROVISIONS

- Sec. 5001. Emergency designation.

DIVISION B—EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS

1 **SEC. 3. REFERENCES.**

2 Except as expressly provided otherwise, any reference
3 to “this Act” contained in any division of this Act shall
4 be treated as referring only to the provisions of that divi-
5 sion.

1 **DIVISION A—KEEPING WORKERS**
2 **PAID AND EMPLOYED,**
3 **HEALTH CARE SYSTEM EN-**
4 **HANCEMENTS, AND ECO-**
5 **NOMIC STABILIZATION**
6 **TITLE I—KEEPING AMERICAN**
7 **WORKERS PAID AND EM-**
8 **PLOYED ACT**

9 **SEC. 1101. DEFINITIONS.**

10 In this title—

11 (1) the terms “Administration” and “Adminis-
12 trator” mean the Small Business Administration
13 and the Administrator thereof, respectively; and

14 (2) the term “small business concern” has the
15 meaning given the term in section 3 of the Small
16 Business Act (15 U.S.C. 636).

17 **SEC. 1102. PAYCHECK PROTECTION PROGRAM.**

18 (a) **IN GENERAL.**—Section 7(a) of the Small Busi-
19 ness Act (15 U.S.C. 636(a)) is amended—

20 (1) in paragraph (2)—

21 (A) in subparagraph (A), in the matter
22 preceding clause (i), by striking “and (E)” and
23 inserting “(E), and (F)”; and

24 (B) by adding at the end the following:

1 “(F) PARTICIPATION IN THE PAYCHECK
2 PROTECTION PROGRAM.—In an agreement to
3 participate in a loan on a deferred basis under
4 paragraph (36), the participation by the Admin-
5 istration shall be 100 percent.”; and

6 (2) by adding at the end the following:

7 “(36) PAYCHECK PROTECTION PROGRAM.—

8 “(A) DEFINITIONS.—In this paragraph—

9 “(i) the terms ‘appropriate Federal
10 banking agency’ and ‘insured depository
11 institution’ have the meanings given those
12 terms in section 3 of the Federal Deposit
13 Insurance Act (12 U.S.C. 1813);

14 “(ii) the term ‘covered loan’ means a
15 loan made under this paragraph during the
16 covered period;

17 “(iii) the term ‘covered period’ means
18 the period beginning on February 15, 2020
19 and ending on June 30, 2020;

20 “(iv) the term ‘eligible recipient’
21 means an individual or entity that is eligi-
22 ble to receive a covered loan;

23 “(v) the term ‘eligible self-employed
24 individual’ has the meaning given the term
25 in section 7002(b) of the Families First

1 Coronavirus Response Act (Public Law
2 116–127);

3 “‘(vi) the terms ‘insured credit union’
4 has the meaning given the term in section
5 101 of the Federal Credit Union Act (12
6 U.S.C. 1752);

7 “‘(vii) the term ‘nonprofit organiza-
8 tion’ means an organization that is de-
9 scribed in section 501(c)(3) of the Internal
10 Revenue Code of 1986 and that is exempt
11 from taxation under section 501(a) of such
12 Code;

13 “‘(viii) the term ‘payroll costs’—

14 “(I) means—

15 “(aa) the sum of payments
16 of any compensation with respect
17 to employees that is a—

18 “(AA) salary, wage,
19 commission, or similar com-
20 pensation;

21 “(BB) payment of cash
22 tip or equivalent;

23 “(CC) payment for va-
24 cation, parental, family,
25 medical, or sick leave;

1 “(DD) allowance for
2 dismissal or separation;

3 “(EE) payment re-
4 quired for the provisions of
5 group health care benefits,
6 including insurance pre-
7 miums;

8 “(FF) payment of any
9 retirement benefit; or

10 “(GG) payment of
11 State or local tax assessed
12 on the compensation of em-
13 ployees; and

14 “(bb) the sum of payments
15 of any compensation to or income
16 of a sole proprietor or inde-
17 pendent contractor that is a
18 wage, commission, income, net
19 earnings from self-employment,
20 or similar compensation and that
21 is in an amount that is not more
22 than \$100,000 in 1 year, as pro-
23 rated for the covered period; and
24 “(II) shall not include—

1 “(aa) the compensation of
2 an individual employee in excess
3 of an annual salary of \$100,000,
4 as prorated for the covered pe-
5 riod;

6 “(bb) taxes imposed or with-
7 held under chapters 21, 22, or 24
8 of the Internal Revenue Code of
9 1986 during the covered period;

10 “(cc) any compensation of
11 an employee whose principal
12 place of residence is outside of
13 the United States;

14 “(dd) qualified sick leave
15 wages for which a credit is al-
16 lowed under section 7001 of the
17 Families First Coronavirus Re-
18 sponse Act (Public Law 116-
19 127); or

20 “(ee) qualified family leave
21 wages for which a credit is al-
22 lowed under section 7003 of the
23 Families First Coronavirus Re-
24 sponse Act (Public Law 116-
25 127); and

1 “(ix) the term ‘veterans organization’
2 means an organization that is described in
3 section 501(c)(19) of the Internal Revenue
4 Code that is exempt from taxation under
5 section 501(a) of such Code.

6 “(B) PAYCHECK PROTECTION LOANS.—
7 Except as otherwise provided in this paragraph,
8 the Administrator may guarantee covered loans
9 under the same terms, conditions, and processes
10 as a loan made under this subsection.

11 “(C) REGISTRATION OF LOANS.—Not later
12 than 15 days after the date on which a loan is
13 made under this paragraph, the Administration
14 shall register the loan using the TIN (as de-
15 fined in section 7701 of the Internal Revenue
16 Code of 1986) assigned to the borrower.

17 “(D) INCREASED ELIGIBILITY FOR CER-
18 TAIN SMALL BUSINESSES AND ORGANIZA-
19 TIONS.—

20 “(i) IN GENERAL.—During the cov-
21 ered period, in addition to small business
22 concerns, any business concern, nonprofit
23 organization, veterans organization, or
24 Tribal business concern described in sec-
25 tion 31(b)(2)(C) shall be eligible to receive

1 a covered loan if the business concern,
2 nonprofit organization, veterans organiza-
3 tion, or Tribal business concern employs
4 not more than the greater of—

5 “(I) 500 employees; or

6 “(II) if applicable, the size stand-
7 ard in number of employees estab-
8 lished by the Administration for the
9 industry in which the business con-
10 cern, nonprofit organization, veterans
11 organization, or Tribal business con-
12 cern operates.

13 **【“(ii) EXCLUSION OF NONPROFITS**
14 **RECEIVING MEDICAID EXPENDITURES.—**
15 **Clause (i) shall not apply to a nonprofit**
16 **entity eligible for payment for items or**
17 **services furnished under a State plan**
18 **under title XIX of the Social Security Act**
19 **(42 U.S.C. 1396 et seq.) or under a waiver**
20 **of such plan, other than a nonprofit entity**
21 **for which the primary service provided by**
22 **the nonprofit entity is substance abuse**
23 **treatment and counseling. *STRIKE*】**

24 “(iii) INCLUSION OF SOLE PROPRI-
25 ETORS, INDEPENDENT CONTRACTORS, AND

1 ELIGIBLE SELF-EMPLOYED INDIVID-
2 UALS.—

3 “(I) IN GENERAL.—During the
4 covered period, individuals who oper-
5 ate under a sole proprietorship or as
6 an independent contractor and eligible
7 self-employed individuals shall be eli-
8 gible to receive a covered loan.

9 “(II) DOCUMENTATION.—An eli-
10 gible self-employed individual, inde-
11 pendent contractor, or sole proprietor-
12 ship seeking a covered loan shall sub-
13 mit such documentation as is nec-
14 essary to establish such individual as
15 eligible, including payroll tax filings
16 reported to the Internal Revenue
17 Service, Forms 1099–MISC, and in-
18 come and expenses from the sole pro-
19 prietorship, as determined by the Ad-
20 ministrator and the Secretary.

21 “(iv) BUSINESS CONCERNS WITH
22 MORE THAN 1 PHYSICAL LOCATION.—Dur-
23 ing the covered period, any business con-
24 cern that employs not more than 500 em-
25 ployees per physical location of the busi-

1 ness concern and that is assigned a North
2 American Industry Classification System
3 code beginning with 72 at the time of dis-
4 bursal shall be eligible to receive a covered
5 loan.

6 “(v) WAIVER OF AFFILIATION
7 RULES.—During the covered period, the
8 provisions applicable to affiliations under
9 section 121.103 of title 13, Code of Fed-
10 eral Regulations, or any successor regula-
11 tion, are waived with respect to eligibility
12 for a covered loan for—

13 “(I) any business concern with
14 not more than 500 employees that, as
15 of the date on which the covered loan
16 is disbursed, is assigned a North
17 American Industry Classification Sys-
18 tem code beginning with 72;

19 “(II) any business concern oper-
20 ating as a franchise that is assigned a
21 franchise identifier code by the Ad-
22 ministration; and

23 “(III) any business concern that
24 receives financial assistance from a
25 company licensed under section 301 of

1 the Small Business Investment Act of
2 1958 (15 U.S.C. 681).

3 “(vi) EMPLOYEE.—For purposes of
4 determining whether a business concern,
5 nonprofit organization, veterans organiza-
6 tion, or Tribal business concern described
7 in section 31(b)(2)(C) employs not more
8 than 500 employees under clause (i)(I), the
9 term ‘employee’ includes individuals em-
10 ployed on a full-time, part-time, or other
11 basis.

12 **【“(vii) AFFILIATION.—The provisions**
13 **applicable to affiliations under section**
14 **121.103 of title 13, Code of Federal Regu-**
15 **lations, or any successor thereto, shall**
16 **apply with respect to a nonprofit organiza-**
17 **tion and a veterans organization in the**
18 **same manner as with respect to a small**
19 **business concern.】**

20 “(E) MAXIMUM LOAN AMOUNT.—During
21 the covered period, with respect to a covered
22 loan, the maximum loan amount shall be the
23 lesser of—

24 “(i)(I) the sum of—

1 “(aa) the product obtained by
2 multiplying—

3 “(AA) the average total
4 monthly payments by the appli-
5 cant for payroll costs incurred
6 during the 1-year period before
7 the date on which the loan is
8 made, except that, in the case of
9 an applicant that is seasonal em-
10 ployer, as determined by the Ad-
11 ministrator, the average total
12 monthly payments for payroll
13 shall be for the 12-week period
14 beginning February 15, 2019, or
15 at the election of the eligible re-
16 cipient, March 1, 2019, and end-
17 ing June 30, 2019; by

18 “(BB) 2.5; and

19 “(bb) the outstanding amount of
20 a loan under subsection (b)(2) that
21 was made during the period beginning
22 on January 31, 2020 and ending on
23 the date on which covered loans are
24 made available to be refinanced under
25 the covered loan; or

1 “(II) if requested by an otherwise eli-
2 gible recipient that was not in business
3 during the period beginning on February
4 15, 2019 and ending on June 30, 2019,
5 the sum of—

6 “(aa) the product obtained by
7 multiplying—

8 “(AA) the average total
9 monthly payments by the appli-
10 cant for payroll costs incurred
11 during the period beginning on
12 January 1, 2020 and ending on
13 February 29, 2020; by

14 “(BB) 2.5; and

15 “(bb) the outstanding amount of
16 a loan under subsection (b)(2) that
17 was made during the period beginning
18 on January 31, 2020 and ending on
19 the date on which covered loans are
20 made available to be refinanced under
21 the covered loan; or

22 “(ii) \$10,000,000.

23 “(F) ALLOWABLE USES OF COVERED
24 LOANS.—

1 “(I) IN GENERAL.—For purposes
2 of making covered loans for the pur-
3 poses described in clause (i), a lender
4 approved to make loans under this
5 subsection shall be deemed to have
6 been delegated authority by the Ad-
7 ministrator to make and approve cov-
8 ered loans, subject to the provisions of
9 this paragraph.

10 “(II) CONSIDERATIONS.—In eval-
11 uating the eligibility of a borrower for
12 a covered loan with the terms de-
13 scribed in this paragraph, a lender
14 shall consider whether the borrower—

15 “(aa) was in operation on
16 February 15, 2020; and

17 “(bb)(AA) had employees
18 for whom the borrower paid sala-
19 ries and payroll taxes; or

20 “(BB) paid independent
21 contractors, as reported on a
22 Form 1099–MISC.

23 “(iii) ADDITIONAL LENDERS.—The
24 authority to make loans under this para-
25 graph shall be extended to additional lend-

1 ers determined by the Administrator and
2 the Secretary of the Treasury to have the
3 necessary qualifications to process, close,
4 disburse and service loans made with the
5 guarantee of the Administration.

6 “(iv) REFINANCE.—A loan made
7 under subsection (b)(2) during the period
8 beginning on January 31, 2020 and ending
9 on the date on which covered loans are
10 made available may be refinanced as part
11 of a covered loan.

12 “(v) NONRECOURSE.—Notwith-
13 standing the waiver of the personal guar-
14 antee requirement or collateral under sub-
15 paragraph (J), the Administrator shall
16 have no recourse against any individual
17 shareholder, member, or partner of an eli-
18 gible recipient of a covered loan for non-
19 payment of any covered loan, except to the
20 extent that such shareholder, member, or
21 partner uses the covered loan proceeds for
22 a purpose not authorized under clause (i).

23 “(G) BORROWER REQUIREMENTS.—

1 “(i) CERTIFICATION.—An eligible re-
2 cipient applying for a covered loan shall
3 make a good faith certification—

4 “(I) that the uncertainty of cur-
5 rent economic conditions makes nec-
6 essary the loan request to support the
7 ongoing operations of the eligible re-
8 cipient;

9 “(II) acknowledging that funds
10 will be used to retain workers and
11 maintain payroll or make mortgage
12 payments, lease payments, and utility
13 payments;

14 “(III) that the eligible recipient
15 does not have an application pending
16 for a loan under this subsection for
17 the same purpose and duplicative of
18 amounts applied for or received under
19 a covered loan; and

20 “(IV) during the period begin-
21 ning on February 15, 2020 and end-
22 ing on December 31, 2020, that the
23 eligible recipient has not received
24 amounts under this subsection for the
25 same purpose and duplicative of

1 amounts applied for or received under
2 a covered loan.

3 “(H) FEE WAIVER.—During the covered
4 period, with respect to a covered loan—

5 “(i) in lieu of the fee otherwise appli-
6 cable under paragraph (23)(A), the Ad-
7 ministrator shall collect no fee; and

8 “(ii) in lieu of the fee otherwise appli-
9 cable under paragraph (18)(A), the Ad-
10 ministrator shall collect no fee.

11 “(I) CREDIT ELSEWHERE.—During the
12 covered period, the requirement that a small
13 business concern is unable to obtain credit else-
14 where, as defined in section 3(h), shall not
15 apply to a covered loan.

16 “(J) WAIVER OF PERSONAL GUARANTEE
17 REQUIREMENT.—During the covered period,
18 with respect to a covered loan—

19 “(i) no personal guarantee shall be re-
20 quired for the covered loan; and

21 “(ii) no collateral shall be required for
22 the covered loan.

23 “(K) MATURITY FOR LOANS WITH RE-
24 MAINING BALANCE AFTER APPLICATION OF
25 FORGIVENESS.—With respect to a covered loan

1 that has a remaining balance after reduction
2 based on the loan forgiveness amount under
3 section 1106 of the CARES Act—

4 “(i) the remaining balance shall con-
5 tinue to be guaranteed by the Administra-
6 tion under this subsection; and

7 “(ii) the covered loan shall have a
8 maximum maturity of 10 years from the
9 date on which the borrower applies for
10 loan forgiveness under that section.

11 “(L) INTEREST RATE REQUIREMENTS.—
12 During the covered period, a covered loan shall
13 bear an interest rate not to exceed 4 percent.

14 “(M) LOAN DEFERMENT.—

15 “(i) DEFINITION OF IMPACTED BOR-
16 ROWER.—

17 “(I) IN GENERAL.—In this sub-
18 paragraph, the term ‘impacted bor-
19 rower’ means an eligible recipient
20 that—

21 “(aa) is in operation on
22 February 15, 2020; and

23 “(bb) has an application for
24 a covered loan that is approved
25 or pending approval on or after

1 the date of enactment of this
2 paragraph.

3 “(II) PRESUMPTION.—For pur-
4 poses of this subparagraph, an im-
5 pacted borrower is presumed to have
6 been adversely impacted by COVID-
7 19.

8 “(ii) DEFERRAL.—During the covered
9 period, the Administrator shall—

10 “(I) consider each eligible recipi-
11 ent that applies for a covered loan to
12 be an impacted borrower; and

13 “(II) require lenders under this
14 subsection to provide complete pay-
15 ment deferment relief for impacted
16 borrowers with covered loans for a pe-
17 riod of not less than 6 months, includ-
18 ing payment of principal, interest, and
19 fees, and not more than 1 year.

20 “(iii) SECONDARY MARKET.—During
21 the covered period, with respect to a cov-
22 ered loan that is sold on the secondary
23 market, if an investor declines to approve
24 a deferral requested by a lender under
25 clause (ii), the Administrator shall exercise

1 the authority to purchase the loan so that
2 the impacted borrower may receive a defer-
3 ral for a period of not less than 6 months,
4 including payment of principal, interest,
5 and fees, and not more than 1 year.

6 “(iv) GUIDANCE.—Not later than 30
7 days after the date of enactment of this
8 paragraph, the Administrator shall provide
9 guidance to lenders under this paragraph
10 on the deferment process described in this
11 subparagraph.

12 “(N) SECONDARY MARKET SALES.—A cov-
13 ered loan shall be eligible to be sold in the sec-
14 ondary market consistent with this subsection.
15 The Administrator may not collect any fee for
16 any guarantee sold into the secondary market
17 under this subparagraph.

18 “(O) REGULATORY CAPITAL REQUIRE-
19 MENTS.—

20 “(i) RISK WEIGHT.—With respect to
21 the appropriate Federal banking agencies
22 or the National Credit Union Administra-
23 tion Board applying capital requirements
24 under their respective risk-based capital re-

1 requirements, a covered loan shall receive a
2 risk weight of zero percent.

3 “(ii) TEMPORARY RELIEF FROM TDR
4 DISCLOSURES.—Notwithstanding any other
5 provision of law, an insured depository in-
6 stitution or an insured credit union that
7 modifies a covered loan in relation to
8 COVID–19-related difficulties in a trou-
9 bled debt restructuring on or after March
10 13, 2020, shall not be required to comply
11 with the Financial Accounting Standards
12 Board Accounting Standards Codification
13 Subtopic 310-40 (‘Receivables – Troubled
14 Debt Restructurings by Creditors’) for
15 purposes of compliance with the require-
16 ments of the Federal Deposit Insurance
17 Act (12 U.S.C. 1811 et seq.), until such
18 time and under such circumstances as the
19 appropriate Federal banking agency or the
20 National Credit Union Administration
21 Board, as applicable, determines appro-
22 priate.

23 “(P) REIMBURSEMENT FOR PROC-
24 ESSING.—

1 “(i) IN GENERAL.—The Administrator
2 shall reimburse a lender authorized to
3 make a covered loan at a rate, based on
4 the balance of the financing outstanding at
5 the time of disbursement of the covered
6 loan, of—

7 “(I) 5 percent for loans of not
8 more than \$350,000;

9 “(II) 3 percent for loans of more
10 than \$350,000 and less than
11 \$2,000,000; and

12 “(III) 1 percent for loans of not
13 less than \$2,000,000.

14 “(ii) FEE LIMITS.—An agent that as-
15 sists an eligible recipient to prepare an ap-
16 plication for a covered loan may not collect
17 a fee in excess of the limits established by
18 the Administrator.

19 “(iii) TIMING.—A reimbursement de-
20 scribed in clause (i) shall be made not later
21 than 5 days after the disbursement of the
22 covered loan.

23 “(iv) SENSE OF THE SENATE.—It is
24 the sense of the Senate that the Adminis-
25 trator should issue guidance to lenders and

1 agents to ensure that the processing and
2 disbursement of covered loans prioritizes
3 small business concerns and entities in un-
4 derserved and rural markets, including vet-
5 erans and members of the military commu-
6 nity, small business concerns owned and
7 controlled by socially and economically dis-
8 advantaged individuals (as defined in sec-
9 tion 8(d)(3)(C)), women, and businesses in
10 operation for less than 2 years.

11 “(Q) DUPLICATION.—Nothing in this
12 paragraph shall prohibit a recipient of an eco-
13 nomic injury disaster loan made under sub-
14 section (b)(2) during the period beginning on
15 January 31, 2020 and ending on the date on
16 which covered loans are made available that is
17 for a purpose other than paying payroll costs
18 and other obligations described in subparagraph
19 (F) from receiving assistance under this para-
20 graph.

21 “(R) WAIVER OF PREPAYMENT PEN-
22 ALTY.—Notwithstanding any other provision of
23 law, there shall be no prepayment penalty for
24 any payment made on a covered loan.”.

1 (b) COMMITMENTS FOR 7(A) LOANS.—During the pe-
2 riod beginning on February 15, 2020 and ending on June
3 30, 2020—

4 (1) the amount authorized for commitments for
5 general business loans authorized under section 7(a)
6 of the Small Business Act (15 U.S.C. 636(a)), in-
7 cluding loans made under paragraph (36) of such
8 section, as added by subsection (a), shall be
9 \$349,000,000,000; and

10 (2) the amount authorized for commitments for
11 such loans under the heading “BUSINESS LOANS
12 PROGRAM ACCOUNT” under the heading “SMALL
13 BUSINESS ADMINISTRATION” under title V of the
14 Consolidated Appropriations Act, 2020 (Public Law
15 116–93; 133 Stat. 2475) shall not apply.

16 (c) EXPRESS LOANS.—

17 (1) IN GENERAL.—Section 7(a)(31)(D) of the
18 Small Business Act (15 U.S.C. 636(a)(31)(D)) is
19 amended by striking “\$350,000” and inserting
20 “\$1,000,000”.

21 (2) PROSPECTIVE REPEAL.—Effective on Janu-
22 ary 1, 2021, section 7(a)(31)(D) of the Small Busi-
23 ness Act (15 U.S.C. 636(a)(31)(D)) is amended by
24 striking “\$1,000,000” and inserting “\$350,000”.

1 (d) EXCEPTION TO GUARANTEE FEE WAIVER FOR
2 VETERANS.—Section 7(a)(31)(G) of the Small Business
3 Act (15 U.S.C. 636(a)(31)(G)) is amended—

4 (1) by striking clause (ii); and

5 (2) by redesignating clause (iii) as clause (ii).

6 (e) INTERIM RULE.—On and after the date of enact-
7 ment of this Act, the interim final rule published by the
8 Administrator entitled “Express Loan Programs: Affili-
9 ation Standards” (85 Fed. Reg. 7622 (February 10,
10 2020)) is permanently rescinded and shall have no force
11 or effect.

12 **SEC. 1103. ENTREPRENEURIAL DEVELOPMENT.**

13 (a) DEFINITIONS.—In this section—

14 (1) the term “covered small business concern”
15 means a small business concern that has experi-
16 enced, as a result of COVID–19—

17 (A) supply chain disruptions, including
18 changes in—

19 (i) quantity and lead time, including
20 the number of shipments of components
21 and delays in shipments;

22 (ii) quality, including shortages in
23 supply for quality control reasons; and

24 (iii) technology, including a com-
25 promised payment network;

1 (B) staffing challenges;

2 (C) a decrease in gross receipts or cus-
3 tomers; or

4 (D) a closure;

5 (2) the term “resource partner” means—

6 (A) a small business development center;

7 and

8 (B) a women’s business center;

9 (3) the term “small business development cen-
10 ter” has the meaning given the term in section 3 of
11 the Small Business Act (15 U.S.C. 632); and

12 (4) the term “women’s business center” means
13 a women’s business center described in section 29 of
14 the Small Business Act (15 U.S.C. 656).

15 (b) EDUCATION, TRAINING, AND ADVISING
16 GRANTS.—

17 (1) IN GENERAL.—The Administration may
18 provide financial assistance in the form of grants to
19 resource partners to provide education, training, and
20 advising to covered small business concerns.

21 (2) USE OF FUNDS.—Grants under this sub-
22 section shall be used for the education, training, and
23 advising of covered small business concerns and
24 their employees on—

1 (A) accessing and applying for resources
2 provided by the Administration and other Fed-
3 eral resources relating to access to capital and
4 business resiliency;

5 (B) the hazards and prevention of the
6 transmission and communication of COVID-19
7 and other communicable diseases;

8 (C) the potential effects of COVID-19 on
9 the supply chains, distribution, and sale of
10 products of covered small business concerns and
11 the mitigation of those effects;

12 (D) the management and practice of
13 telework to reduce possible transmission of
14 COVID-19;

15 (E) the management and practice of re-
16 mote customer service by electronic or other
17 means;

18 (F) the risks of and mitigation of cyber
19 threats in remote customer service or telework
20 practices;

21 (G) the mitigation of the effects of reduced
22 travel or outside activities on covered small
23 business concerns during COVID-19 or similar
24 occurrences; and

1 (H) any other relevant business practices
2 necessary to mitigate the economic effects of
3 COVID-19 or similar occurrences.

4 (3) GRANT DETERMINATION.—

5 (A) SMALL BUSINESS DEVELOPMENT CEN-
6 TERS.—The Administration shall award 80 per-
7 cent of funds authorized to carry out this sub-
8 section to small business development centers,
9 which shall be awarded pursuant to a formula
10 jointly developed, negotiated, and agreed upon,
11 with full participation of both parties, between
12 the association formed under section
13 21(a)(3)(A) of the Small Business Act (15
14 U.S.C. 648(a)(3)(A)) and the Administration.

15 (B) WOMEN’S BUSINESS CENTERS.—The
16 Administration shall award 20 percent of funds
17 authorized to carry out this subsection to wom-
18 en’s business centers, which shall be awarded
19 pursuant to a process established by the Ad-
20 ministration in consultation with recipients of
21 assistance.

22 (C) NO MATCHING FUNDS REQUIRED.—
23 Matching funds shall not be required for any
24 grant under this subsection.

25 (4) GOALS AND METRICS.—

1 (A) IN GENERAL.—Goals and metrics for
2 the funds made available under this subsection
3 shall be jointly developed, negotiated, and
4 agreed upon, with full participation of both par-
5 ties, between the resource partners and the Ad-
6 ministrator, which shall—

7 (i) take into consideration the extent
8 of the circumstances relating to the spread
9 of COVID–19, or similar occurrences, that
10 affect covered small business concerns lo-
11 cated in the areas covered by the resource
12 partner, particularly in rural areas or eco-
13 nomically distressed areas;

14 (ii) generally follow the use of funds
15 outlined in paragraph (2), but shall not re-
16 strict the activities of resource partners in
17 responding to unique situations; and

18 (iii) encourage resource partners to
19 develop and provide services to covered
20 small business concerns.

21 (B) PUBLIC AVAILABILITY.—The Adminis-
22 trator shall make publicly available the method-
23 ology by which the Administrator and resource
24 partners jointly develop the metrics and goals
25 described in subparagraph (A).

1 (c) RESOURCE PARTNER ASSOCIATION GRANTS.—

2 (1) IN GENERAL.—The Administrator may pro-
3 vide grants to an association or associations rep-
4 resenting resource partners under which the associa-
5 tion or associations shall establish a single central-
6 ized hub for COVID–19 information, which shall in-
7 clude—

8 (A) 1 online platform that consolidates re-
9 sources and information available across mul-
10 tiple Federal agencies for small business con-
11 cerns related to COVID–19; and

12 (B) a training program to educate resource
13 partner counselors, members of the Service
14 Corps of Retired Executives established under
15 section 8(b)(1)(B) of the Small Business Act
16 (15 U.S.C. 637(b)(1)(B)), and counselors at
17 veterans business outreach centers described in
18 section 32 of the Small Business Act (15
19 U.S.C. 657b) on the resources and information
20 described in subparagraph (A).

21 (2) GOALS AND METRICS.—Goals and metrics
22 for the funds made available under this subsection
23 shall be jointly developed, negotiated, and agreed
24 upon, with full participation of both parties, between

1 the association or associations receiving a grant
2 under this subsection and the Administrator.

3 (d) REPORT.—Not later than 6 months after the date
4 of enactment of this Act, and annually thereafter, the Ad-
5 ministrator shall submit to the Committee on Small Busi-
6 ness and Entrepreneurship of the Senate and the Com-
7 mittee on Small Business of the House of Representatives
8 a report that describes—

9 (1) with respect to the initial year covered by
10 the report—

11 (A) the programs and services developed
12 and provided by the Administration and re-
13 source partners under subsection (b);

14 (B) the initial efforts to provide those serv-
15 ices under subsection (b); and

16 (C) the online platform and training devel-
17 oped and provided by the Administration and
18 the association or associations under subsection
19 (c); and

20 (2) with respect to the subsequent years covered
21 by the report—

22 (A) with respect to the grant program
23 under subsection (b)—

1 (i) the efforts of the Administrator
2 and resource partners to develop services
3 to assist covered small business concerns;

4 (ii) the challenges faced by owners of
5 covered small business concerns in access-
6 ing services provided by the Administration
7 and resource partners;

8 (iii) the number of unique covered
9 small business concerns that were served
10 by the Administration and resource part-
11 ners; and

12 (iv) other relevant outcome perform-
13 ance data with respect to covered small
14 business concerns, including the number of
15 employees affected, the effect on sales, the
16 disruptions of supply chains, and the ef-
17 forts made by the Administration and re-
18 source partners to mitigate these effects;
19 and

20 (B) with respect to the grant program
21 under subsection (c)—

22 (i) the efforts of the Administrator
23 and the association or associations to de-
24 velop and evolve an online resource for
25 small business concerns; and

1 (ii) the efforts of the Administrator
2 and the association or associations to de-
3 velop a training program for resource part-
4 ner counselors, including the number of
5 counselors trained.

6 **SEC. 1104. STATE TRADE EXPANSION PROGRAM.**

7 (a) IN GENERAL.—Notwithstanding paragraph
8 (3)(C)(iii) of section 22(l) of the Small Business Act (15
9 U.S.C. 649(l)), for grants under the State Trade Expan-
10 sion Program under such section 22(l) using amounts
11 made available for fiscal year 2018 or fiscal year 2019,
12 the period of the grant shall continue through the end of
13 fiscal year 2021.

14 (b) REIMBURSEMENT.—The Administrator shall re-
15 imburse any recipient of assistance under section 22(l) of
16 the Small Business Act (15 U.S.C. 649(l)) for financial
17 losses relating to a foreign trade mission or a trade show
18 exhibition that was cancelled solely due to a public health
19 emergency declared due to COVID–19 if the reimburse-
20 ment does not exceed a recipient’s grant funding.

21 **SEC. 1105. WAIVER OF MATCHING FUNDS REQUIREMENT**
22 **UNDER THE WOMEN’S BUSINESS CENTER**
23 **PROGRAM.**

24 During the 3-month period beginning on the date of
25 enactment of this Act, the requirement relating to obtain-

1 ing cash contributions from non-Federal sources under
2 section 29(c)(1) of the Small Business Act (15 U.S.C.
3 656(c)(1)) is waived for any recipient of assistance under
4 such section 29.

5 **SEC. 1106. LOAN FORGIVENESS.**

6 (a) DEFINITIONS.—In this section—

7 (1) the term “covered loan” means a loan guar-
8 anteed under paragraph (36) of section 7(a) of the
9 Small Business Act (15 U.S.C. 636(a)), as added by
10 section 1102;

11 (2) the term “covered mortgage obligation”
12 means any indebtedness or debt instrument incurred
13 in the ordinary course of business that—

14 (A) is a liability of the borrower;

15 (B) is a mortgage on real or personal
16 property; and

17 (C) was incurred before February 15,
18 2020;

19 (3) the term “covered period” means the 8-
20 week period beginning on date of the origination of
21 a covered loan;

22 (4) the term “covered rent obligation” means
23 rent obligated under a leasing agreement in force be-
24 fore February 15, 2020;

1 (5) the term “covered utility payment” means
2 payment for a service for the distribution of elec-
3 tricity, gas, water, transportation, telephone, or
4 internet access for which service began before Feb-
5 ruary 15, 2020;

6 (6) the term “eligible recipient” means the re-
7 cipient of a covered loan;

8 (7) the term “expected forgiveness amount”
9 means the amount of principal that a lender reason-
10 ably expects a borrower to expend during the cov-
11 ered period on the sum of any—

12 (A) payroll costs;

13 (B) payments of interest on any covered
14 mortgage obligation (which shall not include
15 any prepayment of or payment of principal on
16 a covered mortgage obligation);

17 (C) payments on any covered rent obliga-
18 tion; and

19 (D) covered utility payments; and

20 (8) the term “payroll costs” has the meaning
21 given that term in paragraph (36) of section 7(a) of
22 the Small Business Act (15 U.S.C. 636(a)), as
23 added by section 1102 of this Act.

24 (b) FORGIVENESS.—An eligible recipient shall be eli-
25 gible for forgiveness of indebtedness on a covered loan in

1 an amount equal to the sum of the following costs incurred
2 and payments made during the covered period:

3 (1) Payroll costs.

4 (2) Any payment of interest on any covered
5 mortgage obligation (which shall not include any
6 prepayment of or payment of principal on a covered
7 mortgage obligation).

8 (3) Any payment on any covered rent obliga-
9 tion.

10 (4) Any covered utility payment.

11 (c) TREATMENT OF AMOUNTS FORGIVEN.—

12 (1) IN GENERAL.—Amounts which have been
13 forgiven under this section shall be considered can-
14 celed indebtedness by a lender authorized under sec-
15 tion 7(a) of the Small Business Act (15 U.S.C.
16 636(a)).

17 (2) PURCHASE OF GUARANTEES.—For purposes
18 of the purchase of the guarantee for a covered loan
19 by the Administrator, amounts which are forgiven
20 under this section shall be treated in accordance
21 with the procedures that are otherwise applicable to
22 a loan guaranteed under section 7(a) of the Small
23 Business Act (15 U.S.C. 636(a)).

24 (3) REMITTANCE.—Not later than 90 days
25 after the date on which the amount of forgiveness

1 under this section is determined, the Administrator
2 shall remit to the lender an amount equal to the
3 amount of forgiveness, plus any interest accrued
4 through the date of payment.

5 (4) ADVANCE PURCHASE OF COVERED LOAN.—

6 (A) REPORT.—A lender authorized under
7 section 7(a) of the Small Business Act (15
8 U.S.C. 636(a)), or, at the discretion of the Ad-
9 ministrator, a third party participant in the sec-
10 ondary market, may, report to the Adminis-
11 trator an expected forgiveness amount on a cov-
12 ered loan or on a pool of covered loans of up
13 to 100 percent of the principal on the covered
14 loan or pool of covered loans, respectively.

15 (B) PURCHASE.—The Administrator shall
16 purchase the expected forgiveness amount de-
17 scribed in subparagraph (A) as if the amount
18 were the principal amount of a loan guaranteed
19 under section 7(a) of the Small Business Act
20 636(a).

21 (C) TIMING.—Not later than 15 days after
22 the date on which the Administrator receives a
23 report under subparagraph (A), the Adminis-
24 trator shall purchase the expected forgiveness

1 amount under subparagraph (B) with respect to
2 each covered loan to which the report relates.

3 (d) LIMITS ON AMOUNT OF FORGIVENESS.—

4 (1) AMOUNT MAY NOT EXCEED PRINCIPAL.—

5 The amount of loan forgiveness under this section
6 shall not exceed the principal amount of the financ-
7 ing made available under the applicable covered
8 loan.

9 (2) REDUCTION BASED ON REDUCTION IN NUM-
10 BER OF EMPLOYEES.—

11 (A) IN GENERAL.—The amount of loan
12 forgiveness under this section shall be reduced,
13 but not increased, by multiplying the amount
14 described in subsection (b) by the quotient ob-
15 tained by dividing—

16 (i) the average number of full-time
17 equivalent employees per month employed
18 by the eligible recipient during the covered
19 period; by

20 (ii)(I) at the election of the bor-
21 rower—

22 (aa) the average number of full-
23 time equivalent employees per month
24 employed by the eligible recipient dur-
25 ing the period beginning on February

1 15, 2019 and ending on June 30,
2 2019; or

3 (bb) the average number of full-
4 time equivalent employees per month
5 employed by the eligible recipient dur-
6 ing the period beginning on January
7 1, 2020 and ending on February 29,
8 2020; or

9 (II) in the case of an eligible recipient
10 that is seasonal employer, as determined
11 by the Administrator, the average number
12 of full-time equivalent employees per
13 month employed by the eligible recipient
14 during the period beginning on February
15 15, 2019 and ending on June 30, 2019.

16 (B) EXEMPTIONS.—The Administrator
17 and the Secretary of the Treasury may pre-
18 scribe regulations granting de minimis exemp-
19 tions from the requirements under this para-
20 graph.

21 (C) CALCULATION OF AVERAGE NUMBER
22 OF EMPLOYEES.—For purposes of subpara-
23 graph (A), the average number of full-time
24 equivalent employees shall be determined by
25 calculating the average number of full-time

1 equivalent employees for each pay period falling
2 within a month.

3 (3) REDUCTION RELATING TO SALARY AND
4 WAGES.—

5 (A) IN GENERAL.—The amount of loan
6 forgiveness under this section shall be reduced
7 by the amount of any reduction in total salary
8 or wages of any employee described in subpara-
9 graph (B) during the covered period that is in
10 excess of 25 percent of the total salary or wages
11 of the employee during the most recent full
12 quarter during which the employee was em-
13 ployed before the covered period.

14 (B) EMPLOYEES DESCRIBED.—An em-
15 ployee described in this subparagraph is any
16 employee who did not receive, during any single
17 pay period during 2019, wages or salary at an
18 annualized rate of pay in an amount more than
19 \$100,000.

20 (4) TIPPED WORKERS.—An eligible recipient
21 with tipped employees described in section
22 3(m)(2)(A) of the Fair Labor Standards Act of
23 1938 (29 U.S.C. 203(m)(2)(A)) may receive forgive-
24 ness for additional wages paid to those employees.

25 (5) EXEMPTION FOR RE-HIRES.—

1 nated the reduction in the number of
2 full-time equivalent employees;

3 (ii) in which—

4 (I) during the period beginning
5 on February 15, 2020 and ending on
6 the date that is 30 days after the date
7 of enactment of this Act, there is a re-
8 duction, as compared to February 15,
9 2020, in the salary or wages of 1 or
10 more employees of the eligible recipi-
11 ent; and

12 (II) not later than June 30,
13 2020, the eligible employer has elimi-
14 nated the reduction in the salary or
15 wages of such employees; or

16 (iii) in which the events described in
17 clause (i) and (ii) occur.

18 (e) APPLICATION.—An eligible recipient seeking loan
19 forgiveness under this section shall submit to the lender
20 that is servicing the covered loan an application, which
21 shall include—

22 (1) documentation verifying the number of full-
23 time equivalent employees on payroll and pay rates
24 for the periods described in subsection (d), includ-
25 ing—

1 (A) payroll tax filings reported to the In-
2 ternal Revenue Service; and

3 (B) State income, payroll, and unemploy-
4 ment insurance filings;

5 (2) documentation, including cancelled checks,
6 payment receipts, transcripts of accounts, or other
7 documents verifying payments on covered mortgage
8 obligations, payments on covered lease obligations,
9 and covered utility payments;

10 (3) a certification from a representative of the
11 eligible recipient authorized to make such certifi-
12 cations that—

13 (A) the documentation presented is true
14 and correct; and

15 (B) the amount for which forgiveness is re-
16 quested was used to retain employees, make in-
17 terest payments on a covered mortgage obliga-
18 tion, make payments on a covered rent obliga-
19 tion, or make covered utility payments; and

20 (4) any other documentation the Administrator
21 determines necessary.

22 (f) PROHIBITION ON FORGIVENESS WITHOUT DOCU-
23 MENTATION.—No eligible recipient shall receive forgive-
24 ness under this section without submitting to the lender

1 that is servicing the covered loan the documentation re-
2 quired under subsection (e).

3 (g) DECISION.—Not later than 60 days after the date
4 on which a lender receives an application for loan forgive-
5 ness under this section from an eligible recipient, the lend-
6 er shall issue a decision on the an application.

7 (h) HOLD HARMLESS.—If a lender has received the
8 documentation required under this section from an eligible
9 recipient attesting that the eligible recipient has accurately
10 verified the payments for payroll costs, payments on cov-
11 ered mortgage obligations, payments on covered lease obli-
12 gations, or covered utility payments during covered pe-
13 riod—

14 (1) an enforcement action may not be taken
15 against the lender under section 47(e) of the Small
16 Business Act (15 U.S.C. 657t(e)) relating to loan
17 forgiveness for the payments for payroll costs, pay-
18 ments on covered mortgage obligations, payments on
19 covered lease obligations, or covered utility pay-
20 ments, as the case may be; and

21 (2) the lender shall not be subject to any pen-
22 alties by the Administrator relating to loan forgive-
23 ness for the payments for payroll costs, payments on
24 covered mortgage obligations, payments on covered

1 lease obligations, or covered utility payments, as the
2 case may be.

3 (i) TAXABILITY.—For purposes of the Internal Rev-
4 enue Code of 1986, any amount which (but for this sub-
5 section) would be includible in gross income of the eligible
6 recipient by reason of forgiveness described in subsection
7 (b) shall be excluded from gross income.

8 (j) RULE OF CONSTRUCTION.—The cancellation of
9 indebtedness on a covered loan under this section shall not
10 otherwise modify the terms and conditions of the covered
11 loan.

12 (k) REGULATIONS.—Not later than 30 days after the
13 date of enactment of this Act, the Administrator shall
14 issue guidance and regulations implementing this section.

15 **SEC. 1107. DIRECT APPROPRIATIONS.**

16 (a) IN GENERAL.—There is appropriated, out of
17 amounts in the Treasury not otherwise appropriated, for
18 the fiscal year ending September 30, 2020, to remain
19 available until September 30, 2021, for additional
20 amounts—

21 (1) \$349,000,000,000 under the heading
22 “Small Business Administration—Business Loans
23 Program Account, CARES Act” for the cost of
24 guaranteed loans as authorized under paragraph
25 (36) of section 7(a) of the Small Business Act (15

1 U.S.C. 636(a)), as added by section 1102(a) of this
2 Act;

3 (2) \$675,000,000 under the heading “Small
4 Business Administration—Salaries and Expenses”
5 for salaries and expenses of the Administration;

6 (3) \$25,000,000 under the heading “Small
7 Business Administration—Office of Inspector Gen-
8 eral”, to remain available until September 30, 2024,
9 for necessary expenses of the Office of Inspector
10 General of the Administration in carrying out the
11 provisions of the Inspector General Act of 1978 (5
12 U.S.C. App.);

13 (4) \$265,000,000 under the heading “Small
14 Business Administration—Entrepreneurial Develop-
15 ment Programs”, of which—

16 (A) \$240,000,000 shall be for carrying out
17 section 1103(b) of this Act; and

18 (B) \$25,000,000 shall be for carrying out
19 section 1103(e) of this Act;

20 (5) \$10,000,000 under the heading “Depart-
21 ment of Commerce—Minority Business Development
22 Agency” for minority business centers of the Minor-
23 ity Business Development Agency to provide tech-
24 nical assistance to small business concerns;

1 (6) \$10,000,000,000 under the heading “Small
2 Business Administration—Emergency EIDL
3 Grants” shall be for carrying out section 1110 of
4 this Act;

5 (7) \$17,000,000,000 under the heading “Small
6 Business Administration—Business Loans Program
7 Account, CARES Act” shall be for carrying out sec-
8 tion 1112 of this Act; and

9 (8) \$25,000,000 under the heading “Depart-
10 ment of the Treasury—Departmental Offices—Sala-
11 ries and Expenses” shall be for carrying out section
12 1109 of this Act.

13 (b) SECONDARY MARKET.—During the period begin-
14 ning on the date of enactment of this Act and ending on
15 September 30, 2021, guarantees of trust certificates au-
16 thorized by section 5(g) of the Small Business Act (15
17 U.S.C. 635(g)) shall not exceed a principal amount of
18 \$100,000,000,000.

19 (c) REPORTS.—Not later than 180 days after the
20 date of enactment of this Act, the Administrator shall sub-
21 mit to the Committee on Appropriations of the Senate and
22 the Committee on Appropriations of the House of Rep-
23 resentatives a detailed expenditure plan for using the
24 amounts appropriated to the Administration under sub-
25 section (a).

1 **SEC. 1108. MINORITY BUSINESS DEVELOPMENT AGENCY.**

2 (a) DEFINITIONS.—In this section—

3 (1) the term “Agency” means the Minority
4 Business Development Agency of the Department of
5 Commerce;

6 (2) the term “minority business center” means
7 a Business Center of the Agency;

8 (3) the term “minority business enterprise”
9 means a for-profit business enterprise—

10 (A) not less than 51 percent of which is
11 owned by 1 or more socially disadvantaged indi-
12 viduals, as determined by the Agency; and

13 (B) the management and daily business
14 operations of which are controlled by 1 or more
15 socially disadvantaged individuals, as deter-
16 mined by the Agency; and

17 (4) the term “minority chamber of commerce”
18 means a chamber of commerce developed specifically
19 to support minority business enterprises.

20 (b) EDUCATION, TRAINING, AND ADVISING
21 GRANTS.—

22 (1) IN GENERAL.—The Agency may provide fi-
23 nancial assistance in the form of grants to minority
24 business centers and minority chambers of commerce
25 to provide education, training, and advising to mi-
26 nority business enterprises.

1 (2) USE OF FUNDS.—Grants under this section
2 shall be used for the education, training, and advis-
3 ing of minority business enterprises and their em-
4 ployees on—

5 (A) accessing and applying for resources
6 provided by the Agency and other Federal re-
7 sources relating to access to capital and busi-
8 ness resiliency;

9 (B) the hazards and prevention of the
10 transmission and communication of COVID–19
11 and other communicable diseases;

12 (C) the potential effects of COVID–19 on
13 the supply chains, distribution, and sale of
14 products of minority business enterprises and
15 the mitigation of those effects;

16 (D) the management and practice of
17 telework to reduce possible transmission of
18 COVID–19;

19 (E) the management and practice of re-
20 mote customer service by electronic or other
21 means;

22 (F) the risks of and mitigation of cyber
23 threats in remote customer service or telework
24 practices;

1 (G) the mitigation of the effects of reduced
2 travel or outside activities on minority business
3 enterprises during COVID–19 or similar occur-
4 rences; and

5 (H) any other relevant business practices
6 necessary to mitigate the economic effects of
7 COVID–19 or similar occurrences.

8 (3) NO MATCHING FUNDS REQUIRED.—Match-
9 ing funds shall not be required for any grant under
10 this section.

11 (4) GOALS AND METRICS.—

12 (A) IN GENERAL.—Goals and metrics for
13 the funds made available under this section
14 shall be jointly developed, negotiated, and
15 agreed upon, with full participation of both par-
16 ties, between the minority business centers, mi-
17 nority chambers of commerce, and the Agency,
18 which shall—

19 (i) take into consideration the extent
20 of the circumstances relating to the spread
21 of COVID–19, or similar occurrences, that
22 affect minority business enterprises located
23 in the areas covered by minority business
24 centers and minority chambers of com-

1 merce, particularly in rural areas or eco-
2 nominically distressed areas;

3 (ii) generally follow the use of funds
4 outlined in paragraph (2), but shall not re-
5 strict the activities of minority business
6 centers and minority chambers of com-
7 merce in responding to unique situations;
8 and

9 (iii) encourage minority business cen-
10 ters and minority chambers of commerce
11 to develop and provide services to minority
12 business enterprises.

13 (B) PUBLIC AVAILABILITY.—The Agency
14 shall make publicly available the methodology
15 by which the Agency, minority business centers,
16 and minority chambers of commerce jointly de-
17 velop the metrics and goals described in sub-
18 paragraph (A).

19 (c) WAIVERS.—

20 (1) IN GENERAL.—Notwithstanding any other
21 provision of law or regulation, the Agency may, dur-
22 ing the 3-month period that begins on the date of
23 enactment of this Act, waive any matching require-
24 ment imposed on a minority business center or a
25 specialty center of the Agency under a cooperative

1 agreement between such a center and the Agency if
2 the applicable center is unable to raise funds, or has
3 suffered a loss of revenue, because of the effects of
4 COVID–19.

5 (2) REMAINING COMPLIANT.—Notwithstanding
6 any provision of a cooperative agreement between
7 the Agency and a minority business center, if, dur-
8 ing the period beginning on the date of enactment
9 of this Act and ending on September 30, 2021, such
10 a center decides not to collect fees because of the
11 economic consequences of COVID–19, the center
12 shall be considered to be in compliance with that
13 agreement if—

14 (A) the center notifies the Agency with re-
15 spect to that decision, which the center may
16 provide through electronic mail; and

17 (B) the Agency, not later than 15 days
18 after the date on which the center provides no-
19 tice to the Agency under subparagraph (A)—

20 (i) confirms receipt of the notification
21 under subparagraph (A); and

22 (ii) accepts the decision of the center.

23 (d) REPORT.—Not later than 6 months after the date
24 of enactment of this Act, and annually thereafter, the
25 Agency shall submit to the Committee on Small Business

1 and Entrepreneurship and the Committee on Commerce,
2 Science, and Transportation of the Senate and the Com-
3 mittee on Small Business and the Committee on Energy
4 and Commerce of the House of Representatives a report
5 that describes—

6 (1) with respect to the period covered by the
7 initial report—

8 (A) the programs and services developed
9 and provided by the Agency, minority business
10 centers, and minority chambers of commerce
11 under subsection (b); and

12 (B) the initial efforts to provide those serv-
13 ices under subsection (b); and

14 (2) with respect to subsequent years covered by
15 the report—

16 (A) with respect to the grant program
17 under subsection (b)—

18 (i) the efforts of the Agency, minority
19 business centers, and minority chambers of
20 commerce to develop services to assist mi-
21 nority business enterprises;

22 (ii) the challenges faced by owners of
23 minority business enterprises in accessing
24 services provided by the Agency, minority

1 business centers, and minority chambers of
2 commerce;

3 (iii) the number of unique minority
4 business enterprises that were served by
5 the Agency, minority business centers, or
6 minority chambers of commerce; and

7 (iv) other relevant outcome perform-
8 ance data with respect to minority business
9 enterprises, including the number of em-
10 ployees affected, the effect on sales, the
11 disruptions of supply chains, and the ef-
12 forts made by the Agency, minority busi-
13 ness centers, and minority chambers of
14 commerce to mitigate these effects .

15 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated \$10,000,000 to carry out
17 this section, to remain available until expended.

18 **SEC. 1109. UNITED STATES TREASURY PROGRAM MANAGE-**
19 **MENT AUTHORITY.**

20 (a) DEFINITIONS.—In this section—

21 (1) the terms “appropriate Federal banking
22 agency” and “insured depository institution” have
23 the meanings given those terms in section 3 of the
24 Federal Deposit Insurance Act (12 U.S.C. 1813);

1 (2) the term “insured credit union” has the
2 meaning given the term in section 101 of the Fed-
3 eral Credit Union Act (12 U.S.C. 1752); and

4 (3) the term “Secretary” means the Secretary
5 of the Treasury.

6 (b) **AUTHORITY TO INCLUDE ADDITIONAL FINAN-**
7 **CIAL INSTITUTIONS.**—The Department of the Treasury,
8 in consultation with the Administrator, and the Chairman
9 of the Farm Credit Administration shall establish criteria
10 for insured depository institutions, insured credit unions,
11 institutions of the Farm Credit System chartered under
12 the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.),
13 and other lenders that do not already participate in lend-
14 ing under programs of the Administration, to participate
15 in the paycheck protection program to provide loans under
16 this section until the date on which the national emergency
17 declared by the President under the National Emergencies
18 Act (50 U.S.C. 1601 et seq.) with respect to the
19 Coronavirus Disease 2019 (COVID–19) expires.

20 (c) **SAFETY AND SOUNDNESS.**—An insured deposi-
21 tory institution, insured credit union, institution of the
22 Farm Credit System chartered under the Farm Credit Act
23 of 1971 (12 U.S.C. 2001 et seq.), or other lender may
24 only participate in the program established under this sec-
25 tion if participation does not affect the safety and sound-

1 ness of the institution or lender, as determined by the Sec-
2 retary in consultation with the appropriate Federal bank-
3 ing agencies or the National Credit Union Administration
4 Board, as applicable.

5 (d) REGULATIONS FOR LENDERS AND LOANS.—

6 (1) IN GENERAL.—The Secretary may issue
7 regulations and guidance as necessary to carry out
8 the purposes of this section, including to—

9 (A) allow additional lenders to originate
10 loans under this section; and

11 (B) establish terms and conditions for
12 loans under this section, including terms and
13 conditions concerning compensation, under-
14 writing standards, interest rates, and maturity.

15 (2) REQUIREMENTS.—The terms and condi-
16 tions established under paragraph (1) shall provide
17 for the following:

18 (A) A rate of interest that does not exceed
19 the maximum permissible rate of interest avail-
20 able on a loan of comparable maturity under
21 paragraph (36) of section 7(a) of the Small
22 Business Act (15 U.S.C. 636(a)), as added by
23 section 1102 of this Act.

24 (B) Terms and conditions that, to the
25 maximum extent practicable, are consistent

1 with the terms and conditions required under
2 the following provisions of paragraph (36) of
3 section 7(a) of the Small Business Act (15
4 U.S.C. 636(a)), as added by section 1102 of
5 this Act:

6 (i) Subparagraph (D), pertaining to
7 borrower eligibility.

8 (ii) Subparagraph (E), pertaining to
9 the maximum loan amount.

10 (iii) Subparagraph (F)(i), pertaining
11 to allowable uses of program loans.

12 (iv) Subparagraph (H), pertaining to
13 fee waivers.

14 (v) Subparagraph (M), pertaining to
15 loan deferment.

16 (C) A guarantee percentage that, to the
17 maximum extent practicable, are consistent
18 with the guarantee percentage required under
19 subparagraph (F) of section 7(a)(2) of the
20 Small Business Act (15 U.S.C. 636(a)(2)), as
21 added by section 1102 of this Act.

22 (D) Loan forgiveness under terms and con-
23 ditions that, to the maximum extent prac-
24 ticable, are consistent with the terms and condi-

1 tions for loan forgiveness under section 1106 of
2 this Act.

3 (e) **ADDITIONAL REGULATIONS GENERALLY.**—The
4 Secretary may issue regulations and guidance as necessary
5 to carry out the purposes of this section, including to allow
6 additional lenders to originate loans under this title and
7 to establish terms and conditions such as compensation,
8 underwriting standards, interest rates, and maturity for
9 under this section.

10 (f) **CERTIFICATION.**—As a condition of receiving a
11 loan under this section, a borrower shall certify under
12 terms acceptable to the Secretary that the borrower—

13 (1) does not have an application pending for a
14 loan under section 7(a) of the Small Business Act
15 (15 U.S.C. 636(a)) for the same purpose; and

16 (2) has not received such a loan during the pe-
17 riod beginning on February 15, 2020 and ending on
18 December 31, 2020.

19 (g) **OPT-IN FOR SBA QUALIFIED LENDERS.**—Lend-
20 ers qualified to participate as a lender under 7(a) of the
21 Small Business Act (15 U.S.C. 636(a)) may elect to par-
22 ticipate in the paycheck protection program under the cri-
23 teria, terms, and conditions established under this section.
24 Such participation shall not preclude the lenders from con-

1 tinuing participation as a lender under section 7(a) of the
2 Small Business Act (15 U.S.C. 636(a)).

3 (h) PROGRAM ADMINISTRATION.—With guidance
4 from the Secretary, the Administrator shall administer the
5 program established under this section, including the mak-
6 ing and purchasing of guarantees on loans under the pro-
7 gram, until the date on which the national emergency de-
8 clared by the President under the National Emergencies
9 Act (50 U.S.C. 1601 et seq.) with respect to the
10 Coronavirus Disease 2019 (COVID–19) expires.

11 (i) CRIMINAL PENALTIES.—A loan under this section
12 shall be deemed to be a loan under the Small Business
13 Act (15 U.S.C. 631 et seq.) for purposes of section 16
14 of such Act (15 U.S.C. 645).

15 **SEC. 1110. EMERGENCY EIDL GRANTS.**

16 (a) DEFINITIONS.—In this section—

17 (1) the term “covered period” means the period
18 beginning on January 31, 2020 and ending on De-
19 cember 31, 2020; and

20 (2) the term “eligible entity” means—

21 (A) a business with not more than 500 em-
22 ployees;

23 (B) any individual who operates under a
24 sole proprietorship, with or without employees,
25 or as an independent contractor;

1 (C) a cooperative with not more than 500
2 employees;

3 (D) an ESOP (as defined in section 3 of
4 the Small Business Act (15 U.S.C. 632)) with
5 not more than 500 employees; or

6 (E) a tribal small business concern, as de-
7 scribed in section 31(b)(2)(C) of the Small
8 Business Act (15 U.S.C. 657a(b)(2)(C)), with
9 not more than 500 employees.

10 (b) ELIGIBLE ENTITIES.—During the covered period,
11 in addition to small business concerns, private nonprofit
12 organizations, and small agricultural cooperatives, an eli-
13 gible entity shall be eligible for a loan made under section
14 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)).

15 (c) TERMS; CREDIT ELSEWHERE.—With respect to
16 a loan made under section 7(b)(2) of the Small Business
17 Act (15 U.S.C. 636(b)(2)) in response to COVID–19 dur-
18 ing the covered period, the Administrator shall waive—

19 (1) any rules related the personal guarantee on
20 advances and loans of not more than \$200,000 dur-
21 ing the covered period for all applicants;

22 (2) the requirement that an applicant needs to
23 be in business for the 1-year period before the dis-
24 aster, except that no waiver may be made for a busi-

1 ness that was not in operation on January 31, 2020;
2 and

3 (3) the requirement in the flush matter fol-
4 lowing subparagraph (E) of section 7(b)(2) of the
5 Small Business Act (15 U.S.C. 636(b)(2)), as so re-
6 designated by subsection (f) of this section, that an
7 applicant be unable to obtain credit elsewhere.

8 (d) APPROVAL AND ABILITY TO REPAY FOR SMALL
9 DOLLAR LOANS.—With respect to a loan made under sec-
10 tion 7(b)(2) of the Small Business Act (15 U.S.C.
11 636(b)(2)) in response to COVID–19 during the covered
12 period, the Administrator may—

13 (1) approve an applicant based solely on the
14 credit score of the applicant and shall not require an
15 applicant to submit a tax return or a tax return
16 transcript for such approval; or

17 (2) use alternative appropriate methods to de-
18 termine an applicant’s ability to repay.

19 (e) EMERGENCY GRANT.—

20 (1) IN GENERAL.—During the covered period,
21 an eligible entity, small business concern, private
22 nonprofit organization, or small agricultural cooper-
23 ative that applies for a loan under section 7(b)(2) of
24 the Small Business Act (15 U.S.C. 636(b)(2)) in re-
25 sponse to COVID–19 may request that the Adminis-

1 trator provide an advance that is, subject to para-
2 graph (3), in the amount requested by such appli-
3 cant to such applicant within 3 days after the Ad-
4 ministrator receives an application from such appli-
5 cant.

6 (2) VERIFICATION.—Before disbursing amounts
7 under this subsection, the Administrator shall verify
8 that the applicant is applicant is eligible to receive
9 an advance under paragraph (1).

10 (3) AMOUNT.—The amount of an advance pro-
11 vided under this subsection shall be not more than
12 \$10,000.

13 (4) USE OF FUNDS.—An advance provided
14 under this subsection may be used to address any al-
15 lowable purpose for a loan made under section
16 7(b)(2) of the Small Business Act (15 U.S.C.
17 636(b)(2)), including—

18 (A) providing paid sick leave to employees
19 unable to work due to the direct effect of the
20 COVID-19;

21 (B) maintaining payroll to retain employ-
22 ees during business disruptions or substantial
23 slowdowns;

1 (C) meeting increased costs to obtain ma-
2 terials unavailable from the applicant's original
3 source due to interrupted supply chains;

4 (D) making rent or mortgage payments;
5 and

6 (E) repaying obligations that cannot be
7 met due to revenue losses.

8 (5) REPAYMENT.—An applicant shall not be re-
9 quired to repay any amounts of an advance provided
10 under this subsection, even if subsequently denied a
11 loan under section 7(b)(2) of the Small Business Act
12 (15 U.S.C. 636(b)(2)).

13 (6) UNEMPLOYMENT GRANT.—If an applicant
14 that receives an advance under this subsection trans-
15 fers into, or is approved for, the loan program under
16 section 7(a) of the Small Business Act (15 U.S.C.
17 636(a)), the advance amount shall be reduced from
18 the loan forgiveness amount for a loan for payroll
19 costs made under such section 7(a).

20 (7) AUTHORIZATION OF APPROPRIATIONS.—
21 There is authorized to be appropriated to the Ad-
22 ministration \$10,000,000,000 to carry out this sub-
23 section.

1 (8) TERMINATION.—The authority to carry out
2 grants under this subsection shall terminate on De-
3 cember 31, 2020.

4 (f) EMERGENCIES INVOLVING FEDERAL PRIMARY
5 RESPONSIBILITY QUALIFYING FOR SBA ASSISTANCE.—
6 Section 7(b)(2) of the Small Business Act (15 U.S.C.
7 636(b)(2)) is amended—

8 (1) in subparagraph (A), by striking “or” at
9 the end;

10 (2) in subparagraph (B), by striking “or” at
11 the end;

12 (3) in subparagraph (C), by striking “or” at
13 the end;

14 (4) by redesignating subparagraph (D) as sub-
15 paragraph (E);

16 (5) by inserting after subparagraph (C) the fol-
17 lowing:

18 “(D) an emergency involving Federal pri-
19 mary responsibility determined to exist by the
20 President under the section 501(b) of the Rob-
21 ert T. Stafford Disaster Relief and Emergency
22 Assistance Act (42 U.S.C. 5191(b)); or”; and

23 (6) in subparagraph (E), as so redesignated—

24 (A) by striking “or (C)” and inserting
25 “(C), or (D)”;

1 (B) by striking “disaster declaration” each
2 place it appears and inserting “disaster or
3 emergency declaration”;

4 (C) by striking “disaster has occurred”
5 and inserting “disaster or emergency has oc-
6 curred”;

7 (D) by striking “such disaster” and insert-
8 ing “such disaster or emergency”; and

9 (E) by striking “disaster stricken” and in-
10 sserting “disaster- or emergency-stricken”; and

11 (7) in the flush matter following subparagraph
12 (E), as so redesignated, by striking the period at the
13 end and inserting the following: “: *Provided further,*
14 That for purposes of subparagraph (D), the Admin-
15 istrator shall deem that such an emergency affects
16 each State or subdivision thereof (including coun-
17 ties), and that each State or subdivision has suffi-
18 cient economic damage to small business concerns to
19 qualify for assistance under this paragraph and the
20 Administrator shall accept applications for such as-
21 sistance immediately.”.

22 **SEC. 1111. RESOURCES AND SERVICES IN LANGUAGES**
23 **OTHER THAN ENGLISH.**

24 (a) IN GENERAL.—The Administrator shall provide
25 the resources and services made available by the Adminis-

1 tration to small business concerns in the 10 most com-
2 monly spoken languages, other than English, in the
3 United States, which shall include Mandarin, Cantonese,
4 Japanese, and Korean.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
6 authorized to be appropriated to the Administrator
7 \$25,000,000 to carry out this section.

8 **SEC. 1112. SUBSIDY FOR CERTAIN LOAN PAYMENTS.**

9 (a) DEFINITION OF COVERED LOAN.—In this sec-
10 tion, the term “covered loan” means a loan that is—

11 (1) guaranteed by the Administration under—

12 (A) section 7(a) of the Small Business Act
13 (15 U.S.C. 636(a))—

14 (i) including a loan made under the
15 Community Advantage Pilot Program of
16 the Administration; and

17 (ii) excluding a loan made under para-
18 graph (36) of such section 7(a), as added
19 by section 1102; or

20 (B) title V of the Small Business Invest-
21 ment Act of 1958 (15 U.S.C. 695 et seq.); or

22 (2) made by an intermediary to a small busi-
23 ness concern using loans or grants received under
24 section 7(m) of the Small Business Act (15 U.S.C.
25 636(m)).

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that—

3 (1) all borrowers are adversely affected by
4 COVID-19;

5 (2) relief payments by the Administration are
6 appropriate for all borrowers; and

7 (3) in addition to the relief provided under this
8 Act, the Administration should encourage lenders to
9 provide payment deferments, when appropriate, and
10 to extend the maturity of covered loans, so as to
11 avoid balloon payments or any requirement for in-
12 creases in debt payments resulting from deferments
13 provided by lenders during the period of the national
14 emergency declared by the President under the Na-
15 tional Emergencies Act (50 U.S.C. 1601 et seq.)
16 with respect to the Coronavirus Disease 2019
17 (COVID–19).

18 (c) PRINCIPAL AND INTEREST PAYMENTS.—

19 (1) IN GENERAL.—The Administrator shall pay
20 the principal, interest, and any associated fees that
21 are owed on a covered loan in a regular servicing
22 status—

23 (A) with respect to a covered loan made
24 before the date of enactment of this Act and
25 not on deferment, for the 6-month period begin-

1 ning with the next payment due on the covered
2 loan;

3 (B) with respect to a covered loan made
4 before the date of enactment of this Act and on
5 deferment, for the 6-month period beginning
6 with the next payment due on the covered loan
7 after the deferment period; and

8 (C) with respect to a covered loan made
9 during the period beginning on the date of en-
10 actment of this Act and ending on the date that
11 is 6 months after such date of enactment, for
12 the 6-month period beginning with the first
13 payment due on the covered loan.

14 (2) TIMING OF PAYMENT.—The Administrator
15 shall begin making payments under paragraph (1)
16 on a covered loan not later than 30 days after the
17 date on which the first such payment is due.

18 (3) APPLICATION OF PAYMENT.—Any payment
19 made by the Administrator under paragraph (1)
20 shall be applied to the covered loan such that the
21 borrower is relieved of the obligation to pay that
22 amount.

23 (d) OTHER REQUIREMENTS.—The Administrator
24 shall—

1 (1) communicate and coordinate with the Fed-
2 eral Deposit Insurance Corporation, the Office of the
3 Comptroller of the Currency, and State bank regu-
4 lators to encourage those entities to not require
5 lenders to increase their reserves on account of re-
6 ceiving payments made by the Administrator under
7 subsection (c);

8 (2) waive statutory limits on maximum loan
9 maturities for any covered loan durations where the
10 lender provides a deferral and extends the maturity
11 of covered loans during the 1-year period following
12 the date of enactment of this Act; and

13 (3) when necessary to provide more time be-
14 cause of the potential of higher volumes, travel re-
15 strictions, and the inability to access some properties
16 during the COVID–19 pandemic, extend lender site
17 visit requirements to—

18 (A) not more than 60 days (which may be
19 extended at the discretion of the Administra-
20 tion) after the occurrence of an adverse event,
21 other than a payment default, causing a loan to
22 be classified as in liquidation; and

23 (B) not more than 90 days after a pay-
24 ment default.

1 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed to limit the authority of the Admin-
3 istrator to make payments pursuant to subsection (c) with
4 respect to a covered loan solely because the covered loan
5 has been sold in the secondary market.

6 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated to the Administrator
8 \$17,000,000,000 to carry out this section.

9 **SEC. 1113. BANKRUPTCY.**

10 (a) SMALL BUSINESS DEBTOR REORGANIZATION.—

11 (1) IN GENERAL.—Section 1182(1) of title 11,
12 United States Code, is amended to read as follows:

13 “(1) DEBTOR.—The term ‘debtor’—

14 “(A) subject to subparagraph (B), means a
15 person engaged in commercial or business ac-
16 tivities (including any affiliate of such person
17 that is also a debtor under this title and exclud-
18 ing a person whose primary activity is the busi-
19 ness of owning single asset real estate) that has
20 aggregate noncontingent liquidated secured and
21 unsecured debts as of the date of the filing of
22 the petition or the date of the order for relief
23 in an amount not more than \$7,500,000 (ex-
24 cluding debts owed to 1 or more affiliates or in-
25 siders) not less than 50 percent of which arose

1 from the commercial or business activities of
2 the debtor; and

3 “(B) does not include—

4 “(i) any member of a group of affili-
5 ated debtors that has aggregate noncontin-
6 gent liquidated secured and unsecured
7 debts in an amount greater than
8 \$7,500,000 (excluding debt owed to 1 or
9 more affiliates or insiders);

10 “(ii) any debtor that is a corporation
11 subject to the reporting requirements
12 under section 13 or 15(d) of the Securities
13 Exchange Act of 1934 (15 U.S.C. 78m,
14 78o(d)); or

15 “(iii) any debtor that is an affiliate of
16 an issuer, as defined in section 3 of the Se-
17 curities Exchange Act of 1934 (15 U.S.C.
18 78e).”.

19 (2) APPLICABILITY OF CHAPTERS.—Section
20 103(i) of title 11, United States Code, is amended
21 by striking “small business debtor” and inserting
22 “debtor (as defined in section 1182)”.

23 (3) APPLICATION OF AMENDMENT.—The
24 amendment made by paragraph (1) shall apply only
25 with respect to cases commenced under title 11,

1 United States Code, on or after the date of enact-
2 ment of this Act.

3 (4) TECHNICAL CORRECTIONS.—

4 (A) DEFINITION OF SMALL BUSINESS
5 DEBTOR.—Section 101(51D)(B)(iii) of title 11,
6 United States Code, is amended to read as fol-
7 lows:

8 “(iii) any debtor that is an affiliate of
9 an issuer (as defined in section 3 of the
10 Securities Exchange Act of 1934 (15
11 U.S.C. 78c)).”.

12 (B) UNCLAIMED PROPERTY.—Section
13 347(b) of title 11, United States Code, is
14 amended by striking “1194” and inserting
15 “1191”.

16 (5) SUNSET.—On the date that is 1 year after
17 the date of enactment of this Act, section 1182(1)
18 of title 11, United States Code, is amended to read
19 as follows:

20 “(1) DEBTOR.—The term ‘debtor’ means a
21 small business debtor.”.

22 (b) BANKRUPTCY RELIEF.—

23 (1) IN GENERAL.—

1 (A) EXCLUSION FROM CURRENT MONTHLY
2 INCOME.—Section 101(10A)(B)(ii) of title 11,
3 United States Code, is amended—

4 (i) in subclause (III), by striking “;
5 and” and inserting a semicolon;

6 (ii) in subclause (IV), by striking the
7 period at the end and inserting “; and”;
8 and

9 (iii) by adding at the end the fol-
10 lowing:

11 “(V) Payments made under Fed-
12 eral law relating to the national emer-
13 gency declared by the President under
14 the National Emergencies Act (50
15 U.S.C. 1601 et seq.) with respect to
16 the coronavirus disease 2019
17 (COVID-19).”.

18 (B) CONFIRMATION OF PLAN.—Section
19 1325(b)(2) of title 11, United States Code, is
20 amended by inserting “payments made under
21 Federal law relating to the national emergency
22 declared by the President under the National
23 Emergencies Act (50 U.S.C. 1601 et seq.) with
24 respect to the coronavirus disease 2019
25 (COVID-19),” after “other than”.

1 (C) MODIFICATION OF PLAN AFTER CON-
2 FIRMATION.—Section 1329 of title 11, United
3 States Code, is amended by adding at end the
4 following:

5 “(d)(1) Subject to paragraph (3), for a plan con-
6 firmed prior to the date of enactment of this subsection,
7 the plan may be modified upon the request of the debtor
8 if—

9 “(A) the debtor is experiencing or has experi-
10 enced a material financial hardship due, directly or
11 indirectly, to the coronavirus disease 2019 (COVID-
12 19) pandemic; and

13 “(B) the modification is approved after notice
14 and a hearing.

15 “(2) A plan modified under paragraph (1) may not
16 provide for payments over a period that expires more than
17 7 years after the time that the first payment under the
18 original confirmed plan was due.

19 “(3) Sections 1322(a), 1322(b), 1323(c), and the re-
20 quirements of section 1325(a) shall apply to any modifica-
21 tion under paragraph (1).”.

22 (D) APPLICABILITY.—

23 (i) The amendments made by sub-
24 paragraphs (A) and (B) shall apply to any

1 case commenced before, on, or after the
2 date of enactment of this Act.

3 (ii) The amendment made by subpara-
4 graph (C) shall apply to any case for which
5 a plan has been confirmed under section
6 1325 of title 11, United States Code, be-
7 fore the date of enactment of this Act.

8 (2) SUNSET.—

9 (A) IN GENERAL.—

10 (i) EXCLUSION FROM CURRENT
11 MONTHLY INCOME.—Section
12 101(10A)(B)(ii) of title 11, United States
13 Code, is amended—

14 (I) in subclause (III), by striking
15 the semicolon at the end and inserting
16 “; and”;

17 (II) in subclause (IV), by striking
18 “; and” and inserting a period; and

19 (III) by striking subclause (V).

20 (ii) CONFIRMATION OF PLAN.—Sec-
21 tion 1325(b)(2) of title 11, United States
22 Code, is amended by striking “payments
23 made under Federal law relating to the na-
24 tional emergency declared by the President
25 under the National Emergencies Act (50

1 U.S.C. 1601 et seq.) with respect to the
2 coronavirus disease 2019 (COVID-19),”.

3 (iii) MODIFICATION OF PLAN AFTER
4 CONFIRMATION.—Section 1329 of title 11,
5 United States Code, is amended by strik-
6 ing subsection (d).

7 (B) EFFECTIVE DATE.—The amendments
8 made by subparagraph (A) shall take effect on
9 the date that is 1 year after the date of enact-
10 ment of this Act.

11 **SEC. 1114. EMERGENCY RULEMAKING AUTHORITY.**

12 Not later than 15 days after the date of enactment
13 of this Act, the Administrator shall issue regulations to
14 carry out this title and the amendments made by this title
15 without regard to the notice requirements under section
16 553(b) of title 5, United States Code.

17 **TITLE II—ASSISTANCE FOR**
18 **AMERICAN WORKERS, FAMI-**
19 **LIES, AND BUSINESSES**
20 **Subtitle A—Unemployment**
21 **Insurance Provisions**

22 **SEC. 2101. SHORT TITLE.**

23 This subtitle may be cited as the “Relief for Workers
24 Affected by Coronavirus Act”.

1 **SEC. 2102. PANDEMIC UNEMPLOYMENT ASSISTANCE.**

2 (a) DEFINITIONS.—In this section:

3 (1) COVID–19.—The term “COVID-19” means
4 the 2019 Novel Coronavirus or 2019-nCoV.

5 (2) COVID–19 PUBLIC HEALTH EMERGENCY.—
6 The term “COVID-19 public health emergency”
7 means the public health emergency declared by the
8 Secretary of Health and Human Services on Janu-
9 ary 27, 2020, with respect to the 2019 Novel
10 Coronavirus.

11 (3) COVERED INDIVIDUAL.—The term “covered
12 individual”—

13 (A) means an individual who—

14 (i) is not eligible for regular com-
15 pensation or extended benefits under State
16 or Federal law or pandemic emergency un-
17 employment compensation under section
18 2107, including an individual who has ex-
19 hausted all rights to regular unemployment
20 or extended benefits under State or Fed-
21 eral law or pandemic emergency unemploy-
22 ment compensation under section 2107;
23 and

24 (ii) provides self-certification that the
25 individual—

1 (I) is otherwise able to work and
2 available for work within the meaning
3 of applicable State law, except the in-
4 dividual is unemployed, partially un-
5 employed, or unable or unavailable to
6 work because—

7 (aa) the individual has been
8 diagnosed with COVID–19 or is
9 experiencing symptoms of
10 COVID–19 and seeking a med-
11 ical diagnosis;

12 (bb) a member of the indi-
13 vidual’s household has been diag-
14 nosed with COVID–19;

15 (cc) the individual is pro-
16 viding care for a family member
17 or a member of the individual’s
18 household who has been diag-
19 nosed with COVID–19;

20 (dd) a child or other person
21 in the household for which the in-
22 dividual has primary caregiving
23 responsibility is unable to attend
24 school or another facility that is
25 closed as a direct result of the

1 COVID-19 public health emer-
2 gency and such school or facility
3 care is required for the individual
4 to work;

5 (ee) the individual is unable
6 to reach the place of employment
7 because of a quarantine imposed
8 as a direct result of the COVID-
9 19 public health emergency;

10 (ff) the individual is unable
11 to reach the place of employment
12 because the individual has been
13 advised by a health care provider
14 to self-quarantine due to con-
15 cerns related to COVID-19;

16 (gg) the individual was
17 scheduled to commence employ-
18 ment and does not have a job or
19 is unable to reach the job as a di-
20 rect result of the COVID-19 pub-
21 lic health emergency;

22 (hh) the individual has be-
23 come the breadwinner or major
24 support for a household because
25 the head of the household has

1 died as a direct result of
2 COVID-19;

3 (ii) the individual has to quit
4 his or her job as a direct result
5 of COVID-19;

6 (jj) the individual's place of
7 employment is closed as a direct
8 result of the COVID-19 public
9 health emergency;

10 (kk) the individual meets
11 any additional criteria established
12 by the Secretary for unemploy-
13 ment assistance under this sec-
14 tion; or

15 (II) is self-employed, is seeking
16 part-time employment, does not have
17 sufficient work history, or otherwise
18 would not qualify for regular unem-
19 ployment or extended benefits under
20 State or Federal law or pandemic
21 emergency unemployment compensa-
22 tion under section 2107 and meets the
23 requirements of subclause (I); and

24 (B) does not include—

1 (i) an individual who has the ability to
2 telework with pay; or

3 (ii) an individual who is receiving paid
4 sick leave or other paid leave benefits, re-
5 gardless of whether the individual meets a
6 qualification described in items (aa)
7 through (kk) of subparagraph (A)(i)(I).

8 (4) SECRETARY.—The term “Secretary” means
9 the Secretary of Labor.

10 (5) STATE.—The term “State” includes the
11 District of Columbia, the Commonwealth of Puerto
12 Rico, the Virgin Islands, Guam, American Samoa,
13 the Commonwealth of the Northern Mariana Is-
14 lands, the Federated States of Micronesia, the Re-
15 public of the Marshall Islands, and the Republic of
16 Palau.

17 (b) ASSISTANCE FOR UNEMPLOYMENT AS A RESULT
18 OF COVID-19.—Subject to subsection (c), the Secretary
19 shall provide to any covered individual unemployment ben-
20 efit assistance while such individual is unemployed, par-
21 tially unemployed, or unable to work for the weeks of such
22 unemployment with respect to which the individual is not
23 entitled to any other unemployment compensation (as that
24 term is defined in section 85(b) of title 26, United States
25 Code) or waiting period credit.

1 (c) APPLICABILITY.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the assistance authorized under sub-
4 section (b) shall be available to a covered indi-
5 vidual—

6 (A) for weeks of unemployment, partial un-
7 employment, or inability to work caused by
8 COVID-19—

9 (i) beginning on or after January 27,
10 2020; and

11 (ii) ending on or before December 31,
12 2020; and

13 (B) subject to subparagraph (A)(ii), as
14 long as the covered individual's unemployment,
15 partial unemployment, or inability to work
16 caused by COVID-19 continues.

17 (2) LIMITATION ON DURATION OF ASSIST-
18 ANCE.—The total number of weeks for which a cov-
19 ered individual may receive assistance under this
20 section shall not exceed 39 weeks and such total
21 shall include any week for which the covered indi-
22 vidual received regular compensation or extended
23 benefits under any Federal or State law, except that
24 if after the date of enactment of this Act, the dura-
25 tion of extended benefits is extended, the 39-week

1 period described in this paragraph shall be extended
2 by the number of weeks that is equal to the number
3 of weeks by which the extended benefits were ex-
4 tended.

5 (3) ASSISTANCE FOR UNEMPLOYMENT BEFORE
6 DATE OF ENACTMENT.—The Secretary shall estab-
7 lish a process for making assistance under this sec-
8 tion available for weeks beginning on or after Janu-
9 ary 27, 2020, and before the date of enactment of
10 this Act.

11 (d) AMOUNT OF ASSISTANCE.—

12 (1) IN GENERAL.—The assistance authorized
13 under subsection (b) for a week of unemployment,
14 partial unemployment, or inability to work shall
15 be—

16 (A)(i) the weekly benefit amount author-
17 ized under the unemployment compensation law
18 of the State where the covered individual was
19 employed, except that the amount may not be
20 less than the minimum weekly benefit amount
21 described in section 625.6 of title 20, Code of
22 Federal Regulations, or any successor thereto;
23 and

1 (ii) the amount of Federal Pandemic Un-
2 employment Compensation under section 2104;
3 and

4 (B) in the case of an increase of the week-
5 ly benefit amount after the date of enactment
6 of this Act, increased in an amount equal to
7 such increase.

8 (2) CALCULATIONS OF AMOUNTS FOR CERTAIN
9 COVERED INDIVIDUALS.—In the case of a covered
10 individual who is self-employed, who lives in a terri-
11 tory described in subsection (c) or (d) of section
12 625.6 of title 20, Code of Federal Regulations, or
13 who would not otherwise qualify for unemployment
14 compensation under State law, the assistance au-
15 thorized under subsection (b) for a week of unem-
16 ployment shall be calculated in accordance with sec-
17 tion 625.6 of title 20, Code of Federal Regulations,
18 or any successor thereto, and shall be increased by
19 the amount of Federal Pandemic Unemployment
20 Compensation under section 2104.

21 (3) ALLOWABLE METHODS OF PAYMENT.—Any
22 assistance provided for in accordance with para-
23 graph (1)(A)(ii) shall be payable either—

24 (A) as an amount which is paid at the
25 same time and in the same manner as the as-

1 sistance provided for in paragraph (1)(A)(i) is
2 payable for the week involved; or

3 (B) at the option of the State, by pay-
4 ments which are made separately from, but on
5 the same weekly basis as, any assistance pro-
6 vided for in paragraph (1)(A)(i).

7 (e) WAIVER OF STATE REQUIREMENT.—Notwith-
8 standing State law, for purposes of assistance authorized
9 under this section, compensation under this Act shall be
10 made to an individual otherwise eligible for such com-
11 pensation without any waiting period.

12 (f) AGREEMENTS WITH STATES.—

13 (1) IN GENERAL.—The Secretary shall provide
14 the assistance authorized under subsection (b)
15 through agreements with States which, in the judg-
16 ment of the Secretary, have an adequate system for
17 administering such assistance through existing State
18 agencies.

19 (2) PAYMENTS TO STATES.—There shall be
20 paid to each State which has entered into an agree-
21 ment under this subsection an amount equal to 100
22 percent of—

23 (A) the total amount of assistance provided
24 by the State pursuant to such agreement; and

1 (B) any additional administrative expenses
2 incurred by the State by reason of such agree-
3 ment (as determined by the Secretary), includ-
4 ing any administrative expenses necessary to fa-
5 cilitate processing of applications for assistance
6 under this section online or by telephone rather
7 than in-person.

8 (3) TERMS OF PAYMENTS.—Sums payable to
9 any State by reason of such State's having an agree-
10 ment under this subsection shall be payable, either
11 in advance or by way of reimbursement (as deter-
12 mined by the Secretary), in such amounts as the
13 Secretary estimates the State will be entitled to re-
14 ceive under this subsection for each calendar month,
15 reduced or increased, as the case may be, by any
16 amount by which the Secretary finds that his esti-
17 mates for any prior calendar month were greater or
18 less than the amounts which should have been paid
19 to the State. Such estimates may be made on the
20 basis of such statistical, sampling, or other method
21 as may be agreed upon by the Secretary and the
22 State agency of the State involved.

23 (g) FUNDING.—

24 (1) ASSISTANCE.—

1 (A) IN GENERAL.—Funds in the extended
2 unemployment compensation account (as estab-
3 lished by section 905(a) of the Social Security
4 Act (42 U.S.C. 1105(a)) of the Unemployment
5 Trust Fund (as established by section 904(a) of
6 such Act (42 U.S.C. 1104(a)) shall be used to
7 make payments to States pursuant to sub-
8 section (f)(2)(A).

9 (B) TRANSFER OF FUNDS.—Notwith-
10 standing any other provision of law, the Sec-
11 retary of the Treasury shall transfer from the
12 general fund of the Treasury (from funds not
13 otherwise appropriated) to the extended unem-
14 ployment compensation account such sums as
15 the Secretary of Labor estimates to be nec-
16 essary to make payments described in subpara-
17 graph (A). There are appropriated from the
18 general fund of the Treasury, without fiscal
19 year limitation, the sums referred to in the pre-
20 ceeding sentence and such sums shall not be re-
21 quired to be repaid.

22 (2) ADMINISTRATIVE EXPENSES.—

23 (A) IN GENERAL.—Funds in the employ-
24 ment security administration account (as estab-
25 lished by section 901(a) of the Social Security

1 Act (42 U.S.C. 1105(a)) of the Unemployment
2 Trust Fund (as established by section 904(a) of
3 such Act (42 U.S.C. 1104(a)) shall be used to
4 make payments to States pursuant to sub-
5 section (f)(2)(B).

6 (B) TRANSFER OF FUNDS.—Notwith-
7 standing any other provision of law, the Sec-
8 retary of the Treasury shall transfer from the
9 general fund of the Treasury (from funds not
10 otherwise appropriated) to the employment se-
11 curity administration account such sums as the
12 Secretary of Labor estimates to be necessary to
13 make payments described in subparagraph (A).
14 There are appropriated from the general fund
15 of the Treasury, without fiscal year limitation,
16 the sums referred to in the preceding sentence
17 and such sums shall not be required to be re-
18 paid.

19 (3) CERTIFICATIONS.—The Secretary of Labor
20 shall from time to time certify to the Secretary of
21 the Treasury for payment to each State the sums
22 payable to such State under paragraphs (1) and (2).

23 (h) RELATIONSHIP BETWEEN PANDEMIC UNEM-
24 PLOYMENT ASSISTANCE AND DISASTER UNEMPLOYMENT
25 ASSISTANCE.—Except as otherwise provided in this sec-

1 tion or to the extent there is a conflict between this section
2 and section 625 of title 20, Code of Federal Regulations,
3 such section 625 shall apply to this section as if—

4 (1) the term “COVID–19 public health emer-
5 gency” were substituted for the term “major dis-
6 aster” each place it appears in such section 625; and

7 (2) the term “pandemic” were substituted for
8 the term “disaster” each place it appears in such
9 section 625.

10 **SEC. 2103. EMERGENCY UNEMPLOYMENT RELIEF FOR GOV-**
11 **ERNMENTAL ENTITIES AND NONPROFIT OR-**
12 **GANIZATIONS.**

13 (a) FLEXIBILITY IN PAYING REIMBURSEMENT.—The
14 Secretary of Labor may issue clarifying guidance to allow
15 States to interpret their State unemployment compensa-
16 tion laws in a manner that would provide maximum flexi-
17 bility to reimbursing employers as it relates to timely pay-
18 ment and assessment of penalties and interest pursuant
19 to such State laws.

20 (b) FEDERAL FUNDING.—Section 903 of the Social
21 Security Act (42 U.S.C. 1103) is amended by adding at
22 the end the following:

1 tributions) into the State unemployment fund pursuant to
2 such section.

3 “(D) For purposes of this paragraph, the term ‘appli-
4 cable period’ means the period beginning on March 13,
5 2020, and ending on December 31, 2020.

6 “(2)(A) Notwithstanding any other provision of law,
7 the Secretary of the Treasury shall transfer from the gen-
8 eral fund of the Treasury (from funds not otherwise ap-
9 propriated) to the Federal unemployment account such
10 sums as the Secretary of Labor estimates to be necessary
11 for purposes of making the transfers described in para-
12 graph (1).

13 “(B) There are appropriated from the general fund
14 of the Treasury, without fiscal year limitation, the sums
15 referred to in subparagraph (A) and such sums shall not
16 be required to be repaid.”.

17 **SEC. 2104. EMERGENCY INCREASE IN UNEMPLOYMENT**
18 **COMPENSATION BENEFITS.**

19 (a) **FEDERAL-STATE AGREEMENTS.**—Any State
20 which desires to do so may enter into and participate in
21 an agreement under this section with the Secretary of
22 Labor (in this section referred to as the “Secretary”). Any
23 State which is a party to an agreement under this section
24 may, upon providing 30 days’ written notice to the Sec-
25 retary, terminate such agreement.

1 (b) PROVISIONS OF AGREEMENT.—

2 (1) FEDERAL PANDEMIC UNEMPLOYMENT COM-
3 PENSATION.—Any agreement under this section
4 shall provide that the State agency of the State will
5 make payments of regular compensation to individ-
6 uals in amounts and to the extent that they would
7 be determined if the State law of the State were ap-
8 plied, with respect to any week for which the indi-
9 vidual is (disregarding this section) otherwise enti-
10 tled under the State law to receive regular com-
11 pensation, as if such State law had been modified in
12 a manner such that the amount of regular com-
13 pensation (including dependents' allowances) payable
14 for any week shall be equal to—

15 (A) the amount determined under the
16 State law (before the application of this para-
17 graph), plus

18 (B) an additional amount of \$600 (in this
19 section referred to as “Federal Pandemic Un-
20 employment Compensation”).

21 (2) ALLOWABLE METHODS OF PAYMENT.—Any
22 Federal Pandemic Unemployment Compensation
23 provided for in accordance with paragraph (1) shall
24 be payable either—

1 (A) as an amount which is paid at the
2 same time and in the same manner as any reg-
3 ular compensation otherwise payable for the
4 week involved; or

5 (B) at the option of the State, by pay-
6 ments which are made separately from, but on
7 the same weekly basis as, any regular com-
8 pensation otherwise payable.

9 (c) NONREDUCTION RULE.—

10 (1) IN GENERAL.—An agreement under this
11 section shall not apply (or shall cease to apply) with
12 respect to a State upon a determination by the Sec-
13 retary that the method governing the computation of
14 regular compensation under the State law of that
15 State has been modified in a manner such that the
16 number of weeks (the maximum benefit entitlement),
17 and the average weekly benefit amount, of regular
18 compensation which will be payable during the pe-
19 riod of the agreement (determined disregarding any
20 Federal Pandemic Unemployment Compensation)
21 will be less than the number of weeks, and the aver-
22 age weekly benefit amount, of the average weekly
23 benefit amount of regular compensation which would
24 otherwise have been payable during such period

1 under the State law, as in effect on January 1,
2 2020.

3 (2) MAXIMUM BENEFIT ENTITLEMENT.—In
4 paragraph (1), the term “maximum benefit entitle-
5 ment” means the amount of regular unemployment
6 compensation payable to an individual with respect
7 to the individual’s benefit year.

8 (d) PAYMENTS TO STATES.—

9 (1) IN GENERAL.—

10 (A) FULL REIMBURSEMENT.—There shall
11 be paid to each State which has entered into an
12 agreement under this section an amount equal
13 to 100 percent of—

14 (i) the total amount of Federal Pan-
15 demic Unemployment Compensation paid
16 to individuals by the State pursuant to
17 such agreement; and

18 (ii) any additional administrative ex-
19 penses incurred by the State by reason of
20 such agreement (as determined by the Sec-
21 retary).

22 (B) TERMS OF PAYMENTS.—Sums payable
23 to any State by reason of such State’s having
24 an agreement under this section shall be pay-
25 able, either in advance or by way of reimburse-

1 ment (as determined by the Secretary), in such
2 amounts as the Secretary estimates the State
3 will be entitled to receive under this section for
4 each calendar month, reduced or increased, as
5 the case may be, by any amount by which the
6 Secretary finds that his estimates for any prior
7 calendar month were greater or less than the
8 amounts which should have been paid to the
9 State. Such estimates may be made on the
10 basis of such statistical, sampling, or other
11 method as may be agreed upon by the Secretary
12 and the State agency of the State involved.

13 (2) CERTIFICATIONS.—The Secretary shall
14 from time to time certify to the Secretary of the
15 Treasury for payment to each State the sums pay-
16 able to such State under this section.

17 (3) APPROPRIATION.—There are appropriated
18 from the general fund of the Treasury, without fiscal
19 year limitation, such sums as may be necessary for
20 purposes of this subsection.

21 (e) APPLICABILITY.—An agreement entered into
22 under this section shall apply to weeks of unemployment—

23 (1) beginning after the date on which such
24 agreement is entered into; and

25 (2) ending on or before July 31, 2020.

1 (f) FRAUD AND OVERPAYMENTS.—

2 (1) IN GENERAL.—If an individual knowingly
3 has made, or caused to be made by another, a false
4 statement or representation of a material fact, or
5 knowingly has failed, or caused another to fail, to
6 disclose a material fact, and as a result of such false
7 statement or representation or of such nondisclosure
8 such individual has received an amount of Federal
9 Pandemic Unemployment Compensation to which
10 such individual was not entitled, such individual—

11 (A) shall be ineligible for further Federal
12 Pandemic Unemployment Compensation in ac-
13 cordance with the provisions of the applicable
14 State unemployment compensation law relating
15 to fraud in connection with a claim for unem-
16 ployment compensation; and

17 (B) shall be subject to prosecution under
18 section 1001 of title 18, United States Code.

19 (2) REPAYMENT.—In the case of individuals
20 who have received amounts of Federal Pandemic
21 Unemployment Compensation to which they were
22 not entitled, the State shall require such individuals
23 to repay the amounts of such Federal Pandemic Un-
24 employment Compensation to the State agency, ex-

1 cept that the State agency may waive such repay-
2 ment if it determines that—

3 (A) the payment of such Federal Pandemic
4 Unemployment Compensation was without fault
5 on the part of any such individual; and

6 (B) such repayment would be contrary to
7 equity and good conscience.

8 (3) RECOVERY BY STATE AGENCY.—

9 (A) IN GENERAL.—The State agency shall
10 recover the amount to be repaid, or any part
11 thereof, by deductions from any Federal Pan-
12 demic Unemployment Compensation payable to
13 such individual or from any unemployment
14 compensation payable to such individual under
15 any State or Federal unemployment compensa-
16 tion law administered by the State agency or
17 under any other State or Federal law adminis-
18 tered by the State agency which provides for
19 the payment of any assistance or allowance with
20 respect to any week of unemployment, during
21 the 3-year period after the date such individuals
22 received the payment of the Federal Pandemic
23 Unemployment Compensation to which they
24 were not entitled, in accordance with the same
25 procedures as apply to the recovery of overpay-

1 ments of regular unemployment benefits paid
2 by the State.

3 (B) OPPORTUNITY FOR HEARING.—No re-
4 payment shall be required, and no deduction
5 shall be made, until a determination has been
6 made, notice thereof and an opportunity for a
7 fair hearing has been given to the individual,
8 and the determination has become final.

9 (4) REVIEW.—Any determination by a State
10 agency under this section shall be subject to review
11 in the same manner and to the same extent as deter-
12 minations under the State unemployment compensa-
13 tion law, and only in that manner and to that ex-
14 tent.

15 (g) APPLICATION TO OTHER UNEMPLOYMENT BENE-
16 FITS.—Each agreement under this section shall include
17 provisions to provide that the purposes of the preceding
18 provisions of this section shall be applied with respect to
19 unemployment benefits described in subsection (i)(2) to
20 the same extent and in the same manner as if those bene-
21 fits were regular compensation.

22 (h) DISREGARD OF ADDITIONAL COMPENSATION FOR
23 PURPOSES OF MEDICAID AND CHIP.—The monthly
24 equivalent of any Federal pandemic unemployment com-
25 pensation paid to an individual under this section shall

1 be disregarded when determining income for any purpose
2 under the programs established under titles XIX and title
3 XXI of the Social Security Act (42 U.S.C. 1396 et seq.,
4 1397aa et seq.) .

5 (i) DEFINITIONS.—For purposes of this section—

6 (1) the terms “compensation”, “regular com-
7 pensation”, “benefit year”, “State”, “State agency”,
8 “State law”, and “week” have the respective mean-
9 ings given such terms under section 205 of the Fed-
10 eral-State Extended Unemployment Compensation
11 Act of 1970 (26 U.S.C. 3304 note); and

12 (2) any reference to unemployment benefits de-
13 scribed in this paragraph shall be considered to refer
14 to—

15 (A) extended compensation (as defined by
16 section 205 of the Federal-State Extended Un-
17 employment Compensation Act of 1970);

18 (B) regular compensation (as defined by
19 section 85(b) of the Internal Revenue Code of
20 1986) provided under any program adminis-
21 tered by a State under an agreement with the
22 Secretary;

23 (C) pandemic unemployment assistance
24 under section 2102; and

1 (D) pandemic emergency unemployment
2 compensation under section 2107.

3 **SEC. 2105. TEMPORARY FULL FEDERAL FUNDING OF THE**
4 **FIRST WEEK OF COMPENSABLE REGULAR**
5 **UNEMPLOYMENT FOR STATES WITH NO WAIT-**
6 **ING WEEK.**

7 (a) FEDERAL-STATE AGREEMENTS.—Any State
8 which desires to do so may enter into and participate in
9 an agreement under this section with the Secretary of
10 Labor (in this section referred to as the “Secretary”). Any
11 State which is a party to an agreement under this section
12 may, upon providing 30 days’ written notice to the Sec-
13 retary, terminate such agreement.

14 (b) REQUIREMENT THAT STATE LAW DOES NOT
15 APPLY A WAITING WEEK.—A State is eligible to enter
16 into an agreement under this section if the State law (in-
17 cluding a waiver of State law) provides that compensation
18 is paid to individuals for their first week of regular unem-
19 ployment without a waiting week. An agreement under
20 this section shall not apply (or shall cease to apply) with
21 respect to a State upon a determination by the Secretary
22 that the State law no longer meets the requirement under
23 the preceding sentence.

24 (c) PAYMENTS TO STATES.—

1 (1) FULL REIMBURSEMENT.—There shall be
2 paid to each State which has entered into an agree-
3 ment under this section an amount equal to 100 per-
4 cent of—

5 (A) the total amount of regular compensa-
6 tion paid to individuals by the State for their
7 first week of regular unemployment; and

8 (B) any additional administrative expenses
9 incurred by the State by reason of such agree-
10 ment (as determined by the Secretary).

11 (2) TERMS OF PAYMENTS.—Sums payable to
12 any State by reason of such State's having an agree-
13 ment under this section shall be payable, either in
14 advance or by way of reimbursement (as determined
15 by the Secretary), in such amounts as the Secretary
16 estimates the State will be entitled to receive under
17 this section for each calendar month, reduced or in-
18 creased, as the case may be, by any amount by
19 which the Secretary finds that his estimates for any
20 prior calendar month were greater or less than the
21 amounts which should have been paid to the State.
22 Such estimates may be made on the basis of such
23 statistical, sampling, or other method as may be
24 agreed upon by the Secretary and the State agency
25 of the State involved.

1 (d) FUNDING.—

2 (1) COMPENSATION.—

3 (A) IN GENERAL.—Funds in the Federal
4 unemployment account (as established by sec-
5 tion 905(g)) of the Unemployment Trust Fund
6 (as established by section 904(a)) shall be used
7 to make payments under subsection (c)(1)(A).

8 (B) TRANSFER OF FUNDS.—Notwith-
9 standing any other provision of law, the Sec-
10 retary of the Treasury shall transfer from the
11 general fund of the Treasury (from funds not
12 otherwise appropriated) to the Federal unem-
13 ployment account such sums as the Secretary of
14 Labor estimates to be necessary to make pay-
15 ments described in subparagraph (A). There
16 are appropriated from the general fund of the
17 Treasury, without fiscal year limitation, the
18 sums referred to in the preceding sentence and
19 such sums shall not be required to be repaid.

20 (2) ADMINISTRATIVE EXPENSES.—

21 (A) IN GENERAL.—Funds in the employ-
22 ment security administration account (as estab-
23 lished by section 901(a) of the Social Security
24 Act (42 U.S.C. 1105(a)) of the Unemployment
25 Trust Fund (as established by section 904(a) of

1 such Act (42 U.S.C. 1104(a)) shall be used to
2 make payments to States pursuant to sub-
3 section (c)(1)(B).

4 (B) TRANSFER OF FUNDS.—Notwith-
5 standing any other provision of law, the Sec-
6 retary of the Treasury shall transfer from the
7 general fund of the Treasury (from funds not
8 otherwise appropriated) to the employment se-
9 curity administration account such sums as the
10 Secretary of Labor estimates to be necessary to
11 make payments described in subparagraph (A).
12 There are appropriated from the general fund
13 of the Treasury, without fiscal year limitation,
14 the sums referred to in the preceding sentence
15 and such sums shall not be required to be re-
16 paid.

17 (3) CERTIFICATIONS.—The Secretary shall
18 from time to time certify to the Secretary of the
19 Treasury for payment to each State the sums pay-
20 able to such State under this section.

21 (e) APPLICABILITY.—An agreement entered into
22 under this section shall apply to weeks of unemployment—

23 (1) beginning after the date on which such
24 agreement is entered into; and

25 (2) ending on or before December 31, 2020.

1 (f) FRAUD AND OVERPAYMENTS.—The provisions of
2 section 2107(e) shall apply with respect to compensation
3 paid under an agreement under this section to the same
4 extent and in the same manner as in the case of pandemic
5 emergency unemployment compensation under such sec-
6 tion.

7 (g) DEFINITIONS.—For purposes of this section, the
8 terms “regular compensation”, “State”, “State agency”,
9 “State law”, and “week” have the respective meanings
10 given such terms under section 205 of the Federal-State
11 Extended Unemployment Compensation Act of 1970 (26
12 U.S.C. 3304 note).

13 **SEC. 2106. EMERGENCY STATE STAFFING FLEXIBILITY.**

14 Section 4102(b) of the Emergency Unemployment
15 Stabilization and Access Act of 2020 (contained in division
16 D of the Families First Coronavirus Response Act) is
17 amended—

18 (1) by striking “or employer experience rating”
19 and inserting “employer experience rating, or, sub-
20 ject to the succeeding sentence, personnel standards
21 on a merit basis”; and

22 (2) by adding at the end the following new sen-
23 tence: “The emergency flexibility for personnel
24 standards on a merit basis shall only apply through
25 December 31, 2020, and is limited to engaging of

1 temporary staff, rehiring of retirees or former em-
2 ployees on a non-competitive basis, and other tem-
3 porary actions to quickly process applications and
4 claims.”.

5 **SEC. 2107. PANDEMIC EMERGENCY UNEMPLOYMENT COM-**
6 **PENSATION.**

7 (a) FEDERAL-STATE AGREEMENTS.—

8 (1) IN GENERAL.—Any State which desires to
9 do so may enter into and participate in an agree-
10 ment under this section with the Secretary of Labor
11 (in this section referred to as the “Secretary”). Any
12 State which is a party to an agreement under this
13 section may, upon providing 30 days’ written notice
14 to the Secretary, terminate such agreement.

15 (2) PROVISIONS OF AGREEMENT.—Any agree-
16 ment under paragraph (1) shall provide that the
17 State agency of the State will make payments of
18 pandemic emergency unemployment compensation to
19 individuals who—

20 (A) have exhausted all rights to regular
21 compensation under the State law or under
22 Federal law with respect to a benefit year (ex-
23 cluding any benefit year that ended before
24 July1, 2019);

1 (B) have no rights to regular compensation
2 with respect to a week under such law or any
3 other State unemployment compensation law or
4 to compensation under any other Federal law;

5 (C) are not receiving compensation with
6 respect to such week under the unemployment
7 compensation law of Canada; and

8 (D) are able to work, available to work,
9 and actively seeking work.

10 (3) EXHAUSTION OF BENEFITS.—For purposes
11 of paragraph (2)(A), an individual shall be deemed
12 to have exhausted such individual's rights to regular
13 compensation under a State law when—

14 (A) no payments of regular compensation
15 can be made under such law because such indi-
16 vidual has received all regular compensation
17 available to such individual based on employ-
18 ment or wages during such individual's base pe-
19 riod; or

20 (B) such individual's rights to such com-
21 pensation have been terminated by reason of
22 the expiration of the benefit year with respect
23 to which such rights existed.

24 (4) WEEKLY BENEFIT AMOUNT, ETC.—For
25 purposes of any agreement under this section—

1 (A) the amount of pandemic emergency
2 unemployment compensation which shall be
3 payable to any individual for any week of total
4 unemployment shall be equal to—

5 (i) the amount of the regular com-
6 pensation (including dependents' allow-
7 ances) payable to such individual during
8 such individual's benefit year under the
9 State law for a week of total unemploy-
10 ment; and

11 (ii) the amount of Federal Pandemic
12 Unemployment Compensation under sec-
13 tion 2104;

14 (B) the terms and conditions of the State
15 law which apply to claims for regular compensa-
16 tion and to the payment thereof (including
17 terms and conditions relating to availability for
18 work, active search for work, and refusal to ac-
19 cept work) shall apply to claims for pandemic
20 emergency unemployment compensation and the
21 payment thereof, except where otherwise incon-
22 sistent with the provisions of this section or
23 with the regulations or operating instructions of
24 the Secretary promulgated to carry out this sec-
25 tion;

1 (C) the maximum amount of pandemic
2 emergency unemployment compensation payable
3 to any individual for whom an pandemic emer-
4 gency unemployment compensation account is
5 established under subsection (b) shall not ex-
6 ceed the amount established in such account for
7 such individual; and

8 (D) the allowable methods of payment
9 under section 2104(b)(2) shall apply to pay-
10 ments of amounts described in subparagraph
11 (A)(ii).

12 (5) COORDINATION RULE.—An agreement
13 under this section shall apply with respect to a State
14 only upon a determination by the Secretary that,
15 under the State law or other applicable rules of such
16 State, the payment of extended compensation for
17 which an individual is otherwise eligible must be de-
18 ferred until after the payment of any pandemic
19 emergency unemployment compensation under sub-
20 section (b) for which the individual is concurrently
21 eligible.

22 (6) NONREDUCTION RULE.—

23 (A) IN GENERAL.—An agreement under
24 this section shall not apply (or shall cease to
25 apply) with respect to a State upon a deter-

1 mination by the Secretary that the method gov-
2 erning the computation of regular compensation
3 under the State law of that State has been
4 modified in a manner such that the number of
5 weeks (the maximum benefit entitlement), and
6 the average weekly benefit amount, of regular
7 compensation which will be payable during the
8 period of the agreement will be less than the
9 number of weeks, and the average weekly ben-
10 efit amount, of the average weekly benefit
11 amount of regular compensation which would
12 otherwise have been payable during such period
13 under the State law, as in effect on January 1,
14 2020.

15 (B) MAXIMUM BENEFIT ENTITLEMENT.—
16 In subparagraph (A), the term “maximum ben-
17 efit entitlement” means the amount of regular
18 unemployment compensation payable to an indi-
19 vidual with respect to the individual’s benefit
20 year.

21 (7) ACTIVELY SEEKING WORK.—

22 (A) IN GENERAL.—Subject to subpara-
23 graph (C), for purposes of paragraph (2)(D),
24 the term “actively seeking work” means, with
25 respect to any individual, that such individual—

1 (i) is registered for employment serv-
2 ices in such a manner and to such extent
3 as prescribed by the State agency;

4 (ii) has engaged in an active search
5 for employment that is appropriate in light
6 of the employment available in the labor
7 market, the individual's skills and capabili-
8 ties, and includes a number of employer
9 contacts that is consistent with the stand-
10 ards communicated to the individual by the
11 State;

12 (iii) has maintained a record of such
13 work search, including employers con-
14 tacted, method of contact, and date con-
15 tacted; and

16 (iv) when requested, has provided
17 such work search record to the State agen-
18 cy.

19 (B) FLEXIBILITY.—Notwithstanding the
20 requirements under subparagraph (A) and
21 paragraph (2)(D), a State shall provide flexi-
22 bility in meeting such requirements in case of
23 individuals unable to search for work because of
24 COVID-19, including because of illness, quar-
25 antine, or movement restriction.

1 (b) PANDEMIC EMERGENCY UNEMPLOYMENT COM-
2 PENSATION ACCOUNT.—

3 (1) IN GENERAL.—Any agreement under this
4 section shall provide that the State will establish, for
5 each eligible individual who files an application for
6 pandemic emergency unemployment compensation,
7 an pandemic emergency unemployment compensa-
8 tion account with respect to such individual's benefit
9 year.

10 (2) AMOUNT IN ACCOUNT.—The amount estab-
11 lished in an account under subsection (a) shall be
12 equal to 13 times the individual's average weekly
13 benefit amount for the benefit year.

14 (3) WEEKLY BENEFIT AMOUNT.—For purposes
15 of this subsection, an individual's weekly benefit
16 amount for any week is the amount of regular com-
17 pensation (including dependents' allowances) under
18 the State law payable to such individual for such
19 week for total unemployment.

20 (c) PAYMENTS TO STATES HAVING AGREEMENTS
21 FOR THE PAYMENT OF PANDEMIC EMERGENCY UNEM-
22 PLOYMENT COMPENSATION.—

23 (1) IN GENERAL.—There shall be paid to each
24 State that has entered into an agreement under this
25 section an amount equal to 100 percent of the pan-

1 demic emergency unemployment compensation paid
2 to individuals by the State pursuant to such agree-
3 ment.

4 (2) TREATMENT OF REIMBURSABLE COMPENSA-
5 TION.—No payment shall be made to any State
6 under this section in respect of any compensation to
7 the extent the State is entitled to reimbursement in
8 respect of such compensation under the provisions of
9 any Federal law other than this section or chapter
10 85 of title 5, United States Code. A State shall not
11 be entitled to any reimbursement under such chapter
12 85 in respect of any compensation to the extent the
13 State is entitled to reimbursement under this section
14 in respect of such compensation.

15 (3) DETERMINATION OF AMOUNT.—Sums pay-
16 able to any State by reason of such State having an
17 agreement under this section shall be payable, either
18 in advance or by way of reimbursement (as may be
19 determined by the Secretary), in such amounts as
20 the Secretary estimates the State will be entitled to
21 receive under this section for each calendar month,
22 reduced or increased, as the case may be, by any
23 amount by which the Secretary finds that the Sec-
24 retary's estimates for any prior calendar month were
25 greater or less than the amounts which should have

1 been paid to the State. Such estimates may be made
2 on the basis of such statistical, sampling, or other
3 method as may be agreed upon by the Secretary and
4 the State agency of the State involved.

5 (d) FINANCING PROVISIONS.—

6 (1) COMPENSATION.—

7 (A) IN GENERAL.—Funds in the extended
8 unemployment compensation account (as estab-
9 lished by section 905(a) of the Social Security
10 Act (42 U.S.C. 1105(a)) of the Unemployment
11 Trust Fund (as established by section 904(a) of
12 such Act (42 U.S.C. 1104(a)) shall be used for
13 the making of payments to States having agree-
14 ments entered into under this section.

15 (B) TRANSFER OF FUNDS.—Notwith-
16 standing any other provision of law, the Sec-
17 retary of the Treasury shall transfer from the
18 general fund of the Treasury (from funds not
19 otherwise appropriated) to the extended unem-
20 ployment compensation account such sums as
21 the Secretary of Labor estimates to be nec-
22 essary to make payments described in subpara-
23 graph (A). There are appropriated from the
24 general fund of the Treasury, without fiscal
25 year limitation, the sums referred to in the pre-

1 ceding sentence and such sums shall not be re-
2 quired to be repaid.

3 (2) ADMINISTRATION.—

4 (A) IN GENERAL.—There are appropriated
5 out of the employment security administration
6 account (as established by section 901(a) of the
7 Social Security Act (42 U.S.C. 1101(a)) of the
8 Unemployment Trust Fund, without fiscal year
9 limitation, such funds as may be necessary for
10 purposes of assisting States (as provided in title
11 III of the Social Security Act (42 U.S.C. 501
12 et seq.)) in meeting the costs of administration
13 of agreements under this section.

14 (B) TRANSFER OF FUNDS.—Notwith-
15 standing any other provision of law, the Sec-
16 retary of the Treasury shall transfer from the
17 general fund of the Treasury (from funds not
18 otherwise appropriated) to the employment se-
19 curity administration account such sums as the
20 Secretary of Labor estimates to be necessary to
21 make payments described in subparagraph (A).
22 There are appropriated from the general fund
23 of the Treasury, without fiscal year limitation,
24 the sums referred to in the preceding sentence

1 and such sums shall not be required to be re-
2 paid.

3 (3) CERTIFICATION.—The Secretary shall from
4 time to time certify to the Secretary of the Treasury
5 for payment to each State the sums payable to such
6 State under this subsection. The Secretary of the
7 Treasury, prior to audit or settlement by the Gov-
8 ernment Accountability Office, shall make payments
9 to the State in accordance with such certification, by
10 transfers from the extended unemployment com-
11 pensation account (as so established) to the account
12 of such State in the Unemployment Trust Fund (as
13 so established).

14 (e) FRAUD AND OVERPAYMENTS.—

15 (1) IN GENERAL.—If an individual knowingly
16 has made, or caused to be made by another, a false
17 statement or representation of a material fact, or
18 knowingly has failed, or caused another to fail, to
19 disclose a material fact, and as a result of such false
20 statement or representation or of such nondisclosure
21 such individual has received an amount of pandemic
22 emergency unemployment compensation under this
23 section to which such individual was not entitled,
24 such individual—

1 (A) shall be ineligible for further pandemic
2 emergency unemployment compensation under
3 this section in accordance with the provisions of
4 the applicable State unemployment compensa-
5 tion law relating to fraud in connection with a
6 claim for unemployment compensation; and

7 (B) shall be subject to prosecution under
8 section 1001 of title 18, United States Code.

9 (2) REPAYMENT.—In the case of individuals
10 who have received amounts of pandemic emergency
11 unemployment compensation under this section to
12 which they were not entitled, the State shall require
13 such individuals to repay the amounts of such pan-
14 demic emergency unemployment compensation to the
15 State agency, except that the State agency may
16 waive such repayment if it determines that—

17 (A) the payment of such pandemic emer-
18 gency unemployment compensation was without
19 fault on the part of any such individual; and

20 (B) such repayment would be contrary to
21 equity and good conscience.

22 (3) RECOVERY BY STATE AGENCY.—

23 (A) IN GENERAL.—The State agency shall
24 recover the amount to be repaid, or any part
25 thereof, by deductions from any pandemic

1 emergency unemployment compensation payable
2 to such individual under this section or from
3 any unemployment compensation payable to
4 such individual under any State or Federal un-
5 employment compensation law administered by
6 the State agency or under any other State or
7 Federal law administered by the State agency
8 which provides for the payment of any assist-
9 ance or allowance with respect to any week of
10 unemployment, during the 3-year period after
11 the date such individuals received the payment
12 of the pandemic emergency unemployment com-
13 pensation to which they were not entitled, in ac-
14 cordance with the same procedures as apply to
15 the recovery of overpayments of regular unem-
16 ployment benefits paid by the State.

17 (B) OPPORTUNITY FOR HEARING.—No re-
18 payment shall be required, and no deduction
19 shall be made, until a determination has been
20 made, notice thereof and an opportunity for a
21 fair hearing has been given to the individual,
22 and the determination has become final.

23 (4) REVIEW.—Any determination by a State
24 agency under this section shall be subject to review
25 in the same manner and to the same extent as deter-

1 minations under the State unemployment compensa-
2 tion law, and only in that manner and to that ex-
3 tent.

4 (f) DEFINITIONS.—In this section, the terms “com-
5 pensation”, “regular compensation”, “extended compensa-
6 tion”, “benefit year”, “base period”, “State”, “State
7 agency”, “State law”, and “week” have the respective
8 meanings given such terms under section 205 of the Fed-
9 eral-State Extended Unemployment Compensation Act of
10 1970 (26 U.S.C. 3304 note).

11 (g) APPLICABILITY.—An agreement entered into
12 under this section shall apply to weeks of unemployment—

13 (1) beginning after the date on which such
14 agreement is entered into; and

15 (2) ending on or before December 31, 2020.

16 **SEC. 2108. TEMPORARY FINANCING OF SHORT-TIME COM-**
17 **PENSATION PAYMENTS IN STATES WITH PRO-**
18 **GRAMS IN LAW.**

19 (a) PAYMENTS TO STATES.—

20 (1) IN GENERAL.—Subject to paragraph (3),
21 there shall be paid to a State an amount equal to
22 100 percent of the amount of short-time compensa-
23 tion paid under a short-time compensation program
24 (as defined in section 3306(v) of the Internal Rev-

1 enue Code of 1986) under the provisions of the
2 State law.

3 (2) TERMS OF PAYMENTS.—Payments made to
4 a State under paragraph (1) shall be payable by way
5 of reimbursement in such amounts as the Secretary
6 estimates the State will be entitled to receive under
7 this section for each calendar month, reduced or in-
8 creased, as the case may be, by any amount by
9 which the Secretary finds that the Secretary's esti-
10 mates for any prior calendar month were greater or
11 less than the amounts which should have been paid
12 to the State. Such estimates may be made on the
13 basis of such statistical, sampling, or other method
14 as may be agreed upon by the Secretary and the
15 State agency of the State involved.

16 (3) LIMITATIONS ON PAYMENTS.—

17 (A) GENERAL PAYMENT LIMITATIONS.—

18 No payments shall be made to a State under
19 this section for short-time compensation paid to
20 an individual by the State during a benefit year
21 in excess of 26 times the amount of regular
22 compensation (including dependents' allow-
23 ances) under the State law payable to such in-
24 dividual for a week of total unemployment.

1 (B) EMPLOYER LIMITATIONS.—No pay-
2 ments shall be made to a State under this sec-
3 tion for benefits paid to an individual by the
4 State under a short-time compensation program
5 if such individual is employed by the partici-
6 pating employer on a seasonal, temporary, or
7 intermittent basis.

8 (b) APPLICABILITY.—Payments to a State under
9 subsection (a) shall be available for weeks of unemploy-
10 ment—

11 (1) beginning on or after the date of the enact-
12 ment of this Act; and

13 (2) ending on or before December 31, 2020.

14 (c) NEW PROGRAMS.—Subject to subsection (b)(2),
15 if at any point after the date of the enactment of this Act
16 the State enacts a State law providing for the payment
17 of short-time compensation under a short-time compensa-
18 tion program that meets the definition of such a program
19 under section 3306(v) of the Internal Revenue Code of
20 1986, the State shall be eligible for payments under this
21 section after the effective date of such enactment.

22 (d) FUNDING AND CERTIFICATIONS.—

23 (1) FUNDING.—There are appropriated, out of
24 moneys in the Treasury not otherwise appropriated,

1 such sums as may be necessary for purposes of car-
2 rying out this section.

3 (2) CERTIFICATIONS.—The Secretary shall
4 from time to time certify to the Secretary of the
5 Treasury for payment to each State the sums pay-
6 able to such State under this section.

7 (e) DEFINITIONS.—In this section:

8 (1) SECRETARY.—The term “Secretary” means
9 the Secretary of Labor.

10 (2) STATE; STATE AGENCY; STATE LAW.—The
11 terms “State”, “State agency”, and “State law”
12 have the meanings given those terms in section 205
13 of the Federal-State Extended Unemployment Com-
14 pensation Act of 1970 (26 U.S.C. 3304 note).

15 (f) TECHNICAL CORRECTION TO DEFINITION.—Sec-
16 tion 3306(v)(6) of the Internal Revenue Code of 1986 (26
17 U.S.C. 3306) is amended by striking “Workforce Invest-
18 ment Act of 1998” and inserting “Workforce Innovation
19 and Opportunity Act”.

20 **SEC. 2109. TEMPORARY FINANCING OF SHORT-TIME COM-**
21 **PENSATION AGREEMENTS.**

22 (a) FEDERAL-STATE AGREEMENTS.—

23 (1) IN GENERAL.—Any State which desires to
24 do so may enter into, and participate in, an agree-
25 ment under this section with the Secretary provided

1 that such State's law does not provide for the pay-
2 ment of short-time compensation under a short-time
3 compensation program (as defined in section
4 3306(v) of the Internal Revenue Code of 1986).

5 (2) ABILITY TO TERMINATE.—Any State which
6 is a party to an agreement under this section may,
7 upon providing 30 days' written notice to the Sec-
8 retary, terminate such agreement.

9 (b) PROVISIONS OF FEDERAL-STATE AGREEMENT.—

10 (1) IN GENERAL.—Any agreement under this
11 section shall provide that the State agency of the
12 State will make payments of short-time compensa-
13 tion under a plan approved by the State. Such plan
14 shall provide that payments are made in accordance
15 with the requirements under section 3306(v) of the
16 Internal Revenue Code of 1986.

17 (2) LIMITATIONS ON PLANS.—

18 (A) GENERAL PAYMENT LIMITATIONS.—A
19 short-time compensation plan approved by a
20 State shall not permit the payment of short-
21 time compensation to an individual by the State
22 during a benefit year in excess of 26 times the
23 amount of regular compensation (including de-
24 pendents' allowances) under the State law pay-

1 able to such individual for a week of total un-
2 employment.

3 (B) EMPLOYER LIMITATIONS.—A short-
4 time compensation plan approved by a State
5 shall not provide payments to an individual if
6 such individual is employed by the participating
7 employer on a seasonal, temporary, or intermit-
8 tent basis.

9 (3) EMPLOYER PAYMENT OF COSTS.—Any
10 short-time compensation plan entered into by an em-
11 ployer must provide that the employer will pay the
12 State an amount equal to one-half of the amount of
13 short-time compensation paid under such plan. Such
14 amount shall be deposited in the State's unemploy-
15 ment fund and shall not be used for purposes of cal-
16 culating an employer's contribution rate under sec-
17 tion 3303(a)(1) of the Internal Revenue Code of
18 1986.

19 (c) PAYMENTS TO STATES.—

20 (1) IN GENERAL.—There shall be paid to each
21 State with an agreement under this section an
22 amount equal to—

23 (A) one-half of the amount of short-time
24 compensation paid to individuals by the State
25 pursuant to such agreement; and

1 (B) any additional administrative expenses
2 incurred by the State by reason of such agree-
3 ment (as determined by the Secretary).

4 (2) TERMS OF PAYMENTS.—Payments made to
5 a State under paragraph (1) shall be payable by way
6 of reimbursement in such amounts as the Secretary
7 estimates the State will be entitled to receive under
8 this section for each calendar month, reduced or in-
9 creased, as the case may be, by any amount by
10 which the Secretary finds that the Secretary's esti-
11 mates for any prior calendar month were greater or
12 less than the amounts which should have been paid
13 to the State. Such estimates may be made on the
14 basis of such statistical, sampling, or other method
15 as may be agreed upon by the Secretary and the
16 State agency of the State involved.

17 (3) FUNDING.—There are appropriated, out of
18 moneys in the Treasury not otherwise appropriated,
19 such sums as may be necessary for purposes of car-
20 rying out this section.

21 (4) CERTIFICATIONS.—The Secretary shall
22 from time to time certify to the Secretary of the
23 Treasury for payment to each State the sums pay-
24 able to such State under this section.

1 (d) APPLICABILITY.—An agreement entered into
2 under this section shall apply to weeks of unemployment—

3 (1) beginning on or after the date on which
4 such agreement is entered into; and

5 (2) ending on or before December 31, 2020.

6 (e) SPECIAL RULE.—If a State has entered into an
7 agreement under this section and subsequently enacts a
8 State law providing for the payment of short-time com-
9 pensation under a short-time compensation program that
10 meets the definition of such a program under section
11 3306(v) of the Internal Revenue Code of 1986, the
12 State—

13 (1) shall not be eligible for payments under this
14 section for weeks of unemployment beginning after
15 the effective date of such State law; and

16 (2) subject to section 2108(b)(2), shall be eligi-
17 ble to receive payments under section 2108 after the
18 effective date of such State law.

19 (f) DEFINITIONS.—In this section:

20 (1) SECRETARY.—The term “Secretary” means
21 the Secretary of Labor.

22 (2) STATE; STATE AGENCY; STATE LAW.—The
23 terms “State”, “State agency”, and “State law”
24 have the meanings given those terms in section 205

1 of the Federal-State Extended Unemployment Com-
2 pensation Act of 1970 (26 U.S.C. 3304 note).

3 **SEC. 2110. GRANTS FOR SHORT-TIME COMPENSATION PRO-**
4 **GRAMS.**

5 (a) GRANTS.—

6 (1) FOR IMPLEMENTATION OR IMPROVED AD-
7 MINISTRATION.—The Secretary shall award grants
8 to States that enact short-time compensation pro-
9 grams (as defined in subsection (i)(2)) for the pur-
10 pose of implementation or improved administration
11 of such programs.

12 (2) FOR PROMOTION AND ENROLLMENT.—The
13 Secretary shall award grants to States that are eligi-
14 ble and submit plans for a grant under paragraph
15 (1) for such States to promote and enroll employers
16 in short-time compensation programs (as so de-
17 fined).

18 (3) ELIGIBILITY.—

19 (A) IN GENERAL.—The Secretary shall de-
20 termine eligibility criteria for the grants under
21 paragraphs (1) and (2).

22 (B) CLARIFICATION.—A State admin-
23 istering a short-time compensation program
24 that does not meet the definition of a short-
25 time compensation program under section

1 3306(v) of the Internal Revenue Code of 1986,
2 and a State with an agreement under section
3 2109, shall not be eligible to receive a grant
4 under this section until such time as the State
5 law of the State provides for payments under a
6 short-time compensation program that meets
7 such definition and such law.

8 (b) AMOUNT OF GRANTS.—

9 (1) IN GENERAL.—The maximum amount avail-
10 able for making grants to a State under paragraphs
11 (1) and (2) shall be equal to the amount obtained
12 by multiplying \$100,000,000 (less the amount used
13 by the Secretary under subsection (e)) by the same
14 ratio as would apply under subsection (a)(2)(B) of
15 section 903 of the Social Security Act (42 U.S.C.
16 1103) for purposes of determining such State's
17 share of any excess amount (as described in sub-
18 section (a)(1) of such section) that would have been
19 subject to transfer to State accounts, as of October
20 1, 2019, under the provisions of subsection (a) of
21 such section.

22 (2) AMOUNT AVAILABLE FOR DIFFERENT
23 GRANTS.—Of the maximum incentive payment deter-
24 mined under paragraph (1) with respect to a
25 State—

1 (A) one-third shall be available for a grant
2 under subsection (a)(1); and

3 (B) two-thirds shall be available for a
4 grant under subsection (a)(2).

5 (c) GRANT APPLICATION AND DISBURSAL.—

6 (1) APPLICATION.—Any State seeking a grant
7 under paragraph (1) or (2) of subsection (a) shall
8 submit an application to the Secretary at such time,
9 in such manner, and complete with such information
10 as the Secretary may require. In no case may the
11 Secretary award a grant under this section with re-
12 spect to an application that is submitted after De-
13 cember 31, 2023.

14 (2) NOTICE.—The Secretary shall, within 30
15 days after receiving a complete application, notify
16 the State agency of the State of the Secretary's find-
17 ings with respect to the requirements for a grant
18 under paragraph (1) or (2) (or both) of subsection
19 (a).

20 (3) CERTIFICATION.—If the Secretary finds
21 that the State law provisions meet the requirements
22 for a grant under subsection (a), the Secretary shall
23 thereupon make a certification to that effect to the
24 Secretary of the Treasury, together with a certifi-
25 cation as to the amount of the grant payment to be

1 transferred to the State account in the Unemploy-
2 ment Trust Fund (as established in section 904(a)
3 of the Social Security Act (42 U.S.C. 1104(a))) pur-
4 suant to that finding. The Secretary of the Treasury
5 shall make the appropriate transfer to the State ac-
6 count within 7 days after receiving such certifi-
7 cation.

8 (4) REQUIREMENT.—No certification of compli-
9 ance with the requirements for a grant under para-
10 graph (1) or (2) of subsection (a) may be made with
11 respect to any State whose—

12 (A) State law is not otherwise eligible for
13 certification under section 303 of the Social Se-
14 curity Act (42 U.S.C. 503) or approvable under
15 section 3304 of the Internal Revenue Code of
16 1986; or

17 (B) short-time compensation program is
18 subject to discontinuation or is not scheduled to
19 take effect within 12 months of the certifi-
20 cation.

21 (d) USE OF FUNDS.—The amount of any grant
22 awarded under this section shall be used for the implemen-
23 tation of short-time compensation programs and the over-
24 all administration of such programs and the promotion

1 and enrollment efforts associated with such programs,
2 such as through—

3 (1) the creation or support of rapid response
4 teams to advise employers about alternatives to lay-
5 offs;

6 (2) the provision of education or assistance to
7 employers to enable them to assess the feasibility of
8 participating in short-time compensation programs;
9 and

10 (3) the development or enhancement of systems
11 to automate—

12 (A) the submission and approval of plans;
13 and

14 (B) the filing and approval of new and on-
15 going short-time compensation claims.

16 (e) ADMINISTRATION.—The Secretary is authorized
17 to use 0.25 percent of the funds available under subsection
18 (g) to provide for outreach and to share best practices with
19 respect to this section and short-time compensation pro-
20 grams.

21 (f) RECOUPMENT.—The Secretary shall establish a
22 process under which the Secretary shall recoup the
23 amount of any grant awarded under paragraph (1) or (2)
24 of subsection (a) if the Secretary determines that, during

1 the 5-year period beginning on the first date that any such
2 grant is awarded to the State, the State—

3 (1) terminated the State’s short-time compensa-
4 tion program; or

5 (2) failed to meet appropriate requirements
6 with respect to such program (as established by the
7 Secretary).

8 (g) FUNDING.—There are appropriated, out of mon-
9 eys in the Treasury not otherwise appropriated, to the
10 Secretary, \$100,000,000 to carry out this section, to re-
11 main available without fiscal year limitation.

12 (h) REPORTING.—The Secretary may establish re-
13 porting requirements for States receiving a grant under
14 this section in order to provide oversight of grant funds.

15 (i) DEFINITIONS.—In this section:

16 (1) SECRETARY.—The term “Secretary” means
17 the Secretary of Labor.

18 (2) SHORT-TIME COMPENSATION PROGRAM.—
19 The term “short-time compensation program” has
20 the meaning given such term in section 3306(v) of
21 the Internal Revenue Code of 1986.

22 (3) STATE; STATE AGENCY; STATE LAW.—The
23 terms “State”, “State agency”, and “State law”
24 have the meanings given those terms in section 205

1 of the Federal-State Extended Unemployment Com-
2 pensation Act of 1970 (26 U.S.C. 3304 note).

3 **SEC. 2111. ASSISTANCE AND GUIDANCE IN IMPLEMENTING**
4 **PROGRAMS.**

5 (a) IN GENERAL.—In order to assist States in estab-
6 lishing, qualifying, and implementing short-time com-
7 pensation programs (as defined in section 3306(v) of the
8 Internal Revenue Code of 1986), the Secretary of Labor
9 (in this section referred to as the “Secretary”) shall—

10 (1) develop model legislative language, or dis-
11 seminate existing model legislative language, which
12 may be used by States in developing and enacting
13 such programs, and periodically review and revise
14 such model legislative language;

15 (2) provide technical assistance and guidance in
16 developing, enacting, and implementing such pro-
17 grams; and

18 (3) establish reporting requirements for States,
19 including reporting on—

20 (A) the number of estimated averted lay-
21 offs;

22 (B) the number of participating employers
23 and workers; and

24 (C) such other items as the Secretary of
25 Labor determines are appropriate.

1 (b) MODEL LANGUAGE AND GUIDANCE.—The model
2 language and guidance developed under subsection (a)
3 shall allow sufficient flexibility by States and participating
4 employers while ensuring accountability and program in-
5 tegrity.

6 (c) CONSULTATION.—In developing the model legisla-
7 tive language and guidance under subsection (a), and in
8 order to meet the requirements of subsection (b), the Sec-
9 retary shall consult with employers, labor organizations,
10 State workforce agencies, and other program experts. Ex-
11 isting model legislative language that has been developed
12 through such a consultative process shall be deemed to
13 meet the consultation requirement of this subsection.

14 (d) REPEAL.—Section 4104 of the Emergency Unem-
15 ployment Stabilization and Access Act of 2020 (contained
16 in division D of the Families First Coronavirus Response
17 Act) is repealed.

18 **SEC. 2112. WAIVER OF THE 7-DAY WAITING PERIOD FOR**
19 **BENEFITS UNDER THE RAILROAD UNEM-**
20 **EMPLOYMENT INSURANCE ACT.**

21 (a) NO WAITING WEEK.—With respect to any reg-
22 istration period beginning after the date of enactment of
23 this Act and ending on or before December 31, 2020, sub-
24 paragraphs (A)(ii) and (B)(ii) of section 2(a)(1) of the

1 Railroad Unemployment Insurance Act (45 U.S.C.
2 352(a)(1)) shall not apply.

3 (b) OPERATING INSTRUCTIONS AND REGULA-
4 TIONS.—The Railroad Retirement Board may prescribe
5 any operating instructions or regulations necessary to
6 carry out this section.

7 (c) FUNDING.—Out of any funds in the Treasury not
8 otherwise appropriated, there are appropriated
9 \$50,000,000 to cover the costs of additional benefits pay-
10 able due to the application of subsection (a). Upon the
11 exhaustion of the funds appropriated under this sub-
12 section, subsection (a) shall no longer apply with respect
13 to any registration period beginning after the date of ex-
14 haustion of funds.

15 (d) DEFINITION OF REGISTRATION PERIOD.—For
16 purposes of this section, the term “registration period”
17 has the meaning given such term under section 1 of the
18 Railroad Unemployment Insurance Act (45 U.S.C. 351).

19 **SEC. 2113. ENHANCED BENEFITS UNDER THE RAILROAD**
20 **UNEMPLOYMENT INSURANCE ACT.**

21 Section 2(a) of the Railroad Unemployment Insur-
22 ance Act (45 U.S.C. § 352(a)) is amended by adding at
23 the end the following:

24 “(5)(A) Notwithstanding paragraph (3), subsection
25 (c)(1)(B), and any other limitation on total benefits in this

1 Act, for registration periods beginning on or after April
2 1, 2020, but on or before July 31, 2020, a recovery benefit
3 in the amount of \$1,200 shall be payable to a qualified
4 employee with respect to any registration period in which
5 the employee received unemployment benefits under para-
6 graph (1)(A), and in any registration period in which the
7 employee did not receive unemployment benefits due to the
8 limitation in subsection (c)(1)(B) or due to reaching the
9 maximum number of days of benefits in the benefit year
10 beginning July 1, 2019, under subsection (c)(1)(A). No
11 recovery benefits shall be payable under this section upon
12 the exhaustion of the funds appropriated under subpara-
13 graph (B) for payment of benefits under this subpara-
14 graph.

15 “(B) Out of any funds in the Treasury not otherwise
16 appropriated, there are appropriated \$425,000,000 to
17 cover the cost of recovery benefits provided under subpara-
18 graph (A), to remain available until expended.”.

19 **SEC. 2114. EXTENDED UNEMPLOYMENT BENEFITS UNDER**
20 **THE RAILROAD UNEMPLOYMENT INSURANCE**
21 **ACT.**

22 (a) EXTENSION.—Section 2(c)(2)(D)(iii) of the Rail-
23 road Unemployment Insurance Act (45 U.S.C.
24 352(c)(2)(D)(iii) is amended—

1 (1) by striking “July 1, 2008” and inserting
2 “July 1, 2019”;

3 (2) by striking “June 30, 2013” and inserting
4 “June 30, 2020”; and

5 (3) by striking “December 31, 2013” and in-
6 serting “December 31, 2020”.

7 (b) CLARIFICATION ON AUTHORITY TO USE
8 FUNDS.—Funds appropriated under either the first or
9 second sentence of clause (iv) of section 2(c)(2)(D) of the
10 Railroad Unemployment Insurance Act shall be available
11 to cover the cost of additional extended unemployment
12 benefits provided under such section 2(c)(2)(D) by reason
13 of the amendments made by subsection (a) as well as to
14 cover the cost of such benefits provided under such section
15 2(c)(2)(D) as in effect on the day before the date of enact-
16 ment of this Act.

17 **SEC. 2115. FUNDING FOR THE DOL OFFICE OF INSPECTOR**
18 **GENERAL FOR OVERSIGHT OF UNEMPLOY-**
19 **MENT PROVISIONS.**

20 There are appropriated, out of moneys in the Treas-
21 ury not otherwise appropriated, to the Office of the In-
22 spector General of the Department of Labor, \$25,000,000
23 to carry out audits, investigations, and other oversight ac-
24 tivities authorized under the Inspector General Act of
25 1978 (5 U.S.C. App.) that are related to the provisions

1 of, and amendments made by, this subtitle, to remain
2 available without fiscal year limitation.

3 **SEC. 2116. IMPLEMENTATION.**

4 (a) NON-APPLICATION OF THE PAPERWORK REDUC-
5 TION ACT.—Chapter 35 of title 44, United States Code
6 (commonly referred to as the “Paperwork Reduction Act
7 of 1995”), shall not apply to the provisions of, and the
8 amendments made by, this subtitle.

9 (b) OPERATING INSTRUCTIONS OR OTHER GUID-
10 ANCE.—The Secretary of Labor may issue any operating
11 instructions or other guidance necessary to carry out the
12 provisions of, or the amendments made by, this subtitle.

13 **Subtitle B—Rebates and Other**
14 **Individual Provisions**

15 **SEC. 2201. 2020 RECOVERY REBATES FOR INDIVIDUALS.**

16 (a) IN GENERAL.—Subchapter B of chapter 65 of
17 subtitle F of the Internal Revenue Code of 1986 is amend-
18 ed by inserting after section 6427 the following new sec-
19 tion:

20 **“SEC. 6428. 2020 RECOVERY REBATES FOR INDIVIDUALS.**

21 “(a) IN GENERAL.—In the case of an eligible indi-
22 vidual, there shall be allowed as a credit against the tax
23 imposed by subtitle A for the first taxable year beginning
24 in 2020 an amount equal to the sum of—

1 “(1) \$1,200 (\$2,400 in the case of eligible indi-
2 viduals filing a joint return), plus

3 “(2) an amount equal to the product of \$500
4 multiplied by the number of qualifying children
5 (within the meaning of section 24(c)) of the tax-
6 payer.

7 “(b) TREATMENT OF CREDIT.—The credit allowed by
8 subsection (a) shall be treated as allowed by subpart C
9 of part IV of subchapter A of chapter 1.

10 “(c) LIMITATION BASED ON ADJUSTED GROSS IN-
11 COME.—The amount of the credit allowed by subsection
12 (a) (determined without regard to this subsection and sub-
13 section (e)) shall be reduced (but not below zero) by 5
14 percent of so much of the taxpayer’s adjusted gross in-
15 come as exceeds—

16 “(1) \$150,000 in the case of a joint return,

17 “(2) \$112,500 in the case of a head of house-
18 hold, and

19 “(3) \$75,000 in the case of a taxpayer not de-
20 scribed in paragraph (1) or (2).

21 “(d) ELIGIBLE INDIVIDUAL.—For purposes of this
22 section, the term ‘eligible individual’ means any individual
23 other than—

24 “(1) any nonresident alien individual,

1 “(2) any individual with respect to whom a de-
2 duction under section 151 is allowable to another
3 taxpayer for a taxable year beginning in the cal-
4 endar year in which the individual’s taxable year be-
5 gins, and

6 “(3) an estate or trust.

7 “(e) COORDINATION WITH ADVANCE REFUNDS OF
8 CREDIT.—

9 “(1) IN GENERAL.—The amount of credit
10 which would (but for this paragraph) be allowable
11 under this section shall be reduced (but not below
12 zero) by the aggregate refunds and credits made or
13 allowed to the taxpayer under subsection (f). Any
14 failure to so reduce the credit shall be treated as
15 arising out of a mathematical or clerical error and
16 assessed according to section 6213(b)(1).

17 “(2) JOINT RETURNS.—In the case of a refund
18 or credit made or allowed under subsection (f) with
19 respect to a joint return, half of such refund or cred-
20 it shall be treated as having been made or allowed
21 to each individual filing such return.

22 “(f) ADVANCE REFUNDS AND CREDITS.—

23 “(1) IN GENERAL.—Subject to paragraph (5),
24 each individual who was an eligible individual for
25 such individual’s first taxable year beginning in

1 2019 shall be treated as having made a payment
2 against the tax imposed by chapter 1 for such tax-
3 able year in an amount equal to the advance refund
4 amount for such taxable year.

5 “(2) ADVANCE REFUND AMOUNT.—For pur-
6 poses of paragraph (1), the advance refund amount
7 is the amount that would have been allowed as a
8 credit under this section for such taxable year if this
9 section (other than subsection (e) and this sub-
10 section) had applied to such taxable year.

11 “(3) TIMING AND MANNER OF PAYMENTS.—

12 “(A) TIMING.—The Secretary shall, sub-
13 ject to the provisions of this title, refund or
14 credit any overpayment attributable to this sec-
15 tion as rapidly as possible. No refund or credit
16 shall be made or allowed under this subsection
17 after December 31, 2020.

18 “(B) DELIVERY OF PAYMENTS.—Notwith-
19 standing any other provision of law, the Sec-
20 retary may certify and disburse refunds payable
21 under this subsection electronically to any ac-
22 count to which the payee authorized, on or after
23 January 1, 2018, the delivery of a refund of
24 taxes under this title or of a Federal payment

1 (as defined in section 3332 of title 31, United
2 States Code).

3 “(C) WAIVER OF CERTAIN RULES.—Not-
4 withstanding section 3325 of title 31, United
5 States Code, or any other provision of law, with
6 respect to any payment of a refund under this
7 subsection, a disbursing official in the executive
8 branch of the United States Government may
9 modify payment information received from an
10 officer or employee described in section
11 3325(a)(1)(B) of such title for the purpose of
12 facilitating the accurate and efficient delivery of
13 such payment. Except in cases of fraud or reck-
14 less neglect, no liability under sections 3325,
15 3527, 3528, or 3529 of title 31, United States
16 Code, shall be imposed with respect to pay-
17 ments made under this subparagraph.

18 “(4) NO INTEREST.—No interest shall be al-
19 lowed on any overpayment attributable to this sec-
20 tion.

21 “(5) ALTERNATE TAXABLE YEAR.—In the case
22 of an individual who, at the time of any determina-
23 tion made pursuant to paragraph (3), has not filed
24 a tax return for the year described in paragraph (1),
25 the Secretary may—

1 “(A) apply such paragraph by substituting
2 ‘2018’ for ‘2019’, and

3 “(B) if the individual has not filed a tax
4 return for such individual’s first taxable year
5 beginning in 2018, use information with respect
6 to such individual for calendar year 2019 pro-
7 vided in—

8 “(i) Form SSA-1099, Social Security
9 Benefit Statement, or

10 “(ii) Form RRB-1099, Social Security
11 Equivalent Benefit Statement.

12 “(6) NOTICE TO TAXPAYER.—Not later than 15
13 days after the date on which the Secretary distrib-
14 uted any payment to an eligible taxpayer pursuant
15 to this subsection, notice shall be sent by mail to
16 such taxpayer’s last known address. Such notice
17 shall indicate the method by which such payment
18 was made, the amount of such payment, and a
19 phone number for the appropriate point of contact
20 at the Internal Revenue Service to report any failure
21 to receive such payment.

22 “(g) IDENTIFICATION NUMBER REQUIREMENT.—

23 “(1) IN GENERAL.—No credit shall be allowed
24 under subsection (a) to an eligible individual who

1 does not include on the return of tax for the taxable
2 year—

3 “(A) such individual’s valid identification
4 number,

5 “(B) in the case of a joint return, the valid
6 identification number of such individual’s
7 spouse, and

8 “(C) in the case of any qualifying child
9 taken into account under subsection (a)(2), the
10 valid identification number of such qualifying
11 child.

12 “(2) VALID IDENTIFICATION NUMBER.—

13 “(A) IN GENERAL.—For purposes of para-
14 graph (1), the term ‘valid identification num-
15 ber’ means a social security number (as such
16 term is defined in section 24(h)(7)).

17 “(B) ADOPTION TAXPAYER IDENTIFICA-
18 TION NUMBER.—For purposes of paragraph
19 (1)(C), in the case of a qualifying child who is
20 adopted or placed for adoption, the term ‘valid
21 identification number’ shall include the adop-
22 tion taxpayer identification number of such
23 child.

24 “(3) SPECIAL RULE FOR MEMBERS OF THE
25 ARMED FORCES.—Paragraph (1)(B) shall not apply

1 in the case where at least 1 spouse was a member
2 of the Armed Forces of the United States at any
3 time during the taxable year and at least 1 spouse
4 satisfies paragraph (1)(A).

5 “(4) MATHEMATICAL OR CLERICAL ERROR AU-
6 THORITY.—Any omission of a correct valid identi-
7 fication number required under this subsection shall
8 be treated as a mathematical or clerical error for
9 purposes of applying section 6213(g)(2) to such
10 omission.

11 “(h) REGULATIONS.—The Secretary shall prescribe
12 such regulations or other guidance as may be necessary
13 to carry out the purposes of this section, including any
14 such measures as are deemed appropriate to avoid allow-
15 ing multiple credits or rebates to a taxpayer.”.

16 (b) ADMINISTRATIVE AMENDMENTS.—

17 (1) DEFINITION OF DEFICIENCY.—Section
18 6211(b)(4)(A) of the Internal Revenue Code of 1986
19 is amended by striking “and 36B, 168(k)(4)” and
20 inserting “36B, and 6428”.

21 (2) MATHEMATICAL OR CLERICAL ERROR AU-
22 THORITY.—Section 6213(g)(2)(L) of such Code is
23 amended by striking “or 32” and inserting “32, or
24 6428”.

25 (c) TREATMENT OF POSSESSIONS.—

1 (1) PAYMENTS TO POSSESSIONS.—

2 (A) MIRROR CODE POSSESSION.—The Sec-
3 retary of the Treasury shall pay to each posses-
4 sion of the United States which has a mirror
5 code tax system amounts equal to the loss (if
6 any) to that possession by reason of the amend-
7 ments made by this section. Such amounts shall
8 be determined by the Secretary of the Treasury
9 based on information provided by the govern-
10 ment of the respective possession.

11 (B) OTHER POSSESSIONS.—The Secretary
12 of the Treasury shall pay to each possession of
13 the United States which does not have a mirror
14 code tax system amounts estimated by the Sec-
15 retary of the Treasury as being equal to the ag-
16 gregate benefits (if any) that would have been
17 provided to residents of such possession by rea-
18 son of the amendments made by this section if
19 a mirror code tax system had been in effect in
20 such possession. The preceding sentence shall
21 not apply unless the respective possession has a
22 plan, which has been approved by the Secretary
23 of the Treasury, under which such possession
24 will promptly distribute such payments to its
25 residents.

1 (2) COORDINATION WITH CREDIT ALLOWED
2 AGAINST UNITED STATES INCOME TAXES.—No cred-
3 it shall be allowed against United States income
4 taxes under section 6428 of the Internal Revenue
5 Code of 1986 (as added by this section) to any per-
6 son—

7 (A) to whom a credit is allowed against
8 taxes imposed by the possession by reason of
9 the amendments made by this section, or

10 (B) who is eligible for a payment under a
11 plan described in paragraph (1)(B).

12 (3) DEFINITIONS AND SPECIAL RULES.—

13 (A) POSSESSION OF THE UNITED
14 STATES.—For purposes of this subsection, the
15 term “possession of the United States” includes
16 the Commonwealth of Puerto Rico and the
17 Commonwealth of the Northern Mariana Is-
18 lands.

19 (B) MIRROR CODE TAX SYSTEM.—For pur-
20 poses of this subsection, the term “mirror code
21 tax system” means, with respect to any posses-
22 sion of the United States, the income tax sys-
23 tem of such possession if the income tax liabil-
24 ity of the residents of such possession under
25 such system is determined by reference to the

1 income tax laws of the United States as if such
2 possession were the United States.

3 (C) TREATMENT OF PAYMENTS.—For pur-
4 poses of section 1324 of title 31, United States
5 Code, the payments under this subsection shall
6 be treated in the same manner as a refund due
7 from a credit provision referred to in subsection
8 (b)(2) of such section.

9 (d) EXCEPTION FROM REDUCTION OR OFFSET.—
10 Any credit or refund allowed or made to any individual
11 by reason of section 6428 of the Internal Revenue Code
12 of 1986 (as added by this section) or by reason of sub-
13 section (c) of this section shall not be—

14 (1) subject to reduction or offset pursuant to
15 section 3716 or 3720A of title 31, United States
16 Code,

17 (2) subject to reduction or offset pursuant to
18 subsection (d), (e), or (f) of section 6402 of the In-
19 ternal Revenue Code of 1986, or

20 (3) reduced or offset by other assessed Federal
21 taxes that would otherwise be subject to levy or col-
22 lection.

23 (e) PUBLIC AWARENESS CAMPAIGN.—The Secretary
24 of the Treasury (or the Secretary's delegate) shall conduct
25 a public awareness campaign, in coordination with the

1 Commissioner of Social Security and the heads of other
2 relevant Federal agencies, to provide information regard-
3 ing the availability of the credit and rebate allowed under
4 section 6428 of the Internal Revenue Code of 1986 (as
5 added by this section), including information with respect
6 to individuals who may not have filed a tax return for tax-
7 able year 2018 or 2019.

8 (f) APPROPRIATIONS TO CARRY OUT REBATES.—

9 (1) IN GENERAL.—Immediately upon the enact-
10 ment of this Act, the following sums are appro-
11 priated, out of any money in the Treasury not other-
12 wise appropriated, for the fiscal year ending Sep-
13 tember 30, 2020:

14 (A) DEPARTMENT OF THE TREASURY.—

15 (i) For an additional amount for “De-
16 partment of the Treasury—Bureau of the
17 Fiscal Service—Salaries and Expenses”,
18 \$78,650,000, to remain available until
19 September 30, 2021.

20 (ii) For an additional amount for
21 “Department of the Treasury—Internal
22 Revenue Service—Taxpayer Services”,
23 \$293,500,000, to remain available until
24 September 30, 2021.

1 (iii) For an additional amount for
2 “Department of the Treasury—Internal
3 Revenue Service—Operations Support”,
4 \$170,000,000, to remain available until
5 September 30, 2021.

6 (iv) For an additional amount for
7 “Department of Treasury—Internal Rev-
8 enue Service—Enforcement”, \$37,200,000,
9 to remain available until September 30,
10 2021.

11 Amounts made available in appropriations
12 under clauses (ii), (iii), and (iv) of this subpara-
13 graph may be transferred between such appro-
14 priations upon the advance notification of the
15 Committees on Appropriations of the House of
16 Representatives and the Senate. Such transfer
17 authority is in addition to any other transfer
18 authority provided by law.

19 (B) SOCIAL SECURITY ADMINISTRATION.—
20 For an additional amount for “Social Security
21 Administration—Limitation on Administrative
22 Expenses”, \$38,000,000, to remain available
23 until September 30, 2021.

24 (2) REPORTS.—No later than 15 days after en-
25 actment of this Act, the Secretary of the Treasury

1 shall submit a plan to the Committees on Appropria-
2 tions of the House of Representatives and the Sen-
3 ate detailing the expected use of the funds provided
4 by paragraph (1)(A). Beginning 90 days after enact-
5 ment of this Act, the Secretary of the Treasury shall
6 submit a quarterly report to the Committees on Ap-
7 propriations of the House of Representatives and the
8 Senate detailing the actual expenditure of funds pro-
9 vided by paragraph (1)(A) and the expected expendi-
10 ture of such funds in the subsequent quarter.

11 (g) CONFORMING AMENDMENTS.—

12 (1) Paragraph (2) of section 1324(b) of title
13 31, United States Code, is amended by inserting
14 “6428,” after “54B(h),”.

15 (2) The table of sections for subchapter B of
16 chapter 65 of subtitle F of the Internal Revenue
17 Code of 1986 is amended by inserting after the item
18 relating to section 6427 the following:

“Sec. 6428. 2020 Recovery Rebates for individuals.”.

19 **SEC. 2202. SPECIAL RULES FOR USE OF RETIREMENT**
20 **FUNDS.**

21 (a) TAX-FAVORED WITHDRAWALS FROM RETIRE-
22 MENT PLANS.—

23 (1) IN GENERAL.—Section 72(t) of the Internal
24 Revenue Code of 1986 shall not apply to any
25 coronavirus-related distribution.

1 (2) AGGREGATE DOLLAR LIMITATION.—

2 (A) IN GENERAL.—For purposes of this
3 subsection, the aggregate amount of distribu-
4 tions received by an individual which may be
5 treated as coronavirus-related distributions for
6 any taxable year shall not exceed \$100,000.

7 (B) TREATMENT OF PLAN DISTRIBUTI-
8 TIONS.—If a distribution to an individual would
9 (without regard to subparagraph (A)) be a
10 coronavirus-related distribution, a plan shall not
11 be treated as violating any requirement of the
12 Internal Revenue Code of 1986 merely because
13 the plan treats such distribution as a
14 coronavirus-related distribution, unless the ag-
15 gregate amount of such distributions from all
16 plans maintained by the employer (and any
17 member of any controlled group which includes
18 the employer) to such individual exceeds
19 \$100,000.

20 (C) CONTROLLED GROUP.—For purposes
21 of subparagraph (B), the term “controlled
22 group” means any group treated as a single
23 employer under subsection (b), (c), (m), or (o)
24 of section 414 of the Internal Revenue Code of
25 1986.

1 (3) AMOUNT DISTRIBUTED MAY BE REPAID.—

2 (A) IN GENERAL.—Any individual who re-
3 ceives a coronavirus-related distribution may, at
4 any time during the 3-year period beginning on
5 the day after the date on which such distribu-
6 tion was received, make 1 or more contributions
7 in an aggregate amount not to exceed the
8 amount of such distribution to an eligible retire-
9 ment plan of which such individual is a bene-
10 ficiary and to which a rollover contribution of
11 such distribution could be made under section
12 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or
13 457(e)(16), of the Internal Revenue Code of
14 1986, as the case may be.

15 (B) TREATMENT OF REPAYMENTS OF DIS-
16 TRIBUTIONS FROM ELIGIBLE RETIREMENT
17 PLANS OTHER THAN IRAS.—For purposes of
18 the Internal Revenue Code of 1986, if a con-
19 tribution is made pursuant to subparagraph (A)
20 with respect to a coronavirus-related distribu-
21 tion from an eligible retirement plan other than
22 an individual retirement plan, then the taxpayer
23 shall, to the extent of the amount of the con-
24 tribution, be treated as having received the
25 coronavirus-related distribution in an eligible

1 rollover distribution (as defined in section
2 402(c)(4) of such Code) and as having trans-
3 ferred the amount to the eligible retirement
4 plan in a direct trustee to trustee transfer with-
5 in 60 days of the distribution.

6 (C) TREATMENT OF REPAYMENTS OF DIS-
7 TRIBUTIONS FROM IRAS.—For purposes of the
8 Internal Revenue Code of 1986, if a contribu-
9 tion is made pursuant to subparagraph (A)
10 with respect to a coronavirus-related distribu-
11 tion from an individual retirement plan (as de-
12 fined by section 7701(a)(37) of such Code),
13 then, to the extent of the amount of the con-
14 tribution, the coronavirus-related distribution
15 shall be treated as a distribution described in
16 section 408(d)(3) of such Code and as having
17 been transferred to the eligible retirement plan
18 in a direct trustee to trustee transfer within 60
19 days of the distribution.

20 (4) DEFINITIONS.—For purposes of this sub-
21 section—

22 (A) CORONAVIRUS-RELATED DISTRIBUTION.—Except as provided in paragraph (2),
23 the term “coronavirus-related distribution”
24

1 means any distribution from an eligible retire-
2 ment plan made—

3 (i) on or after January 1, 2020, and
4 before December 31, 2020,

5 (ii) to an individual—

6 (I) who is diagnosed with the
7 virus SARS-CoV-2 or with
8 coronavirus disease 2019 (COVID-19)
9 by a test approved by the Centers for
10 Disease Control and Prevention,

11 (II) whose spouse or dependent
12 (as defined in section 152 of the In-
13 ternal Revenue Code of 1986) is diag-
14 nosed with such virus or disease by
15 such a test, or

16 (III) who experiences adverse fi-
17 nancial consequences as a result of
18 being quarantined, being furloughed
19 or laid off or having work hours re-
20 duced due to such virus or disease,
21 being unable to work due to lack of
22 child care due to such virus or dis-
23 ease, closing or reducing hours of a
24 business owned or operated by the in-
25 dividual due to such virus or disease,

1 or other factors as determined by the
2 Secretary of the Treasury (or the Sec-
3 retary's delegate).

4 (B) EMPLOYEE CERTIFICATION.—The ad-
5 ministrator of an eligible retirement plan may
6 rely on an employee's certification that the em-
7 ployee satisfies the conditions of subparagraph
8 (A)(ii) in determining whether any distribution
9 is a coronavirus-related distribution.

10 (C) ELIGIBLE RETIREMENT PLAN.—The
11 term “eligible retirement plan” has the meaning
12 given such term by section 402(c)(8)(B) of the
13 Internal Revenue Code of 1986.

14 (5) INCOME INCLUSION SPREAD OVER 3-YEAR
15 PERIOD.—

16 (A) IN GENERAL.—In the case of any
17 coronavirus-related distribution, unless the tax-
18 payer elects not to have this paragraph apply
19 for any taxable year, any amount required to be
20 included in gross income for such taxable year
21 shall be so included ratably over the 3-taxable-
22 year period beginning with such taxable year.

23 (B) SPECIAL RULE.—For purposes of sub-
24 paragraph (A), rules similar to the rules of sub-

1 paragraph (E) of section 408A(d)(3) of the In-
2 ternal Revenue Code of 1986 shall apply.

3 (6) SPECIAL RULES.—

4 (A) EXEMPTION OF DISTRIBUTIONS FROM
5 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
6 HOLDING RULES.—For purposes of sections
7 401(a)(31), 402(f), and 3405 of the Internal
8 Revenue Code of 1986, coronavirus-related dis-
9 tributions shall not be treated as eligible roll-
10 over distributions.

11 (B) CORONAVIRUS-RELATED DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes of the Internal Revenue Code of 1986, a coronavirus-related distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(i), 403(b)(11), and 457(d)(1)(A) of such Code and section 8433(h)(1) of title 5, United States Code.

12 (b) LOANS FROM QUALIFIED PLANS.—

13 (1) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan from a qualified employer plan (as defined under section 72(p)(4) of the Internal Revenue Code of 1986) to a qualified individual made during the 180-

1 day period beginning on the date of the enactment
2 of this Act—

3 (A) clause (i) of section 72(p)(2)(A) of
4 such Code shall be applied by substituting
5 “\$100,000” for “\$50,000”, and

6 (B) clause (ii) of such section shall be ap-
7 plied by substituting “the present value of the
8 nonforfeitable accrued benefit of the employee
9 under the plan” for “one-half of the present
10 value of the nonforfeitable accrued benefit of
11 the employee under the plan”.

12 (2) DELAY OF REPAYMENT.—In the case of a
13 qualified individual with an outstanding loan (on or
14 after the date of the enactment of this Act) from a
15 qualified employer plan (as defined in section
16 72(p)(4) of the Internal Revenue Code of 1986)—

17 (A) if the due date pursuant to subpara-
18 graph (B) or (C) of section 72(p)(2) of such
19 Code for any repayment with respect to such
20 loan occurs during the period beginning on the
21 date of the enactment of this Act and ending on
22 December 31, 2020, such due date shall be de-
23 layed for 1 year,

24 (B) any subsequent repayments with re-
25 spect to any such loan shall be appropriately

1 adjusted to reflect the delay in the due date
2 under subparagraph (A) and any interest accru-
3 ing during such delay, and

4 (C) in determining the 5-year period and
5 the term of a loan under subparagraph (B) or
6 (C) of section 72(p)(2) of such Code, the period
7 described in subparagraph (A) of this para-
8 graph shall be disregarded.

9 (3) QUALIFIED INDIVIDUAL.—For purposes of
10 this subsection, the term “qualified individual”
11 means any individual who is described in subsection
12 (a)(4)(A)(ii).

13 (c) PROVISIONS RELATING TO PLAN AMEND-
14 MENTS.—

15 (1) IN GENERAL.—If this subsection applies to
16 any amendment to any plan or annuity contract—

17 (A) such plan or contract shall be treated
18 as being operated in accordance with the terms
19 of the plan during the period described in para-
20 graph (2)(B)(i), and

21 (B) except as provided by the Secretary of
22 the Treasury (or the Secretary’s delegate), such
23 plan or contract shall not fail to meet the re-
24 quirements of section 411(d)(6) of the Internal
25 Revenue Code of 1986 and section 204(g) of

1 the Employee Retirement Income Security Act
2 of 1974 by reason of such amendment.

3 (2) AMENDMENTS TO WHICH SUBSECTION AP-
4 PLIES.—

5 (A) IN GENERAL.—This subsection shall
6 apply to any amendment to any plan or annuity
7 contract which is made—

8 (i) pursuant to any provision of this
9 section, or pursuant to any regulation
10 issued by the Secretary of the Treasury or
11 the Secretary of Labor (or the delegate of
12 either such Secretary) under any provision
13 of this section, and

14 (ii) on or before the last day of the
15 first plan year beginning on or after Janu-
16 ary 1, 2022, or such later date as the Sec-
17 retary of the Treasury (or the Secretary's
18 delegate) may prescribe.

19 In the case of a governmental plan (as defined
20 in section 414(d) of the Internal Revenue Code
21 of 1986), clause (ii) shall be applied by sub-
22 stituting the date which is 2 years after the
23 date otherwise applied under clause (ii).

24 (B) CONDITIONS.—This subsection shall
25 not apply to any amendment unless—

- 1 (i) during the period—
- 2 (I) beginning on the date that
- 3 this section or the regulation de-
- 4 scribed in subparagraph (A)(i) takes
- 5 effect (or in the case of a plan or con-
- 6 tract amendment not required by this
- 7 section or such regulation, the effec-
- 8 tive date specified by the plan), and
- 9 (II) ending on the date described
- 10 in subparagraph (A)(ii) (or, if earlier,
- 11 the date the plan or contract amend-
- 12 ment is adopted),
- 13 the plan or contract is operated as if such
- 14 plan or contract amendment were in effect,
- 15 and
- 16 (ii) such plan or contract amendment
- 17 applies retroactively for such period.

18 **SEC. 2203. TEMPORARY WAIVER OF REQUIRED MINIMUM**

19 **DISTRIBUTION RULES FOR CERTAIN RETIRE-**

20 **MENT PLANS AND ACCOUNTS.**

21 (a) IN GENERAL.—Section 401(a)(9) of the Internal

22 Revenue Code of 1986 is amended by adding at the end

23 the following new subparagraph:

24 “(I) TEMPORARY WAIVER OF MINIMUM RE-

25 QUIRED DISTRIBUTION.—

1 “(i) IN GENERAL.—The requirements
2 of this paragraph shall not apply for cal-
3 endar year 2020 to—

4 “(I) a defined contribution plan
5 which is described in this subsection
6 or in section 403(a) or 403(b),

7 “(II) a defined contribution plan
8 which is an eligible deferred com-
9 pensation plan described in section
10 457(b) but only if such plan is main-
11 tained by an employer described in
12 section 457(e)(1)(A), or

13 “(III) an individual retirement
14 plan.

15 “(ii) SPECIAL RULE FOR REQUIRED
16 BEGINNING DATES IN 2020.—Clause (i)
17 shall apply to any distribution which is re-
18 quired to be made in calendar year 2020
19 by reason of—

20 “(I) a required beginning date
21 occurring in such calendar year, and

22 “(II) such distribution not having
23 been made before January 1, 2020.

1 “(iii) SPECIAL RULES REGARDING
2 WAIVER PERIOD.—For purposes of this
3 paragraph—

4 “(I) the required beginning date
5 with respect to any individual shall be
6 determined without regard to this
7 subparagraph for purposes of applying
8 this paragraph for calendar years
9 after 2020, and

10 “(II) if clause (ii) of subpara-
11 graph (B) applies, the 5-year period
12 described in such clause shall be de-
13 termined without regard to calendar
14 year 2020.”.

15 (b) ELIGIBLE ROLLOVER DISTRIBUTIONS.—Section
16 402(c)(4) of the Internal Revenue Code of 1986 is amend-
17 ed by striking “2009” each place it appears in the last
18 sentence and inserting “2020”.

19 (c) EFFECTIVE DATES.—

20 (1) IN GENERAL.—The amendments made by
21 this section shall apply for calendar years beginning
22 after December 31, 2019.

23 (2) PROVISIONS RELATING TO PLAN OR CON-
24 TRACT AMENDMENTS.—

1 (A) IN GENERAL.—If this paragraph ap-
2 plies to any plan or contract amendment—

3 (i) such plan or contract shall not fail
4 to be treated as being operated in accord-
5 ance with the terms of the plan during the
6 period described in subparagraph (B)(ii)
7 solely because the plan operates in accord-
8 ance with this section, and

9 (ii) except as provided by the Sec-
10 retary of the Treasury (or the Secretary's
11 delegate), such plan or contract shall not
12 fail to meet the requirements of section
13 411(d)(6) of the Internal Revenue Code of
14 1986 and section 204(g) of the Employee
15 Retirement Income Security Act of 1974
16 by reason of such amendment.

17 (B) AMENDMENTS TO WHICH PARAGRAPH
18 APPLIES.—

19 (i) IN GENERAL.—This paragraph
20 shall apply to any amendment to any plan
21 or annuity contract which—

22 (I) is made pursuant to the
23 amendments made by this section,
24 and

1 (II) is made on or before the last
2 day of the first plan year beginning
3 on or after January 1, 2022.

4 In the case of a governmental plan, sub-
5 clause (II) shall be applied by substituting
6 “2024” for “2022”.

7 (ii) CONDITIONS.—This paragraph
8 shall not apply to any amendment unless
9 during the period beginning on the effec-
10 tive date of the amendment and ending on
11 December 31, 2020, the plan or contract is
12 operated as if such plan or contract
13 amendment were in effect.

14 **SEC. 2204. ALLOWANCE OF PARTIAL ABOVE THE LINE DE-**
15 **DUCTION FOR CHARITABLE CONTRIBUTIONS.**

16 (a) IN GENERAL.—Section 62(a) of the Internal Rev-
17 enue Code of 1986 is amended by inserting after para-
18 graph (21) the following new paragraph:

19 “(22) CHARITABLE CONTRIBUTIONS.—In the
20 case of taxable years beginning in 2020, the amount
21 (not to exceed \$300) of qualified charitable contribu-
22 tions made by an eligible individual during the tax-
23 able year.”.

1 (b) DEFINITIONS.—Section 62 of such Code is
2 amended by adding at the end the following new sub-
3 section:

4 “(f) DEFINITIONS RELATING TO QUALIFIED CHARITABLE
5 CONTRIBUTIONS.—For purposes of subsection
6 (a)(22)—

7 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
8 individual’ means any individual who does not elect
9 to itemize deductions.

10 “(2) QUALIFIED CHARITABLE CONTRIBUTIONS.—The term ‘qualified charitable contribution’
11 means a charitable contribution (as defined in sec-
12 tion 170(c))—

13 “(A) which is made in cash,

14 “(B) for which a deduction is allowable
15 under section 170 (determined without regard
16 to subsection (b) thereof), and

17 “(C) which is—

18 “(i) made to an organization de-
19 scribed in section 170(b)(1)(A), and

20 “(ii) not—

21 “(I) to an organization described
22 in section 509(a)(3), or

23 “(II) for the establishment of a
24 new, or maintenance of an existing,
25

1 donor advised fund (as defined in sec-
2 tion 4966(d)(2)).

3 Such term shall not include any amount
4 which is treated as a charitable contribu-
5 tion made in such taxable year by reason
6 of subsection (b)(1)(G)(ii) or (d)(1) of sec-
7 tion 170.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2019.

11 **SEC. 2205. MODIFICATION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS DURING 2020.**

12 (a) TEMPORARY SUSPENSION OF LIMITATIONS ON
13 CERTAIN CASH CONTRIBUTIONS.—

14 (1) IN GENERAL.—Except as otherwise pro-
15 vided in paragraph (2), qualified contributions shall
16 be disregarded in applying subsections (b) and (d) of
17 section 170 of the Internal Revenue Code of 1986.

18 (2) TREATMENT OF EXCESS CONTRIBUTIONS.—
19 For purposes of section 170 of the Internal Revenue
20 Code of 1986—

21 (A) INDIVIDUALS.—In the case of an indi-
22 vidual—

23 (i) LIMITATION.—Any qualified con-
24 tribution shall be allowed as a deduction
25

1 only to the extent that the aggregate of
2 such contributions does not exceed the ex-
3 cess of the taxpayer's contribution base (as
4 defined in subparagraph (H) of section
5 170(b)(1) of such Code) over the amount
6 of all other charitable contributions allowed
7 under section 170(b)(1) of such Code.

8 (ii) CARRYOVER.—If the aggregate
9 amount of qualified contributions made in
10 the contribution year (within the meaning
11 of section 170(d)(1) of such Code) exceeds
12 the limitation of clause (i), such excess
13 shall be added to the excess described in
14 section 170(b)(1)(G)(ii).

15 (B) CORPORATIONS.—In the case of a cor-
16 poration—

17 (i) LIMITATION.—Any qualified con-
18 tribution shall be allowed as a deduction
19 only to the extent that the aggregate of
20 such contributions does not exceed the ex-
21 cess of 25 percent of the taxpayer's taxable
22 income (as determined under paragraph
23 (2) of section 170(b) of such Code) over
24 the amount of all other charitable con-
25 tributions allowed under such paragraph.

1 (ii) CARRYOVER.—If the aggregate
2 amount of qualified contributions made in
3 the contribution year (within the meaning
4 of section 170(d)(2) of such Code) exceeds
5 the limitation of clause (i), such excess
6 shall be appropriately taken into account
7 under section 170(d)(2) subject to the limi-
8 tations thereof.

9 (3) QUALIFIED CONTRIBUTIONS.—

10 (A) IN GENERAL.—For purposes of this
11 subsection, the term “qualified contribution”
12 means any charitable contribution (as defined
13 in section 170(c) of the Internal Revenue Code
14 of 1986) if—

15 (i) such contribution is paid in cash
16 during calendar year 2020 to an organiza-
17 tion described in section 170(b)(1)(A) of
18 such Code, and

19 (ii) the taxpayer has elected the appli-
20 cation of this section with respect to such
21 contribution.

22 (B) EXCEPTION.—Such term shall not in-
23 clude a contribution by a donor if the contribu-
24 tion is—

1 (i) to an organization described in sec-
2 tion 509(a)(3) of the Internal Revenue
3 Code of 1986, or

4 (ii) for the establishment of a new, or
5 maintenance of an existing, donor advised
6 fund (as defined in section 4966(d)(2) of
7 such Code).

8 (C) APPLICATION OF ELECTION TO PART-
9 NERSHIPS AND S CORPORATIONS.—In the case
10 of a partnership or S corporation, the election
11 under subparagraph (A)(ii) shall be made sepa-
12 rately by each partner or shareholder.

13 (b) INCREASE IN LIMITS ON CONTRIBUTIONS OF
14 FOOD INVENTORY.—In the case of any charitable con-
15 tribution of food during 2020 to which section
16 170(e)(3)(C) of the Internal Revenue Code of 1986 ap-
17 plies, subclauses (I) and (II) of clause (ii) thereof shall
18 each be applied by substituting “25 percent” for “15 per-
19 cent.”

20 (c) EFFECTIVE DATE.—This section shall apply to
21 taxable years ending after December 31, 2019.

1 **Subtitle C—Business Provisions**

2 **SEC. 2301. EMPLOYEE RETENTION CREDIT FOR EMPLOY-** 3 **ERS SUBJECT TO CLOSURE DUE TO COVID-19.**

4 (a) IN GENERAL.—In the case of an eligible em-
5 ployer, there shall be allowed as a credit against applicable
6 employment taxes for each calendar quarter an amount
7 equal to 50 percent of the qualified wages with respect
8 to each employee of such employer for such calendar quar-
9 ter.

10 (b) LIMITATIONS AND REFUNDABILITY.—

11 (1) WAGES TAKEN INTO ACCOUNT.—The
12 amount of qualified wages with respect to any em-
13 ployee which may be taken into account under sub-
14 section (a) by the eligible employer for all calendar
15 quarters shall not exceed \$10,000.

16 (2) CREDIT LIMITED TO EMPLOYMENT
17 TAXES.—The credit allowed by subsection (a) with
18 respect to any calendar quarter shall not exceed the
19 applicable employment taxes (reduced by any credits
20 allowed under subsections (e) and (f) of section
21 3111 of the Internal Revenue Code of 1986 and sec-
22 tions 7001 and 7003 of the Families First
23 Coronavirus Response Act) on the wages paid with
24 respect to the employment of all the employees of
25 the eligible employer for such calendar quarter.

1 (3) REFUNDABILITY OF EXCESS CREDIT.—

2 (A) IN GENERAL.—If the amount of the
3 credit under subsection (a) exceeds the limita-
4 tion of paragraph (2) for any calendar quarter,
5 such excess shall be treated as an overpayment
6 that shall be refunded under sections 6402(a)
7 and 6413(b) of the Internal Revenue Code of
8 1986.

9 (B) TREATMENT OF PAYMENTS.—For pur-
10 poses of section 1324 of title 31, United States
11 Code, any amounts due to the employer under
12 this paragraph shall be treated in the same
13 manner as a refund due from a credit provision
14 referred to in subsection (b)(2) of such section.

15 (c) DEFINITIONS.—For purposes of this section—

16 (1) APPLICABLE EMPLOYMENT TAXES.—The
17 term “applicable employment taxes” means the fol-
18 lowing:

19 (A) The taxes imposed under section
20 3111(a) of the Internal Revenue Code of 1986.

21 (B) So much of the taxes imposed under
22 section 3211(a) of such Code as are attrib-
23 utable to the rate in effect under section
24 3111(a) of such Code.

25 (2) ELIGIBLE EMPLOYER.—

1 (A) IN GENERAL.—The term “eligible em-
2 ployer” means any employer—

3 (i) which was carrying on a trade or
4 business during calendar year 2020, and

5 (ii) with respect to any calendar quar-
6 ter, for which—

7 (I) the operation of the trade or
8 business described in clause (i) is fully
9 or partially suspended during the cal-
10 endar quarter due to orders from an
11 appropriate governmental authority
12 limiting commerce, travel, or group
13 meetings (for commercial, social, reli-
14 gious, or other purposes) due to the
15 coronavirus disease 2019 (COVID-
16 19), or

17 (II) such calendar quarter is
18 within the period described in sub-
19 paragraph (B).

20 (B) SIGNIFICANT DECLINE IN GROSS RE-
21 CEIPTS.—The period described in this subpara-
22 graph is the period—

23 (i) beginning with the first calendar
24 quarter beginning after December 31,
25 2019, for which gross receipts (within the

1 meaning of section 448(c) of the Internal
2 Revenue Code of 1986) for the calendar
3 quarter are less than 50 percent of gross
4 receipts for the same calendar quarter in
5 the prior year, and

6 (ii) ending with the calendar quarter
7 following the first calendar quarter begin-
8 ning after a calendar quarter described in
9 clause (i) for which gross receipts of such
10 employer are greater than 80 percent of
11 gross receipts for the same calendar quar-
12 ter in the prior year.

13 (C) TAX-EXEMPT ORGANIZATIONS.—In the
14 case of an organization which is described in
15 section 501(c) of the Internal Revenue Code of
16 1986 and exempt from tax under section 501(a)
17 of such Code, clauses (i) and (ii)(I) of subpara-
18 graph (A) shall apply to all operations of such
19 organization.

20 (3) QUALIFIED WAGES.—

21 (A) IN GENERAL.—The term “qualified
22 wages” means—

23 (i) in the case of an eligible employer
24 for which the average number of full-time
25 equivalent employees (within the meaning

1 of section 4980H of the Internal Revenue
2 Code of 1986) employed by such eligible
3 employer during 2019 was greater than
4 100, wages paid by such eligible employer
5 with respect to which an employee is not
6 providing services due to circumstances de-
7 scribed in subclause (I) or (II) of para-
8 graph (2)(A)(ii), or

9 (ii) in the case of an eligible employer
10 for which the average number of full-time
11 equivalent employees (within the meaning
12 of section 4980H of the Internal Revenue
13 Code of 1986) employed by such eligible
14 employer during 2019 was not greater
15 than 100—

16 (I) with respect to an eligible em-
17 ployer described in subclause (I) of
18 paragraph (2)(A)(ii), wages paid by
19 such eligible employer with respect to
20 an employee during any period de-
21 scribed in such clause, or

22 (II) with respect to an eligible
23 employer described in subclause (II)
24 of such paragraph, wages paid by

1 such eligible employer with respect to
2 an employee during such quarter.

3 Such term shall not include any wages taken
4 into account under section 7001 or section
5 7003 of the Families First Coronavirus Re-
6 sponse Act.

7 (B) LIMITATION.—Qualified wages paid or
8 incurred by an eligible employer described in
9 subparagraph (A)(i) with respect to an em-
10 ployee for any period described in such sub-
11 paragraph may not exceed the amount such em-
12 ployee would have been paid for working an
13 equivalent duration during the 30 days imme-
14 diately preceding such period.

15 (C) ALLOWANCE FOR CERTAIN HEALTH
16 PLAN EXPENSES.—

17 (i) IN GENERAL.—The term “qualified
18 wages” shall include so much of the eligi-
19 ble employer’s qualified health plan ex-
20 penses as are properly allocable to such
21 wages.

22 (ii) QUALIFIED HEALTH PLAN EX-
23 PENSES.—For purposes of this paragraph,
24 the term “qualified health plan expenses”
25 means amounts paid or incurred by the eli-

1 gible employer to provide and maintain a
2 group health plan (as defined in section
3 5000(b)(1) of the Internal Revenue Code
4 of 1986), but only to the extent that such
5 amounts are excluded from the gross in-
6 come of employees by reason of section
7 106(a) of such Code.

8 (iii) ALLOCATION RULES.—For pur-
9 poses of this paragraph, qualified health
10 plan expenses shall be allocated to quali-
11 fied wages in such manner as the Sec-
12 retary may prescribe. Except as otherwise
13 provided by the Secretary, such allocation
14 shall be treated as properly made if made
15 on the basis of being pro rata among em-
16 ployees and pro rata on the basis of peri-
17 ods of coverage (relative to the periods to
18 which such wages relate).

19 (4) SECRETARY.—The term “Secretary” means
20 the Secretary of the Treasury or the Secretary’s del-
21 egate.

22 (5) WAGES.—The term “wages” means wages
23 (as defined in section 3121(a) of the Internal Rev-
24 enue Code of 1986) and compensation (as defined in
25 section 3231(e) of such Code).

1 (6) OTHER TERMS.—Any term used in this sec-
2 tion which is also used in chapter 21 or 22 of the
3 Internal Revenue Code of 1986 shall have the same
4 meaning as when used in such chapter.

5 (d) AGGREGATION RULE.—All persons treated as a
6 single employer under subsection (a) or (b) of section 52
7 of the Internal Revenue Code of 1986, or subsection (m)
8 or (o) of section 414 of such Code, shall be treated as
9 one employer for purposes of this section.

10 (e) CERTAIN RULES TO APPLY.—For purposes of
11 this section, rules similar to the rules of sections 51(i)(1)
12 and 280C(a) of the Internal Revenue Code of 1986 shall
13 apply.

14 (f) CERTAIN GOVERNMENTAL EMPLOYERS.—This
15 credit shall not apply to the Government of the United
16 States, the government of any State or political subdivi-
17 sion thereof, or any agency or instrumentality of any of
18 the foregoing.

19 (g) ELECTION NOT TO HAVE SECTION APPLY.—This
20 section shall not apply with respect to any eligible em-
21 ployer for any calendar quarter if such employer elects (at
22 such time and in such manner as the Secretary may pre-
23 scribe) not to have this section apply.

24 (h) SPECIAL RULES.—

1 (1) EMPLOYEE NOT TAKEN INTO ACCOUNT
2 MORE THAN ONCE.—An employee shall not be in-
3 cluded for purposes of this section for any period
4 with respect to any employer if such employer is al-
5 lowed a credit under section 51 of the Internal Rev-
6 enue Code of 1986 with respect to such employee for
7 such period.

8 (2) DENIAL OF DOUBLE BENEFIT.—Any wages
9 taken into account in determining the credit allowed
10 under this section shall not be taken into account for
11 purposes of determining the credit allowed under
12 section 45S of such Code.

13 (3) THIRD PARTY PAYORS.—Any credit allowed
14 under this section shall be treated as a credit de-
15 scribed in section 3511(d)(2) of such Code.

16 (i) TRANSFERS TO FEDERAL OLD-AGE AND SUR-
17 VIVORS INSURANCE TRUST FUND.—There are hereby ap-
18 propriated to the Federal Old-Age and Survivors Insur-
19 ance Trust Fund and the Federal Disability Insurance
20 Trust Fund established under section 201 of the Social
21 Security Act (42 U.S.C. 401) and the Social Security
22 Equivalent Benefit Account established under section
23 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C.
24 14 231n–1(a)) amounts equal to the reduction in revenues
25 to the Treasury by reason of this section (without regard

1 to this subsection). Amounts appropriated by the pre-
2 ceding sentence shall be transferred from the general fund
3 at such times and in such manner as to replicate to the
4 extent possible the transfers which would have occurred
5 to such Trust Fund or Account had this section not been
6 enacted.

7 (j) RULE FOR EMPLOYERS TAKING SMALL BUSINESS
8 INTERRUPTION LOAN.—If an eligible employer receives a
9 covered loan under paragraph (36) of section 7(a) of the
10 Small Business Act (15 U.S.C. 636(a)), as added by sec-
11 tion 1102 of this Act, such employer shall not be eligible
12 for the credit under this section.

13 (k) TREATMENT OF DEPOSITS.—The Secretary shall
14 waive any penalty under section 6656 of the Internal Rev-
15 enue Code of 1986 for any failure to make a deposit of
16 any applicable employment taxes if the Secretary deter-
17 mines that such failure was due to the reasonable anticipa-
18 tion of the credit allowed under this section.

19 (l) REGULATIONS AND GUIDANCE.—The Secretary
20 shall issue such forms, instructions, regulations, and guid-
21 ance as are necessary—

22 (1) to allow the advance payment of the credit
23 under subsection (a), subject to the limitations pro-
24 vided in this section, based on such information as
25 the Secretary shall require,

1 (2) to provide for the reconciliation of such ad-
2 vance payment with the amount advanced at the
3 time of filing the return of tax for the applicable cal-
4 endar quarter or taxable year,

5 (3) to provide for the recapture of the credit
6 under this section if such credit is allowed to a tax-
7 payer which receives a loan described in subsection
8 (j) during a subsequent quarter,

9 (4) with respect to the application of the credit
10 under subsection (a) to third party payors (including
11 professional employer organizations, certified profes-
12 sional employer organizations, or agents under sec-
13 tion 3504 of the Internal Revenue Code of 1986),
14 including regulations or guidance allowing such
15 payors to submit documentation necessary to sub-
16 stantiate the eligible employer status of employers
17 that use such payors, and

18 (5) for application of subparagraphs (A)(ii)(II)
19 and (B) of subsection (c)(2) in the case of any em-
20 ployer which was not carrying on a trade or business
21 for all or part of the same calendar quarter in the
22 prior year.

23 (m) APPLICATION.—This section shall only apply to
24 wages paid after March 12, 2020, and before January 1,
25 2021.

1 **SEC. 2302. DELAY OF PAYMENT OF EMPLOYER PAYROLL**

2 **TAXES.**

3 (a) IN GENERAL.—

4 (1) TAXES.—Notwithstanding any other provi-
5 sion of law, the payment for applicable employment
6 taxes for the payroll tax deferral period shall not be
7 due before the applicable date.

8 (2) DEPOSITS.—Notwithstanding section 6302
9 of the Internal Revenue Code of 1986, an employer
10 shall be treated as having timely made all deposits
11 of applicable employment taxes that are required to
12 be made (without regard to this section) for such
13 taxes during the payroll tax deferral period if all
14 such deposits are made not later than the applicable
15 date.

16 (3) EXCEPTION.—This subsection shall not
17 apply to any taxpayer if such taxpayer has had in-
18 debtedness forgiven under section 1106 of this Act
19 with respect to a loan under paragraph (36) of sec-
20 tion 7(a) of the Small Business Act (15 U.S.C.
21 636(a)), as added by section 1102 of this Act, or in-
22 debtedness forgiven under section 1109 of this Act.

23 (b) SECA.—

24 (1) IN GENERAL.—Notwithstanding any other
25 provision of law, the payment for 50 percent of the
26 taxes imposed under section 1401(a) of the Internal

1 Revenue Code of 1986 for the payroll tax deferral
2 period shall not be due before the applicable date.

3 (2) ESTIMATED TAXES.—For purposes of ap-
4 plying section 6654 of the Internal Revenue Code of
5 1986 to any taxable year which includes any part of
6 the payroll tax deferral period, 50 percent of the
7 taxes imposed under section 1401(a) of such Code
8 for the payroll tax deferral period shall not be treat-
9 ed as taxes to which such section 6654 applies.

10 (c) LIABILITY OF THIRD PARTIES.—

11 (1) ACTS TO BE PERFORMED BY AGENTS.—For
12 purposes of section 3504 of the Internal Revenue
13 Code of 1986, in the case of any person designated
14 pursuant to such section (and any regulations or
15 other guidance issued by the Secretary with respect
16 to such section) to perform acts otherwise required
17 to be performed by an employer under such Code, if
18 such employer directs such person to defer payment
19 of any applicable employment taxes during the pay-
20 roll tax deferral period under this section, such em-
21 ployer shall be solely liable for the payment of such
22 applicable employment taxes before the applicable
23 date for any wages paid by such person on behalf of
24 such employer during such period.

1 (2) CERTIFIED PROFESSIONAL EMPLOYER OR-
2 GANIZATIONS.—For purposes of section 3511, in the
3 case of a certified professional employer organization
4 (as defined in subsection (a) of section 7705 of the
5 Internal Revenue Code of 1986) that has entered
6 into a service contract described in subsection (e)(2)
7 of such section with a customer, if such customer di-
8 rects such organization to defer payment of any ap-
9 plicable employment taxes during the payroll tax de-
10 ferral period under this section, such customer shall,
11 notwithstanding subsections (a) and (c) of section
12 3511, be solely liable for the payment of such appli-
13 cable employment taxes before the applicable date
14 for any wages paid by such organization to any work
15 site employee performing services for such customer
16 during such period.

17 (d) DEFINITIONS.—For purposes of this section—

18 (1) APPLICABLE EMPLOYMENT TAXES.—The
19 term “applicable employment taxes” means the fol-
20 lowing:

21 (A) The taxes imposed under section
22 3111(a) of the Internal Revenue Code of 1986.

23 (B) So much of the taxes imposed under
24 section 3211(a) of such Code as are attrib-

1 utable to the rate in effect under section
2 3111(a) of such Code.

3 (C) So much of the taxes imposed under
4 section 3221(a) of such Code as are attrib-
5 utable to the rate in effect under section
6 3111(a) of such Code.

7 (2) PAYROLL TAX DEFERRAL PERIOD.—The
8 term “payroll tax deferral period” means the period
9 beginning on the date of the enactment of this Act
10 and ending before January 1, 2021.

11 (3) APPLICABLE DATE.—The term “applicable
12 date” means—

13 (A) December 31, 2021, with respect to 50
14 percent of the amounts to which subsection (a)
15 or (b), as the case may be, apply, and

16 (B) December 31, 2022, with respect to
17 the remaining such amounts.

18 (4) SECRETARY.—The term “Secretary” means
19 the Secretary of the Treasury (or the Secretary’s
20 delegate).

21 (e) TRUST FUNDS HELD HARMLESS.—There are
22 hereby appropriated (out of any money in the Treasury
23 not otherwise appropriated) for each fiscal year to the
24 Federal Old-Age and Survivors Insurance Trust Fund and
25 the Federal Disability Insurance Trust Fund established

1 under section 201 of the Social Security Act (42 U.S.C.
2 401) and the Social Security Equivalent Benefit Account
3 established under section 15A(a) of the Railroad Retire-
4 ment Act of 1974 (45 U.S.C. 231n-1(a)) an amount equal
5 to the reduction in the transfers to such fund for such
6 fiscal year by reason of this section. Amounts appropriated
7 by the preceding sentence shall be transferred from the
8 general fund at such times and in such manner as to rep-
9 licate to the extent possible the transfers which would have
10 occurred to such Trust Fund had such amendments not
11 been enacted.

12 (f) REGULATORY AUTHORITY.—The Secretary shall
13 issue such regulations or other guidance as necessary to
14 carry out the purposes of this section, including rules for
15 the administration and enforcement of subsection (e).

16 **SEC. 2303. MODIFICATIONS FOR NET OPERATING LOSSES.**

17 (a) TEMPORARY REPEAL OF TAXABLE INCOME LIMI-
18 TATION.—

19 (1) IN GENERAL.—The first sentence of section
20 172(a) of the Internal Revenue Code of 1986 is
21 amended by striking “an amount equal to” and all
22 that follows and inserting “an amount equal to—

23 “(1) in the case of a taxable year beginning be-
24 fore January 1, 2021, the aggregate of the net oper-

1 ating loss carryovers to such year, plus the net oper-
2 ating loss carrybacks to such year, and

3 “(2) in the case of a taxable year beginning
4 after December 31, 2020, the sum of—

5 “(A) the aggregate amount of net oper-
6 ating losses arising in taxable years beginning
7 before January 1, 2018, carried to such taxable
8 year, plus

9 “(B) the lesser of—

10 “(i) the aggregate amount of net op-
11 erating losses arising in taxable years be-
12 ginning after December 31, 2017, carried
13 to such taxable year, or

14 “(ii) 80 percent of the excess (if any)
15 of—

16 “(I) taxable income computed
17 without regard to the deductions
18 under this section and sections 199A
19 and 250, over

20 “(II) the amount determined
21 under subparagraph (A).”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 172(b)(2)(C) of such Code is
24 amended to read as follows:

1 taxable years preceding the taxable
2 year of such loss, and

3 “(II) subparagraphs (B) and
4 (C)(i) shall not apply.

5 “(ii) SPECIAL RULES FOR REITS.—
6 For purposes of this subparagraph—

7 “(I) IN GENERAL.—A net oper-
8 ating loss for a REIT year shall not
9 be a net operating loss carryback to
10 any taxable year preceding the taxable
11 year of such loss.

12 “(II) SPECIAL RULE.—In the
13 case of any net operating loss for a
14 taxable year which is not a REIT
15 year, such loss shall not be carried to
16 any preceding taxable year which is a
17 REIT year.

18 “(III) REIT YEAR.—For pur-
19 poses of this subparagraph, the term
20 ‘REIT year’ means any taxable year
21 for which the provisions of part II of
22 subchapter M (relating to real estate
23 investment trusts) apply to the tax-
24 payer.

1 “(iii) SPECIAL RULE FOR LIFE INSUR-
2 ANCE COMPANIES.— In the case of a life
3 insurance company, if a net operating loss
4 is carried pursuant to clause (i)(I) to a life
5 insurance company taxable year beginning
6 before January 1, 2018, such net oper-
7 ating loss carryback shall be treated in the
8 same manner as an operations loss
9 carryback (within the meaning of section
10 810 as in effect before its repeal) of such
11 company to such taxable year.

12 “(iv) RULE RELATING TO
13 CARRYBACKS TO YEARS TO WHICH SEC-
14 TION 965 APPLIES.—If a net operating loss
15 of a taxpayer is carried pursuant to clause
16 (i)(I) to any taxable year in which an
17 amount is includible in gross income by
18 reason of section 965(a), the taxpayer shall
19 be treated as having made the election
20 under section 965(n) with respect to each
21 such taxable year.

22 “(v) SPECIAL RULES FOR ELECTIONS
23 UNDER PARAGRAPH (3).—

24 “(I) SPECIAL ELECTION TO EX-
25 CLUDE 965 YEARS.— If the 5-year

1 carryback period under clause (i)(I)
2 with respect to any net operating loss
3 of a taxpayer includes 1 or more tax-
4 able years in which an amount is in-
5 cludible in gross income by reason of
6 section 965(a), the taxpayer may, in
7 lieu of the election otherwise available
8 under paragraph (3), elect under such
9 paragraph to exclude all such taxable
10 years from such carryback period.

11 “(II) TIME OF ELECTIONS.—An
12 election under paragraph (3) (includ-
13 ing an election described in subclause
14 (I)) with respect to a net operating
15 loss arising in a taxable year begin-
16 ning in 2018 or 2019 shall be made
17 by the due date (including extensions
18 of time) for filing the taxpayer’s re-
19 turn for the first taxable year ending
20 after the date of the enactment of this
21 subparagraph.”.

22 (2) CONFORMING AMENDMENT.—Section
23 172(b)(1)(A) of such Code, as amended by sub-
24 section (c)(2), is amended by striking “and (C)(i)”
25 and inserting “, (C)(i), and (D)”.

1 (c) TECHNICAL AMENDMENT RELATING TO SECTION
2 13302 OF PUBLIC LAW 115–97.—

3 (1) Section 13302(e) of Public Law 115–97 is
4 amended to read as follows:

5 “(e) EFFECTIVE DATES.—

6 “(1) NET OPERATING LOSS LIMITATION.—The
7 amendments made by subsections (a) and (d)(2)
8 shall apply to—

9 “(A) taxable years beginning after Decem-
10 ber 31, 2017, and

11 “(B) taxable years beginning on or before
12 such date to which net operating losses arising
13 in taxable years beginning after such date are
14 carried.

15 “(2) CARRYOVERS AND CARRYBACKS.—The
16 amendments made by subsections (b), (c), and
17 (d)(1) shall apply to net operating losses arising in
18 taxable years beginning after December 31, 2017.”.

19 (2) Section 172(b)(1)(A) of the Internal Rev-
20 enue Code of 1986 is amended to read as follows:

21 “(A) GENERAL RULE.—A net operating
22 loss for any taxable year—

23 “(i) shall be a net operating loss
24 carryback to the extent provided in sub-
25 paragraphs (B) and (C)(i), and

1 “(ii) except as provided in subpara-
2 graph (C)(ii), shall be a net operating loss
3 carryover—

4 “(I) in the case of a net oper-
5 ating loss arising in a taxable year be-
6 ginning before January 1, 2018, to
7 each of the 20 taxable years following
8 the taxable year of the loss, and

9 “(II) in the case of a net oper-
10 ating loss arising in a taxable year be-
11 ginning after December 31, 2017, to
12 each taxable year following the tax-
13 able year of the loss.”.

14 (d) EFFECTIVE DATES.—

15 (1) NET OPERATING LOSS LIMITATION.—The
16 amendments made by subsection (a) shall apply—

17 (A) to taxable years beginning after De-
18 cember 31, 2017, and

19 (B) to taxable years beginning on or before
20 December 31, 2017, to which net operating
21 losses arising in taxable years beginning after
22 December 31, 2017, are carried.

23 (2) CARRYOVERS AND CARRYBACKS.—The
24 amendment made by subsection (b) shall apply to—

1 (A) net operating losses arising in taxable
2 years beginning after December 31, 2017, and

3 (B) taxable years beginning before, on, or
4 after such date to which such net operating
5 losses are carried.

6 (3) TECHNICAL AMENDMENTS.—The amend-
7 ments made by subsection (c) shall take effect as if
8 included in the provisions of Public Law 115–97 to
9 which they relate.

10 (4) SPECIAL RULE.—In the case of a net oper-
11 ating loss arising in a taxable year beginning before
12 January 1, 2018, and ending after December 31,
13 2017—

14 (A) an application under section 6411(a)
15 of the Internal Revenue Code of 1986 with re-
16 spect to the carryback of such net operating
17 loss shall not fail to be treated as timely filed
18 if filed not later than the date which is 120
19 days after the date of the enactment of this
20 Act, and

21 (B) an election to—

22 (i) forgo any carryback of such net
23 operating loss,

24 (ii) reduce any period to which such
25 net operating loss may be carried back, or

1 (iii) revoke any election made under
2 section 172(b) to forgo any carryback of
3 such net operating loss,
4 shall not fail to be treated as timely made if
5 made not later than the date which is 120 days
6 after the date of the enactment of this Act.

7 **SEC. 2304. MODIFICATION OF LIMITATION ON LOSSES FOR**
8 **TAXPAYERS OTHER THAN CORPORATIONS.**

9 (a) IN GENERAL.—Section 461(l)(1) of the Internal
10 Revenue Code of 1986 is amended to read as follows:

11 “(1) LIMITATION.—In the case of a taxpayer
12 other than a corporation—

13 “(A) for any taxable year beginning after
14 December 31, 2017, and before January 1,
15 2026, subsection (j) (relating to limitation on
16 excess farm losses of certain taxpayers) shall
17 not apply, and

18 “(B) for any taxable year beginning after
19 December 31, 2020, and before January 1,
20 2026, any excess business loss of the taxpayer
21 for the taxable year shall not be allowed.”.

22 (b) TECHNICAL AMENDMENTS RELATING TO SEC-
23 TION 11012 OF PUBLIC LAW 115–97.—

24 (1) Section 461(l)(2) of the Internal Revenue
25 Code of 1986 is amended by striking “a net oper-

1 ating loss carryover to the following taxable year
2 under section 172” and inserting “a net operating
3 loss for the taxable year for purposes of determining
4 any net operating loss carryover under section
5 172(b) for subsequent taxable years”.

6 (2) Section 461(l)(3)(A) of such Code is
7 amended—

8 (A) in clause (i), by inserting “and without
9 regard to any deduction allowable under section
10 172 or 199A” after “under paragraph (1)”,
11 and

12 (B) by adding at the end the following
13 flush sentence:

14 “Such excess shall be determined without regard to
15 any deductions, gross income, or gains attributable
16 to any trade or business of performing services as an
17 employee.”.

18 (3) Section 461(l)(3) of such Code is amended
19 by redesignating subparagraph (B) as subparagraph
20 (C) and by inserting after subparagraph (A) the fol-
21 lowing new subparagraph:

22 “(B) TREATMENT OF CAPITAL GAINS AND
23 LOSSES.—

24 “(i) LOSSES.—Deductions for losses
25 from sales or exchanges of capital assets

1 shall not be taken into account under sub-
2 paragraph (A)(i).

3 “(ii) GAINS.—The amount of gains
4 from sales or exchanges of capital assets
5 taken into account under subparagraph
6 (A)(ii) shall not exceed the lesser of—

7 “(I) the capital gain net income
8 determined by taking into account
9 only gains and losses attributable to a
10 trade or business, or

11 “(II) the capital gain net in-
12 come.”.

13 (c) EFFECTIVE DATES.—

14 (1) IN GENERAL.—The amendments made by
15 subsection (a) shall apply to taxable years beginning
16 after December 31, 2017.

17 (2) TECHNICAL AMENDMENTS.—The amend-
18 ments made by subsection (b) shall take effect as if
19 included in the provisions of Public Law 115–97 to
20 which they relate.

21 **SEC. 2305. MODIFICATION OF CREDIT FOR PRIOR YEAR**
22 **MINIMUM TAX LIABILITY OF CORPORATIONS.**

23 (a) IN GENERAL.—Section 53(e) of the Internal Rev-
24 enue Code of 1986 is amended—

1 (1) by striking “2018, 2019, 2020, or 2021” in
2 paragraph (1) and inserting “2018 or 2019”, and

3 (2) by striking “2021” in paragraph (2) and in-
4 serting “2019”.

5 (b) ELECTION TO TAKE ENTIRE REFUNDABLE
6 CREDIT AMOUNT IN 2018.—

7 (1) IN GENERAL.—Section 53(e) of such Code
8 is amended by adding at the end the following new
9 paragraph:

10 “(5) SPECIAL RULE.—In the case of a corpora-
11 tion making an election under this paragraph—

12 “(A) paragraph (1) shall not apply, and

13 “(B) subsection (e) shall not apply to the
14 first taxable year of such corporation beginning
15 in 2018.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 2017.

19 (d) SPECIAL RULE.—

20 (1) IN GENERAL.—For purposes of the Internal
21 Revenue Code of 1986, a credit or refund for which
22 an application described in paragraph (2)(A) is filed
23 shall be treated as made under section 6411 of such
24 Code.

25 (2) TENTATIVE REFUND.—

1 (A) APPLICATION.—A taxpayer may file an
2 application for a tentative refund of any
3 amount for which a refund is due by reason of
4 an election under section 53(e)(5) of the Inter-
5 nal Revenue Code of 1986. Such application
6 shall be in such manner and form as the Sec-
7 retary of the Treasury (or the Secretary’s dele-
8 gate) may prescribe and shall—

9 (i) be verified in the same manner as
10 an application under section 6411(a) of
11 such Code,

12 (ii) be filed prior to December 31,
13 2020, and

14 (iii) set forth—

15 (I) the amount of the refundable
16 credit claimed under section 53(e) of
17 such Code for such taxable year,

18 (II) the amount of the refundable
19 credit claimed under such section for
20 any previously filed return for such
21 taxable year, and

22 (III) the amount of the refund
23 claimed.

24 (B) ALLOWANCE OF ADJUSTMENTS.—

25 Within a period of 90 days from the date on

1 which an application is filed under subpara-
2 graph (A), the Secretary of the Treasury (or
3 the Secretary's delegate) shall—

4 (i) review the application,

5 (ii) determine the amount of the over-
6 payment, and

7 (iii) apply, credit, or refund such over-
8 payment,

9 in a manner similar to the manner provided in
10 section 6411(b) of the Internal Revenue Code
11 of 1986.

12 (C) CONSOLIDATED RETURNS.—The provi-
13 sions of section 6411(c) of the Internal Revenue
14 Code of 1986 Code shall apply to an adjust-
15 ment under this paragraph to the same extent
16 and manner as the Secretary of the Treasury
17 (or the Secretary's delegate) may provide.

18 **SEC. 2306. MODIFICATIONS OF LIMITATION ON BUSINESS**

19 **INTEREST.**

20 (a) IN GENERAL.—Section 163(j) of the Internal
21 Revenue Code of 1986 is amended by redesignating para-
22 graph (10) as paragraph (11) and by inserting after para-
23 graph (9) the following new paragraph:

24 “(10) SPECIAL RULE FOR TAXABLE YEARS BE-
25 GINNING IN 2019 AND 2020.—

1 “(A) IN GENERAL.—

2 “(i) IN GENERAL.—Except as pro-
3 vided in clause (ii) or (iii), in the case of
4 any taxable year beginning in 2019 or
5 2020, paragraph (1)(B) shall be applied by
6 substituting ‘50 percent’ for ‘30 percent’.

7 “(ii) SPECIAL RULE FOR PARTNER-
8 SHIPS.—In the case of a partnership—

9 “(I) clause (i) shall not apply to
10 any taxable year beginning in 2019,
11 but

12 “(II) unless a partner elects not
13 to have this subclause apply, in the
14 case of any excess business interest of
15 the partnership for any taxable year
16 beginning in 2019 which is allocated
17 to the partner under paragraph
18 (4)(B)(i)(II)—

19 “(aa) 50 percent of such ex-
20 cess business interest shall be
21 treated as business interest
22 which, notwithstanding para-
23 graph (4)(B)(ii), is paid or ac-
24 crued by the partner in the part-
25 ner’s first taxable year beginning

1 in 2020 and which is not subject
2 to the limits of paragraph (1),
3 and

4 “(bb) 50 percent of such ex-
5 cess business interest shall be
6 subject to the limitations of para-
7 graph (4)(B)(ii) in the same
8 manner as any other excess busi-
9 ness interest so allocated.

10 “(iii) ELECTION OUT.—A taxpayer
11 may elect, at such time and in such man-
12 ner as the Secretary may prescribe, not to
13 have clause (i) apply to any taxable year.
14 Such an election, once made, may be re-
15 voked only with the consent of the Sec-
16 retary. In the case of a partnership, any
17 such election shall be made by the partner-
18 ship and may be made only for taxable
19 years beginning in 2020.

20 “(B) ELECTION TO USE 2019 ADJUSTED
21 TAXABLE INCOME FOR TAXABLE YEARS BEGIN-
22 NING IN 2020.—

23 “(i) IN GENERAL.—Subject to clause
24 (ii), in the case of any taxable year begin-
25 ning in 2020, the taxpayer may elect to

1 apply this subsection by substituting the
2 adjusted taxable income of the taxpayer for
3 the last taxable year beginning in 2019 for
4 the adjusted taxable income for such tax-
5 able year. In the case of a partnership, any
6 such election shall be made by the partner-
7 ship.

8 “(ii) SPECIAL RULE FOR SHORT TAX-
9 ABLE YEARS.—If an election is made
10 under clause (i) for a taxable year which is
11 a short taxable year, the adjusted taxable
12 income for the taxpayer’s last taxable year
13 beginning in 2019 which is substituted
14 under clause (i) shall be equal to the
15 amount which bears the same ratio to such
16 adjusted taxable income determined with-
17 out regard to this clause as the number of
18 months in the short taxable year bears to
19 12”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2018.

1 **SEC. 2307. TECHNICAL AMENDMENTS REGARDING QUALI-**
2 **FIED IMPROVEMENT PROPERTY.**

3 (a) **IN GENERAL.**—Section 168 of the Internal Rev-
4 enue Code of 1986 is amended—

5 (1) in subsection (e)—

6 (A) in paragraph (3)(E), by striking “and”
7 at the end of clause (v), by striking the period
8 at the end of clause (vi) and inserting “, and”,
9 and by adding at the end the following new
10 clause:

11 “(vii) any qualified improvement prop-
12 erty.”, and

13 (B) in paragraph (6)(A), by inserting
14 “made by the taxpayer” after “any improve-
15 ment”, and

16 (2) in the table contained in subsection
17 (g)(3)(B)—

18 (A) by striking the item relating to sub-
19 paragraph (D)(v), and

20 (B) by inserting after the item relating to
21 subparagraph (E)(vi) the following new item:
22 “(E)(vii) 20”.

23 (b) **EFFECTIVE DATE.**—The amendments made by
24 this section shall take effect as if included in section
13204 of Public Law 115–97.

1 **TITLE III—SUPPORTING AMER-**
2 **ICA’S HEALTH CARE SYSTEM**
3 **IN THE FIGHT AGAINST THE**
4 **CORONAVIRUS**

5 **Subtitle A—Health Provisions**

6 **SEC. 3001. SHORT TITLE.**

7 This subtitle may be cited as the “Coronavirus Aid,
8 Relief, and Economic Security Act”.

9 **PART I—ADDRESSING SUPPLY SHORTAGES**

10 **Subpart A—Medical Product Supplies**

11 **SEC. 3101. NATIONAL ACADEMIES REPORT ON AMERICA’S**

12 **MEDICAL PRODUCT SUPPLY CHAIN SECU-**
13 **RITY.**

14 (a) **IN GENERAL.**—Not later than 60 days after the
15 date of enactment of this Act, the Secretary of Health and
16 Human Services shall enter into an agreement with the
17 National Academies of Sciences, Engineering, and Medi-
18 cine (referred to in this section as the “National Acad-
19 emies”) to examine, and, in a manner that does not com-
20 promise national security, report on, the security of the
21 United States medical product supply chain.

22 (b) **PURPOSES.**—The report developed under this sec-
23 tion shall—

24 (1) assess and evaluate the dependence of the
25 United States, including the private commercial sec-

1 tor, States, and the Federal Government, on critical
2 drugs and devices that are sourced or manufactured
3 outside of the United States, which may include an
4 analysis of—

5 (A) the supply chain of critical drugs and
6 devices of greatest priority to providing health
7 care;

8 (B) any potential public health security or
9 national security risks associated with reliance
10 on critical drugs and devices sourced or manu-
11 factured outside of the United States, which
12 may include responses to previous or existing
13 shortages or public health emergencies, such as
14 infectious disease outbreaks, bioterror attacks,
15 and other public health threats;

16 (C) any existing supply chain information
17 gaps, as applicable; and

18 (D) potential economic impact of increased
19 domestic manufacturing; and

20 (2) provide recommendations, which may in-
21 clude a plan to improve the resiliency of the supply
22 chain for critical drugs and devices as described in
23 paragraph (1), and to address any supply
24 vulnerabilities or potential disruptions of such prod-
25 ucts that would significantly affect or pose a threat

1 to public health security or national security, as ap-
2 propriate, which may include strategies to—

3 (A) promote supply chain redundancy and
4 contingency planning;

5 (B) encourage domestic manufacturing, in-
6 cluding consideration of economic impacts, if
7 any;

8 (C) improve supply chain information
9 gaps;

10 (D) improve planning considerations for
11 medical product supply chain capacity during
12 public health emergencies; and

13 (E) promote the accessibility of such drugs
14 and devices.

15 (c) INPUT.—In conducting the study and developing
16 the report under subsection (b), the National Academies
17 shall—

18 (1) consider input from the Department of
19 Health and Human Services, the Department of
20 Homeland Security, the Department of Defense, the
21 Department of Commerce, the Department of State,
22 the Department of Veterans Affairs, the Department
23 of Justice, and any other Federal agencies as appro-
24 priate; and

1 **SEC. 3103. TREATMENT OF RESPIRATORY PROTECTIVE DE-**
2 **VICES AS COVERED COUNTERMEASURES.**

3 Section 319F–3(i)(1)(D) of the Public Health Service
4 Act (42 U.S.C. 247d–6d(i)(1)(D)) is amended to read as
5 follows:

6 “(D) a respiratory protective device that is
7 approved by the National Institute for Occupa-
8 tional Safety and Health under part 84 of title
9 42, Code of Federal Regulations (or any suc-
10 cessor regulations), and that the Secretary de-
11 termines to be a priority for use during a public
12 health emergency declared under section 319.”.

13 **Subpart B—Mitigating Emergency Drug Shortages**

14 **SEC. 3111. PRIORITIZE REVIEWS OF DRUG APPLICATIONS;**
15 **INCENTIVES.**

16 Section 506C(g) of the Federal Food, Drug, and Cos-
17 metic Act (21 U.S.C. 356c(g)) is amended—

18 (1) in paragraph (1), by striking “the Secretary
19 may” and inserting “the Secretary shall, as appro-
20 priate”;

21 (2) in paragraph (1), by inserting “prioritize
22 and” before “expedite the review”; and

23 (3) in paragraph (2), by inserting “prioritize
24 and” before “expedite an inspection”.

1 **SEC. 3112. ADDITIONAL MANUFACTURER REPORTING RE-**
2 **QUIREMENTS IN RESPONSE TO DRUG SHORT-**
3 **AGES.**

4 (a) EXPANSION TO INCLUDE ACTIVE PHARMA-
5 CEUTICAL INGREDIENTS.—Subsection (a) of section 506C
6 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
7 356c) is amended—

8 (1) in paragraph (1)(C), by inserting “or any
9 such drug that is critical to the public health during
10 a public health emergency declared by the Secretary
11 under section 319 of the Public Health Service Act”
12 after “during surgery”; and

13 (2) in the flush text at the end—

14 (A) by inserting “, or a permanent dis-
15 continuance in the manufacture of an active
16 pharmaceutical ingredient or an interruption in
17 the manufacture of the active pharmaceutical
18 ingredient of such drug that is likely to lead to
19 a meaningful disruption in the supply of the ac-
20 tive pharmaceutical ingredient of such drug,”
21 before “and the reasons”; and

22 (B) by adding at the end the following:
23 “Notification under this subsection shall include
24 disclosure of reasons for the discontinuation or
25 interruption, and if applicable, an active phar-
26 maceutical ingredient is a reason for, or risk

1 factor in, such discontinuation or interruption,
2 the source of the active pharmaceutical ingre-
3 dient and any alternative sources for the active
4 pharmaceutical ingredient known by the manu-
5 facturer; whether any associated device used for
6 preparation or administration included in the
7 drug is a reason for, or a risk factor in, such
8 discontinuation or interruption; the expected
9 duration of the interruption; and such other in-
10 formation as the Secretary may require.”.

11 (b) RISK MANAGEMENT.—Section 506C of the Fed-
12 eral Food, Drug, and Cosmetic Act (21 U.S.C. 356e) is
13 amended by adding at the end the following:

14 “(j) RISK MANAGEMENT PLANS.—Each manufac-
15 turer of a drug described in subsection (a) or of any active
16 pharmaceutical ingredient or any associated medical de-
17 vice used for preparation or administration included in the
18 drug, shall develop, maintain, and implement, as appro-
19 priate, a redundancy risk management plan that identifies
20 and evaluates risks to the supply of the drug, as applica-
21 ble, for each establishment in which such drug or active
22 pharmaceutical ingredient of such drug is manufactured.
23 A risk management plan under this section shall be sub-
24 ject to inspection and copying by the Secretary pursuant
25 to an inspection or a request under section 704(a)(4).”.

1 (c) ANNUAL NOTIFICATION.—Section 506E of the
2 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356e)
3 is amended by adding at the end the following:

4 “(d) INTERAGENCY NOTIFICATION.—Not later than
5 180 days after the date of enactment of this subsection,
6 and every 90 days thereafter, the Secretary shall transmit
7 a report regarding the drugs of the current drug shortage
8 list under this section to the Administrator of the Centers
9 for Medicare & Medicaid Services.”.

10 (d) REPORTING AFTER INSPECTIONS.—Section
11 704(b) of the Federal Food, Drug, and Cosmetic Act (21
12 U.S.C. 374(b)) is amended—

13 (1) by redesignating paragraphs (1) and (2)
14 and subparagraphs (A) and (B);

15 (2) by striking “(b) Upon completion” and in-
16 serting “(b)(1) Upon completion”; and

17 (3) by adding at the end the following:

18 “(2) In carrying out this subsection with respect to
19 any establishment manufacturing a drug approved under
20 subsection (e) or (j) of section 505 for which a notification
21 has been submitted in accordance with section 506C is,
22 or has been in the last 5 years, listed on the drug shortage
23 list under section 506E, or that is described in section
24 505(j)(11)(A), a copy of the report shall be sent promptly

1 to the appropriate offices of the Food and Drug Adminis-
2 tration with expertise regarding drug shortages.”.

3 (e) REPORTING REQUIREMENT.—Section 510(j) of
4 the Federal Food, Drug, Cosmetic Act (21 U.S.C. 360(j))
5 is amended—

6 (1) by redesignating paragraphs (3) and (4) as
7 paragraphs (4) and (5), respectively; and

8 (2) by inserting after paragraph (2) the fol-
9 lowing:

10 “(3)(A) Each person who registers with the
11 Secretary under this section with regard to a drug
12 shall report annually to the Secretary on the amount
13 of each drug listed under paragraph (1) that was
14 manufactured, prepared, propagated, compounded,
15 or processed by such person for commercial distribu-
16 tion. Such information may be required to be sub-
17 mitted in an electronic format as determined by the
18 Secretary. The Secretary may require that informa-
19 tion required to be reported under this paragraph be
20 submitted at the time a public health emergency is
21 declared by the Secretary under section 319 of the
22 Public Health Service Act.

23 “(B) By order of the Secretary, certain biologi-
24 cal products or categories of biological products reg-
25 ulated under section 351 of the Public Health Serv-

1 ice Act may be exempt from some or all of the re-
2 porting requirements under subparagraph (A), if the
3 Secretary determines that applying such reporting
4 requirements to such biological products or cat-
5 egories of biological products is not necessary to pro-
6 tect the public health.”.

7 (f) CONFIDENTIALITY.—Nothing in the amendments
8 made by this section shall be construed as authorizing the
9 Secretary to disclose any information that is a trade secret
10 or confidential information subject to section 552(b)(4) of
11 title 5, United States Code, or section 1905 of title 18,
12 United States Code.

13 (g) EFFECTIVE DATE.—The amendments made by
14 this section and section 3111 shall take effect on the date
15 that is 180 days after the date of enactment of this Act.

16 **Subpart C—Preventing Medical Device Shortages**
17 **SEC. 3121. DISCONTINUANCE OR INTERRUPTION IN THE**
18 **PRODUCTION OF MEDICAL DEVICES.**

19 Chapter V of the Federal Food, Drug, and Cosmetic
20 Act (21 U.S.C. 351 et seq.) is amended by inserting after
21 section 506I the following:

22 **“SEC. 506J. DISCONTINUANCE OR INTERRUPTION IN THE**
23 **PRODUCTION OF MEDICAL DEVICES.**

24 **“(a) IN GENERAL.—**A manufacturer of a device
25 that—

1 “(1) is critical to public health during a public
2 health emergency, including devices that are life-sup-
3 porting, life-sustaining, or intended for use in emer-
4 gency medical care or during surgery; or

5 “(2) for which the Secretary determines that in-
6 formation on potential meaningful supply disrup-
7 tions of such device is needed during, or in advance
8 of, a public health emergency;

9 shall, during, or in advance of, a public health emergency
10 declared by the Secretary under section 319 of the Public
11 Health Service Act, notify the Secretary, in accordance
12 with subsection (b), of a permanent discontinuance in the
13 manufacture of the device (except for discontinuances as
14 a result of an approved modification of the device) or an
15 interruption of the manufacture of the device that is likely
16 to lead to a meaningful disruption in the supply of that
17 device in the United States, and the reasons for such dis-
18 continuance or interruption.

19 “(b) TIMING.—A notice required under subsection (a)
20 shall be submitted to the Secretary—

21 “(1) at least 6 months prior to the date of the
22 discontinuance or interruption; or

23 “(2) if compliance with paragraph (1) is not
24 possible, as soon as practicable.

25 “(c) DISTRIBUTION.—

1 “(1) PUBLIC AVAILABILITY.—To the maximum
2 extent practicable, subject to paragraph (2), the Sec-
3 retary shall distribute, through such means as the
4 Secretary determines appropriate, information on
5 the discontinuance or interruption of the manufac-
6 ture of devices reported under subsection (a) to ap-
7 propriate organizations, including physician, health
8 provider, patient organizations, and supply chain
9 partners, as appropriate and applicable, as described
10 in subsection (g).

11 “(2) PUBLIC HEALTH EXCEPTION.—The Sec-
12 retary may choose not to make information collected
13 under this section publicly available pursuant to this
14 section if the Secretary determines that disclosure of
15 such information would adversely affect the public
16 health, such as by increasing the possibility of un-
17 necessary over purchase of product, component
18 parts, or other disruption of the availability of med-
19 ical products to patients.

20 “(d) CONFIDENTIALITY.—Nothing in this section
21 shall be construed as authorizing the Secretary to disclose
22 any information that is a trade secret or confidential infor-
23 mation subject to section 552(b)(4) of title 5, United
24 States Code, or section 1905 of title 18, United States
25 Code.

1 “(e) FAILURE TO MEET REQUIREMENTS.—If a per-
2 son fails to submit information required under subsection
3 (a) in accordance with subsection (b)—

4 “(1) the Secretary shall issue a letter to such
5 person informing such person of such failure;

6 “(2) not later than 30 calendar days after the
7 issuance of a letter under paragraph (1), the person
8 who receives such letter shall submit to the Sec-
9 retary a written response to such letter setting forth
10 the basis for noncompliance and providing informa-
11 tion required under subsection (a); and

12 “(3) not later than 45 calendar days after the
13 issuance of a letter under paragraph (1), the Sec-
14 retary shall make such letter and any response to
15 such letter under paragraph (2) available to the pub-
16 lic on the internet website of the Food and Drug Ad-
17 ministration, with appropriate redactions made to
18 protect information described in subsection (d), ex-
19 cept that, if the Secretary determines that the letter
20 under paragraph (1) was issued in error or, after re-
21 view of such response, the person had a reasonable
22 basis for not notifying as required under subsection
23 (a), the requirements of this paragraph shall not
24 apply.

1 “(f) EXPEDITED INSPECTIONS AND REVIEWS.—If,
2 based on notifications described in subsection (a) or any
3 other relevant information, the Secretary concludes that
4 there is, or is likely to be, a shortage of an device, the
5 Secretary shall, as appropriate—

6 “(1) prioritize and expedite the review of a sub-
7 mission under section 513(f)(2), 515, review of a no-
8 tification under section 510(k), or 520(m) for a de-
9 vice that could help mitigate or prevent such short-
10 age; or

11 “(2) prioritize and expedite an inspection or re-
12 inspection of an establishment that could help miti-
13 gate or prevent such shortage.

14 “(g) DEVICE SHORTAGE LIST.—

15 “(1) ESTABLISHMENT.—The Secretary shall es-
16 tablish and maintain an up-to-date list of devices
17 that are determined by the Secretary to be in short-
18 age in the United States.

19 “(2) CONTENTS.—For each device included on
20 the list under paragraph (1), the Secretary shall in-
21 clude the following information:

22 “(A) The category or name of the device in
23 shortage.

24 “(B) The name of each manufacturer of
25 such device.

1 “(C) The reason for the shortage, as deter-
2 mined by the Secretary, selecting from the fol-
3 lowing categories:

4 “(i) Requirements related to com-
5 plying with good manufacturing practices.

6 “(ii) Regulatory delay.

7 “(iii) Shortage or discontinuance of a
8 component or part.

9 “(iv) Discontinuance of the manufac-
10 ture of the device.

11 “(v) Delay in shipping of the device.

12 “(vi) Delay in sterilization of the de-
13 vice.

14 “(vii) Demand increase for the device.

15 “(viii) Facility closure.

16 “(D) The estimated duration of the short-
17 age as determined by the Secretary.

18 “(3) PUBLIC AVAILABILITY.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graphs (B) and (C), the Secretary shall make
21 the information in the list under paragraph (1)
22 publicly available.

23 “(B) TRADE SECRETS AND CONFIDENTIAL
24 INFORMATION.—Nothing in this subsection
25 shall be construed to alter or amend section

1 1905 of title 18, United States Code, or section
2 552(b)(4) of title 5 of such Code.

3 “(C) PUBLIC HEALTH EXCEPTION.—The
4 Secretary may elect not to make information
5 collected under this subsection publicly available
6 if the Secretary determines that disclosure of
7 such information would adversely affect the
8 public health (such as by increasing the possi-
9 bility of hoarding or other disruption of the
10 availability of the device to patients).

11 “(h) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion shall be construed to affect the authority of the Sec-
13 retary on the date of enactment of this section to expedite
14 the review of devices under section 515 of the Federal
15 Food, Drug, and Cosmetic Act, section 515B of such Act
16 relating to the priority review program for devices, and
17 section 564 of such Act relating to the emergency use au-
18 thorization authorities.

19 “(i) DEFINITIONS.—In this section:

20 “(1) MEANINGFUL DISRUPTION.—The term
21 ‘meaningful disruption’—

22 “(A) means a change in production that is
23 reasonably likely to lead to a reduction in the
24 supply of a device by a manufacturer that is
25 more than negligible and affects the ability of

1 the manufacturer to fill orders or meet expected
2 demand for its product;

3 “(B) does not include interruptions in
4 manufacturing due to matters such as routine
5 maintenance or insignificant changes in manu-
6 facturing so long as the manufacturer expects
7 to resume operations in a short period of time,
8 not to exceed 6 months;

9 “(C) does not include interruptions in
10 manufacturing of components or raw materials
11 so long as such interruptions do not result in
12 a shortage of the device and the manufacturer
13 expects to resume operations in a reasonable
14 period of time; and

15 “(D) does not include interruptions in
16 manufacturing that do not lead to a reduction
17 in procedures or diagnostic tests associated with
18 a medical device designed to perform more than
19 one procedure or diagnostic test.

20 “(2) SHORTAGE.—The term ‘shortage’, with re-
21 spect to a device, means a period of time when the
22 demand or projected demand for the device within
23 the United States exceeds the supply of the device.”.

1 **PART II—ACCESS TO HEALTH CARE FOR COVID-**
2 **19 PATIENTS**

3 **Subpart A—Coverage of Testing and Preventive**
4 **Services**

5 **SEC. 3201. COVERAGE OF DIAGNOSTIC TESTING FOR**
6 **COVID-19.**

7 Paragraph (1) of section 6001(a) of division F of the
8 Families First Coronavirus Response Act (Public Law
9 116–127) is amended to read as follows:

10 “(1) An in vitro diagnostic test defined in sec-
11 tion 809.3 of title 21, Code of Federal Regulations
12 (or successor regulations) for the detection of
13 SARS–CoV–2 or the diagnosis of the virus that
14 causes COVID–19, and the administration of such a
15 test, that—

16 “(A) is approved, cleared, or authorized
17 under section 510(k), 513, 515, or 564 of the
18 Federal Food, Drug, and Cosmetic Act (21
19 U.S.C. 360(k), 360c, 360e, 360bbb–3);

20 “(B) the developer has requested, or in-
21 tends to request, emergency use authorization
22 under section 564 of the Federal Food, Drug,
23 and Cosmetic Act (21 U.S.C. 360bbb–3), unless
24 and until the emergency use authorization re-
25 quest under such section 564 has been denied
26 or the developer of such test does not submit a

1 request under such section within a reasonable
2 timeframe;

3 “(C) is developed in and authorized by a
4 State that has notified the Secretary of Health
5 and Human Services of its intention to review
6 tests intended to diagnose COVID-19; or

7 “(D) other test that the Secretary deter-
8 mines appropriate in guidance.”.

9 **SEC. 3202. PRICING OF DIAGNOSTIC TESTING.**

10 (a) REIMBURSEMENT RATES.—A group health plan
11 or a health insurance issuer providing coverage of items
12 and services described in section 6001(a) of division F of
13 the Families First Coronavirus Response Act (Public Law
14 116–127) with respect to an enrollee shall reimburse the
15 provider of the diagnostic testing as follows:

16 (1) If the health plan or issuer has a negotiated
17 rate with such provider in effect before the public
18 health emergency declared under section 319 of the
19 Public Health Service Act (42 U.S.C. 247d), such
20 negotiated rate shall apply throughout the period of
21 such declaration.

22 (2) If the health plan or issuer does not have
23 a negotiated rate with such provider, such plan or
24 issuer shall reimburse the provider in an amount
25 that equals the cash price for such service as listed

1 by the provider on a public internet website, or such
2 plan or issuer may negotiate a rate with such pro-
3 vider for less than such cash price.

4 (b) REQUIREMENT TO PUBLICIZE CASH PRICE FOR
5 DIAGNOSTIC TESTING FOR COVID-19.—

6 (1) IN GENERAL.—During the emergency pe-
7 riod declared under section 319 of the Public Health
8 Service Act (42 U.S.C. 247d), each provider of a di-
9 agnostic test for COVID-19 shall make public the
10 cash price for such test on a public internet website
11 of such provider.

12 (2) CIVIL MONETARY PENALTIES.—The Sec-
13 retary of Health and Human Services may impose a
14 civil monetary penalty on any provider of a diag-
15 nostic test for COVID-19 that is not in compliance
16 with paragraph (1) and has not completed a correc-
17 tive action plan to comply with the requirements of
18 such paragraph, in an amount not to exceed \$300
19 per day that the violation is ongoing.

20 **SEC. 3203. RAPID COVERAGE OF PREVENTIVE SERVICES**
21 **AND VACCINES FOR CORONAVIRUS.**

22 (a) IN GENERAL.—Notwithstanding 2713(b) of the
23 Public Health Service Act (42 U.S.C. 300gg–13), the Sec-
24 retary of Health and Human Services, the Secretary of
25 Labor, and the Secretary of the Treasury shall require

1 group health plans and health insurance issuers offering
2 group or individual health insurance to cover (without
3 cost-sharing) any qualifying coronavirus preventive serv-
4 ice, pursuant to section 2713(a) of the Public Health Serv-
5 ice Act (42 U.S.C. 300gg-13(a)) (including the regula-
6 tions under sections 2590.715-2713 of title 29, Code of
7 Federal Regulations, section 54.9815-2713 of title 26,
8 Code of Federal Regulations, and section 147.130 of title
9 45, Code of Federal Regulations (or any successor regula-
10 tions)). The requirement described in this subsection shall
11 take effect with respect to a qualifying coronavirus preven-
12 tion service on the specified date described in subsection
13 (b)(2).

14 (b) DEFINITIONS.—For purposes of this section:

15 (1) QUALIFYING CORONAVIRUS PREVENTIVE
16 SERVICE.—The term “qualifying coronavirus preven-
17 tive service” means an item, service, or immuniza-
18 tion that is intended to prevent or mitigate
19 coronavirus disease 2019 and that is—

20 (A) an evidence-based item or service that
21 has in effect a rating of “A” or “B” in the cur-
22 rent recommendations of the United States Pre-
23 ventive Services Task Force; or

24 (B) an immunization that has in effect a
25 recommendation from the Advisory Committee

1 on Immunization Practices of the Centers for
2 Disease Control and Prevention with respect to
3 the individual involved.

4 (2) SPECIFIED DATE.—The term “specified
5 date” means the date that is 15 business days after
6 the date on which a recommendation is made relat-
7 ing to the qualifying coronavirus preventive service
8 as described in such paragraph.

9 (3) ADDITIONAL TERMS.—In this section, the
10 terms “group health plan”, “health insurance
11 issuer”, “group health insurance coverage”, and “in-
12 dividual health insurance coverage” have the mean-
13 ings given such terms in section 2791 of the Public
14 Health Service Act (42 U.S.C. 300gg–91), section
15 733 of the Employee Retirement Income Security
16 Act of 1974 (29 U.S.C. 1191b), and section 9832 of
17 the Internal Revenue Code, as applicable.

18 **Subpart B—Support for Health Care Providers**

19 **SEC. 3211. SUPPLEMENTAL AWARDS FOR HEALTH CEN-**
20 **TERS.**

21 (a) SUPPLEMENTAL AWARDS.—Section 330(r) of the
22 Public Health Service Act (42 U.S.C. 254b(r)) is amended
23 by adding at the end the following:

24 “(6) ADDITIONAL AMOUNTS FOR SUPPLE-
25 MENTAL AWARDS.—In addition to any amounts

1 serting “evidence-based projects that uti-
2 lize telehealth technologies through tele-
3 health networks”;

4 (ii) in subparagraph (A)—

5 (I) by striking “the quality of”
6 and inserting “access to, and the
7 quality of,”; and

8 (II) by inserting “and” after the
9 semicolon;

10 (iii) by striking subparagraph (B);

11 (iv) by redesignating subparagraph
12 (C) as subparagraph (B); and

13 (v) in subparagraph (B), as so redesi-
14 gnated, by striking “and patients and
15 their families, for decisionmaking” and in-
16 serting “, patients, and their families”;

17 and

18 (B) in paragraph (2)—

19 (i) by striking “demonstrate how tele-
20 health technologies can be used” and in-
21 serting “support initiatives that utilize
22 telehealth technologies”; and

23 (ii) by striking “, to establish tele-
24 health resource centers”;

- 1 (2) in subsection (e), by striking “4 years” and
2 inserting “5 years”;
- 3 (3) in subsection (f)—
- 4 (A) by striking paragraph (2);
- 5 (B) in paragraph (1)(B)—
- 6 (i) by redesignating clauses (i)
7 through (iii) as paragraphs (1) through
8 (3), respectively, and adjusting the mar-
9 gins accordingly;
- 10 (ii) in paragraph (3), as so redesign-
11 ated by clause (i), by redesignating sub-
12 clauses (I) through (XII) as subparagraphs
13 (A) through (L), respectively, and adjust-
14 ing the margins accordingly; and
- 15 (iii) by striking “(1) TELEHEALTH
16 NETWORK GRANTS—” and all that follows
17 through “(B) TELEHEALTH NETWORKS—
18 ”; and
- 19 (C) in paragraph (3)(I), as so redesign-
20 ated, by inserting “and substance use dis-
21 order” after “mental health” each place such
22 term appears;
- 23 (4) in subsection (g)(2), by striking “or im-
24 prove” and inserting “and improve”;
- 25 (5) by striking subsection (h);

1 (6) by redesignating subsections (i) through (p)
2 as subsection (h) through (o), respectively;

3 (7) in subsection (h), as so redesignated—

4 (A) in paragraph (1)—

5 (i) in subparagraph (B), by striking
6 “mental health, public health, long-term
7 care, home care, preventive” and inserting
8 “mental health care, public health services,
9 long-term care, home care, preventive
10 care”;

11 (ii) in subparagraph (E), by inserting
12 “and regional” after “local”; and

13 (iii) by striking subparagraph (F);

14 and

15 (B) in paragraph (2)(A), by striking
16 “medically underserved areas or” and inserting
17 “rural areas, medically underserved areas, or”;

18 (8) in paragraph (2) of subsection (i), as so re-
19 designated, by striking “ensure that—” and all that
20 follows through the end of subparagraph (B) and in-
21 serting “ensure that not less than 50 percent of the
22 funds awarded shall be awarded for projects in rural
23 areas.”;

24 (9) in subsection (j), as so redesignated—

1 (A) in paragraph (1)(B), by striking “com-
2 puter hardware and software, audio and video
3 equipment, computer network equipment, inter-
4 active equipment, data terminal equipment, and
5 other”; and

6 (B) in paragraph (2)(F), by striking
7 “health care providers and”;

8 (10) in subsection (k), as so redesignated—

9 (A) in paragraph (2), by striking “40 per-
10 cent” and inserting “20 percent”; and

11 (B) in paragraph (3), by striking “(such as
12 laying cable or telephone lines, or purchasing or
13 installing microwave towers, satellite dishes,
14 amplifiers, or digital switching equipment)”;

15 (11) by striking subsections (q) and (r) and in-
16 serting the following:

17 “(p) REPORT.—Not later than 4 years after the date
18 of enactment of the Coronavirus Aid, Relief, and Eco-
19 nomic Security Act, and every 5 years thereafter, the Sec-
20 retary shall prepare and submit to the Committee on
21 Health, Education, Labor, and Pensions of the Senate and
22 the Committee on Energy and Commerce of the House
23 of Representatives a report on the activities and outcomes
24 of the grant programs under subsection (b).”;

1 (12) by redesignating subsection (s) as sub-
2 section (q); and

3 (13) in subsection (q), as so redesignated, by
4 striking “this section—” and all that follows
5 through the end of paragraph (2) and inserting
6 “this section \$29,000,000 for each of fiscal years
7 2021 through 2025.”.

8 **SEC. 3213. RURAL HEALTH CARE SERVICES OUTREACH,**
9 **RURAL HEALTH NETWORK DEVELOPMENT,**
10 **AND SMALL HEALTH CARE PROVIDER QUAL-**
11 **ITY IMPROVEMENT GRANT PROGRAMS.**

12 Section 330A of the Public Health Service Act (42
13 U.S.C. 254c) is amended—

14 (1) in subsection (d)(2)—

15 (A) in subparagraph (A), by striking “es-
16 sential” and inserting “basic”; and

17 (B) in subparagraph (B)—

18 (i) in the matter preceding clause (i),
19 by inserting “to” after “grants”; and

20 (ii) in clauses (i), (ii), and (iii), by
21 striking “to” each place such term ap-
22 pears;

23 (2) in subsection (e)—

24 (A) in paragraph (1)—

1 (i) by inserting “improving and” after
2 “outreach by”;

3 (ii) by inserting “, through community
4 engagement and evidence-based or innova-
5 tive, evidence-informed models” before the
6 period of the first sentence; and

7 (iii) by striking “3 years” and insert-
8 ing “5 years”;

9 (B) in paragraph (2)—

10 (i) in the matter preceding subpara-
11 graph (A), by inserting “shall” after “enti-
12 ty”;

13 (ii) in subparagraph (A), by striking
14 “shall be a rural public or rural nonprofit
15 private entity” and inserting “be an entity
16 with demonstrated experience serving, or
17 the capacity to serve, rural underserved
18 populations”;

19 (iii) in subparagraphs (B) and (C), by
20 striking “shall” each place such term ap-
21 pears; and

22 (iv) in subparagraph (B)—

23 (I) in the matter preceding clause

24 (i), by inserting “that” after “mem-
25 bers”; and

1 (II) in clauses (i) and (ii), by
2 striking “that” each place such term
3 appears; and

4 (C) in paragraph (3)(C), by striking “the
5 local community or region” and inserting “the
6 rural underserved populations in the local com-
7 munity or region”;

8 (3) in subsection (f)—

9 (A) in paragraph (1)—

10 (i) in subparagraph (A)—

11 (I) in the matter preceding clause
12 (i), by striking “promote, through
13 planning and implementation, the de-
14 velopment of integrated health care
15 networks that have combined the
16 functions of the entities participating
17 in the networks” and inserting “plan,
18 develop, and implement integrated
19 health care networks that collabo-
20 rate”; and

21 (II) in clause (ii), by striking
22 “essential health care services” and
23 inserting “basic health care services
24 and associated health outcomes”; and

1 (ii) by amending subparagraph (B) to
2 read as follows:

3 “(B) GRANT PERIODS.—The Director may
4 award grants under this subsection for periods
5 of not more than 5 years.”;

6 (B) in paragraph (2)—

7 (i) in the matter preceding subpara-
8 graph (A), by inserting “shall” after “enti-
9 ty”;

10 (ii) in subparagraph (A), by striking
11 “shall be a rural public or rural nonprofit
12 private entity” and inserting “be an entity
13 with demonstrated experience serving, or
14 the capacity to serve, rural underserved
15 populations”;

16 (iii) in subparagraph (B)—

17 (I) in the matter preceding clause

18 (i)—

19 (aa) by striking “shall”; and

20 (bb) by inserting “that”

21 after “participants”; and

22 (II) in clauses (i) and (ii), by

23 striking “that” each place such term

24 appears; and

1 (iv) in subparagraph (C), by striking
2 “shall”; and

3 (C) in paragraph (3)—

4 (i) by amending clause (iii) of sub-
5 paragraph (C) to read as follows:

6 “(iii) how the rural underserved popu-
7 lations in the local community or region to
8 be served will benefit from and be involved
9 in the development and ongoing operations
10 of the network;”; and

11 (ii) in subparagraph (D), by striking
12 “the local community or region” and in-
13 sserting “the rural underserved populations
14 in the local community or region”;

15 (4) in subsection (g)—

16 (A) in paragraph (1)—

17 (i) by inserting “, including activities
18 related to increasing care coordination, en-
19 hancing chronic disease management, and
20 improving patient health outcomes” before
21 the period of the first sentence; and

22 (ii) by striking “3 years” and insert-
23 ing “5 years”;

24 (B) in paragraph (2)—

1 (i) in the matter preceding subpara-
2 graph (A), by inserting “shall” after “enti-
3 ty”;

4 (ii) in subparagraphs (A) and (B), by
5 striking “shall” each place such term ap-
6 pears; and

7 (iii) in subparagraph (A)(ii), by in-
8 serting “or regional” after “local”; and

9 (C) in paragraph (3)(D), by striking “the
10 local community or region” and inserting “the
11 rural underserved populations in the local com-
12 munity or region”;

13 (5) in subsection (h)(3), in the matter pre-
14 ceding subparagraph (A), by inserting “, as appro-
15 priate,” after “the Secretary”;

16 (6) by amending subsection (i) to read as fol-
17 lows:

18 “(i) REPORT.—Not later than 4 years after the date
19 of enactment of the Coronavirus Aid, Relief, and Eco-
20 nomic Security Act, and every 5 years thereafter, the Sec-
21 retary shall prepare and submit to the Committee on
22 Health, Education, Labor, and Pensions of the Senate and
23 the Committee on Energy and Commerce of the House
24 of Representatives a report on the activities and outcomes
25 of the grant programs under subsections (e), (f), and (g),

1 including the impact of projects funded under such pro-
2 grams on the health status of rural residents with chronic
3 conditions.”; and

4 (7) in subsection (j), by striking “\$45,000,000
5 for each of fiscal years 2008 through 2012” and in-
6 serting “\$79,500,000 for each of fiscal years 2021
7 through 2025”.

8 **SEC. 3214. UNITED STATES PUBLIC HEALTH SERVICE MOD-**
9 **ERNIZATION.**

10 (a) COMMISSIONED CORPS AND READY RESERVE
11 CORPS.—Section 203 of the Public Health Service Act (42
12 U.S.C. 204) is amended—

13 (1) in subsection (a)(1), by striking “a Ready
14 Reserve Corps for service in time of national emer-
15 gency” and inserting “, for service in time of a pub-
16 lic health or national emergency, a Ready Reserve
17 Corps”; and

18 (2) in subsection (c)—

19 (A) in the heading, by striking “RE-
20 SEARCH” and inserting “RESERVE CORPS”;

21 (B) in paragraph (1), by inserting “during
22 public health or national emergencies” before
23 the period;

24 (C) in paragraph (2)—

1 (i) in the matter preceding subpara-
2 graph (A), by inserting “, consistent with
3 paragraph (1)” after “shall”;

4 (ii) in subparagraph (C), by inserting
5 “during such emergencies” after “mem-
6 bers”; and

7 (iii) in subparagraph (D), by inserting
8 “, consistent with subparagraph (C)” be-
9 fore the period; and

10 (D) by adding at the end the following:

11 “(3) STATUTORY REFERENCES TO RESERVE.—

12 A reference in any Federal statute, except in the
13 case of subsection (b), to the ‘Reserve Corps’ of the
14 Public Health Service or to the ‘reserve’ of the Pub-
15 lic Health Service shall be deemed to be a reference
16 to the Ready Reserve Corps.”.

17 (b) DEPLOYMENT READINESS.—Section
18 203A(a)(1)(B) of the Public Health Service Act (42
19 U.S.C. 204a(a)(1)(B)) is amended by striking “Active Re-
20 serves” and inserting “Ready Reserve Corps”.

21 (c) RETIREMENT OF COMMISSIONED OFFICERS.—
22 Section 211 of the Public Health Service Act (42 U.S.C.
23 212) is amended—

24 (1) by striking “the Service” each place it ap-
25 pears and inserting “the Regular Corps”;

1 (2) in subsection (a)(4), by striking “(in the
2 case of an officer in the Reserve Corps)”;

3 (3) in subsection (c)—

4 (A) in paragraph (1)—

5 (i) by striking “or an officer of the
6 Reserve Corps”; and

7 (ii) by inserting “or under section
8 221(a)(19)” after “subsection (a)”; and

9 (B) in paragraph (2), by striking “Regular
10 or Reserve Corps” and inserting “Regular
11 Corps or Ready Reserve Corps”; and

12 (4) in subsection (f), by striking “the Regular
13 or Reserve Corps of”.

14 (d) RIGHTS, PRIVILEGES, ETC. OF OFFICERS AND
15 SURVIVING BENEFICIARIES.—Section 221 of the Public
16 Health Service Act (42 U.S.C. 213a) is amended—

17 (1) in subsection (a), by adding at the end the
18 following:

19 “(19) Chapter 1223, Retired Pay for Non-Reg-
20 ular Service.

21 “(20) Section 12601, Compensation: Reserve on
22 active duty accepting from any person.

23 “(21) Section 12684, Reserves: separation for
24 absence without authority or sentence to imprison-
25 ment.”; and

1 (2) in subsection (b)—

2 (A) by striking “Secretary of Health, Edu-
3 cation, and Welfare or his designee” and insert-
4 ing “Secretary of Health and Human Services
5 or the designee of such secretary”;

6 (B) by striking “(b) The authority vested”
7 and inserting the following:

8 “(b)(1) The authority vested”;

9 (C) by striking “For purposes of” and in-
10 sserting the following:

11 “(2) For purposes of”; and

12 (D) by adding at the end the following:

13 “(3) For purposes of paragraph (19) of subsection
14 (a), the terms ‘Military department’, ‘Secretary con-
15 cerned’, and ‘Armed forces’ in such title 10 shall be
16 deemed to include, respectively, the Department of Health
17 and Human Services, the Secretary of Health and Human
18 Services, and the Commissioned Corps.”.

19 (e) TECHNICAL AMENDMENTS.—Title II of the Pub-
20 lic Health Service Act (42 U.S.C. 202 et seq.) is amend-
21 ed—

22 (1) in sections 204 and 207(c), by striking
23 “Regular or Reserve Corps” each place it appears
24 and inserting “Regular Corps or Ready Reserve
25 Corps”;

1 (2) in section 208(a), by striking “Regular and
2 Reserve Corps” each place it appears and inserting
3 “Regular Corps and Ready Reserve Corps”; and
4 (3) in section 205(c), 206(c), 210, and 219,
5 and in subsections (a), (b), and (d) of section 207,
6 by striking “Reserve Corps” each place it appears
7 and inserting “Ready Reserve Corps”.

8 **SEC. 3215. LIMITATION ON LIABILITY FOR VOLUNTEER**
9 **HEALTH CARE PROFESSIONALS DURING**
10 **COVID-19 EMERGENCY RESPONSE.**

11 (a) **LIMITATION ON LIABILITY.**—Except as provided
12 in subsection (b), a health care professional shall not be
13 liable under Federal or State law for any harm caused
14 by an act or omission of the professional in the provision
15 of health care services during the public health emergency
16 with respect to COVID-19 declared by the Secretary of
17 Health and Human Services (referred to in this section
18 as the “Secretary”) under section 319 of the Public
19 Health Service Act (42 U.S.C. 247d) on January 31,
20 2020, if—

21 (1) the professional is providing health care
22 services in response to such public health emergency,
23 as a volunteer; and

24 (2) the act or omission occurs—

1 (A) in the course of providing health care
2 services;

3 (B) in the health care professional's capac-
4 ity as a volunteer;

5 (C) in the course of providing health care
6 services that—

7 (i) are within the scope of the license,
8 registration, or certification of the volun-
9 teer, as defined by the State of licensure,
10 registration, or certification; and

11 (ii) do not exceed the scope of license,
12 registration, or certification of a substan-
13 tially similar health professional in the
14 State in which such act or omission occurs;
15 and

16 (D) in a good faith belief that the indi-
17 vidual being treated is in need of health care
18 services.

19 (b) EXCEPTIONS.—Subsection (a) does not apply if—

20 (1) the harm was caused by an act or omission
21 constituting willful or criminal misconduct, gross
22 negligence, reckless misconduct, or a conscious fla-
23 grant indifference to the rights or safety of the indi-
24 vidual harmed by the health care professional; or

1 (2) the health care professional rendered the
2 health care services under the influence (as deter-
3 mined pursuant to applicable State law) of alcohol
4 or an intoxicating drug.

5 (c) PREEMPTION.—

6 (1) IN GENERAL.—This section preempts the
7 laws of a State or any political subdivision of a State
8 to the extent that such laws are inconsistent with
9 this section, unless such laws provide greater protec-
10 tion from liability.

11 (2) VOLUNTEER PROTECTION ACT.—Protec-
12 tions afforded by this section are in addition to those
13 provided by the Volunteer Protection Act of 1997
14 (Public Law 105–19).

15 (d) DEFINITIONS.—In this section—

16 (1) the term “harm” includes physical, non-
17 physical, economic, and noneconomic losses;

18 (2) the term “health care professional” means
19 an individual who is licensed, registered, or certified
20 under Federal or State law to provide health care
21 services;

22 (3) the term “health care services” means any
23 services provided by a health care professional, or by
24 any individual working under the supervision of a
25 health care professional that relate to—

1 (A) the diagnosis, prevention, or treatment
2 of COVID-19; or

3 (B) the assessment or care of the health of
4 a human being related to an actual or sus-
5 pected case of COVID-19; and

6 (4) the term “volunteer” means a health care
7 professional who, with respect to the health care
8 services rendered, does not receive compensation or
9 any other thing of value in lieu of compensation,
10 which compensation—

11 (A) includes a payment under any insur-
12 ance policy or health plan, or under any Fed-
13 eral or State health benefits program; and

14 (B) excludes—

15 (i) receipt of items to be used exclu-
16 sively for rendering health care services in
17 the health care professional’s capacity as a
18 volunteer described in subsection (a)(1);
19 and

20 (ii) any reimbursement for travel to
21 the site where the volunteer services are
22 rendered and any payments in cash or kind
23 to cover room and board, if services are
24 being rendered more than 75 miles from
25 the volunteer’s principal place of residence.

1 (e) EFFECTIVE DATE.—This section shall take effect
2 upon the date of enactment of this Act, and applies to
3 a claim for harm only if the act or omission that caused
4 such harm occurred on or after the date of enactment.

5 (f) SUNSET.—This section shall be in effect only for
6 the length of the public health emergency declared by the
7 Secretary of Health and Human Services (referred to in
8 this section as the “Secretary”) under section 319 of the
9 Public Health Service Act (42 U.S.C. 247d) on January
10 31, 2020 with respect to COVID-19.

11 **SEC. 3216. FLEXIBILITY FOR MEMBERS OF NATIONAL**
12 **HEALTH SERVICE CORPS DURING EMER-**
13 **GENCY PERIOD.**

14 During the public health emergency declared by the
15 Secretary of Health and Human Services under section
16 319 of the Public Health Service Act (42 U.S.C. 247d)
17 on January 31, 2020, with respect to COVID-19, the Sec-
18 retary may, notwithstanding section 333 of the Public
19 Health Service Act (42 U.S.C. 254f), assign members of
20 the National Health Service Corps, with the voluntary
21 agreement of such corps members, to provide such health
22 services at such places, and for such number of hours, as
23 the Secretary determines necessary to respond to such
24 emergency, provided that such places are within a reason-
25 able distance of the site to which such members were origi-

1 nally assigned, and the total number of hours required are
2 the same as were required of such members prior to the
3 date of enactment of this Act.

4 **Subpart C—Miscellaneous Provisions**

5 **SEC. 3221. CONFIDENTIALITY AND DISCLOSURE OF**
6 **RECORDS RELATING TO SUBSTANCE USE DIS-**
7 **ORDER.**

8 (a) CONFORMING CHANGES RELATING TO SUB-
9 STANCE USE DISORDER.—Subsections (a) and (h) of sec-
10 tion 543 of the Public Health Service Act (42 U.S.C.
11 290dd–2) are each amended by striking “substance
12 abuse” and inserting “substance use disorder”.

13 (b) DISCLOSURES TO COVERED ENTITIES CON-
14 SISTENT WITH HIPAA.—Paragraph (1) of section 543(b)
15 of the Public Health Service Act (42 U.S.C. 290dd–2(b))
16 is amended to read as follows:

17 “(1) CONSENT.—The following shall apply with
18 respect to the contents of any record referred to in
19 subsection (a):

20 “(A) Such contents may be used or dis-
21 closed in accordance with the prior written con-
22 sent of the patient with respect to whom such
23 record is maintained.

24 “(B) Once prior written consent of the pa-
25 tient has been obtained, such contents may be

1 used or disclosed by a covered entity, business
2 associate, or a program subject to this section
3 for purposes of treatment, payment, and health
4 care operations as permitted by the HIPAA
5 regulations. Any information so disclosed may
6 then be redisclosed in accordance with the
7 HIPAA regulations. Section 13405(e) of the
8 Health Information Technology and Clinical
9 Health Act (42 U.S.C. 17935(e)) shall apply to
10 all disclosures pursuant to subsection (b)(1) of
11 this section.

12 “(C) It shall be permissible for a patient’s
13 prior written consent to be given once for all
14 such future uses or disclosures for purposes of
15 treatment, payment, and health care operations,
16 until such time as the patient revokes such con-
17 sent in writing.

18 “(D) Section 13405(a) of the Health In-
19 formation Technology and Clinical Health Act
20 (42 U.S.C. 17935(a)) shall apply to all disclo-
21 sures pursuant to subsection (b)(1) of this sec-
22 tion.”.

23 (e) DISCLOSURES OF DE-IDENTIFIED HEALTH IN-
24 FORMATION TO PUBLIC HEALTH AUTHORITIES.—Para-
25 graph (2) of section 543(b) of the Public Health Service

1 Act (42 U.S.C. 290dd–2(b)), is amended by adding at the
2 end the following:

3 “(D) To a public health authority, so long
4 as such content meets the standards established
5 in section 164.514(b) of title 45, Code of Fed-
6 eral Regulations (or successor regulations) for
7 creating de-identified information.”.

8 (d) DEFINITIONS.—Section 543 of the Public Health
9 Service Act (42 U.S.C. 290dd–2) is amended by adding
10 at the end the following:

11 “(k) DEFINITIONS.—For purposes of this section:

12 “(1) BREACH.—The term ‘breach’ has the
13 meaning given such term for purposes of the HIPAA
14 regulations.

15 “(2) BUSINESS ASSOCIATE.—The term ‘busi-
16 ness associate’ has the meaning given such term for
17 purposes of the HIPAA regulations.

18 “(3) COVERED ENTITY.—The term ‘covered en-
19 tity’ has the meaning given such term for purposes
20 of the HIPAA regulations.

21 “(4) HEALTH CARE OPERATIONS.—The term
22 ‘health care operations’ has the meaning given such
23 term for purposes of the HIPAA regulations.

24 “(5) HIPAA REGULATIONS.—The term
25 ‘HIPAA regulations’ has the meaning given such

1 term for purposes of parts 160 and 164 of title 45,
2 Code of Federal Regulations.

3 “(6) PAYMENT.—The term ‘payment’ has the
4 meaning given such term for purposes of the HIPAA
5 regulations.

6 “(7) PUBLIC HEALTH AUTHORITY.—The term
7 ‘public health authority’ has the meaning given such
8 term for purposes of the HIPAA regulations.

9 “(8) TREATMENT.—The term ‘treatment’ has
10 the meaning given such term for purposes of the
11 HIPAA regulations.

12 “(9) UNSECURED PROTECTED HEALTH INFOR-
13 MATION.—The term ‘unprotected health information’
14 has the meaning given such term for purposes of the
15 HIPAA regulations.”.

16 (e) USE OF RECORDS IN CRIMINAL, CIVIL, OR AD-
17 MINISTRATIVE INVESTIGATIONS, ACTIONS, OR PRO-
18 CEEDINGS.—Subsection (c) of section 543 of the Public
19 Health Service Act (42 U.S.C. 290dd–2(c)) is amended
20 to read as follows:

21 “(c) USE OF RECORDS IN CRIMINAL, CIVIL, OR AD-
22 MINISTRATIVE CONTEXTS.—Except as otherwise author-
23 ized by a court order under subsection (b)(2)(C) or by the
24 consent of the patient, a record referred to in subsection
25 (a), or testimony relating the information contained there-

1 in, may not be disclosed or used in any civil, criminal, ad-
2 ministrative, or legislative proceedings conducted by any
3 Federal, State, or local authority, against a patient, in-
4 cluding with respect to the following activities:

5 “(1) Such record or testimony shall not be en-
6 tered into evidence in any criminal prosecution or
7 civil action before a Federal or State court.

8 “(2) Such record or testimony shall not form
9 part of the record for decision or otherwise be taken
10 into account in any proceeding before a Federal,
11 State, or local agency.

12 “(3) Such record or testimony shall not be used
13 by any Federal, State, or local agency for a law en-
14 forcement purpose or to conduct any law enforce-
15 ment investigation.

16 “(4) Such record or testimony shall not be used
17 in any application for a warrant.”.

18 (f) PENALTIES.—Subsection (f) of section 543 of the
19 Public Health Service Act (42 U.S.C. 290dd–2) is amend-
20 ed to read as follows:

21 “(f) PENALTIES.—The provisions of sections 1176
22 and 1177 of the Social Security Act shall apply to a viola-
23 tion of this section to the extent and in the same manner
24 as such provisions apply to a violation of part C of title
25 XI of such Act. In applying the previous sentence—

1 “(1) the reference to ‘this subsection’ in sub-
2 section (a)(2) of such section 1176 shall be treated
3 as a reference to ‘this subsection (including as ap-
4 plied pursuant to section 543(f) of the Public Health
5 Service Act)’; and

6 “(2) in subsection (b) of such section 1176—

7 “(A) each reference to ‘a penalty imposed
8 under subsection (a)’ shall be treated as a ref-
9 erence to ‘a penalty imposed under subsection
10 (a) (including as applied pursuant to section
11 543(f) of the Public Health Service Act)’; and

12 “(B) each reference to ‘no damages ob-
13 tained under subsection (d)’ shall be treated as
14 a reference to ‘no damages obtained under sub-
15 section (d) (including as applied pursuant to
16 section 543(f) of the Public Health Service
17 Act)’.”.

18 (g) ANTIDISCRIMINATION.—Section 543 of the Public
19 Health Service Act (42 U.S.C. 290dd-2) is amended by
20 inserting after subsection (h) the following:

21 “(i) ANTIDISCRIMINATION.—

22 “(1) IN GENERAL.—No entity shall discrimi-
23 nate against an individual on the basis of informa-
24 tion received by such entity pursuant to an inad-
25 vertent or intentional disclosure of records, or infor-

1 mation contained in records, described in subsection
2 (a) in—

3 “(A) admission, access to, or treatment for
4 health care;

5 “(B) hiring, firing, or terms of employ-
6 ment, or receipt of worker’s compensation;

7 “(C) the sale, rental, or continued rental of
8 housing;

9 “(D) access to Federal, State, or local
10 courts; or

11 “(E) access to, approval of, or mainte-
12 nance of social services and benefits provided or
13 funded by Federal, State, or local governments.

14 “(2) RECIPIENTS OF FEDERAL FUNDS.—No re-
15 cipient of Federal funds shall discriminate against
16 an individual on the basis of information received by
17 such recipient pursuant to an intentional or inad-
18 vertent disclosure of such records or information
19 contained in records described in subsection (a) in
20 affording access to the services provided with such
21 funds.”.

22 (h) NOTIFICATION IN CASE OF BREACH.—Section
23 543 of the Public Health Service Act (42 U.S.C. 290dd-
24 2), as amended by subsection (g), is further amended by
25 inserting after subsection (i) the following:

1 “(j) NOTIFICATION IN CASE OF BREACH.—The pro-
2 visions of section 13402 of the HITECH Act (42 U.S.C.
3 17932) shall apply to a program or activity described in
4 subsection (a), in case of a breach of records described
5 in subsection (a), to the same extent and in the same man-
6 ner as such provisions apply to a covered entity in the
7 case of a breach of unsecured protected health informa-
8 tion.”.

9 (i) REGULATIONS.—

10 (1) IN GENERAL.—The Secretary of Health and
11 Human Services, in consultation with appropriate
12 Federal agencies, shall make such revisions to regu-
13 lations as may be necessary for implementing and
14 enforcing the amendments made by this section,
15 such that such amendments shall apply with respect
16 to uses and disclosures of information occurring on
17 or after the date that is 12 months after the date
18 of enactment of this Act.

19 (2) EASILY UNDERSTANDABLE NOTICE OF PRI-
20 VACY PRACTICES.—Not later than 1 year after the
21 date of enactment of this Act, the Secretary of
22 Health and Human Services, in consultation with
23 appropriate legal, clinical, privacy, and civil rights
24 experts, shall update section 164.520 of title 45,
25 Code of Federal Regulations, so that covered entities

1 and entities creating or maintaining the records de-
2 scribed in subsection (a) provide notice, written in
3 plain language, of privacy practices regarding pa-
4 tient records referred to in section 543(a) of the
5 Public Health Service Act (42 U.S.C. 290dd-2(a)),
6 including—

7 (A) a statement of the patient’s rights, in-
8 cluding self-pay patients, with respect to pro-
9 tected health information and a brief descrip-
10 tion of how the individual may exercise these
11 rights (as required by subsection (b)(1)(iv) of
12 such section 164.520); and

13 (B) a description of each purpose for
14 which the covered entity is permitted or re-
15 quired to use or disclose protected health infor-
16 mation without the patient’s written authoriza-
17 tion (as required by subsection (b)(2) of such
18 section 164.520).

19 (j) RULES OF CONSTRUCTION.—Nothing in this Act
20 or the amendments made by this Act shall be construed
21 to limit—

22 (1) a patient’s right, as described in section
23 164.522 of title 45, Code of Federal Regulations, or
24 any successor regulation, to request a restriction on
25 the use or disclosure of a record referred to in sec-

1 tion 543(a) of the Public Health Service Act (42
2 U.S.C. 290dd–2(a)) for purposes of treatment, pay-
3 ment, or health care operations; or

4 (2) a covered entity’s choice, as described in
5 section 164.506 of title 45, Code of Federal Regula-
6 tions, or any successor regulation, to obtain the con-
7 sent of the individual to use or disclose a record re-
8 ferred to in such section 543(a) to carry out treat-
9 ment, payment, or health care operation.

10 (k) SENSE OF CONGRESS.—It is the sense of the
11 Congress that—

12 (1) any person treating a patient through a
13 program or activity with respect to which the con-
14 fidentiality requirements of section 543 of the Public
15 Health Service Act (42 U.S.C. 290dd–2) apply is en-
16 couraged to access the applicable State-based pre-
17 scription drug monitoring program when clinically
18 appropriate;

19 (2) patients have the right to request a restric-
20 tion on the use or disclosure of a record referred to
21 in section 543(a) of the Public Health Service Act
22 (42 U.S.C. 290dd–2(a)) for treatment, payment, or
23 health care operations;

24 (3) covered entities should make every reason-
25 able effort to the extent feasible to comply with a

1 patient's request for a restriction regarding such use
2 or disclosure;

3 (4) for purposes of applying section 164.501 of
4 title 45, Code of Federal Regulations, the definition
5 of health care operations shall have the meaning
6 given such term in such section, except that clause
7 (v) of paragraph (6) shall not apply; and

8 (5) programs creating records referred to in
9 section 543(a) of the Public Health Service Act (42
10 U.S.C. 290dd-2(a)) should receive positive incen-
11 tives for discussing with their patients the benefits
12 to consenting to share such records.

13 **SEC. 3222. NUTRITION SERVICES.**

14 (a) DEFINITIONS.—In this section, the terms “As-
15 sistant Secretary”, “Secretary”, “State agency”, and
16 “area agency on aging” have the meanings given the
17 terms in section 102 of the Older Americans Act of 1965
18 (42 U.S.C. 3002).

19 (b) NUTRITION SERVICES TRANSFER CRITERIA.—
20 During any portion of the COVID-19 public health emer-
21 gency declared under section 319 of the Public Health
22 Service Act (42 U.S.C. 247d), the Secretary shall allow
23 a State agency or an area agency on aging, without prior
24 approval, to transfer not more than 100 percent of the
25 funds received by the State agency or area agency on

1 aging, respectively, and attributable to funds appropriated
2 under paragraph (1) or (2) of section 303(b) of the Older
3 Americans Act of 1965 (42 U.S.C. 3023(b)), between sub-
4 part 1 and subpart 2 of part C (42 U.S.C. 3030d–2 et
5 seq.) for such use as the State agency or area agency on
6 aging, respectively, considers appropriate to meet the
7 needs of the State or area served.

8 (c) HOME-DELIVERED NUTRITION SERVICES WAIV-
9 ER.—For purposes of State agencies’ determining the de-
10 livery of nutrition services under section 337 of the Older
11 Americans Act of 1965 (42 U.S.C. 3030g), during the pe-
12 riod of the COVID–19 public health emergency declared
13 under section 319 of the Public Health Service Act (42
14 U.S.C. 247d), the same meaning shall be given to an indi-
15 vidual who is unable to obtain nutrition because the indi-
16 vidual is practicing social distancing due to the emergency
17 as is given to an individual who is homebound by reason
18 of illness.

19 (d) DIETARY GUIDELINES WAIVER.—To facilitate
20 implementation of subparts 1 and 2 of part C of title III
21 of the Older Americans Act of 1965 (42 U.S.C. 3030d–
22 2 et seq.) during any portion of the COVID–19 public
23 health emergency declared under section 319 of the Public
24 Health Service Act (42 U.S.C. 247d), the Assistant Sec-
25 retary may waive the requirements for meals provided

1 under those subparts to comply with the requirements of
2 clauses (i) and (ii) of section 339(2)(A) of such Act (42
3 U.S.C. 3030g–21(2)(A)).

4 **SEC. 3223. CONTINUITY OF SERVICE AND OPPORTUNITIES**
5 **FOR PARTICIPANTS IN COMMUNITY SERVICE**
6 **ACTIVITIES UNDER TITLE V OF THE OLDER**
7 **AMERICANS ACT OF 1965.**

8 To ensure continuity of service and opportunities for
9 participants in community service activities under title V
10 of the Older Americans Act of 1965 (42 U.S.C. 3056 et
11 seq.), the Secretary of Labor—

12 (1)(A) may allow individuals participating in
13 projects under such title as of March 1, 2020, to ex-
14 tend their participation for a period that exceeds the
15 period described in section 518(a)(3)(B)(i) of such
16 Act (42 U.S.C. 3056p(a)(3)(B)(i)) if the Secretary
17 determines such extension is appropriate due to the
18 effects of the COVID–19 public health emergency
19 declared under section 319 of the Public Health
20 Service Act (42 U.S.C. 247d); and

21 (B) may increase the average participation cap
22 for eligible individuals applicable to grantees as de-
23 scribed in section 502(b)(1)(C) of the Older Ameri-
24 cans Act of 1965 (42 U.S.C. 3056(b)(1)(C)) to a
25 cap the Secretary determines is appropriate due to

1 the effects of the COVID–19 public health emer-
2 gency declared under section 319 of the Public
3 Health Service Act (42 U.S.C. 247d); and

4 (2) may increase the amount available to pay
5 the authorized administrative costs for a project, de-
6 scribed in section 502(c)(3) of the Older Americans
7 Act of 1965 (42 U.S.C. 3056(c)(3)) to an amount
8 not to exceed 20 percent of the grant amount if the
9 Secretary determines that such increase is necessary
10 to adequately respond to the additional administra-
11 tive needs to respond to the COVID–19 public
12 health emergency declared under section 319 of the
13 Public Health Service Act (42 U.S.C. 247d).

14 **SEC. 3224. GUIDANCE ON PROTECTED HEALTH INFORMA-**
15 **TION.**

16 Not later than 180 days after the date of enactment
17 of this Act, the Secretary of Health and Human Services
18 shall issue guidance on the sharing of patients’ protected
19 health information pursuant to section 160.103 of title 45,
20 Code of Federal Regulations (or any successor regula-
21 tions) during the public health emergency declared by the
22 Secretary of Health and Human Services under section
23 319 of the Public Health Service Act (42 U.S.C. 247d)
24 with respect to COVID-19, during the emergency involv-
25 ing Federal primary responsibility determined to exist by

1 the President under section 501(b) of the Robert T. Staf-
2 ford Disaster Relief and Emergency Assistance Act (42
3 U.S.C. 5191(b)) with respect to COVID-19, and during
4 the national emergency declared by the President under
5 the National Emergencies Act (50 U.S.C. 1601 et seq.)
6 with respect to COVID-19. Such guidance shall include
7 information on compliance with the regulations promul-
8 gated pursuant to section 264(c) of the Health Insurance
9 Portability and Accountability Act of 1996 (42 U.S.C.
10 1320d–2 note) and applicable policies, including such poli-
11 cies that may come into effect during such emergencies.

12 **SEC. 3225. REAUTHORIZATION OF HEALTHY START PRO-**
13 **GRAM.**

14 Section 330H of the Public Health Service Act (42
15 U.S.C. 254e–8) is amended—

16 (1) in subsection (a)—

17 (A) in paragraph (1), by striking “, during
18 fiscal year 2001 and subsequent years,”; and

19 (B) in paragraph (2), by inserting “or in-
20 creasing above the national average” after
21 “areas with high”;

22 (2) in subsection (b)—

23 (A) in paragraph (1), by striking “con-
24 sumers of project services, public health depart-
25 ments, hospitals, health centers under section

1 330” and inserting “participants and former
2 participants of project services, public health
3 departments, hospitals, health centers under
4 section 330, State substance abuse agencies”;
5 and

6 (B) in paragraph (2)—

7 (i) in subparagraph (A), by striking
8 “such as low birthweight” and inserting
9 “including poor birth outcomes (such as
10 low birthweight and preterm birth) and so-
11 cial determinants of health”;

12 (ii) by redesignating subparagraph
13 (B) as subparagraph (C);

14 (iii) by inserting after subparagraph
15 (A), the following:

16 “(B) Communities with—

17 “(i) high rates of infant mortality or
18 poor perinatal outcomes; or

19 “(ii) high rates of infant mortality or
20 poor perinatal outcomes in specific sub-
21 populations within the community.”; and

22 (iv) in subparagraph (C) (as so redesi-
23 gnated)—

1 (I) by redesignating clauses (i)
2 and (ii) as clauses (ii) and (iii), re-
3 spectively;

4 (II) by inserting before clause (ii)
5 (as so redesignated) the following:

6 “(i) collaboration with the local com-
7 munity in the development of the project;”;

8 (III) in clause (ii) (as so redesign-
9 ated), by striking “and” at the end;

10 (IV) in clause (iii) (as so redesign-
11 ated), by striking the period and in-
12 serting “; and”; and

13 (V) by adding at the end the fol-
14 lowing:

15 “(iv) the use and collection of data
16 demonstrating the effectiveness of such
17 program in decreasing infant mortality
18 rates and improving perinatal outcomes, as
19 applicable, or the process by which new ap-
20 plicants plan to collect this data.”;

21 (3) in subsection (c)—

22 (A) by striking “Recipients of grants” and
23 inserting the following:

24 “(1) IN GENERAL.—Recipients of grants”; and

25 (B) by adding at the end the following:

1 “(2) OTHER PROGRAMS.—The Secretary shall
2 ensure coordination of the program carried out pur-
3 suant to this section with other programs and activi-
4 ties related to the reduction of the rate of infant
5 mortality and improved perinatal and infant health
6 outcomes supported by the Department.”;

7 (4) in subsection (e)—

8 (A) in paragraph (1), by striking “appro-
9 priated—” and all that follows through the end
10 and inserting “appropriated \$125,500,000 for
11 each of fiscal years 2021 through 2025.”; and

12 (B) in paragraph (2)(B), by adding at the
13 end the following: “Evaluations may also in-
14 clude, to the extent practicable, information re-
15 lated to—

16 “(i) progress toward achieving any
17 grant metrics or outcomes related to re-
18 ducing infant mortality rates, improving
19 perinatal outcomes, or reducing the dis-
20 parity in health status;

21 “(ii) recommendations on potential
22 improvements that may assist with ad-
23 dressing gaps, as applicable and appro-
24 priate; and

1 “(iii) the extent to which the grantee
2 coordinated with the community in which
3 the grantee is located in the development
4 of the project and delivery of services, in-
5 cluding with respect to technical assistance
6 and mentorship programs.”; and

7 (5) by adding at the end the following:

8 “(f) GAO REPORT.—

9 “(1) IN GENERAL.—Not later than 4 years
10 after the date of the enactment of this subsection,
11 the Comptroller General of the United States shall
12 conduct an independent evaluation, and submit to
13 the appropriate Committees of Congress a report,
14 concerning the Healthy Start program under this
15 section.

16 “(2) EVALUATION.—In conducting the evalua-
17 tion under paragraph (1), the Comptroller General
18 shall consider, as applicable and appropriate, infor-
19 mation from the evaluations under subsection
20 (e)(2)(B).

21 “(3) REPORT.—The report described in para-
22 graph (1) shall review, assess, and provide rec-
23 ommendations, as appropriate, on the following:

24 “(A) The allocation of Healthy Start pro-
25 gram grants by the Health Resources and Serv-

1 ices Administration, including considerations
2 made by such Administration regarding dispari-
3 ties in infant mortality or perinatal outcomes
4 among urban and rural areas in making such
5 awards.

6 “(B) Trends in the progress made toward
7 meeting the evaluation criteria pursuant to sub-
8 section (e)(2)(B), including programs which de-
9 crease infant mortality rates and improve
10 perinatal outcomes, programs that have not de-
11 creased infant mortality rates or improved
12 perinatal outcomes, and programs that have
13 made an impact on disparities in infant mor-
14 tality or perinatal outcomes.

15 “(C) The ability of grantees to improve
16 health outcomes for project participants, pro-
17 mote the awareness of the Healthy Start pro-
18 gram services, incorporate and promote family
19 participation, facilitate coordination with the
20 community in which the grantee is located, and
21 increase grantee accountability through quality
22 improvement, performance monitoring, evalua-
23 tion, and the effect such metrics may have to-
24 ward decreasing the rate of infant mortality
25 and improving perinatal outcomes.

1 “(D) The extent to which such Federal
2 programs are coordinated across agencies and
3 the identification of opportunities for improved
4 coordination in such Federal programs and ac-
5 tivities.”.

6 **SEC. 3226. IMPORTANCE OF THE BLOOD SUPPLY.**

7 (a) IN GENERAL.—The Secretary of Health and
8 Human Services (referred to in this section as the “Sec-
9 retary”) shall carry out a national campaign to improve
10 awareness of, and support outreach to, the public and
11 health care providers about the importance and safety of
12 blood donation and the need for donations for the blood
13 supply during the public health emergency declared by the
14 Secretary under section 319 of the Public Health Service
15 Act (42 U.S.C. 247d) with respect to COVID-19.

16 (b) AWARENESS CAMPAIGN.—In carrying out sub-
17 section (a), the Secretary may enter into contracts with
18 one or more public or private nonprofit entities, to estab-
19 lish a national blood donation awareness campaign that
20 may include television, radio, internet, and newspaper
21 public service announcements, and other activities to pro-
22 vide for public and professional awareness and education.

23 (c) CONSULTATION.—In carrying out subsection (a),
24 the Secretary shall consult with the Commissioner of Food
25 and Drugs, the Assistant Secretary for Health, the Direc-

1 tor of the Centers for Disease Control and Prevention, the
2 Director of the National Institutes of Health, and the
3 heads of other relevant Federal agencies, and relevant ac-
4 crediting bodies and representative organizations.

5 (d) REPORT TO CONGRESS.—Not later than 2 years
6 after the date of enactment of this Act, the Secretary shall
7 submit to the Committee on Health, Education, Labor,
8 and Pensions of the Senate and the Committee on Energy
9 and Commerce of the House of Representatives, a report
10 that shall include—

11 (1) a description of the activities carried out
12 under subsection (a);

13 (2) a description of trends in blood supply do-
14 nations; and

15 (3) an evaluation of the impact of the public
16 awareness campaign, including any geographic or
17 population variations.

18 **PART III—INNOVATION**

19 **SEC. 3301. REMOVING THE CAP ON OTA DURING PUBLIC**
20 **HEALTH EMERGENCIES.**

21 Section 319L(c)(5)(A) of the Public Health Service
22 Act (42 U.S.C. 247d–7e(c)(5)(A)) is amended—

23 (1) by redesignating clause (iii) as clause (iv);
24 and

25 (2) by inserting after clause (ii) the following:

1 “(ii) AUTHORITY DURING A PUBLIC
2 HEALTH EMERGENCY.—

3 “(I) IN GENERAL.—Notwith-
4 standing clause (ii), the Secretary,
5 shall, to the maximum extent prac-
6 ticable, use competitive procedures
7 when entering into transactions to
8 carry out projects under this sub-
9 section for purposes of a public health
10 emergency declared by the Secretary
11 under section 319. Any such trans-
12 actions entered into during such pub-
13 lic health emergency shall not be ter-
14 minated solely due to the expiration of
15 such public health emergency, if such
16 public health emergency ends before
17 the completion of the terms of such
18 agreement.

19 “(II) REPORT.—After the expira-
20 tion of the public health emergency
21 declared by the Secretary under sec-
22 tion 319, the Secretary shall provide a
23 report to the Committee on Health,
24 Education, Labor, and Pensions of
25 the Senate and the Committee on En-

1 ergy and Commerce of the House of
2 Representatives regarding the use of
3 any funds pursuant to the authority
4 under subclause (I), including any
5 outcomes, benefits, and risks associ-
6 ated with the use of such funds, and
7 a description of the reasons for the
8 use of such authority for the project
9 or projects.”.

10 **SEC. 3302. PRIORITY ZONOTIC ANIMAL DRUGS.**

11 Chapter V of the Federal Food, Drug, and Cosmetic
12 Act (21 U.S.C. 351 et seq.) is amended by inserting after
13 section 512 the following:

14 **“SEC. 512A. PRIORITY ZONOTIC ANIMAL DRUGS.**

15 “(a) IN GENERAL.—The Secretary shall, at the re-
16 quest of the sponsor intending to submit an application
17 for approval of a new animal drug under section 512(b)(1)
18 or an application for conditional approval of a new animal
19 drug under section 571, expedite the development and re-
20 view of such new animal drug if preliminary clinical evi-
21 dence indicates that the new animal drug, alone or in com-
22 bination with 1 or more other animal drugs, has the poten-
23 tial to prevent or treat a zoonotic disease in animals, in-
24 cluding a vector borne-disease, that has the potential to

1 cause serious adverse health consequences for, or serious
2 or life-threatening diseases in, humans.

3 “(b) REQUEST FOR DESIGNATION.—The sponsor of
4 a new animal drug may request the Secretary to designate
5 a new animal drug described in subsection (a) as a priority
6 zoonotic animal drug. A request for the designation may
7 be made concurrently with, or at any time after, the open-
8 ing of an investigational new animal drug file under sec-
9 tion 512(j) or the filing of an application under section
10 512(b)(1) or 571.

11 “(c) DESIGNATION.—

12 “(1) IN GENERAL.—Not later than 60 calendar
13 days after the receipt of a request under subsection
14 (b), the Secretary shall determine whether the new
15 animal drug that is the subject of the request meets
16 the criteria described in subsection (a). If the Sec-
17 retary determines that the new animal drug meets
18 the criteria, the Secretary shall designate the new
19 animal drug as a priority zoonotic animal drug and
20 shall take such actions as are appropriate to expe-
21 dite the development and review of the application
22 for approval or conditional approval of such new ani-
23 mal drug.

1 “(2) ACTIONS.—The actions to expedite the de-
2 velopment and review of an application under para-
3 graph (1) may include, as appropriate—

4 “(A) taking steps to ensure that the design
5 of clinical trials is as efficient as practicable,
6 when scientifically appropriate, such as by uti-
7 lizing novel trial designs or drug development
8 tools (including biomarkers) that may reduce
9 the number of animals needed for studies;

10 “(B) providing timely advice to, and inter-
11 active communication with, the sponsor (which
12 may include meetings with the sponsor and re-
13 view team) regarding the development of the
14 new animal drug to ensure that the develop-
15 ment program to gather the nonclinical and
16 clinical data necessary for approval is as effi-
17 cient as practicable;

18 “(C) involving senior managers and review
19 staff with experience in zoonotic or vector-borne
20 disease to facilitate collaborative, cross-discipli-
21 nary review, including, as appropriate, across
22 agency centers; and

23 “(D) implementing additional administra-
24 tive or process enhancements, as necessary, to

1 facilitate an efficient review and development
2 program.”.

3 **PART IV—HEALTH CARE WORKFORCE**

4 **SEC. 3401. REAUTHORIZATION OF HEALTH PROFESSIONS**
5 **WORKFORCE PROGRAMS.**

6 Title VII of the Public Health Service Act (42 U.S.C.
7 292 et seq.) is amended—

8 (1) in section 736 (42 U.S.C. 293), by striking
9 subsection (i) and inserting the following:

10 “(i) AUTHORIZATION OF APPROPRIATIONS.—To
11 carry out this section, there is authorized to be appro-
12 priated \$23,711,000 for each of fiscal years 2021 through
13 2025.”;

14 (2) in section 740 (42 U.S.C. 293d)—

15 (A) in subsection (a), by striking
16 “\$51,000,000 for fiscal year 2010, and such
17 sums as may be necessary for each of the fiscal
18 years 2011 through 2014” and inserting
19 “\$51,470,000 for each of fiscal years 2021
20 through 2025”;

21 (B) in subsection (b), by striking
22 “\$5,000,000 for each of the fiscal years 2010
23 through 2014” and inserting “\$1,190,000 for
24 each of fiscal years 2021 through 2025”;

1 trains primary care physicians on such
2 models and”; and

3 (ii) by adding at the end the fol-
4 lowing:

5 “(3) PRIORITIES IN MAKING AWARDS.—In
6 awarding grants or contracts under paragraph (1),
7 the Secretary may give priority to qualified appli-
8 cants that train residents in rural areas, including
9 for Tribes or Tribal Organizations in such areas.”;

10 (B) in subsection (b)(3)(E), by striking
11 “substance-related disorders” and inserting
12 “substance use disorders”; and

13 (C) in subsection (c)(1), by striking
14 “\$125,000,000 for fiscal year 2010, and such
15 sums as may be necessary for each of fiscal
16 years 2011 through 2014” and inserting
17 “\$48,924,000 for each of fiscal years 2021
18 through 2025”;

19 (4) in section 748 (42 U.S.C. 293k-2)—

20 (A) in subsection (c)(5), by striking “sub-
21 stance-related disorders” and inserting “sub-
22 stance use disorders”; and

23 (B) in subsection (f), by striking
24 “\$30,000,000 for fiscal year 2010 and such
25 sums as may be necessary for each of fiscal

1 years 2011 through 2015” and inserting
2 “\$28,531,000 for each of fiscal years 2021
3 through 2025”;

4 (5) in section 749(d)(2) (42 U.S.C. 293l(d)(2)),
5 by striking “Committee on Labor and Human Re-
6 sources of the Senate, and the Committee on Com-
7 merce of the House of Representatives” and insert-
8 ing “Committee on Health, Education, Labor, and
9 Pensions of the Senate, and the Committee on En-
10 ergy and Commerce of the House of Representa-
11 tives”;

12 (6) in section 751(j)(1) (42 U.S.C. 294a(j)(1)),
13 by striking “\$125,000,000 for each of the fiscal
14 years 2010 through 2014” and inserting
15 “\$41,250,000 for each of fiscal years 2021 through
16 2025”;

17 (7) in section 754(b)(1)(A) (42 U.S.C.
18 294d(b)(1)(A)), by striking “new and innovative”
19 and inserting “innovative or evidence-based”;

20 (8) in section 755(b)(1)(A) (42 U.S.C.
21 294e(b)(1)(A)), by striking “the elderly” and insert-
22 ing “geriatric populations or for maternal and child
23 health”;

24 (9) in section 761(e) (42 U.S.C. 294n(e))—

1 (A) in paragraph (1)(A), by striking
2 “\$7,500,000 for each of fiscal years 2010
3 through 2014” and inserting “\$5,663,000 for
4 each of fiscal years 2021 through 2025”; and

5 (B) in paragraph (2), by striking “sub-
6 section (a)” and inserting “paragraph (1)”;
7 (10) in section 762 (42 U.S.C. 294o)—

8 (A) in subsection (a)(1), by striking “Com-
9 mittee on Labor and Human Resources” and
10 inserting “Committee on Health, Education,
11 Labor, and Pensions”;

12 (B) in subsection (b)—

13 (i) in paragraph (2), by striking
14 “Health Care Financing Administration”
15 and inserting “Centers for Medicare &
16 Medicaid Services”;

17 (ii) by redesignating paragraphs (4)
18 through (6) as paragraphs (5) through (7),
19 respectively; and

20 (iii) by inserting after paragraph (3),
21 the following:

22 “(4) the Administrator of the Health Resources
23 and Services Administration;”;

24 (C) by striking subsections (i), (j), and (k)
25 and inserting the following:

1 “(i) REPORTS.—Not later than September 30, 2023,
2 and not less than every 5 years thereafter, the Council
3 shall submit to the Secretary, and to the Committee on
4 Health, Education, Labor, and Pensions of the Senate and
5 the Committee on Energy and Commerce of the House
6 of Representatives, a report on the recommendations de-
7 scribed in subsection (a).”; and

8 (D) by redesignating subsection (l) as sub-
9 section (j);

10 (11) in section 766(b)(1) (42 U.S.C.
11 295a(b)(1)), by striking “that plans” and all that
12 follows through the period and inserting “that plans,
13 develops, operates, and evaluates projects to improve
14 preventive medicine, health promotion and disease
15 prevention, or access to and quality of health care
16 services in rural or medically underserved commu-
17 nities.”;

18 (12) in section 770(a) (42 U.S.C. 295e(a)), by
19 striking “\$43,000,000 for fiscal year 2011, and such
20 sums as may be necessary for each of the fiscal
21 years 2012 through 2015” and inserting
22 “\$17,000,000 for each of fiscal years 2021 through
23 2025”; and

24 (13) in section 775(e) (42 U.S.C. 295f(e)), by
25 striking “\$30,000,000” and all that follows through

1 the period and inserting “such sums as may be nec-
2 essary for each of fiscal years 2021 through 2025.”.

3 **SEC. 3402. HEALTH WORKFORCE COORDINATION.**

4 (a) STRATEGIC PLAN.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the date of enactment of this Act, the Secretary of
7 Health and Human Services (referred to in this Act
8 as the “Secretary”), in consultation with the Advi-
9 sory Committee on Training in Primary Care Medi-
10 cine and Dentistry and the Advisory Council on
11 Graduate Medical Education, shall develop a com-
12 prehensive and coordinated plan with respect to the
13 health care workforce development programs of the
14 Department of Health and Human Services, includ-
15 ing education and training programs.

16 (2) REQUIREMENTS.—The plan under para-
17 graph (1) shall—

18 (A) include performance measures to de-
19 termine the extent to which the programs de-
20 scribed in paragraph (1) are strengthening the
21 Nation’s health care system;

22 (B) identify any gaps that exist between
23 the outcomes of programs described in para-
24 graph (1) and projected health care workforce
25 needs identified in workforce projection reports

1 conducted by the Health Resources and Serv-
2 ices Administration;

3 (C) identify actions to address the gaps de-
4 scribed in subparagraph (B); and

5 (D) identify barriers, if any, to imple-
6 menting the actions identified under subpara-
7 graph (C).

8 (b) COORDINATION WITH OTHER AGENCIES.—The
9 Secretary shall coordinate with the heads of other Federal
10 agencies and departments that fund or administer health
11 care workforce development programs, including education
12 and training programs, to—

13 (1) evaluate the performance of such programs,
14 including the extent to which such programs are effi-
15 cient and effective and are meeting the nation’s
16 health workforce needs; and

17 (2) identify opportunities to improve the quality
18 and consistency of the information collected to evalu-
19 ate within and across such programs, and to imple-
20 ment such improvements.

21 (c) REPORT.—Not later than 2 years after the date
22 of enactment of this Act, the Secretary shall submit to
23 the Committee on Health, Education, Labor, and Pen-
24 sions of the Senate, and the Committee on Energy and
25 Commerce of the House of Representatives, a report de-

1 scribing the plan developed under subsection (a) and ac-
2 tions taken to implement such plan.

3 **SEC. 3403. EDUCATION AND TRAINING RELATING TO GERI-**
4 **ATRICS.**

5 Section 753 of the Public Health Service Act (42
6 U.S.C. 294e) is amended to read as follows:

7 **“SEC. 753. EDUCATION AND TRAINING RELATING TO GERI-**
8 **ATRICS.**

9 “(a) GERIATRICS WORKFORCE ENHANCEMENT PRO-
10 GRAM.—

11 “(1) IN GENERAL.—The Secretary shall award
12 grants, contracts, or cooperative agreements under
13 this subsection to entities described in paragraph
14 (1), (3), or (4) of section 799B, section 801(2), or
15 section 865(d), or other health professions schools or
16 programs approved by the Secretary, for the estab-
17 lishment or operation of Geriatrics Workforce En-
18 hancement Programs that meet the requirements of
19 paragraph (2).

20 “(2) REQUIREMENTS.—

21 “(A) IN GENERAL.—A Geriatrics Work-
22 force Enhancement Program receiving an
23 award under this section shall support the
24 training of health professionals in geriatrics, in-
25 cluding traineeships or fellowships. Such pro-

1 grams shall emphasize, as appropriate, patient
2 and family engagement, integration of geriatrics
3 with primary care and other appropriate spe-
4 cialties, and collaboration with community part-
5 ners to address gaps in health care for older
6 adults.

7 “(B) ACTIVITIES.—Activities conducted by
8 a program under this section may include the
9 following:

10 “(i) Clinical training on providing in-
11 tegrated geriatrics and primary care deliv-
12 ery services.

13 “(ii) Interprofessional training to
14 practitioners from multiple disciplines and
15 specialties, including training on the provi-
16 sion of care to older adults.

17 “(iii) Establishing or maintaining
18 training-related community-based pro-
19 grams for older adults and caregivers to
20 improve health outcomes for older adults.

21 “(iv) Providing education on Alz-
22 heimer’s disease and related dementias to
23 families and caregivers of older adults, di-
24 rect care workers, and health professions
25 students, faculty, and providers.

1 “(iii) may give priority to any pro-
2 gram that—

3 “(I) integrates geriatrics into pri-
4 mary care practice;

5 “(II) provides training to inte-
6 grate geriatric care into other special-
7 ties across care settings, including
8 practicing clinical specialists, health
9 care administrators, faculty without
10 backgrounds in geriatrics, and stu-
11 dents from all health professions;

12 “(III) emphasizes integration of
13 geriatric care into existing service de-
14 livery locations and care across set-
15 tings, including primary care clinics,
16 medical homes, Federally qualified
17 health centers, ambulatory care clin-
18 ics, critical access hospitals, emer-
19 gency care, assisted living and nursing
20 facilities, and home- and community-
21 based services, which may include
22 adult daycare;

23 “(IV) supports the training and
24 retraining of faculty, primary care
25 providers, other direct care providers,

1 and other appropriate professionals on
2 geriatrics;

3 “(V) emphasizes education and
4 engagement of family caregivers on
5 disease management and strategies to
6 meet the needs of caregivers of older
7 adults; or

8 “(VI) proposes to conduct out-
9 reach to communities that have a
10 shortage of geriatric workforce profes-
11 sionals.

12 “(B) SPECIAL CONSIDERATION.—In
13 awarding grants, contracts, and cooperative
14 agreements under this section, the Secretary
15 shall give special consideration to entities that
16 provide services in areas with a shortage of
17 geriatric workforce professionals.

18 “(6) PRIORITY.—The Secretary may provide
19 awardees with additional support for activities in
20 areas of demonstrated need, which may include edu-
21 cation and training for home health workers, family
22 caregivers, and direct care workers on care for older
23 adults.

24 “(7) REPORTING.—

1 “(A) REPORTS FROM ENTITIES.—Each en-
2 tity awarded a grant, contract, or cooperative
3 agreement under this section shall submit an
4 annual report to the Secretary on the activities
5 conducted under such grant, contract, or coop-
6 erative agreement, which may include informa-
7 tion on the number of trainees, the number of
8 professions and disciplines, the number of part-
9 nerships with health care delivery sites, the
10 number of faculty and practicing professionals
11 who participated in such programs, and other
12 information, as the Secretary may require.

13 “(B) REPORT TO CONGRESS.—Not later
14 than 4 years after the date of enactment of the
15 Title VII Health Care Workforce Reauthoriza-
16 tion Act of 2019 and every 5 years thereafter,
17 the Secretary shall submit to the Committee on
18 Health, Education, Labor, and Pensions of the
19 Senate and the Committee on Energy and Com-
20 merce of the House of Representatives a report
21 that provides a summary of the activities and
22 outcomes associated with grants, contracts, and
23 cooperative agreements made under this sec-
24 tion. Such reports shall include—

1 “(i) information on the number of
2 trainees, faculty, and professionals who
3 participated in programs under this sec-
4 tion;

5 “(ii) information on the impact of the
6 program conducted under this section on
7 the health status of older adults, including
8 in areas with a shortage of health profes-
9 sionals; and

10 “(iii) information on outreach and
11 education provided under this section to
12 families and caregivers of older adults.

13 “(C) PUBLIC AVAILABILITY.—The Sec-
14 retary shall make reports submitted under
15 paragraph (B) publically available on the inter-
16 net website of the Department of Health and
17 Human Services.

18 “(b) GERIATRIC ACADEMIC CAREER AWARDS.—

19 “(1) ESTABLISHMENT OF PROGRAM.—The Sec-
20 retary shall, as appropriate, establish or maintain a
21 program to provide geriatric academic career awards
22 to eligible entities applying on behalf of eligible indi-
23 viduals to promote the career development of such
24 individuals as academic geriatricians or other aca-
25 demic geriatrics health professionals.

1 “(2) ELIGIBILITY.—

2 “(A) ELIGIBLE ENTITY.—For purposes of
3 this subsection, the term ‘eligible entity’
4 means—

5 “(i) an entity described in paragraph
6 (1), (3), or (4) of section 799B or section
7 801(2); or

8 “(ii) another accredited health profes-
9 sions school or graduate program approved
10 by the Secretary.

11 “(B) ELIGIBLE INDIVIDUAL.—For pur-
12 poses of this subsection, the term ‘eligible indi-
13 vidual’ means an individual who—

14 “(i)(I) is board certified or board eli-
15 gible in internal medicine, family practice,
16 psychiatry, or licensed dentistry, or has
17 completed required training in a discipline
18 and is employed in an accredited health
19 professions school or graduate program
20 that is approved by the Secretary; or

21 “(II) has completed an approved fel-
22 lowship program in geriatrics, or has com-
23 pleted specialty training in geriatrics as re-
24 quired by the discipline and any additional

1 geriatrics training as required by the Sec-
2 retary; and

3 “(ii) has a junior, nontenured, faculty
4 appointment at an accredited health pro-
5 fessions school or graduate program in
6 geriatrics or a geriatrics health profession.

7 “(C) CLARIFICATION.—If an eligible indi-
8 vidual is promoted during the period of an
9 award under this subsection and thereby no
10 longer meets the criteria of subparagraph
11 (B)(ii), the individual shall continue to be treat-
12 ed as an eligible individual through the term of
13 the award.

14 “(3) APPLICATION REQUIREMENTS.—In order
15 to receive an award under paragraph (1), an eligible
16 entity, on behalf of an eligible individual, shall—

17 “(A) submit to the Secretary an applica-
18 tion, at such time, in such manner, and con-
19 taining such information as the Secretary may
20 require;

21 “(B) provide, in such form and manner as
22 the Secretary may require, assurances that the
23 eligible individual will meet the service require-
24 ment described in paragraph (6); and

1 “(C) provide, in such form and manner as
2 the Secretary may require, assurances that the
3 individual has a full-time faculty appointment
4 in a health professions institution and docu-
5 mented commitment from such eligible entity
6 that the individual will spend 75 percent of the
7 individual’s time that is supported by the award
8 on teaching and developing skills in inter-
9 disciplinary education in geriatrics.

10 “(4) **EQUITABLE DISTRIBUTION.**—In making
11 awards under this subsection, the Secretary shall
12 seek to ensure geographical distribution among
13 award recipients, including among rural or medically
14 underserved areas of the United States.

15 “(5) **AMOUNT AND DURATION.**—

16 “(A) **AMOUNT.**—The amount of an award
17 under this subsection shall be at least \$75,000
18 for fiscal year 2021, adjusted for subsequent
19 years in accordance with the consumer price
20 index. The Secretary shall determine the
21 amount of an award under this subsection for
22 individuals who are not physicians.

23 “(B) **DURATION.**—The Secretary shall
24 make awards under paragraph (1) for a period
25 not to exceed 5 years.

1 “(6) SERVICE REQUIREMENT.—An individual
2 who receives an award under this subsection shall
3 provide training in clinical geriatrics, including the
4 training of interprofessional teams of health care
5 professionals. The provision of such training shall
6 constitute at least 75 percent of the obligations of
7 such individual under the award.

8 “(c) NONAPPLICABILITY OF PROVISION.—Notwith-
9 standing any other provision of this title, section 791(a)
10 shall not apply to awards made under this section.

11 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated \$40,737,000 for each of
13 fiscal years 2021 through 2025 for purposes of carrying
14 out this section.”.

15 **SEC. 3404. NURSING WORKFORCE DEVELOPMENT.**

16 (a) IN GENERAL.—Title VIII of the Public Health
17 Service Act (42 U.S.C. 296 et seq.) is amended—

18 (1) in section 801 (42 U.S.C. 296), by adding
19 at the end the following:

20 “(18) NURSE MANAGED HEALTH CLINIC.—The
21 term ‘nurse managed health clinic’ means a nurse-
22 practice arrangement, managed by advanced practice
23 nurses, that provides primary care or wellness serv-
24 ices to underserved or vulnerable populations and
25 that is associated with a school, college, university or

1 department of nursing, federally qualified health
2 center, or independent nonprofit health or social
3 services agency.”;

4 (2) in section 802(c) (42 U.S.C. 296a(e)), by
5 inserting “, and how such project aligns with the
6 goals in section 806(a)” before the period in the sec-
7 ond sentence;

8 (3) in section 803(b) (42 U.S.C. 296b(b)), by
9 adding at the end the following: “Such Federal
10 funds are intended to supplement, not supplant, ex-
11 isting non-Federal expenditures for such activities.”;

12 (4) in section 806 (42 U.S.C. 296e)—

13 (A) in subsection (a), by striking “as need-
14 ed to” and all that follows and inserting the fol-
15 lowing: “as needed to address national nursing
16 needs, including—

17 “(1) addressing challenges, including through
18 supporting training and education of nursing stu-
19 dents, related to the distribution of the nursing
20 workforce and existing or projected nursing work-
21 force shortages in geographic areas that have been
22 identified as having, or that are projected to have,
23 a nursing shortage;

24 “(2) increasing access to and the quality of
25 health care services, including by supporting the

1 training of professional registered nurses, advanced
2 practice registered nurses, and advanced education
3 nurses within community based settings and in a va-
4 riety of health delivery system settings; or

5 “(3) addressing the strategic goals and prior-
6 ities identified by the Secretary and that are in ac-
7 cordance with this title.

8 Contracts may be entered into under this title with public
9 or private entities as determined necessary by the Sec-
10 retary.”;

11 (B) in subsection (b)(2), by striking “a
12 demonstration” and all that follows and insert-
13 ing the following: “the reporting of data and in-
14 formation demonstrating that satisfactory
15 progress has been made by the program or
16 project in meeting the performance outcome
17 standards (as described in section 802) of such
18 program or project.”;

19 (C) in subsection (e)(2), by inserting “,
20 and have relevant expertise and experience” be-
21 fore the period at the end of the first sentence;
22 and

23 (D) by adding at the end the following:

24 “(i) BIENNIAL REPORT ON NURSING WORKFORCE
25 PROGRAM IMPROVEMENTS.—Not later than September

1 30, 2020, and biennially thereafter, the Secretary shall
2 submit to the Committee on Health, Education, Labor,
3 and Pensions of the Senate and the Committee on Energy
4 and Commerce of the House of Representatives, a report
5 that contains an assessment of the programs and activities
6 of the Department of Health and Human Services related
7 to enhancing the nursing workforce, including the extent
8 to which programs and activities under this title meet the
9 identified goals and performance measures developed for
10 the respective programs and activities, and the extent to
11 which the Department coordinates with other Federal de-
12 partments regarding programs designed to improve the
13 nursing workforce.”;

14 (5) in section 811 (42 U.S.C. 296j)—

15 (A) in subsection (b)—

16 (i) by striking “Master’s” and insert-
17 ing “graduate”; and

18 (ii) by inserting “clinical nurse lead-
19 ers,” after “nurse administrators,”;

20 (B) by redesignating subsections (f) and
21 (g) as subsections (g) and (h), respectively; and

22 (C) by inserting after subsection (e), the
23 following:

24 “(f) AUTHORIZED CLINICAL NURSE SPECIALIST
25 PROGRAMS.—Clinical nurse specialist programs eligible

1 for support under this section are education programs
2 that—

3 “(1) provide registered nurses with full-time
4 clinical nurse specialist education; and

5 “(2) have as their objective the education of
6 clinical nurse specialists who will, upon completion
7 of such a program, be qualified to effectively provide
8 care through the wellness and illness continuum to
9 inpatients and outpatients experiencing acute and
10 chronic illness.”; and

11 (6) in section 831 (42 U.S.C. 296p)—

12 (A) in the section heading, by striking
13 “**AND QUALITY GRANTS**” and inserting
14 “**QUALITY, AND RETENTION GRANTS**”;

15 (B) in subsection (b)(2), by striking “other
16 high-risk groups such as the elderly, individuals
17 with HIV/AIDS, substance abusers, the home-
18 less, and victims” and inserting “high risk
19 groups, such as the elderly, individuals with
20 HIV/AIDS, individuals with mental health or
21 substance use disorders, individuals who are
22 homeless, and survivors”;

23 (C) in subsection (c)(1)—

24 (i) in subparagraph (A)—

1 (I) by striking “advancement for
2 nursing personnel” and inserting the
3 following: “advancement for—
4 “(i) nursing”;

5 (II) by striking “professional
6 nurses, advanced education nurses, li-
7 censed practical nurses, certified
8 nurse assistants, and home health
9 aides” and inserting “professional
10 registered nurses, advanced practice
11 registered nurses, and nurses with
12 graduate nursing education”; and

13 (III) by adding at the end the
14 following:

15 “(ii) individuals including licensed
16 practical nurses, licensed vocational nurses,
17 certified nurse assistants, home health
18 aides, diploma degree or associate degree
19 nurses, and other health professionals,
20 such as health aides or community health
21 practitioners certified under the Commu-
22 nity Health Aide Program of the Indian
23 Health Service, to become registered
24 nurses with baccalaureate degrees or
25 nurses with graduate nursing education;”;

1 (ii) in subparagraph (B), by striking
2 the period and inserting “; and”; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(C) developing and implementing intern-
6 ships, accredited fellowships, and accredited
7 residency programs in collaboration with one or
8 more accredited schools of nursing, to encour-
9 age the mentoring and development of special-
10 ties.”;

11 (D) by striking subsections (e) and (h);

12 (E) by redesignating subsections (f) and
13 (g), as subsections (e) and (f), respectively;

14 (F) in subsection (e) (as so redesignated),
15 by striking “The Secretary shall submit to the
16 Congress before the end of each fiscal year”
17 and inserting “As part of the report on nursing
18 workforce programs described in section 806(i),
19 the Secretary shall include”; and

20 (G) in subsection (f) (as so redesignated),
21 by striking “a school of nursing, as defined in
22 section 801(2),” and inserting “an accredited
23 school of nursing, as defined in section 801(2),
24 a health care facility, including federally quali-
25 fied health centers or nurse-managed health

1 clinics, or a partnership of such a school and
2 facility”;

3 (7) by striking section 831A (42 U.S.C. 296p-
4 1);

5 (8) in section 846 (42 U.S.C. 297n)—

6 (A) by striking the last sentence of sub-
7 section (a);

8 (B) in subsection (b)(1), by striking “he
9 began such practice” and inserting “the indi-
10 vidual began such practice”; and

11 (C) in subsection (i), by striking “FUND-
12 ING” in the subsection heading and all that fol-
13 lows through “paragraph (1)” in paragraph (2),
14 and inserting the following: “ALLOCATIONS.—
15 Of the amounts appropriated under section
16 871(b),”;

17 (9) in section 846A (42 U.S.C. 247n-1), by
18 striking subsection (f);

19 (10) in section 847 (42 U.S.C. 297o), by strik-
20 ing subsection (g);

21 (11) in section 851 (42 U.S.C. 297t)—

22 (A) in subsection (b)(1)(A)(iv), by striking
23 “and nurse anesthetists” and inserting “nurse
24 anesthetists, and clinical nurse specialists”;

25 (B) in subsection (d)(3)—

1 (i) by striking “3 years after the date
2 of enactment of this section” and inserting
3 “2 years after the date of enactment of the
4 Title VIII Nursing Reauthorization Act”;

5 (ii) by striking “Labor and Human
6 Resources” and inserting “Health, Edu-
7 cation, Labor, and Pensions”; and

8 (iii) by inserting “Energy and” before
9 “Commerce”; and

10 (C) in subsection (g), by striking “under
11 this title” and inserting “for carrying out parts
12 B, C, and D”;

13 (12) by striking sections 861 and 862 (42
14 U.S.C. 297w and 297x); and

15 (13) in section 871 (42 U.S.C. 298d)—

16 (A) by striking “For the purpose of” and
17 inserting the following:

18 “(a) IN GENERAL.—For the purpose of”;

19 (B) by striking “\$338,000,000 for fiscal
20 year 2010, and such sums as may be necessary
21 for each of the fiscal years 2011 through 2016”
22 and inserting “\$137,837,000 for each of fiscal
23 years 2021 through 2025”; and

24 (C) by adding at the end the following:

1 “(b) PART E.—For the purpose of carrying out part
2 E, there are authorized to be appropriated \$117,135,000
3 for each of the fiscal years 2021 through 2025.”.

4 (b) EVALUATION AND REPORT ON NURSE LOAN RE-
5 PAYMENT PROGRAMS.—

6 (1) EVALUATION.—The Comptroller General
7 shall conduct an evaluation of the nurse loan repay-
8 ment programs administered by the Health Re-
9 sources and Services Administration. Such evalua-
10 tion shall include—

11 (A) the manner in which payments are
12 made under such programs;

13 (B) the existing oversight functions nec-
14 essary to ensure the proper use of such pro-
15 grams, including payments made as part of
16 such programs;

17 (C) the identification of gaps, if any, in
18 oversight functions; and

19 (D) information on the number of nurses
20 assigned to facilities pursuant to such pro-
21 grams, including the type of facility to which
22 nurses are assigned and the impact of modi-
23 fying the eligibility requirements for programs
24 under section 846 of the Public Health Service
25 Act (42 U.S.C. 297n), such as the impact on

1 entities to which nurses had previously been as-
2 signed prior to fiscal year 2019 (such as feder-
3 ally qualified health centers and facilities affili-
4 ated with the Indian Health Service).

5 (2) REPORT.—Not later than 18 months after
6 the enactment of this Act, the Comptroller General
7 shall submit to the Committee on Health, Edu-
8 cation, Labor, and Pensions of the Senate and the
9 Committee on Energy and Commerce of the House
10 of Representatives, a report on the evaluation under
11 paragraph (1), which may include recommendations
12 to improve relevant nursing workforce loan repay-
13 ment programs.

14 **Subtitle B—Education Provisions**

15 **SEC. 3501. SHORT TITLE.**

16 This subtitle may be cited as the “COVID-19 Pan-
17 demic Education Relief Act of 2020”.

18 **SEC. 3502. DEFINITIONS.**

19 (a) DEFINITIONS.—In this subtitle:

20 (1) CORONAVIRUS.—The term “coronavirus”
21 has the meaning given the term in section 506 of the
22 Coronavirus Preparedness and Response Supple-
23 mental Appropriations Act, 2020 (Public Law 116–
24 123).

1 (2) FOREIGN INSTITUTION.—The term “foreign
2 institution” means an institution of higher education
3 located outside the United States that is described
4 in paragraphs (1)(C) and (2) of section 102(a) of
5 the Higher Education Act of 1965 (20 U.S.C.
6 1002(a)).

7 (3) INSTITUTION OF HIGHER EDUCATION.—The
8 term “institution of higher education” has the
9 meaning of the term under section 102 of the High-
10 er Education Act of 1965 (20 U.S.C. 1002).

11 (4) QUALIFYING EMERGENCY.—The term
12 “qualifying emergency” means—

13 (A) a public health emergency related to
14 the coronavirus declared by the Secretary of
15 Health and Human Services pursuant to sec-
16 tion 319 of the Public Health Service Act (42
17 U.S.C. 247d);

18 (B) an event related to the coronavirus for
19 which the President declared a major disaster
20 or an emergency under section 401 or 501, re-
21 spectively, of the Robert T. Stafford Disaster
22 Relief and Emergency Assistance Act (42
23 U.S.C. 5170 and 5191); or

24 (C) a national emergency related to the
25 coronavirus declared by the President under

1 section 201 of the National Emergencies Act
2 (50 U.S.C. 1601 et seq.).

3 (5) SECRETARY.—The term “Secretary” means
4 the Secretary of Education.

5 **SEC. 3503. CAMPUS-BASED AID WAIVERS.**

6 (a) WAIVER OF NON-FEDERAL SHARE REQUIRE-
7 MENT.—Notwithstanding sections 413C(a)(2) and
8 443(b)(5) of the Higher Education Act of 1965 (20
9 U.S.C. 1070b–2(a)(2) and 1087–53(b)(5)), with respect
10 to funds made available for award years 2019-2020 and
11 2020-2021, the Secretary shall waive the requirement that
12 a participating institution of higher education provide a
13 non-Federal share to match Federal funds provided to the
14 institution for the programs authorized pursuant to sub-
15 part 3 of part A and part C of title IV of the Higher
16 Education Act of 1965 (20 U.S.C. 1070b et seq. and
17 1087–51 et seq.) for all awards made under such pro-
18 grams during such award years, except nothing in this
19 subsection shall affect the non-Federal share requirement
20 under section 443(c)(3) that applies to private for-profit
21 organizations.

22 (b) AUTHORITY TO REALLOCATE.—Notwithstanding
23 sections 413D, 442, and 488 of the Higher Education Act
24 of 1965 (20 U.S.C. 1070b–3, 1087–52, and 1095), during
25 a period of a qualifying emergency, an institution may

1 transfer up to 100 percent of the institution's unexpended
2 allotment under section 442 of such Act to the institu-
3 tion's allotment under section 413D of such Act, but may
4 not transfer any funds from the institution's unexpended
5 allotment under section 413D of such Act to the institu-
6 tion's allotment under section 442 of such Act.

7 **SEC. 3504. USE OF SUPPLEMENTAL EDUCATIONAL OPPOR-**
8 **TUNITY GRANTS FOR EMERGENCY AID.**

9 (a) IN GENERAL.—Notwithstanding section 413B of
10 the Higher Education Act of 1965 (20 U.S.C. 1070b–1),
11 an institution of higher education may reserve any amount
12 of an institution's allocation under subpart 3 of part A
13 of title IV of the Higher Education Act of 1965 (20 U.S.C.
14 1070b et seq.) for a fiscal year to award, in such fiscal
15 year, emergency financial aid grants to assist under-
16 graduate or graduate students for unexpected expenses
17 and unmet financial need as the result of a qualifying
18 emergency.

19 (b) DETERMINATIONS.—In determining eligibility for
20 and awarding emergency financial aid grants under this
21 section, an institution of higher education may—

22 (1) waive the amount of need calculation under
23 section 471 of the Higher Education Act of 1965
24 (20 U.S.C. 1087kk);

1 students' work-study obligation for all or part of such aca-
2 demic year due to such qualifying emergency, as follows:

3 (1) Payments may be made under such part to
4 affected work-study students in an amount equal to
5 or less than the amount of wages such students
6 would have been paid under such part had the stu-
7 dents been able to complete the work obligation nec-
8 essary to receive work study funds, as a one time
9 grant or as multiple payments.

10 (2) Payments shall not be made to any student
11 who was not eligible for work study or was not com-
12 pleting the work obligation necessary to receive work
13 study funds under such part prior to the occurrence
14 of the qualifying emergency.

15 (3) Any payments made to affected work-study
16 students under this subsection shall meet the match-
17 ing requirements of section 443 of the Higher Edu-
18 cation Act of 1965 (20 U.S.C. 1087-53), unless
19 such matching requirements are waived by the Sec-
20 retary.

21 (b) DEFINITION OF AFFECTED WORK-STUDY STU-
22 DENT.—In this section, the term “affected work-study
23 student” means a student enrolled at an eligible institu-
24 tion participating in the program under part C of title IV

1 of the Higher Education Act of 1965 (20 U.S.C. 1087–
2 51 et seq.) who—

3 (1) received a work-study award under section
4 443 of the Higher Education Act of 1965 (20
5 U.S.C. 1087–53) for the academic year during which
6 a qualifying emergency occurred;

7 (2) earned Federal work-study wages from such
8 eligible institution for such academic year; and

9 (3) was prevented from fulfilling the student’s
10 work-study obligation for all or part of such aca-
11 demic year due to such qualifying emergency.

12 **SEC. 3506. ADJUSTMENT OF SUBSIDIZED LOAN USAGE LIM-**
13 **ITS.**

14 Notwithstanding section 455(q)(3) of the Higher
15 Education Act of 1965 (20 U.S.C. 1087e(q)(3)), the Sec-
16 retary shall exclude from a student’s period of enrollment
17 for purposes of loans made under part D of title IV of
18 the Higher Education Act of 1965 (20 U.S.C. 1087a et
19 seq.) any semester (or the equivalent) that the student
20 does not complete due to a qualifying emergency, if the
21 Secretary is able to administer such policy in a manner
22 that limits complexity and the burden on the student.

1 **SEC. 3507. EXCLUSION FROM FEDERAL PELL GRANT DURA-**
2 **TION LIMIT.**

3 The Secretary shall exclude from a student's Federal
4 Pell Grant duration limit under section 401(c)(5) of the
5 Higher Education Act of 1965 (2 U.S.C. 1070a(c)(5)) any
6 semester (or the equivalent) that the student does not
7 complete due to a qualifying emergency if the Secretary
8 is able to administer such policy in a manner that limits
9 complexity and the burden on the student.

10 **SEC. 3508. INSTITUTIONAL REFUNDS AND FEDERAL STU-**
11 **DENT LOAN FLEXIBILITY.**

12 (a) INSTITUTIONAL WAIVER.—

13 (1) IN GENERAL.—The Secretary shall waive
14 the institutional requirement under section 484B of
15 the Higher Education Act of 1965 (20 U.S.C.
16 1091b) with respect to the amount of grant or loan
17 assistance (other than assistance received under part
18 C of title IV of such Act) to be returned under such
19 section if a recipient of assistance under title IV of
20 the Higher Education Act of 1965 (20 U.S.C. 1070
21 et seq.) withdraws from the institution of higher
22 education during the payment period or period of
23 enrollment as a result of a qualifying emergency.

24 (2) WAIVERS.—The Secretary shall require
25 each institution using a waiver relating to the with-
26 drawal of recipients under this subsection to report

1 the number of such recipients, the amount of grant
2 or loan assistance (other than assistance received
3 under part C of title IV of such Act) associated with
4 each such recipient, and the total amount of grant
5 or loan assistance (other than assistance received
6 under part C of title IV of such Act) for which each
7 institution has not returned assistance under title IV
8 to the Secretary.

9 (b) STUDENT WAIVER.—The Secretary shall waive
10 the amounts that students are required to return under
11 section 484B of the Higher Education Act of 1965 (20
12 U.S.C. 1091b) with respect to Federal Pell Grants or
13 other grant assistance if the withdrawals on which the re-
14 turns are based, are withdrawals by students who with-
15 drew from the institution of higher education as a result
16 of a qualifying emergency.

17 (c) CANCELING LOAN OBLIGATION.—Notwith-
18 standing any other provision of the Higher Education Act
19 of 1965 (20 U.S.C. 1001 et seq.), the Secretary shall can-
20 cel the borrower's obligation to repay the entire portion
21 of a loan made under part D of title IV of such Act (20
22 U.S.C. 1087a et seq.) associated with a payment period
23 for a recipient of such loan who withdraws from the insti-
24 tution of higher education during the payment period as
25 a result of a qualifying emergency.

1 (d) APPROVED LEAVE OF ABSENCE.—Notwith-
2 standing any other provision of the Higher Education Act
3 of 1965 (20 U.S.C. 1001 et seq.), for purposes of receiving
4 assistance under title IV of the Higher Education Act of
5 1965 (20 U.S.C. 1070 et seq.), an institution of higher
6 education may, as a result of a qualifying emergency, pro-
7 vide a student with an approved leave of absence that does
8 not require the student to return at the same point in the
9 academic program that the student began the leave of ab-
10 sence if the student returns within the same semester (or
11 the equivalent).

12 **SEC. 3509. SATISFACTORY ACADEMIC PROGRESS.**

13 Notwithstanding section 484 of the Higher Education
14 Act of 1965 (20 U.S.C. 1091), in determining whether a
15 student is maintaining satisfactory academic progress for
16 purposes of title IV of the Higher Education Act of 1965
17 (20 U.S.C. 1070 et seq.), an institution of higher edu-
18 cation may, as a result of a qualifying emergency, exclude
19 from the quantitative component of the calculation any at-
20 tempted credits that were not completed by such student
21 without requiring an appeal by such student.

22 **SEC. 3510. CONTINUING EDUCATION AT AFFECTED FOR-**
23 **EIGN INSTITUTIONS.**

24 (a) IN GENERAL.—Notwithstanding section 481(b)
25 of the Higher Education Act of 1965 (20 U.S.C. 1088(b)),

1 with respect to a foreign institution, in the case of a public
2 health emergency, major disaster or emergency, or na-
3 tional emergency declared by the applicable government
4 authorities in the country in which the foreign institution
5 is located, the Secretary may permit any part of an other-
6 wise eligible program to be offered via distance education
7 for the duration of such emergency or disaster and the
8 following payment period for purposes of title IV of the
9 Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

10 (b) ELIGIBILITY.—An otherwise eligible program
11 that is offered in whole or in part through distance edu-
12 cation by a foreign institution between March 1, 2020, and
13 the date of enactment of this Act shall be deemed eligible
14 for the purposes of part D of title IV of the Higher Edu-
15 cation Act of 1965 (20 U.S.C. 1087a et seq.) for the dura-
16 tion of the qualifying emergency and the following pay-
17 ment period for purposes of title IV of the Higher Edu-
18 cation Act of 1965 (20 U.S.C. 1070 et seq.). An institu-
19 tion of higher education that uses the authority provided
20 in the previous sentence shall report such use to the Sec-
21 retary—

22 (1) for the 2019–2020 award year, not later
23 than June 30, 2020; and

1 (2) for an award year subsequent to the 2019–
2 2020 award year, not later than 30 days after such
3 use.

4 (c) REPORT.—Not later than 180 days after the date
5 of enactment of this Act, and every 180 days thereafter
6 for the duration of the qualifying emergency and the fol-
7 lowing payment period, the Secretary shall submit to the
8 authorizing committees (as defined in section 103 of the
9 Higher Education Act of 1965 (20 U.S.C. 1003)) a report
10 that identifies each foreign institution that carried out a
11 distance education program authorized under this section.

12 (d) WRITTEN ARRANGEMENTS.—

13 (1) IN GENERAL.—Notwithstanding section 102
14 of the Higher Education Act of 1965 (20 U.S.C.
15 1002), for the duration of a qualifying emergency
16 and the following payment period, the Secretary may
17 allow a foreign institution to enter into a written ar-
18 rangement with an institution of higher education
19 located in the United States that participates in the
20 Federal Direct Loan Program under part D of title
21 IV of the Higher Education Act of 1965 (20 U.S.C.
22 1087a et seq.) for the purpose of allowing a student
23 of the foreign institution who is a borrower of a loan
24 made under such part to take courses from the insti-

1 tution of higher education located in the United
2 States.

3 (2) FORM OF ARRANGEMENTS.—

4 (A) PUBLIC OR OTHER NONPROFIT INSTI-
5 TUTIONS.—A foreign institution that is a public
6 or other nonprofit institution may enter into a
7 written arrangement under subsection (a) only
8 with an institution of higher education de-
9 scribed in section 101 of such Act (20 U.S.C.
10 1001).

11 (B) OTHER INSTITUTIONS.—A foreign in-
12 stitution that is a graduate medical school,
13 nursing school, or a veterinary school and that
14 is not a public or other nonprofit institution
15 may enter into a written arrangement under
16 subsection (a) with an institution of higher edu-
17 cation described in section 101 or section 102
18 of such Act (20 U.S.C. 1001 and 1002).

19 (3) REPORT ON USE.—An institution of higher
20 education that uses the authority described in para-
21 graph (2) shall report such use to the Secretary—

22 (A) for the 2019–2020 award year, not
23 later than June 30, 2020; and

1 (B) for an award year subsequent to the
2 2019–2020 award year, not later than 30 days
3 after such use.

4 (4) REPORT FROM THE SECRETARY.—Not later
5 than 180 days after the date of enactment of this
6 Act, and every 180 days thereafter for the duration
7 of the qualifying emergency and the following pay-
8 ment period, the Secretary shall submit to the au-
9 thorizing committees (as defined in section 103 of
10 the Higher Education Act of 1965 (20 U.S.C.
11 1003)) a report that identifies each foreign institu-
12 tion that entered into a written arrangement author-
13 ized under subsection (a).

14 **SEC. 3511. NATIONAL EMERGENCY EDUCATIONAL WAIVERS.**

15 (a) IN GENERAL.—Notwithstanding any other provi-
16 sion of law, the Secretary may, upon the request of a State
17 educational agency or Indian tribe, waive any statutory
18 or regulatory provision described under paragraphs (1)
19 and (2) of subsection (b), and upon the request of a local
20 educational agency, waive any statutory or regulatory pro-
21 vision described under paragraph (2) of subsection (b), if
22 the Secretary determines that such a waiver is necessary
23 and appropriate due to the emergency involving Federal
24 primary responsibility determined to exist by the President
25 under the section 501(b) of the Robert T. Stafford Dis-

1 aster Relief and Emergency Assistance Act (42 U.S.C.
2 5191(b)) with respect to the Coronavirus Disease 2019
3 (COVID-19).

4 (b) APPLICABLE PROVISIONS OF LAW.—

5 (1) STREAMLINED WAIVERS.—The Secretary
6 shall create an expedited application process to re-
7 quest a waiver and the Secretary may waive any
8 statutory or regulatory requirements for a State
9 educational agency (related to assessments, account-
10 ability, and reporting requirements related to assess-
11 ments and accountability), if the Secretary deter-
12 mines that such a waiver is necessary and appro-
13 priate as described in subsection (a), under the fol-
14 lowing provisions of law:

15 (A) The following provisions under section
16 1111 of the Elementary and Secondary Edu-
17 cation Act of 1965 (20 U.S.C. 6311):

18 (i) Paragraphs (2) and (3) of sub-
19 section (b).

20 (ii) Subsection (c)(4).

21 (iii) Subparagraphs (C) and (D) of
22 subsection (d)(2).

23 (iv) The following provisions under
24 subsection (h) of such section 1111:

1 (I) Clauses (i), (ii), (iii)(I), (iv),
2 (v), (vi), (vii), and (xi) of paragraph
3 (1)(C).

4 (II) Paragraph (2)(C) with re-
5 spect to the waived requirements
6 under subclause (I).

7 (III) Clauses (i) and (ii) of para-
8 graph (2)(C).

9 (B) Section 421(b) of the General Edu-
10 cation Provisions Act (20 U.S.C. 1225(b)).

11 (2) STATE AND LOCALLY-REQUESTED WAIV-
12 ERS.—For a State educational agency, local edu-
13 cational agency, or Indian tribe that receives funds
14 under a program authorized under the Elementary
15 and Secondary Education Act of 1965 (20 U.S.C.
16 6301 et seq.) that requests a waiver under sub-
17 section (c), the Secretary may waive statutory and
18 regulatory requirements under any of the following
19 provisions of such Act:

20 (A) Section 1114(a)(1).

21 (B) Section 1118(a) and section 8521.

22 (C) Section 1127.

23 (D) Section 4106(d).

24 (E) Subparagraphs (C), (D), and (E) of
25 section 4106(e)(2).

1 (F) Section 4109(b).

2 (G) The definition under section 8101(42)
3 for purposes of the Elementary and Secondary
4 Education Act of 1965 (20 U.S.C. 6301 et
5 seq.).

6 (3) APPLICABILITY TO CHARTER SCHOOLS.—
7 Any waivers issued by the Secretary under this sec-
8 tion shall be implemented, as applicable—

9 (A) for all public schools, including public
10 charter schools within the boundaries of the re-
11 cipient of the waiver;

12 (B) in accordance with State charter
13 school law; and

14 (C) pursuant to section 1111(c)(5) of the
15 Elementary and Secondary Education Act of
16 1965 (20 U.S.C. 6311(c)(5)).

17 (4) LIMITATION.—Nothing in this section shall
18 be construed to allow the Secretary to waive any
19 statutory or regulatory requirements under applica-
20 ble civil rights laws.

21 (5) ACCOUNTABILITY AND IMPROVEMENT.—
22 Any school located in a State that receives a waiver
23 under paragraph (1) and that is identified for com-
24 prehensive support and improvement, targeted sup-
25 port and improvement, or additional targeted sup-

1 port in the 2019-2020 school year under section
2 1111(c)(4)(D) or section 1111(d)(2) of the Elemen-
3 tary and Secondary Education Act of 1965 (20
4 U.S.C. 6311(c)(4)(D) or (d)(2)) shall maintain that
5 identification status in the 2020-2021 school year
6 and continue to receive supports and interventions
7 consistent with the school's support and improve-
8 ment plan in the 2020-2021 school year.

9 (c) STATE AND LOCAL REQUESTS FOR WAIVERS.—

10 (1) IN GENERAL.—A State educational agency,
11 local educational agency, or Indian tribe that desires
12 a waiver from any statutory or regulatory provision
13 described under subsection (b)(2), may submit a
14 waiver request to the Secretary in accordance with
15 this subsection.

16 (2) REQUESTS SUBMITTED.—A request for a
17 waiver under this subsection shall—

18 (A) identify the Federal programs affected
19 by the requested waiver;

20 (B) describe which Federal statutory or
21 regulatory requirements are to be waived;

22 (C) describe how the emergency involving
23 Federal primary responsibility determined to
24 exist by the President under the section 501(b)
25 of the Robert T. Stafford Disaster Relief and

1 (ii) the waiver is not permitted pursu-
2 ant to subsection (b)(2); or

3 (iii) the description required under
4 paragraph (2)(C) provides insufficient in-
5 formation to demonstrate that the waiving
6 of such requirements is necessary or ap-
7 propriate consistent with subsection (a).

8 (4) DURATION.—A waiver approved by the Sec-
9 retary under this section may be for a period not to
10 exceed the 2019–2020 academic year, except to
11 carry out full implementation of any maintenance of
12 effort waivers granted during the 2019–2020 aca-
13 demic year.

14 (d) REPORTING AND PUBLICATION.—

15 (1) PUBLIC NOTICE.—A State educational
16 agency, Indian Tribe, or local educational agency re-
17 questing a waiver under subsection (b)(2) shall pro-
18 vide the public and all local educational agencies in
19 the State with notice of, and the opportunity to com-
20 ment on, the request by posting information regard-
21 ing the waiver request and the process for com-
22 menting on the State website.

23 (2) NOTIFYING CONGRESS.—Not later than 7
24 days after granting a waiver under this section, the
25 Secretary shall notify the Committee on Health,

1 Education, Labor, and Pensions of the Senate, the
2 Committee on Appropriations of the Senate, the
3 Committee on Education and Labor of the House of
4 Representatives, and the Committee on Appropria-
5 tions of the House of Representatives of such waiv-
6 er.

7 (3) PUBLICATION.—Not later than 30 days
8 after granting a waiver under this section, the Sec-
9 retary shall publish a notice of the Secretary’s deci-
10 sion (including which waiver was granted and the
11 reason for granting the waiver) in the Federal Reg-
12 ister and on the website of the Department of Edu-
13 cation.

14 (4) REPORT.—Not later than 30 days after the
15 date of enactment of this Act, the Secretary shall
16 prepare and submit a report to the Committee on
17 Health, Education, Labor, and Pensions and the
18 Committee on Appropriations of the Senate, and the
19 Committee on Education and Labor and the Com-
20 mittee on Appropriations of the House of Represent-
21 atives, with recommendations on any additional
22 waivers under the Individuals with Disabilities Edu-
23 cation Act (20 U.S.C. 1401 et seq.), the Rehabilita-
24 tion Act of 1973 (29 U.S.C. 701 et seq.), the Ele-
25 mentary and Secondary Education Act of 1965 (20

1 U.S.C. 6301 et seq.), and the Carl D. Perkins Ca-
2 reer and Technical Education Act of 2006 (20
3 U.S.C. 2301 et seq.) the Secretary believes are nec-
4 essary to be enacted into law to provide limited flexi-
5 bility to States and local educational agencies to
6 meet the needs of students during the emergency in-
7 volving Federal primary responsibility determined to
8 exist by the President under section 501(b) of the
9 Robert T. Stafford Disaster Relief and Emergency
10 Assistance Act (42 U.S.C. 5191(b)) with respect to
11 the Coronavirus Disease 2019 (COVID-19).

12 (e) TERMS.—In this section, the term “State edu-
13 cational agency” includes the Bureau of Indian Education,
14 and the term “local educational agency” includes Bureau
15 of Indian Education funded schools operated pursuant to
16 a grant under the Tribally Controlled Schools Act of 1988
17 (25 U.S.C. 2501 et seq.), or a contract under the Indian
18 Self-Determination and Education Assistance Act (25
19 U.S.C. 5301 et seq.).

20 **SEC. 3512. HBCU CAPITAL FINANCING.**

21 (a) DEFERMENT PERIOD.—

22 (1) IN GENERAL.—Notwithstanding any provi-
23 sion of title III of the Higher Education Act of 1965
24 (20 U.S.C. 1051 et seq.), or any regulation promul-
25 gated under such title, the Secretary may grant a

1 deferment, for the duration of a qualifying emer-
2 gency, to an institution that has received a loan
3 under part D of title III of such Act (20 U.S.C.
4 1066 et seq.).

5 (2) TERMS.—During the deferment period
6 granted under this subsection—

7 (A) the institution shall not be required to
8 pay any periodic installment of principal or in-
9 terest required under the loan agreement for
10 such loan; and

11 (B) the Secretary shall make principal and
12 interest payments otherwise due under the loan
13 agreement.

14 (3) CLOSING.—At the closing of a loan deferred
15 under this subsection, terms shall be set under
16 which the institution shall be required to repay the
17 Secretary for the payments of principal and interest
18 made by the Secretary during the deferment, on a
19 schedule that begins upon repayment to the lender
20 in full on the loan agreement, except in no case shall
21 repayment be required to begin before the date that
22 is 1 full fiscal year after the date that is the end of
23 the qualifying emergency.

24 (b) TERMINATION DATE.—

1 (that are held by the Department of Education) of title
2 IV of the Higher Education Act of 1965 (20 U.S.C. 1087a
3 et seq.; 1071 et seq.) through September 30, 2020.

4 (b) NO ACCRUAL OF INTEREST.—Notwithstanding
5 any other provision of the Higher Education Act of 1965
6 (20 U.S.C. 1001 et seq.), interest shall not accrue on a
7 loan described under subsection (a) for which payment
8 was suspended for the period of the suspension.

9 (c) CONSIDERATION OF PAYMENTS.—Notwith-
10 standing any other provision of the Higher Education Act
11 of 1965 (20 U.S.C. 1001 et seq.), the Secretary shall deem
12 each month for which a loan payment was suspended
13 under this section as if the borrower of the loan had made
14 a payment for the purpose of any loan forgiveness pro-
15 gram or loan rehabilitation program authorized under part
16 D or B of title IV of the Higher Education Act of 1965
17 (20 U.S.C. 1087a et seq.; 1071 et seq.) for which the bor-
18 rower would have otherwise qualified.

19 (d) REPORTING TO CONSUMER REPORTING AGEN-
20 CIES.—During the period in which the Secretary suspends
21 payments on a loan under subsection (a), the Secretary
22 shall ensure that, for the purpose of reporting information
23 about the loan to a consumer reporting agency, any pay-
24 ment that has been suspended is treated as if it were a
25 regularly scheduled payment made by a borrower.

1 (e) SUSPENDING INVOLUNTARY COLLECTION.—Dur-
2 ing the period in which the Secretary suspends payments
3 on a loan under subsection (a), the Secretary shall sus-
4 pend all involuntary collection related to the loan, includ-
5 ing—

6 (1) a wage garnishment authorized under sec-
7 tion 488A of the Higher Education Act of 1965 (20
8 U.S.C. 1095a) or section 3720D of title 31, United
9 States Code;

10 (2) a reduction of tax refund by amount of debt
11 authorized under section 3720A of title 31, United
12 States Code;

13 (3) a reduction of any other Federal benefit
14 payment by administrative offset authorized under
15 section 3716 of title 31, United States Code (includ-
16 ing a benefit payment due to an individual under the
17 Social Security Act or any other provision described
18 in subsection (c)(3)(A)(i) of such section); and

19 (4) any other involuntary collection activity by
20 the Secretary.

21 (f) WAIVERS.—In carrying out this section, the Sec-
22 retary may waive the application of—

23 (1) subchapter I of chapter 35 of title 44,
24 United States Code (commonly known as the “Pa-
25 perwork Reduction Act”);

1 (B) of the actions taken in accordance with
2 subsection (e) for whom collections have been
3 suspended;

4 (C) of the option to continue making pay-
5 ments toward principal; and

6 (D) that the program under this section is
7 a temporary program.

8 (2) beginning on August 1, 2020, carry out a
9 program to provide not less than 6 notices by postal
10 mail, telephone, or electronic communication to bor-
11 rowers indicating—

12 (A) when the borrower's normal payment
13 obligations will resume; and

14 (B) that the borrower has the option to en-
15 roll in income-driven repayment, including a
16 brief description of such options.

17 **SEC. 3514. PROVISIONS RELATED TO THE CORPORATION**
18 **FOR NATIONAL AND COMMUNITY SERVICE.**

19 (a) ACCRUAL OF SERVICE HOURS.—

20 (1) ACCRUAL THROUGH OTHER SERVICE
21 HOURS.—

22 (A) IN GENERAL.—Notwithstanding any
23 other provision of the Domestic Volunteer Serv-
24 ice Act of 1973 (42 U.S.C. 4950 et seq.) or the
25 National and Community Service Act of 1990

1 (42 U.S.C. 12501 et seq.), the Corporation for
2 National and Community Service shall allow an
3 individual described in subparagraph (B) to ac-
4 crue other service hours that will count toward
5 the number of hours needed for the individual's
6 education award.

7 (B) AFFECTED INDIVIDUALS.—Subpara-
8 graph (A) shall apply to any individual serving
9 in a position eligible for an educational award
10 under subtitle D of title I of the National and
11 Community Service Act of 1990 (42 U.S.C.
12 12601 et seq.)—

13 (i) who is performing limited service
14 due to COVID-19; or

15 (ii) whose position has been suspended
16 or placed on hold due to COVID-19.

17 (2) PROVISIONS IN CASE OF EARLY EXIT.—In
18 any case where an individual serving in a position el-
19 igible for an educational award under subtitle D of
20 title I of the National and Community Service Act
21 of 1990 (42 U.S.C. 12601 et seq.) was required to
22 exit the position early at the direction of the Cor-
23 poration for National and Community Service, the
24 Chief Executive Officer of the Corporation for Na-
25 tional and Community Service may—

1 (A) deem such individual as having met
2 the requirements of the position; and

3 (B) award the individual the full value of
4 the educational award under such subtitle for
5 which the individual would otherwise have been
6 eligible.

7 (b) AVAILABILITY OF FUNDS.—Notwithstanding any
8 other provision of law, all funds made available to the Cor-
9 poration for National and Community Service under any
10 Act, including the amounts appropriated to the Corpora-
11 tion under the headings “OPERATING EXPENSES”, “SALA-
12 RIES AND EXPENSES”, and “OFFICE OF THE INSPECTOR
13 GENERAL” under the heading “CORPORATION FOR NA-
14 TIONAL AND COMMUNITY SERVICE” under title IV of Divi-
15 sion A of the Further Consolidated Appropriations Act,
16 2020 (Public Law 116–94), shall remain available for the
17 fiscal year ending September 30, 2021.

18 (c) NO REQUIRED RETURN OF GRANT FUNDS.—
19 Notwithstanding section 129(l)(3)(A)(i) of the National
20 and Community Service Act of 1990 (42 U.S.C.
21 12581(l)(3)(A)(i)), the Chief Executive Officer of the Cor-
22 poration for National and Community Service may permit
23 fixed-amount grant recipients under such section 129(l)
24 to maintain a pro rata amount of grant funds, at the dis-
25 cretion of the Corporation for National and Community

1 Service, for participants who exited, were suspended, or
2 are serving in a limited capacity due to COVID-19, to en-
3 able the grant recipients to maintain operations and to
4 accept participants.

5 (d) EXTENSION OF TERMS AND AGE LIMITS.—Not-
6 withstanding any other provision of law, the Corporation
7 for National and Community Service may extend the term
8 of service (for a period not to exceed the 1-year period
9 immediately following the end of the national emergency)
10 or waive any upper age limit (except in no case shall the
11 maximum age exceed 26 years of age) for national service
12 programs carried out by the National Civilian Community
13 Corps under subtitle E of title I of the National and Com-
14 munity Service Act of 1990 (42 U.S.C. 12611 et seq.),
15 and the participants in such programs, for the purposes
16 of—

17 (1) addressing disruptions due to COVID-19;

18 and

19 (2) minimizing the difficulty in returning to full
20 operation due to COVID-19 on such programs and
21 participants.

22 **SEC. 3515. WORKFORCE RESPONSE ACTIVITIES.**

23 (a) ADMINISTRATIVE COSTS.—Notwithstanding sec-
24 tion 128(b)(4) of the Workforce Innovation Opportunity
25 Act (29 U.S.C. 3163(b)(4)), of the total amount allocated

1 to a local area (including the total amount allotted to a
2 single State local area) under subtitle B of title I of such
3 Act (29 U.S.C. 3151 et seq.) for program year 2019, not
4 more than 20 percent of the total amount may be used
5 for the administrative costs of carrying out local workforce
6 investment activities under chapter 2 or chapter 3 of sub-
7 title B of title I of such Act, if the portion of the total
8 amount that exceeds 10 percent of the total amount is
9 used to respond to a qualifying emergency.

10 (b) RAPID RESPONSE ACTIVITIES.—

11 (1) STATEWIDE RAPID RESPONSE.—Of the
12 funds reserved by a Governor for program year 2019
13 for statewide activities under section 128(a) of the
14 Workforce Innovation and Opportunity Act (29
15 U.S.C. 3163(a)) that remain unobligated, such
16 funds may be used for statewide rapid response ac-
17 tivities as described in section 134(a)(2)(A) of such
18 Act (29 U.S.C. 3174(a)(2)(A)) for responding to a
19 qualifying emergency.

20 (2) LOCAL BOARDS.—Of the funds reserved by
21 a Governor for program 2019 under section
22 133(a)(2) of such Act (29 U.S.C. 3173(a)(2)) that
23 remain unobligated, such funds may be released
24 within 30 days after the date of enactment of this
25 Act to the local boards most impacted by the

1 coronavirus at the determination of the Governor for
2 rapid response activities related to responding to a
3 qualifying emergency.

4 (c) DEFINITIONS.—Except as otherwise provided, the
5 terms in this section have the meanings given the terms
6 in section 3 of the Workforce Innovation and Opportunity
7 Act (29 U.S.C. 3102).

8 **SEC. 3516. TECHNICAL AMENDMENTS.**

9 (a) IN GENERAL.—

10 (1) Section 6103(a)(3) of the Internal Revenue
11 Code of 1986, as amended by the FUTURE Act
12 (Public Law 116-91), is further amended by striking
13 “(13), (16)” and inserting “(13)(A), (13)(B),
14 (13)(C), (13)(D)(i), (16)”.

15 (2) Section 6103(p)(3)(A) of such Code, as so
16 amended, is further amended by striking “(12),”
17 and inserting “(12), (13)(A), (13)(B), (13)(C),
18 (13)(D)(i)”.

19 (3) Section 6103(p)(4) of such Code, as so
20 amended, is further amended by striking “(13) or
21 (16)” each place it appears and inserting “(13), or
22 (16)”.

23 (4) Section 6103(p)(4) of such Code, as so
24 amended and as amended by paragraph (3), is fur-
25 ther amended by striking “(13)” each place it ap-

1 pears and inserting “(13)(A), (13)(B), (13)(C),
2 (13)(D)(i)”.

3 (5) Section 6103(l)(13)(C)(ii) of such Code, as
4 added by the FUTURE Act (Public Law 116-91), is
5 amended by striking “section 236A(e)(4)” and in-
6 serting “section 263A(e)(4)”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply as if included in the enactment
9 of the FUTURE Act (Public Law 116-91).

10 **SEC. 3517. WAIVER AUTHORITY AND REPORTING REQUIRE-**
11 **MENT FOR INSTITUTIONAL AID.**

12 (a) WAIVER AUTHORITY.—Notwithstanding any
13 other provision of the Higher Education Act of 1965
14 (U.S.C. 1001 et seq.), unless enacted with specific ref-
15 erence to this section, for any institution of higher edu-
16 cation that was receiving assistance under title III, title
17 V, or subpart 4 of part A of title VII of such Act (20
18 U.S.C. 1051 et seq.; 1101 et seq.; 1136a et seq.) at the
19 time of a qualifying emergency, the Secretary may, for the
20 period beginning on the first day of the qualifying emer-
21 gency and ending on September 30 of the fiscal year fol-
22 lowing the end of the qualifying emergency—

23 (1) waive—

24 (A) the eligibility data requirements set
25 forth in section 391(d) and 521(e) of the High-

1 er Education Act of 1965 (20 U.S.C. 1068(d);
2 1103(e));

3 (B) the wait-out period set forth in section
4 313(d) of the Higher Education Act of 1965
5 (20 U.S.C. 1059(d));

6 (C) the allotment requirements under
7 paragraphs (2) and (3) of subsection 318(e) of
8 the Higher Education Act of 1965 (20 U.S.C.
9 1059e(e)), and the reference to “the academic
10 year preceding the beginning of that fiscal
11 year” under such section 318(e)(1);

12 (D) the allotment requirements under sub-
13 sections (b), (c), and (g) of section 324 of the
14 Higher Education Act of 1965 (20 U.S.C.
15 1063), the reference to “the end of the school
16 year preceding the beginning of that fiscal
17 year” under such section 324(a), and the ref-
18 erence to “the academic year preceding such
19 fiscal year” under such section 324(h);

20 (E) subparagraphs (A), (C), (D), and (E)
21 of section 326(f)(3) of the Higher Education
22 Act of 1965 (20 U.S.C. 1063b(f)(3)), and ref-
23 erences to “previous year” under such section
24 326(f)(3)(B);

1 (F) subparagraphs (A), (C), (D), and (E)
2 of section 723(f)(3) and subparagraphs (A),
3 (C), (D), and (E) of section 724(f)(3) of the
4 Higher Education Act of 1965 (20 U.S.C.
5 1136a(f)(3); 1136b(f)(3)), and references to
6 “previous academic year” under subparagraph
7 (B) of such sections 723(f)(3) and 724(f)(3);
8 and

9 (G) the allotment restriction set forth in
10 section 318(d)(4) and section 323(c)(2) of the
11 Higher Education Act of 1965 (20 U.S.C.
12 1059e(d)(4); 1062(c)(2)); and

13 (2) waive or modify any statutory or regulatory
14 provision to ensure that institutions that were re-
15 ceiving assistance under title III, title V, or subpart
16 4 of part A of title VII of such Act (20 U.S.C. 1051
17 et seq.; 1101 et seq.; 1136a et seq.) at the time of
18 a qualifying emergency are not adversely affected by
19 any formula calculation for fiscal year 2020 and for
20 the period beginning on the first day of the quali-
21 fying emergency and ending on September 30 of the
22 fiscal year following the end of the qualifying emer-
23 gency, as necessary.

24 (b) USE OF UNEXPENDED FUNDS.—Any funds paid
25 to an institution under title III, title V, or subpart 4 of

1 part A of title VII of the Higher Education Act of 1965
2 (20 U.S.C. 1051 et seq.; 1101 et seq.; 1136a et seq.) and
3 not expended or used for the purposes for which the funds
4 were paid to the institution during the 5-year period fol-
5 lowing the date on which the funds were first paid to the
6 institution, may be carried over and expended during the
7 succeeding 5-year period.

8 (c) REPORT.—Not later than 180 days after the date
9 of enactment of this Act, and every 180 days thereafter
10 for the period beginning on the first day of the qualifying
11 emergency and ending on September 30 of the fiscal year
12 following the end of the qualifying emergency, the Sec-
13 retary shall submit to the authorizing committees (as de-
14 fined in section 103 of the Higher Education Act of 1965
15 (20 U.S.C. 1003)) a report that identifies each institution
16 that received a waiver or modification under this section.

17 **SEC. 3518. AUTHORIZED USES AND OTHER MODIFICATIONS**
18 **FOR GRANTS.**

19 (a) IN GENERAL.—The Secretary is authorized to
20 modify the required and allowable uses of funds for grants
21 awarded under part A or B of title III, chapter I or II
22 of subpart 2 of part A of title IV, title V, or subpart 4
23 of part A of title VII of the Higher Education Act of 1965
24 (20 U.S.C. 1057 et seq.; 1060 et seq.; 1070a–11 et seq.;
25 1070a–21 et seq.; 1101 et seq.; 1136a et seq.) to an insti-

1 tution of higher education or other grant recipient (not
2 including individual recipients of Federal student financial
3 assistance), at the request of an institution of higher edu-
4 cation or other recipient of a grant (not including indi-
5 vidual recipients of Federal student financial assistance)
6 as a result of a qualifying emergency, for the period begin-
7 ning on the first day of the qualifying emergency and end-
8 ing on September 30 of the fiscal year following the end
9 of the qualifying emergency.

10 (b) MATCHING REQUIREMENT MODIFICATIONS.—

11 Notwithstanding any other provision of the Higher Edu-
12 cation Act of 1965 (20 U.S.C. 1001 et seq.), the Secretary
13 is authorized to modify any Federal share or other finan-
14 cial matching requirement for a grant awarded on a com-
15 petitive basis or a grant awarded under part A or B of
16 title III or subpart 4 of part A of title VII of the Higher
17 Education Act of 1965 (20 U.S.C. 1057 et seq.; 1060 et
18 seq.; 1136a et seq.) at the request of an institution of
19 higher education or other grant recipient as a result of
20 a qualifying emergency, for the period beginning on the
21 first day of the qualifying emergency and ending on Sep-
22 tember 30 of the fiscal year following the end of the quali-
23 fying emergency.

24 (c) REPORTS.—Not later than 180 days after the
25 date of enactment of this Act, and every 180 days there-

1 after for the duration of the period beginning on the first
2 day of the qualifying emergency and ending on September
3 30 of the fiscal year following the end of the qualifying
4 emergency, the Secretary shall submit to the authorizing
5 committees (as defined in section 103 of the Higher Edu-
6 cation Act of 1965 (20 U.S.C. 1003)) a report that identi-
7 fies each institution of higher education or other grant re-
8 cipient that received a modification under this section.

9 **SEC. 3519. SERVICE OBLIGATIONS FOR TEACHERS.**

10 (a) **TEACH GRANTS.**—For the purpose of section
11 420N of the Higher Education Act of 1965 (20 U.S.C.
12 1070g–2), during a qualifying emergency, the Secretary—

13 (1) may modify the categories of extenuating
14 circumstances under which a recipient of a grant
15 under subpart 9 of part A of title IV of the Higher
16 Education Act of 1965 (20 U.S.C. 1070g et seq.)
17 who is unable to fulfill all or part of the recipient’s
18 service obligation may be excused from fulfilling that
19 portion of the service obligation; and

20 (2) shall consider teaching service that, as a re-
21 sult of a qualifying emergency, is part-time or tem-
22 porarily interrupted, to be full-time service and to
23 fulfill the service obligations under such section
24 420N.

1 (b) TEACHER LOAN FORGIVENESS.—Notwith-
2 standing section 428J or 460 of the Higher Education Act
3 of 1965 (20 U.S.C. 1078–10; 1087j), the Secretary shall
4 waive the requirements under such sections that years of
5 teaching service shall be consecutive if—

6 (1) the teaching service of a borrower is tempo-
7 rarily interrupted due to a qualifying emergency;
8 and

9 (2) after the temporary interruption due to a
10 qualifying emergency, the borrower resumes teaching
11 service and completes a total of 5 years of qualifying
12 teaching service under such sections, including quali-
13 fying teaching service performed before, during, and
14 after such qualifying emergency.

15 **Subtitle C—Labor Provisions**

16 **SEC. 3601. LIMITATION ON PAID LEAVE.**

17 Section 110(b)(2)(B) of the Family and Medical
18 Leave Act of 1993 (as added by the Emergency Family
19 and Medical Leave Expansion Act) is amended by striking
20 clause (ii) and inserting the following:

21 “(ii) LIMITATION.—An employer shall
22 not be required to pay more than \$200 per
23 day and \$10,000 in the aggregate for each
24 employee for paid leave under this sec-
25 tion.”.

1 **SEC. 3602. EMERGENCY PAID SICK LEAVE ACT LIMITATION.**

2 Section 5102 of the Emergency Paid Sick Leave Act
3 (division E of the Families First Coronavirus Response
4 Act) is amended by adding at the end the following:

5 “(f) LIMITATIONS.—

6 “(1) IN GENERAL.—An employer shall not be
7 required to pay more than either—

8 “(A) \$511 per day and \$5,110 in the ag-
9 gregate for each employee, when the employee
10 is taking leave for a reason described in para-
11 graph (1), (2), or (3) of section 5102(a); or

12 “(B) \$200 per day and \$2,000 in the ag-
13 gregate for each employee, when the employee
14 is taking leave for a reason described in para-
15 graph (4), (5), or (6) of section 5102(a).

16 “(2) EXPIRATION OF REQUIREMENT.— An em-
17 ployer’s requirement to provide paid leave with re-
18 spect to a specific employee shall expire at the ear-
19 lier of—

20 “(A) the time when the employer has paid
21 that employee for paid leave under this section
22 for an equivalent of 80 hours of work; or

23 “(B) upon the employee’s return to work
24 after taking paid leave under this section.”.

1 **SEC. 3603. REGULATORY AUTHORITIES UNDER THE EMER-**
2 **GENCY PAID SICK LEAVE ACT.**

3 Section 5111(2) of the Emergency Paid Sick Leave
4 Act (division E of the Families First Coronavirus Re-
5 sponse Act) is amended by striking “section 5102(a)(5)”
6 and inserting “paragraphs (4) and (5) of section
7 5102(a).”.

8 **SEC. 3604. UNEMPLOYMENT INSURANCE.**

9 Section 903(h)(2)(B) of the Social Security Act (42
10 U.S.C. 1103(h)(2)(B)), as added by section 4102 of the
11 Emergency Unemployment Insurance Stabilization and
12 Access Act of 2020, is amended to read as follows:

13 “(B) The State ensures that applications
14 for unemployment compensation, and assistance
15 with the application process, are accessible in
16 person, by phone, or online.”.

17 **SEC. 3605. OMB WAIVER OF PAID FAMILY AND PAID SICK**
18 **LEAVE.**

19 (a) FAMILY AND MEDICAL LEAVE ACT OF 1993.—
20 Section 110(a) of title I of the Family and Medical Leave
21 Act of 1993 (29 U.S.C. 2611 et seq.) (as added by division
22 C of the Families First Coronavirus Response Act) is
23 amended by adding at the end the following new para-
24 graph:

25 “(4) The Director of the Office of Management
26 and Budget shall have the authority to exclude for

1 good cause from the requirements under subsection
2 (b) certain employers of the United States Govern-
3 ment with respect to certain categories of Executive
4 Branch employees.”.

5 (b) EMERGENCY PAID SICK LEAVE ACT.—The
6 Emergency Paid Sick Leave Act (division E of the Fami-
7 lies First Coronavirus Response Act) is amended by add-
8 ing at the end the following new section:

9 **“SEC. 5112. AUTHORITY TO EXCLUDE CERTAIN EMPLOYEES.**

10 “The Director of the Office of Management and
11 Budget shall have the authority to exclude for good cause
12 from the definition of employee under section 5110(1) cer-
13 tain employees described in subparagraphs (E) and (F)
14 of such section, including by exempting certain United
15 States Government employers covered by section
16 5110(2)(A)(i)(V) from the requirements of this title with
17 respect to certain categories of Executive Branch employ-
18 ees.”.

19 **SEC. 3606. PAID LEAVE FOR REHIRED EMPLOYEES.**

20 Section 110(a)(1)(A) of the Family and Medical
21 Leave Act of 1993, as added by section 3102 of the Emer-
22 gency Family and Medical Leave Expansion Act, is
23 amended to read as follows:

24 “(A) ELIGIBLE EMPLOYEE.—

1 “(i) IN GENERAL.—In lieu of the defi-
2 nition in sections 101(2)(A) and
3 101(2)(B)(ii), the term ‘eligible employee’
4 means an employee who has been employed
5 for at least 30 calendar days by the em-
6 ployer with respect to whom leave is re-
7 quested under section 102(a)(1)(F).

8 “(ii) RULE REGARDING REHIRED EM-
9 PLOYEES.—For purposes of clause (i), the
10 term ‘employed for at least 30 calendar
11 days’, used with respect to an employee
12 and an employer described in clause (i), in-
13 cludes an employee who was laid off by
14 that employer not earlier than March 1,
15 2020, had worked for the employer for not
16 less than 30 of the last 60 calendar days
17 prior to the employee’s layoff, and was re-
18 hired by the employer.”.

19 **SEC. 3607. ADVANCE REFUNDING OF CREDITS.**

20 (a) PAYROLL CREDIT FOR REQUIRED PAID SICK
21 LEAVE.—Section 7001 of division G of the Families First
22 Coronavirus Response Act is amended—

23 (1) in subsection (b)(4)(A)—

1 (A) by striking “(A) In general.—If the
2 amount” and inserting “(A)(i) Credit is refund-
3 able.—If the amount”; and

4 (B) by adding at the end the following:

5 “(ii) ADVANCING CREDIT.—In antici-
6 pation of the credit, including the refund-
7 able portion under clause (i), the credit
8 may be advanced, according to forms and
9 instructions provided by the Secretary, up
10 to an amount calculated under subsection
11 (a), subject to the limits under subsection
12 (b), both calculated through the end of the
13 most recent payroll period in the quarter.”;

14 (2) in subsection (f)—

15 (A) in paragraph (4), by striking “, and”
16 and inserting a comma;

17 (B) in paragraph (5), by striking the pe-
18 riod at the end and inserting “, and”; and

19 (C) by adding at the end the following:

20 “(6) regulations or other guidance to permit the
21 advancement of the credit determined under sub-
22 section (a).”; and

23 (3) by inserting after subsection (h) the fol-
24 lowing new subsection:

1 “(i) TREATMENT OF DEPOSITS.—The Secretary of
2 the Treasury (or the Secretary’s delegate) shall waive any
3 penalty under section 6656 of the Internal Revenue Code
4 of 1986 for any failure to make a deposit of the tax im-
5 posed by section 3111(a) or 3221(a) of such Code if the
6 Secretary determines that such failure was due to the an-
7 ticipation of the credit allowed under this section.”.

8 (b) PAYROLL CREDIT FOR REQUIRED PAID FAMILY
9 LEAVE.—Section 7003 of division G of the Families First
10 Coronavirus Response Act is amended—

11 (1) in subsection (b)(3)—

12 (A) by striking “If the amount” and in-
13 serting “(A) Credit is refundable.—If the
14 amount”; and

15 (B) by adding at the end the following:

16 “(B) ADVANCING CREDIT.—In anticipation
17 of the credit, including the refundable portion
18 under subparagraph (A), the credit may be ad-
19 vanced, according to forms and instructions
20 provided by the Secretary, up to an amount cal-
21 culated under subsection (a), subject to the lim-
22 its under subsection (b), both calculated
23 through the end of the most recent payroll pe-
24 riod in the quarter.”;

25 (2) in subsection (f)—

1 (A) in paragraph (4), by striking “, and”
2 and inserting a comma;

3 (B) in paragraph (5), by striking the pe-
4 riod at the end and inserting “, and”; and

5 (C) by adding at the end the following:

6 “(6) regulations or other guidance to permit the
7 advancement of the credit determined under sub-
8 section (a).”; and

9 (c) by inserting after subsection (h) the following new
10 subsection:

11 “(i) TREATMENT OF DEPOSITS.—The Secretary of
12 the Treasury (or the Secretary’s delegate) shall waive any
13 penalty under section 6656 of the Internal Revenue Code
14 of 1986 for any failure to make a deposit of the tax im-
15 posed by section 3111(a) or 3221(a) of such Code if the
16 Secretary determines that such failure was due to the an-
17 ticipation of the credit allowed under this section.”.

18 **SEC. 3608. EXPANSION OF DOL AUTHORITY TO POSTPONE**

19 **CERTAIN DEADLINES.**

20 Section 518 of the Employee Retirement Income Se-
21 curity Act of 1974 (29 U.S.C. 1148) is amended by strik-
22 ing “or a terroristic or military action (as defined in sec-
23 tion 692(c)(2) of such Code), the Secretary may” and in-
24 serting “a terroristic or military action (as defined in sec-
25 tion 692(c)(2) of such Code), or a public health emergency

1 declared by the Secretary of Health and Human Services
2 pursuant to section 319 of the Public Health Service Act,
3 the Secretary may”.

4 **SEC. 3609. SINGLE-EMPLOYER PLAN FUNDING RULES.**

5 (a) DELAY IN PAYMENT OF MINIMUM REQUIRED
6 CONTRIBUTIONS.—In the case of any minimum required
7 contribution (as determined under section 430(a) of the
8 Internal Revenue Code of 1986 and section 303(a) of the
9 Employee Retirement Income Security Act of 1974 (29
10 U.S.C. 1083(a))) which (but for this section) would other-
11 wise be due under section 430(j) of such Code (including
12 quarterly contributions under paragraph (3) thereof) and
13 section 303(j) of such Act (29 U.S.C. 1083(j)) (including
14 quarterly contributions under paragraph (3) thereof) dur-
15 ing calendar year 2020—

16 (1) the due date for such contributions shall be
17 January 1, 2021, and

18 (2) the amount of each such minimum required
19 contribution shall be increased by interest accruing
20 for the period between the original due date (without
21 regard to this section) for the contribution and the
22 payment date, at the effective rate of interest for the
23 plan for the plan year which includes such payment
24 date.

1 (b) BENEFIT RESTRICTION STATUS.—For purposes
2 of section 436 of the Internal Revenue Code of 1986 and
3 section 206(g) of the Employee Retirement Income Secu-
4 rity Act of 1974 (29 U.S.C. 1056(g)), a plan sponsor may
5 elect to treat the plan’s adjusted funding target attain-
6 ment percentage for the last plan year ending before Janu-
7 ary 1, 2020, as the adjusted funding target attainment
8 percentage for plan years which include calendar year
9 2020.

10 **SEC. 3610. APPLICATION OF COOPERATIVE AND SMALL EM-**
11 **PLOYER CHARITY PENSION PLAN RULES TO**
12 **CERTAIN CHARITABLE EMPLOYERS WHOSE**
13 **PRIMARY EXEMPT PURPOSE IS PROVIDING**
14 **SERVICES WITH RESPECT TO MOTHERS AND**
15 **CHILDREN.**

16 (a) EMPLOYEE RETIREMENT INCOME SECURITY ACT
17 OF 1974.—Section 210(f)(1) of the Employee Retirement
18 Income Security Act of 1974 (29 U.S.C. 1060(f)(1)) is
19 amended—

20 (1) by striking “or” at the end of subparagraph

21 (B);

22 (2) by striking the period at the end of sub-
23 paragraph (C)(iv) and inserting “; or”; and

24 (3) by inserting after subparagraph (C) the fol-
25 lowing new subparagraph:

1 “(D) that, as of January 1, 2000, was
2 maintained by an employer—

3 “(i) described in section 501(c)(3) of
4 the Internal Revenue Code of 1986,

5 “(ii) who has been in existence since
6 at least 1938,

7 “(iii) who conducts medical research
8 directly or indirectly through grant mak-
9 ing, and

10 “(iv) whose primary exempt purpose
11 is to provide services with respect to moth-
12 ers and children.”.

13 (b) INTERNAL REVENUE CODE OF 1986.—Section
14 414(y)(1) of the Internal Revenue Code of 1986 is amend-
15 ed—

16 (1) by striking “or” at the end of subparagraph
17 (B);

18 (2) by striking the period at the end of sub-
19 paragraph (C)(iv) and inserting “; or”; and

20 (3) by inserting after subparagraph (C) the fol-
21 lowing new subparagraph:

22 “(D) that, as of January 1, 2000, was
23 maintained by an employer—

24 “(i) described in section 501(c)(3),

1 “(ii) who has been in existence since
2 at least 1938,

3 “(iii) who conducts medical research
4 directly or indirectly through grant mak-
5 ing, and

6 “(iv) whose primary exempt purpose
7 is to provide services with respect to moth-
8 ers and children.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to plan years beginning after De-
11 cember 31, 2018.

12 **Subtitle D—Finance Committee**

13 **SEC. 3701. EXEMPTION FOR TELEHEALTH SERVICES.**

14 (a) IN GENERAL.—Paragraph (2) of section 223(c)
15 of the Internal Revenue Code of 1986 is amended by add-
16 ing at the end the following new subparagraph:

17 “(E) SAFE HARBOR FOR ABSENCE OF DE-
18 DUCTIBLE FOR TELEHEALTH.—In the case of
19 plan years beginning on or before December 31,
20 2021, a plan shall not fail to be treated as a
21 high deductible health plan by reason of failing
22 to have a deductible for telehealth and other re-
23 mote care services.”.

24 (b) CERTAIN COVERAGE DISREGARDED.—Clause (ii)
25 of section 223(c)(1)(B) of the Internal Revenue Code of

1 1986 is amended by striking “or long-term care” and in-
2 serting “long-term care, or (in the case of plan years be-
3 ginning on or before December 31, 2021) telehealth and
4 other remote care”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on the date of the enactment
7 of this Act.

8 **SEC. 3702. INCLUSION OF CERTAIN OVER-THE-COUNTER**
9 **MEDICAL PRODUCTS AS QUALIFIED MEDICAL**
10 **EXPENSES.**

11 (a) HSAs.—Section 223(d)(2) of the Internal Rev-
12 enue Code of 1986 is amended—

13 (1) by striking the last sentence of subpara-
14 graph (A) and inserting the following: “For pur-
15 poses of this subparagraph, amounts paid for men-
16 strual care products shall be treated as paid for
17 medical care.”; and

18 (2) by adding at the end the following new sub-
19 paragraph:

20 “(D) MENSTRUAL CARE PRODUCT.—For
21 purposes of this paragraph, the term ‘menstrual
22 care product’ means a tampon, pad, liner, cup,
23 sponge, or similar product used by individuals
24 with respect to menstruation or other genital-
25 tract secretions.”.

1 (b) ARCHER MSAs.—Section 220(d)(2)(A) of such
2 Code is amended by striking the last sentence and insert-
3 ing the following: “For purposes of this subparagraph,
4 amounts paid for menstrual care products (as defined in
5 section 223(d)(2)(D)) shall be treated as paid for medical
6 care.”.

7 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
8 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
9 tion 106 of such Code is amended by striking subsection
10 (f) and inserting the following new subsection:

11 “(f) REIMBURSEMENTS FOR MENSTRUAL CARE
12 PRODUCTS.—For purposes of this section and section
13 105, expenses incurred for menstrual care products (as
14 defined in section 223(d)(2)(D)) shall be treated as in-
15 curred for medical care.”.

16 (d) EFFECTIVE DATES.—

17 (1) DISTRIBUTIONS FROM SAVINGS AC-
18 COUNTS.—The amendment made by subsections (a)
19 and (b) shall apply to amounts paid after December
20 31, 2019.

21 (2) REIMBURSEMENTS.—The amendment made
22 by subsection (c) shall apply to expenses incurred
23 after December 31, 2019.

1 **SEC. 3703. INCREASING MEDICARE TELEHEALTH FLEXI-**
2 **BILITIES DURING EMERGENCY PERIOD.**

3 Section 1135 of the Social Security Act (42 U.S.C.
4 1320b-5) is amended—

5 (1) in subsection (b)(8), by striking “to an indi-
6 vidual by a qualified provider (as defined in sub-
7 section (g)(3))” and all that follows through the pe-
8 riod and inserting “, the requirements of section
9 1834(m).”; and

10 (2) in subsection (g), by striking paragraph (3).

11 **SEC. 3704. ENHANCING MEDICARE TELEHEALTH SERVICES**
12 **FOR FEDERALLY QUALIFIED HEALTH CEN-**
13 **TERS AND RURAL HEALTH CLINICS DURING**
14 **EMERGENCY PERIOD.**

15 Section 1834(m) of the Social Security Act (42
16 U.S.C. 1395m(m)) is amended—

17 (1) in the first sentence of paragraph (1), by
18 striking “The Secretary” and inserting “Subject to
19 paragraph (8), the Secretary”;

20 (2) in paragraph (2)(A), by striking “The Sec-
21 retary” and inserting “Subject to paragraph (8), the
22 Secretary”;

23 (3) in paragraph (4)—

24 (A) in subparagraph (A), by striking “The
25 term” and inserting “Subject to paragraph (8),
26 the term”; and

1 (B) in subparagraph (F)(i), by striking
2 “The term” and inserting “Subject to para-
3 graph (8), the term”; and

4 (4) by adding at the end the following new
5 paragraph:

6 “(8) ENHANCING TELEHEALTH SERVICES FOR
7 FEDERALLY QUALIFIED HEALTH CENTERS AND
8 RURAL HEALTH CLINICS DURING EMERGENCY PE-
9 RIOD.—

10 “(A) IN GENERAL.—During the emergency
11 period described in section 1135(g)(1)(B)—

12 “(i) the Secretary shall pay for tele-
13 health services that are furnished via a
14 telecommunications system by a Federally
15 qualified health center or a rural health
16 clinic to an eligible telehealth individual en-
17 rolled under this part notwithstanding that
18 the Federally qualified health center or
19 rural clinic providing the telehealth service
20 is not at the same location as the bene-
21 ficiary;

22 “(ii) the amount of payment to a Fed-
23 erally qualified health center or rural
24 health clinic that serves as a distant site

1 for such a telehealth service shall be deter-
2 mined under subparagraph (B); and

3 “(iii) for purposes of this subsection—

4 “(I) the term ‘distant site’ in-
5 cludes a Federally qualified health
6 center or rural health clinic that fur-
7 nishes a telehealth service to an eligi-
8 ble telehealth individual; and

9 “(II) the term ‘telehealth serv-
10 ices’ includes a rural health clinic
11 service or Federally qualified health
12 center service that is furnished using
13 telehealth to the extent that payment
14 codes corresponding to services identi-
15 fied by the Secretary under clause (i)
16 or (ii) of paragraph (4)(F) are listed
17 on the corresponding claim for such
18 rural health clinic service or Federally
19 qualified health center service.

20 “(B) SPECIAL PAYMENT RULE.—

21 “(i) IN GENERAL.—The Secretary
22 shall develop and implement payment
23 methods that apply under this subsection
24 to a Federally qualified health center or
25 rural health clinic that serves as a distant

1 site that furnishes a telehealth service to
2 an eligible telehealth individual during
3 such emergency period. Such payment
4 methods shall be based on payment rates
5 that are similar to the national average
6 payment rates for comparable telehealth
7 services under the physician fee schedule
8 under section 1848. Notwithstanding any
9 other provision of law, the Secretary may
10 implement such payment methods through
11 program instruction or otherwise.

12 “(ii) EXCLUSION FROM FQHC PPS
13 CALCULATION AND RHC AIR CALCULA-
14 TION.—Costs associated with telehealth
15 services shall not be used to determine the
16 amount of payment for Federally qualified
17 health center services under the prospec-
18 tive payment system under section 1834(o)
19 or for rural health clinic services under the
20 methodology for all-inclusive rates (estab-
21 lished by the Secretary) under section
22 1833(a)(3).”.

1 **SEC. 3705. TEMPORARY WAIVER OF REQUIREMENT FOR**
2 **FACE-TO-FACE VISITS BETWEEN HOME DI-**
3 **ALYSIS PATIENTS AND PHYSICIANS.**

4 Section 1881(b)(3)(B) of the Social Security Act (42
5 U.S.C. 1395rr(b)(3)(B)) is amended—

6 (1) in clause (i), by striking “clause (ii)” and
7 inserting “clauses (ii) and (iii)”;

8 (2) in clause (ii), in the matter preceding sub-
9 clause (I), by striking “Clause (i)” and inserting
10 “Except as provided in clause (iii), clause (i)”;

11 (3) by adding at the end the following new
12 clause:

13 “(iii) The Secretary may waive the
14 provisions of clause (ii) during the emer-
15 gency period described in section
16 1135(g)(1)(B).”.

17 **SEC. 3706. USE OF TELEHEALTH TO CONDUCT FACE-TO-**
18 **FACE ENCOUNTER PRIOR TO RECERTIFI-**
19 **CATION OF ELIGIBILITY FOR HOSPICE CARE**
20 **DURING EMERGENCY PERIOD.**

21 Section 1814(a)(7)(D)(i) of the Social Security Act
22 (42 U.S.C. 1395f(a)(7)(D)(i)) is amended—

23 (1) by striking “a hospice” and inserting “(I)
24 subject to subclause (II), a hospice”; and

25 (2) by inserting after subclause (I), as added by
26 paragraph (1), the following new subclause:

1 “(II) during the emergency period de-
2 scribed in section 1135(g)(1)(B), a hospice
3 physician or nurse practitioner may con-
4 duct a face-to-face encounter required
5 under this clause via telehealth, as deter-
6 mined appropriate by the Secretary; and”.

7 **SEC. 3707. ENCOURAGING USE OF TELECOMMUNICATIONS**
8 **SYSTEMS FOR HOME HEALTH SERVICES FUR-**
9 **NISHED DURING EMERGENCY PERIOD.**

10 With respect to home health services (as defined in
11 section 1861(m) of the Social Security Act (42 U.S.C.
12 1395x(m)) that are furnished during the emergency period
13 described in section 1135(g)(1)(B) of such Act (42 U.S.C.
14 1320b-5(g)(1)(B)), the Secretary of Health and Human
15 Services shall consider ways to encourage the use of tele-
16 communications systems, including for remote patient
17 monitoring as described in section 409.46(e) of title 42,
18 Code of Federal Regulations (or any successor regula-
19 tions) and other communications or monitoring services,
20 consistent with the plan of care for the individual, includ-
21 ing by clarifying guidance and conducting outreach, as ap-
22 propriate.

1 **SEC. 3708. IMPROVING CARE PLANNING FOR MEDICARE**
2 **HOME HEALTH SERVICES.**

3 (a) PART A PROVISIONS.—Section 1814(a) of the So-
4 cial Security Act (42 U.S.C. 1395f(a)) is amended—

5 (1) in paragraph (2)—

6 (A) in the matter preceding subparagraph
7 (A), by inserting “, a nurse practitioner or clin-
8 ical nurse specialist (as such terms are defined
9 in section 1861(aa)(5)) who is working in ac-
10 cordance with State law, or a physician assist-
11 ant (as defined in section 1861(aa)(5)) under
12 the supervision of a physician, who is” after “in
13 the case of services described in subparagraph
14 (C), a physician”; and

15 (B) in subparagraph (C)—

16 (i) by inserting “, a nurse practi-
17 tioner, a clinical nurse specialist, or a phy-
18 sician assistant (as the case may be)” after
19 “physician” the first 2 times it appears;
20 and

21 (ii) by striking “, and, in the case of
22 a certification made by a physician” and
23 all that follows through “face-to-face en-
24 counter” and inserting “, and, in the case
25 of a certification made by a physician after
26 January 1, 2010, or by a nurse practi-

1 tioner, clinical nurse specialist, or physi-
2 cian assistant (as the case may be) after a
3 date specified by the Secretary (but in no
4 case later than the date that is 6 months
5 after the date of the enactment of the
6 CARES Act), prior to making such certifi-
7 cation a physician, nurse practitioner, clin-
8 ical nurse specialist, or physician assistant
9 must document that a physician, nurse
10 practitioner, clinical nurse specialist, cer-
11 tified nurse-midwife (as defined in section
12 1861(gg)) as authorized by State law, or
13 physician assistant has had a face-to-face
14 encounter”;

15 (2) in the third sentence—

16 (A) by striking “physician certification”
17 and inserting “certification”;

18 (B) by inserting “(or in the case of regula-
19 tions to implement the amendments made by
20 section 3708 of the CARES Act, the Secretary
21 shall prescribe regulations, which shall become
22 effective no later than 6 months after the date
23 of the enactment of such Act)” after “1981”;
24 and

1 (C) by striking “a physician who” and in-
2 serting “a physician, nurse practitioner, clinical
3 nurse specialist, or physician assistant who”;

4 (3) in the fourth sentence, by inserting “, nurse
5 practitioner, clinical nurse specialist, or physician as-
6 sistant” after “physician”; and

7 (4) in the fifth sentence—

8 (A) by inserting “or no later than 6
9 months after the date of the enactment of the
10 CARES Act for purposes of documentation for
11 certification and recertification made under
12 paragraph (2) by a nurse practitioner, clinical
13 nurse specialist, or physician assistant,” after
14 “January 1, 2019”; and

15 (B) by inserting “, nurse practitioner, clin-
16 ical nurse specialist, or physician assistant”
17 after “of the physician”.

18 (b) PART B PROVISIONS.—Section 1835(a) of the So-
19 cial Security Act (42 U.S.C. 1395n(a)) is amended—

20 (1) in paragraph (2)—

21 (A) in the matter preceding subparagraph
22 (A), by inserting “, a nurse practitioner or clin-
23 ical nurse specialist (as those terms are defined
24 in section 1861(aa)(5)) who is working in ac-
25 cordance with State law, or a physician assist-

1 ant (as defined in section 1861(aa)(5)) under
2 the supervision of a physician, who is” after “in
3 the case of services described in subparagraph
4 (A), a physician”; and

5 (B) in subparagraph (A)—

6 (i) in each of clauses (ii) and (iii) of
7 subparagraph (A) by inserting “, a nurse
8 practitioner, a clinical nurse specialist, or a
9 physician assistant (as the case may be)”
10 after “physician”; and

11 (ii) in clause (iv), by striking “after
12 January 1, 2010” and all that follows
13 through “face-to-face encounter” and in-
14 serting “made by a physician after Janu-
15 ary 1, 2010, or by a nurse practitioner,
16 clinical nurse specialist, or physician as-
17 sistant (as the case may be) after a date
18 specified by the Secretary (but in no case
19 later than the date that is 6 months after
20 the date of the enactment of the CARES
21 Act), prior to making such certification a
22 physician, nurse practitioner, clinical nurse
23 specialist, or physician assistant must doc-
24 ument that a physician, nurse practitioner,
25 clinical nurse specialist, certified nurse-

1 midwife (as defined in section 1861(gg)) as
2 authorized by State law, or physician as-
3 sistant has had a face-to-face encounter”;

4 (2) in the third sentence, by inserting “, nurse
5 practitioner, clinical nurse specialist, or physician as-
6 sistant (as the case may be)” after physician;

7 (3) in the fourth sentence—

8 (A) by striking “physician certification”
9 and inserting “certification”;

10 (B) by inserting “(or in the case of regula-
11 tions to implement the amendments made by
12 section 3708 of the CARES Act the Secretary
13 shall prescribe regulations which shall become
14 effective no later than 6 months after the enact-
15 ment of such Act)” after “1981”; and

16 (C) by striking “a physician who” and in-
17 sserting “a physician, nurse practitioner, clinical
18 nurse specialist, or physician assistant who”;

19 (4) in the fifth sentence, by inserting “, nurse
20 practitioner, clinical nurse specialist, or physician as-
21 sistant” after “physician”; and

22 (5) in the sixth sentence—

23 (A) by inserting “or no later than 6
24 months after the date of the enactment of the
25 CARES Act for purposes of documentation for

1 certification and recertification made under
2 paragraph (2) by a nurse practitioner, clinical
3 nurse specialist, or physician assistant,” after
4 “January 1, 2019”; and

5 (B) by inserting “, nurse practitioner, clin-
6 ical nurse specialist, or physician assistant”
7 after “of the physician”.

8 (c) DEFINITION PROVISIONS.—

9 (1) HOME HEALTH SERVICES.—Section
10 1861(m) of the Social Security Act (42 U.S.C.
11 1395x(m)) is amended—

12 (A) in the matter preceding paragraph
13 (1)—

14 (i) by inserting “, a nurse practitioner
15 or a clinical nurse specialist (as those
16 terms are defined in subsection (aa)(5)), or
17 a physician assistant (as defined in sub-
18 section (aa)(5))” after “physician” the
19 first place it appears; and

20 (ii) by inserting “, a nurse practi-
21 tioner, a clinical nurse specialist, or a phy-
22 sician assistant” after “physician” the sec-
23 ond place it appears; and

1 (B) in paragraph (3), by inserting “, a
2 nurse practitioner, a clinical nurse specialist, or
3 a physician assistant” after “physician”.

4 (2) HOME HEALTH AGENCY.—Section
5 1861(o)(2) of the Social Security Act (42 U.S.C.
6 1395x(o)(2)) is amended—

7 (A) by inserting “, nurse practitioners or
8 clinical nurse specialists (as those terms are de-
9 fined in subsection (aa)(5)), certified nurse-mid-
10 wives (as defined in subsection (gg)), or physi-
11 cian assistants (as defined in subsection
12 (aa)(5))” after “physicians”; and

13 (B) by inserting “, nurse practitioner, clin-
14 ical nurse specialist, certified nurse-midwife,
15 physician assistant,” after “physician”.

16 (3) COVERED OSTEOPOROSIS DRUG.—Section
17 1861(kk)(1) of the Social Security Act (42 U.S.C.
18 1395x(kk)(1)) is amended by inserting “, nurse
19 practitioner or clinical nurse specialist (as those
20 terms are defined in subsection (aa)(5)), certified
21 nurse-midwife (as defined in subsection (gg)), or
22 physician assistant (as defined in subsection
23 (aa)(5))” after “attending physician”.

1 (d) HOME HEALTH PROSPECTIVE PAYMENT SYSTEM
2 PROVISIONS.—Section 1895 of the Social Security Act (42
3 U.S.C. 1395fff) is amended—

4 (1) in subsection (c)(1)—

5 (A) by striking “(provided under section
6 1842(r))”; and

7 (B) by inserting “the nurse practitioner or
8 clinical nurse specialist (as those terms are de-
9 fined in section 1861(aa)(5)), or the physician
10 assistant (as defined in section 1861(aa)(5))”
11 after “physician”; and

12 (2) in subsection (e)—

13 (A) in paragraph (1)(A), by inserting “a
14 nurse practitioner or clinical nurse specialist, or
15 a physician assistant” after “physician”; and

16 (B) in paragraph (2)—

17 (i) in the heading, by striking “PHY-
18 SICIAN CERTIFICATION” and inserting
19 “RULE OF CONSTRUCTION REGARDING RE-
20 QUIREMENT FOR CERTIFICATION”; and

21 (ii) by striking “physician”.

22 (e) APPLICATION TO MEDICAID.—The amendments
23 made under this section shall apply under title XIX of the
24 Social Security Act in the same manner and to the same

1 extent as such requirements apply under title XVIII of
2 such Act or regulations promulgated thereunder.

3 (f) **EFFECTIVE DATE.**—The Secretary of Health and
4 Human Services shall prescribe regulations to apply the
5 amendments made by this section to items and services
6 furnished, which shall become effective no later than 6
7 months after the date of the enactment of this legislation.
8 The Secretary shall promulgate an interim final rule if
9 necessary, to comply with the required effective date.

10 **SEC. 3709. ADJUSTMENT OF SEQUESTRATION.**

11 (a) **TEMPORARY SUSPENSION OF MEDICARE SE-**
12 **QUESTRATION.**—During the period beginning on May 1,
13 2020 and ending on December 31, 2020, the Medicare
14 programs under title XVIII of the Social Security Act (42
15 U.S.C. 1395 et seq.) shall be exempt from reduction under
16 any sequestration order issued before, on, or after the date
17 of enactment of this Act.

18 (b) **EXTENSION OF DIRECT SPENDING REDUCTIONS**
19 **THROUGH FISCAL YEAR 2030.**—Section 251A(6) of the
20 Balanced Budget and Emergency Deficit Control Act of
21 1985 (2 U.S.C. 901a(6)) is amended—

22 (1) in subparagraph (B), in the matter pre-
23 ceding clause (i), by striking “through 2029” and
24 inserting “through 2030”; and

1 (2) in subparagraph (C), in the matter pre-
2 ceding clause (i), by striking “fiscal year 2029” and
3 inserting “fiscal year 2030”.

4 **SEC. 3710. MEDICARE HOSPITAL INPATIENT PROSPECTIVE**
5 **PAYMENT SYSTEM ADD-ON PAYMENT FOR**
6 **COVID-19 PATIENTS DURING EMERGENCY PE-**
7 **RIOD.**

8 (a) IN GENERAL.—Section 1886(d)(4)(C) of the So-
9 cial Security Act (42 U.S.C. 1395ww(d)(4)(C)) is amend-
10 ed by adding at the end the following new clause:

11 “(iv)(I) For discharges occurring during the emer-
12 gency period described in section 1135(g)(1)(B), in the
13 case of a discharge of an individual diagnosed with
14 COVID-19, the Secretary shall increase the weighting fac-
15 tor that would otherwise apply to the diagnosis-related
16 group to which the discharge is assigned by 20 percent.
17 The Secretary shall identify a discharge of such an indi-
18 vidual through the use of diagnosis codes, condition codes,
19 or other such means as may be necessary.

20 “(II) Any adjustment under subclause (I) shall not
21 be taken into account in applying budget neutrality under
22 clause (iii).”.

23 (b) IMPLEMENTATION.—Notwithstanding any other
24 provision of law, the Secretary may implement the amend-

1 ment made by subsection (a) by program instruction or
2 otherwise.

3 **SEC. 3711. INCREASING ACCESS TO POST-ACUTE CARE DUR-**
4 **ING EMERGENCY PERIOD.**

5 (a) **WAIVER OF IRF 3-HOUR RULE.**—With respect
6 to inpatient rehabilitation services furnished by a rehabili-
7 tation facility described in section 1886(j)(1) of the Social
8 Security Act (42 U.S.C. 1395ww(j)(1)) during the emer-
9 gency period described in section 1135(g)(1)(B) of the So-
10 cial Security Act (42 U.S.C. 1320b–5(g)(1)(B)), the Sec-
11 retary of Health and Human Services shall waive section
12 412.622(a)(3)(ii) of title 42, Code of Federal Regulations
13 (or any successor regulations), relating to the requirement
14 that patients of an inpatient rehabilitation facility receive
15 at least 15 hours of therapy per week.

16 (b) **WAIVER OF SITE-NEUTRAL PAYMENT RATE PRO-**
17 **VISIONS FOR LONG-TERM CARE HOSPITALS.**—With re-
18 spect to inpatient hospital services furnished by a long-
19 term care hospital described in section 1886(d)(1)(B)(iv)
20 of the Social Security Act (42 U.S.C.
21 1395ww(d)(1)(B)(iv)) during the emergency period de-
22 scribed in section 1135(g)(1)(B) of the Social Security Act
23 (42 U.S.C. 1320b–5(g)(1)(B)), the Secretary of Health
24 and Human Services shall waive the following provisions

1 of section 1886(m)(6) of such Act (42 U.S.C.
2 1395ww(m)(6)):

3 (1) LTCH 50-PERCENT RULE.—Subparagraph
4 (C)(ii) of such section, relating to the payment ad-
5 justment for long-term care hospitals that do not
6 have a discharge payment percentage for the period
7 that is at least 50 percent.

8 (2) SITE-NEUTRAL IPPS PAYMENT RATE.—Sub-
9 paragraph (A)(i) of such section, relating to the ap-
10 plication of the site-neutral payment rate (and pay-
11 ment shall be made to a long-term care hospital
12 without regard to such section) for a discharge if the
13 admission occurs during such emergency period and
14 is in response to the public health emergency de-
15 scribed in such section 1135(g)(1)(B).

16 **SEC. 3712. REVISING PAYMENT RATES FOR DURABLE MED-**
17 **ICAL EQUIPMENT UNDER THE MEDICARE**
18 **PROGRAM THROUGH DURATION OF EMER-**
19 **GENCY PERIOD.**

20 (a) RURAL AND NONCONTIGUOUS AREAS.—The Sec-
21 retary of Health and Human Services shall implement sec-
22 tion 414.210(g)(9)(iii) of title 42, Code of Federal Regula-
23 tions (or any successor regulation), to apply the transition
24 rule described in such section to all applicable items and
25 services furnished in rural areas and noncontiguous areas

1 (as such terms are defined for purposes of such section)
2 as planned through December 31, 2020, and through the
3 duration of the emergency period described in section
4 1135(g)(1)(B) of the Social Security Act (42 U.S.C.
5 1320b–5(g)(1)(B)), if longer.

6 (b) AREAS OTHER THAN RURAL AND NONCONTIG-
7 UOUS AREAS.—With respect to items and services fur-
8 nished on or after the date that is 30 days after the date
9 of the enactment of this Act, the Secretary of Health and
10 Human Services shall apply section 414.210(g)(9)(iv) of
11 title 42, Code of Federal Regulations (or any successor
12 regulation), as if the reference to “dates of service from
13 June 1, 2018 through December 31, 2020, based on the
14 fee schedule amount for the area is equal to 100 percent
15 of the adjusted payment amount established under this
16 section” were instead a reference to “dates of service from
17 March 6, 2020, through the remainder of the duration of
18 the emergency period described in section 1135(g)(1)(B)
19 of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)),
20 based on the fee schedule amount for the area is equal
21 to 75 percent of the adjusted payment amount established
22 under this section and 25 percent of the unadjusted fee
23 schedule amount”.

1 **SEC. 3713. COVERAGE OF THE COVID-19 VACCINE UNDER**
2 **PART B OF THE MEDICARE PROGRAM WITH-**
3 **OUT ANY COST-SHARING.**

4 (a) **MEDICAL AND OTHER HEALTH SERVICES.**—Sec-
5 tion 1861(s)(10)(A) of the Social Security Act (42 U.S.C.
6 1395x(s)(10)(A)) is amended by inserting “, and COVID-
7 19 vaccine and its administration” after “influenza vac-
8 cine and its administration”.

9 (b) **PART B DEDUCTIBLE.**—The first sentence of sec-
10 tion 1833(b) of the Social Security Act (42 U.S.C.
11 1395l(b)) is amended—

12 (1) in paragraph (10), by striking “and” at the
13 end; and

14 (2) in paragraph (11), by striking the period at
15 the end and inserting “, and (12) such deductible
16 shall not apply with respect a COVID-19 vaccine
17 and its administration described in section
18 1861(s)(10)(A).”.

19 (c) **EFFECTIVE DATE.**—The amendments made by
20 this section shall take effect on the date of enactment of
21 this Act and shall apply with respect to a COVID-19 vac-
22 cine beginning on the date that such vaccine is licensed
23 under section 351 of the Public Health Service Act (42
24 U.S.C. 262).

25 (d) **IMPLEMENTATION.**—Notwithstanding any other
26 provision of law, the Secretary may implement the provi-

1 sions of, and the amendments made by, this section by
2 program instruction or otherwise.

3 **SEC. 3714. REQUIRING MEDICARE PRESCRIPTION DRUG**
4 **PLANS AND MA-PD PLANS TO ALLOW DURING**
5 **THE COVID-19 EMERGENCY PERIOD FOR**
6 **FILLS AND REFILLS OF COVERED PART D**
7 **DRUGS FOR UP TO A 3-MONTH SUPPLY.**

8 (a) IN GENERAL.—Section 1860D–4(b) of the Social
9 Security Act (42 U.S.C. 1395w–104(b)) is amended by
10 adding at the end the following new paragraph:

11 “(4) ENSURING ACCESS DURING COVID-19 PUB-
12 LIC HEALTH EMERGENCY PERIOD.—

13 “(A) IN GENERAL.—During the emergency
14 period described in section 1135(g)(1)(B), sub-
15 ject to subparagraph (B), a prescription drug
16 plan or MA–PD plan shall, notwithstanding any
17 cost and utilization management, medication
18 therapy management, or other such programs
19 under this part, permit a part D eligible indi-
20 vidual enrolled in such plan to obtain in a sin-
21 gle fill or refill, at the option of such individual,
22 the total day supply (not to exceed a 90-day
23 supply) prescribed for such individual for a cov-
24 ered part D drug.

1 “(B) SAFETY EDIT EXCEPTION.—A pre-
2 scription drug plan or MA–PD plan may not
3 permit a part D eligible individual to obtain a
4 single fill or refill inconsistent with an applica-
5 ble safety edit.”.

6 (b) IMPLEMENTATION.—Notwithstanding any other
7 provision of law, the Secretary of Health and Human
8 Services may implement the amendment made by this sec-
9 tion by program instruction or otherwise.

10 **SEC. 3715. PROVIDING HOME AND COMMUNITY-BASED**
11 **SERVICES IN ACUTE CARE HOSPITALS.**

12 Section 1902(h) of the Social Security Act (42 U.S.C.
13 1396a(h)) is amended—

14 (1) by inserting “(1)” after “(h)”;

15 (2) by inserting “, home and community-based
16 services provided under subsection (c), (d), or (i) of
17 section 1915 or under a waiver or demonstration
18 project under section 1115, self-directed personal as-
19 sistance services provided pursuant to a written plan
20 of care under section 1915(j), and home and com-
21 munity-based attendant services and supports under
22 section 1915(k)” before the period; and

23 (3) by adding at the end the following:

24 “(2) Nothing in this title, title XVIII, or title XI shall
25 be construed as prohibiting receipt of any care or services

1 specified in paragraph (1) in an acute care hospital that
2 are—

3 “(A) identified in an individual’s person-cen-
4 tered service plan (or comparable plan of care);

5 “(B) provided to meet needs of the individual
6 that are not met through the provision of hospital
7 services;

8 “(C) not a substitute for services that the hos-
9 pital is obligated to provide through its conditions of
10 participation or under Federal or State law, or
11 under another applicable requirement; and

12 “(D) designed to ensure smooth transitions be-
13 tween acute care settings and home and community-
14 based settings, and to preserve the individual’s func-
15 tional abilities.”.

16 **SEC. 3716. CLARIFICATION REGARDING UNINSURED INDI-**
17 **VIDUALS.**

18 Subsection (ss) of section 1902 of the Social Security
19 Act (42 U.S.C. 1396a), as added by section 6004(a)(3)(C)
20 of the Families First Coronavirus Response Act, is amend-
21 ed—

22 (1) in paragraph (1), by inserting “(excluding
23 subclause (VIII) of such subsection if the individual
24 is a resident of a State which does not furnish med-

1 1834A(a)(1)(B) of the Social Security Act (42 U.S.C.
2 1395m-1(a)(1)(B)) is amended—

3 (1) in clause (i), by striking “December 31,
4 2020” and inserting “December 31, 2021”; and

5 (2) in clause (ii)—

6 (A) by striking “January 1, 2021” and in-
7 serting “January 1, 2022”; and

8 (B) by striking “March 31, 2021” and in-
9 serting “March 31, 2022”.

10 (b) REVISED PHASE-IN OF REDUCTIONS FROM PRI-
11 VATE PAYOR RATE IMPLEMENTATION.—Section
12 1834A(b)(3) of the Social Security Act (42 U.S.C.
13 1395m-1(b)(3)) is amended—

14 (1) in subparagraph (A), by striking “through
15 2023” and inserting “through 2024”; and

16 (2) in subparagraph (B)—

17 (A) in clause (i), by striking “and” at the
18 end;

19 (B) by redesignating clause (ii) as clause
20 (iii);

21 (C) by inserting after clause (i) the fol-
22 lowing new clause:

23 “(ii) for 2021, 0 percent; and”; and

1 (D) in clause (iii), as redesignated by sub-
2 paragraph (B), by striking “2021 through
3 2023” and inserting “2022 through 2024”.

4 **Subtitle E—Health and Human** 5 **Services Extenders**

6 **PART I—MEDICARE PROVISIONS**

7 **SEC. 3801. EXTENSION OF THE WORK GEOGRAPHIC INDEX** 8 **FLOOR UNDER THE MEDICARE PROGRAM.**

9 Section 1848(e)(1)(E) of the Social Security Act (42
10 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “May
11 23, 2020” and inserting “December 1, 2020”.

12 **SEC. 3802. EXTENSION OF FUNDING FOR QUALITY MEAS-** 13 **URE ENDORSEMENT, INPUT, AND SELECTION.**

14 (a) IN GENERAL.—Section 1890(d)(2) of the Social
15 Security Act (42 U.S.C. 1395aaa(d)(2)) is amended—

16 (1) in the first sentence, by striking “and
17 \$4,830,000 for the period beginning on October 1,
18 2019, and ending on May 22, 2020” and inserting
19 “\$20,000,000 for fiscal year 2020, and for the pe-
20 riod beginning on October 1, 2020, and ending on
21 November 30, 2020, the amount equal to the pro
22 rata portion of the amount appropriated for such pe-
23 riod for fiscal year 2020”; and

24 (2) in the third sentence, by striking “and 2019
25 and for the period beginning on October 1, 2019,

1 and ending on May 22, 2020” and inserting “,
2 2019, and 2020, and for the period beginning on
3 October 1, 2020, and ending on November 30,
4 2020.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall take effect as if included in the enact-
7 ment of the Further Consolidated Appropriations Act,
8 2020 (Public Law 116–94).

9 **SEC. 3803. EXTENSION OF FUNDING OUTREACH AND AS-**
10 **SISTANCE FOR LOW-INCOME PROGRAMS.**

11 (a) FUNDING EXTENSIONS.—

12 (1) ADDITIONAL FUNDING FOR STATE HEALTH
13 INSURANCE PROGRAMS.—Subsection (a)(1)(B) of
14 section 119 of the Medicare Improvements for Pa-
15 tients and Providers Act of 2008 (42 U.S.C. 1395b–
16 3 note), as amended by section 3306 of the Patient
17 Protection and Affordable Care Act (Public Law
18 111–148), section 610 of the American Taxpayer
19 Relief Act of 2012 (Public Law 112–240), section
20 1110 of the Pathway for SGR Reform Act of 2013
21 (Public Law 113–67), section 110 of the Protecting
22 Access to Medicare Act of 2014 (Public Law 113–
23 93), section 208 of the Medicare Access and CHIP
24 Reauthorization Act of 2015 (Public Law 114–10),
25 section 50207 of division E of the Bipartisan Budg-

1 et Act of 2018 (Public Law 115–123), section 1402
2 of division B of the Continuing Appropriations Act,
3 2020, and Health Extenders Act of 2019 (Public
4 Law 116–59), section 1402 of division B of the Fur-
5 ther Continuing Appropriations Act, 2020, and Fur-
6 ther Health Extenders Act of 2019 (Public Law
7 116–69), and section 103 of division N of the Fur-
8 ther Consolidated Appropriations Act, 2020 (Public
9 Law 116–94) is amended by striking clauses (x)
10 through (xii) and inserting the following new
11 clauses:

12 “(x) for fiscal year 2020, of
13 \$13,000,000; and

14 “(xi) for the period beginning on Oc-
15 tober 1, 2020, and ending on November
16 30, 2020, the amount equal to the pro rata
17 portion of the amount appropriated for
18 such period for fiscal year 2020.”.

19 (2) ADDITIONAL FUNDING FOR AREA AGENCIES
20 ON AGING.—Subsection (b)(1)(B) of such section
21 119, as so amended, is amended by striking clauses
22 (x) through (xii) and inserting the following new
23 clauses:

24 “(x) for fiscal year 2020, of
25 \$7,500,000; and

1 “(xi) for the period beginning on Oc-
2 tober 1, 2020, and ending on November
3 30, 2020, the amount equal to the pro rata
4 portion of the amount appropriated for
5 such period for fiscal year 2020.”.

6 (3) ADDITIONAL FUNDING FOR AGING AND DIS-
7 ABILITY RESOURCE CENTERS.—Subsection (c)(1)(B)
8 of such section 119, as so amended, is amended by
9 striking clauses (x) through (xii) and inserting the
10 following new clauses:

11 “(x) for fiscal year 2020, of
12 \$5,000,000; and

13 “(xi) for the period beginning on Oc-
14 tober 1, 2020, and ending on November
15 30, 2020, the amount equal to the pro rata
16 portion of the amount appropriated for
17 such period for fiscal year 2020.”.

18 (4) ADDITIONAL FUNDING FOR CONTRACT
19 WITH THE NATIONAL CENTER FOR BENEFITS AND
20 OUTREACH ENROLLMENT.—Subsection (d)(2) of
21 such section 119, as so amended, is amended by
22 striking clauses (x) through (xii) and inserting the
23 following new clauses:

24 “(x) for fiscal year 2020, of
25 \$12,000,000; and

1 “(xi) for the period beginning on Oc-
2 tober 1, 2020, and ending on November
3 30, 2020, the amount equal to the pro rata
4 portion of the amount appropriated for
5 such period for fiscal year 2020.”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 subsection (a) shall take effect as if included in the enact-
8 ment of the Further Consolidated Appropriations Act,
9 2020 (Public Law 116–94).

10 **PART II—MEDICAID PROVISIONS**

11 **SEC. 3811. EXTENSION OF THE MONEY FOLLOWS THE PER-** 12 **SON REBALANCING DEMONSTRATION PRO-** 13 **GRAM.**

14 Section 6071(h) of the Deficit Reduction Act of 2005
15 (42 U.S.C. 1396a note) is amended—

16 (1) in paragraph (1), by striking subparagraph
17 (G) and inserting the following:

18 “(G) subject to paragraph (3),
19 \$337,500,000 for the period beginning on Jan-
20 uary 1, 2020, and ending on September 30,
21 2020; and

22 “(H) subject to paragraph (3), for the pe-
23 riod beginning on October 1, 2020, and ending
24 on November 30, 2020, the amount equal to

1 the pro rata portion of the amount appropriated
2 for such period for fiscal year 2020.”; and
3 (2) in paragraph (3), by striking “and (G)” and
4 inserting “, (G), and (H)”.

5 **SEC. 3812. EXTENSION OF SPOUSAL IMPOVERISHMENT**
6 **PROTECTIONS.**

7 (a) IN GENERAL.—Section 2404 of Public Law 111–
8 148 (42 U.S.C. 1396r–5 note) is amended by striking
9 “May 22, 2020” and inserting “November 30, 2020”.

10 (b) RULE OF CONSTRUCTION.—Nothing in section
11 2404 of Public Law 111–148 (42 U.S.C. 1396r–5 note)
12 or section 1902(a)(17) or 1924 of the Social Security Act
13 (42 U.S.C. 1396a(a)(17), 1396r–5) shall be construed as
14 prohibiting a State from—

15 (1) applying an income or resource disregard
16 under a methodology authorized under section
17 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2))—

18 (A) to the income or resources of an indi-
19 vidual described in section
20 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C.
21 1396a(a)(10)(A)(ii)(VI)) (including a disregard
22 of the income or resources of such individual’s
23 spouse); or

24 (B) on the basis of an individual’s need for
25 home and community-based services authorized

1 under subsection (c), (d), (i), or (k) of section
2 1915 of such Act (42 U.S.C. 1396n) or under
3 section 1115 of such Act (42 U.S.C. 1315); or
4 (2) disregarding an individual’s spousal income
5 and assets under a plan amendment to provide med-
6 ical assistance for home and community-based serv-
7 ices for individuals by reason of being determined el-
8 igible under section 1902(a)(10)(C) of such Act (42
9 U.S.C. 1396a(a)(10)(C)) or by reason of section
10 1902(f) of such Act (42 U.S.C. 1396a(f)) or other-
11 wise on the basis of a reduction of income based on
12 costs incurred for medical or other remedial care
13 under which the State disregarded the income and
14 assets of the individual’s spouse in determining the
15 initial and ongoing financial eligibility of an indi-
16 vidual for such services in place of the spousal im-
17 poverishment provisions applied under section 1924
18 of such Act (42 U.S.C. 1396r-5).

19 **SEC. 3813. DELAY OF DSH REDUCTIONS.**

20 Section 1923(f)(7)(A) of the Social Security Act (42
21 U.S.C. 1396r-4(f)(7)(A)) is amended—

22 (1) in clause (i), in the matter preceding sub-
23 clause (I), by striking “May 23, 2020, and ending
24 September 30, 2020, and for each of fiscal years
25 2021” and inserting “December 1, 2020, and ending

1 September 30, 2021, and for each of fiscal years
2 2022”; and

3 (2) in clause (ii)—

4 (A) in subclause (I), by striking “May 23,
5 2020, and ending September 30, 2020” and in-
6 serting “December 1, 2020, and ending Sep-
7 tember 30, 2021”; and

8 (B) in subclause (II), by striking “2021”
9 and inserting “2022”.

10 **SEC. 3814. EXTENSION AND EXPANSION OF COMMUNITY**
11 **MENTAL HEALTH SERVICES DEMONSTRA-**
12 **TION PROGRAM.**

13 (a) IN GENERAL.—Section 223(d) of the Protecting
14 Access to Medicare Act of 2014 (42 U.S.C. 1396a note)
15 is amended—

16 (1) in paragraph (3)—

17 (A) by striking “Not more than” and in-
18 serting “Subject to paragraph (8), not more
19 than”; and

20 (B) by striking “May 22, 2020” and in-
21 serting “November 30, 2020”; and

22 (2) by adding at the end the following new
23 paragraph:

24 “(8) ADDITIONAL PROGRAMS.—

1 “(A) IN GENERAL.—Not later than 6
2 months after the date of enactment of this
3 paragraph, in addition to the 8 States selected
4 under paragraph (1), the Secretary shall select
5 2 States to participate in 2-year demonstration
6 programs that meet the requirements of this
7 subsection.

8 “(B) SELECTION OF STATES.—

9 “(i) IN GENERAL.—Subject to clause
10 (ii), in selecting States under this para-
11 graph, the Secretary—

12 “(I) shall select States that—

13 “(aa) were awarded plan-
14 ning grants under subsection (c);
15 and

16 “(bb) applied to participate
17 in the demonstration programs
18 under this subsection under para-
19 graph (1) but, as of the date of
20 enactment of this paragraph,
21 were not selected to participate
22 under paragraph (1); and

23 “(II) shall use the results of the
24 Secretary’s evaluation of each State’s
25 application under paragraph (1) to

1 determine which States to select, and
2 shall not require the submission of
3 any additional application.

4 “(C) REQUIREMENTS FOR SELECTED
5 STATES.—Prior to services being delivered
6 under the demonstration authority in a State
7 selected under this paragraph, the State shall—

8 “(i) submit a plan to monitor certified
9 community behavioral health clinics under
10 the demonstration program to ensure com-
11 pliance with certified community behavioral
12 health criteria during the demonstration
13 period; and

14 “(ii) commit to collecting data, noti-
15 fying the Secretary of any planned changes
16 that would deviate from the prospective
17 payment system methodology outlined in
18 the State’s demonstration application, and
19 obtaining approval from the Secretary for
20 any such change before implementing the
21 change.”.

22 (b) LIMITATION.—Section 223(d)(5) of the Pro-
23 tecting Access to Medicare Act of 2014 (42 U.S.C. 1396a
24 note) is amended—

1 State participates in a demonstration
2 program.”.

3 (c) GAO STUDY AND REPORT ON THE COMMUNITY
4 AND MENTAL HEALTH SERVICES DEMONSTRATION PRO-
5 GRAM.—

6 (1) IN GENERAL.—Not later than 18 months
7 after the date of the enactment of this Act, the
8 Comptroller General of the United States shall sub-
9 mit to the Committee on Energy and Commerce of
10 the House of Representatives and the Committee on
11 Finance of the Senate a report on the community
12 and mental health services demonstration program
13 conducted under section 223 of the Protecting Ac-
14 cess to Medicare Act of 2014 (42 U.S.C. 1396a
15 note) (referred to in this subsection as the “dem-
16 onstration program”).

17 (2) CONTENT OF REPORT.—The report re-
18 quired under paragraph (1) shall include the fol-
19 lowing information:

20 (A) Information on States’ experiences
21 participating in the demonstration program, in-
22 cluding the extent to which States—

23 (i) measure the effects of access to
24 certified community behavioral health clin-

1 Medicaid beneficiaries with mental illness
2 and substance use disorders not served
3 under the demonstration program.

4 (C) Recommendations for improvements to
5 the following:

6 (i) The reporting, accuracy, and vali-
7 dation of encounter data.

8 (ii) Accuracy in payments to certified
9 community behavioral health clinics under
10 State plans or waivers under title XIX of
11 the Social Security Act (42 U.S.C. 1396 et
12 seq.).

13 **PART III—HUMAN SERVICES AND OTHER**
14 **HEALTH PROGRAMS**

15 **SEC. 3821. EXTENSION OF SEXUAL RISK AVOIDANCE EDU-**
16 **CATION PROGRAM.**

17 Section 510 of the Social Security Act (42 U.S.C.
18 710) is amended—

19 (1) in subsection (a)—

20 (A) in paragraph (1), in the matter pre-
21 ceding subparagraph (A)—

22 (i) by striking “and 2019 and for the
23 period beginning October 1, 2019, and
24 ending May 22, 2020” and inserting
25 “through 2020 and for the period begin-

1 ning October 1, 2020, and ending Novem-
2 ber 30, 2020”; and

3 (ii) by striking “fiscal year 2020” and
4 inserting “fiscal year 2021”

5 (B) in paragraph (2)(A)—

6 (i) by striking “and 2019 and for the
7 period beginning October 1, 2019, and
8 ending May 22, 2020” and inserting
9 “through 2020 and for the period begin-
10 ning October 1, 2020, and ending Novem-
11 ber 30, 2020”; and

12 (ii) by striking “fiscal year 2020” and
13 inserting “fiscal year 2021”; and

14 (2) in subsection (f)(1), by striking “and 2019
15 and \$48,287,671 for the period beginning October 1,
16 2019, and ending May 22, 2020” and inserting
17 “through 2020, and for the period beginning on Oc-
18 tober 1, 2020, and ending on November 30, 2020,
19 the amount equal to the pro rata portion of the
20 amount appropriated for such period for fiscal year
21 2020”.

22 **SEC. 3822. EXTENSION OF PERSONAL RESPONSIBILITY**
23 **EDUCATION PROGRAM.**

24 Section 513 of the Social Security Act (42 U.S.C.
25 713) is amended—

1 (1) in subsection (a)(1)—

2 (A) in subparagraph (A), in the matter
3 preceding clause (i), by striking “2019 and for
4 the period beginning October 1, 2019, and end-
5 ing May 22, 2020” and inserting “2020 and for
6 the period beginning October 1, 2020, and end-
7 ing November 30, 2020”;

8 (B) in subparagraph (B)(i), by striking by
9 striking “October 1, 2019, and ending May 22,
10 2020” and inserting “October 1, 2020, and
11 ending November 30, 2020”; and

12 (2) in subsection (f), by striking “2019 and
13 \$48,287,671 for the period beginning October 1,
14 2019, and ending May 22, 2020” and inserting
15 “2020, and for the period beginning on October 1,
16 2020, and ending on November 30, 2020, the
17 amount equal to the pro rata portion of the amount
18 appropriated for such period for fiscal year 2020”.

19 **SEC. 3823. EXTENSION OF DEMONSTRATION PROJECTS TO**
20 **ADDRESS HEALTH PROFESSIONS WORK-**
21 **FORCE NEEDS.**

22 Activities authorized by section 2008 of the Social Se-
23 curity Act shall continue through November 30, 2020, in
24 the manner authorized for fiscal year 2019, and out of
25 any money in the Treasury of the United States not other-

1 wise appropriated, there are hereby appropriated such
2 sums as may be necessary for such purpose. Grants and
3 payments may be made pursuant to this authority through
4 the date so specified at the pro rata portion of the total
5 amount authorized for such activities in fiscal year 2019.

6 **SEC. 3824. EXTENSION OF THE TEMPORARY ASSISTANCE**
7 **FOR NEEDY FAMILIES PROGRAM AND RE-**
8 **LATED PROGRAMS.**

9 Activities authorized by part A of title IV and section
10 1108(b) of the Social Security Act shall continue through
11 November 30, 2020, in the manner authorized for fiscal
12 year 2019, and out of any money in the Treasury of the
13 United States not otherwise appropriated, there are here-
14 by appropriated such sums as may be necessary for such
15 purpose.

16 **PART IV—PUBLIC HEALTH PROVISIONS**

17 **SEC. 3831. EXTENSION FOR COMMUNITY HEALTH CENTERS,**
18 **THE NATIONAL HEALTH SERVICE CORPS,**
19 **AND TEACHING HEALTH CENTERS THAT OP-**
20 **ERATE GME PROGRAMS.**

21 (a) **COMMUNITY HEALTH CENTERS.**—Section
22 10503(b)(1)(F) of the Patient Protection and Affordable
23 Care Act (42 U.S.C. 254b–2(b)(1)(F)) is amended by
24 striking “and \$2,575,342,466 for the period beginning on
25 October 1, 2019, and ending on May 22, 2020” and in-

1 serting “\$4,000,000,000 for fiscal year 2020, and
2 \$668,493,151 for the period beginning on October 1,
3 2020, and ending on November 30, 2020”.

4 (b) NATIONAL HEALTH SERVICE CORPS.—Section
5 10503(b)(2) of the Patient Protection and Affordable
6 Care Act (42 U.S.C. 254b–2(b)(2)) is amended—

7 (1) in subparagraph (F), by striking “and” at
8 the end; and

9 (2) by striking subparagraph (G) and inserting
10 the following:

11 “(G) \$310,000,000 for fiscal year 2020;
12 and

13 “(H) \$51,808,219 for the period beginning
14 on October 1, 2020, and ending on November
15 30, 2020.”.

16 (c) TEACHING HEALTH CENTERS THAT OPERATE
17 GRADUATE MEDICAL EDUCATION PROGRAMS.—Section
18 340H(g)(1) of the Public Health Service Act (42 U.S.C.
19 256h(g)(1)) is amended by striking “and 2019, and
20 \$81,445,205 for the period beginning on October 1, 2019,
21 and ending on May 22, 2020” and inserting “through fis-
22 cal year 2020, and \$21,141,096 for the period beginning
23 on October 1, 2020, and ending on November 30, 2020”.

24 (d) APPLICATION OF PROVISIONS.—Amounts appro-
25 priated pursuant to the amendments made by this section

1 for fiscal year 2020 and for the period beginning on Octo-
2 ber 1, 2020, and ending on November 30, 2020, shall be
3 subject to the requirements contained in Public Law 116–
4 94 for funds for programs authorized under sections 330
5 through 340 of the Public Health Service Act (42 U.S.C.
6 254 through 256).

7 (e) CONFORMING AMENDMENT.—Paragraph (4) of
8 section 3014(h) of title 18, United States Code, as amend-
9 ed by section 401(e) of division N of Public Law 116–
10 94, is amended by striking “section 401(d) of division N
11 of the Further Consolidated Appropriations Act, 2020”
12 and inserting “section 3831 of the CARES Act”.

13 **SEC. 3832. DIABETES PROGRAMS.**

14 (a) TYPE I.—Section 330B(b)(2)(D) of the Public
15 Health Service Act (42 U.S.C. 254c–2(b)(2)(D)) is
16 amended by striking “and 2019, and \$96,575,342 for the
17 period beginning on October 1, 2019, and ending on May
18 22, 2020” and inserting “through 2020, and \$25,068,493
19 for the period beginning on October 1, 2020, and ending
20 on November 30, 2020”.

21 (b) INDIANS.—Section 330C(c)(2)(D) of the Public
22 Health Service Act (42 U.S.C. 254c–3(c)(2)(D)) is
23 amended by striking “and 2019, and \$96,575,342 for the
24 period beginning on October 1, 2019, and ending on May
25 22, 2020” and inserting “through 2020, and \$25,068,493

1 for the period beginning on October 1, 2020, and ending
2 on November 30, 2020”.

3 **PART V—MISCELLANEOUS PROVISIONS**

4 **SEC. 3841. PREVENTION OF DUPLICATE APPROPRIATIONS**
5 **FOR FISCAL YEAR 2020.**

6 Expenditures made under any provision of law
7 amended in this title pursuant to the amendments made
8 by the Continuing Appropriations Act, 2020, and Health
9 Extenders Act of 2019 (Public Law 116–59), the Further
10 Continuing Appropriations Act, 2020, and Further Health
11 Extenders Act of 2019 (Public Law 116-69), and the Fur-
12 ther Consolidated Appropriations Act, 2020 (Public Law
13 116–94) for fiscal year 2020 shall be charged to the appli-
14 cable appropriation or authorization provided by the
15 amendments made by this title to such provision of law
16 for such fiscal year.

17 **Subtitle F—Over-the-Counter**
18 **Drugs**

19 **PART I—OTC DRUG REVIEW**
20 **SEC. 3851. REGULATION OF CERTAIN NONPRESCRIPTION**
21 **DRUGS THAT ARE MARKETED WITHOUT AN**
22 **APPROVED DRUG APPLICATION.**

23 (a) IN GENERAL.—Chapter V of the Federal Food,
24 Drug, and Cosmetic Act is amended by inserting after sec-
25 tion 505F of such Act (21 U.S.C. 355g) the following:

1 **“SEC. 505G. REGULATION OF CERTAIN NONPRESCRIPTION**
2 **DRUGS THAT ARE MARKETED WITHOUT AN**
3 **APPROVED DRUG APPLICATION.**

4 “(a) NONPRESCRIPTION DRUGS MARKETED WITH-
5 OUT AN APPROVED APPLICATION.—Nonprescription
6 drugs marketed without an approved drug application
7 under section 505, as of the date of the enactment of this
8 section, shall be treated in accordance with this sub-
9 section.

10 “(1) DRUGS SUBJECT TO A FINAL MONOGRAPH;
11 CATEGORY I DRUGS SUBJECT TO A TENTATIVE
12 FINAL MONOGRAPH.—A drug is deemed to be gen-
13 erally recognized as safe and effective under section
14 201(p)(1), not a new drug under section 201(p), and
15 not subject to section 503(b)(1), if—

16 “(A) the drug is—

17 “(i) in conformity with the require-
18 ments for nonprescription use of a final
19 monograph issued under part 330 of title
20 21, Code of Federal Regulations (except as
21 provided in paragraph (2)), the general re-
22 quirements for nonprescription drugs, and
23 conditions or requirements under sub-
24 sections (b), (c), and (k); and

25 “(ii) except as permitted by an order
26 issued under subsection (b) or, in the case

1 of a minor change in the drug, in con-
2 formity with an order issued under sub-
3 section (c), in a dosage form that, imme-
4 diately prior to the date of the enactment
5 of this section, has been used to a material
6 extent and for a material time under sec-
7 tion 201(p)(2); or

8 “(B) the drug is—

9 “(i) classified in category I for safety
10 and effectiveness under a tentative final
11 monograph that is the most recently appli-
12 cable proposal or determination issued
13 under part 330 of title 21, Code of Federal
14 Regulations;

15 “(ii) in conformity with the proposed
16 requirements for nonprescription use of
17 such tentative final monograph, any appli-
18 cable subsequent determination by the Sec-
19 retary, the general requirements for non-
20 prescription drugs, and conditions or re-
21 quirements under subsections (b), (c), and
22 (k); and

23 “(iii) except as permitted by an order
24 issued under subsection (b) or, in the case
25 of a minor change in the drug, in con-

1 conformity with an order issued under sub-
2 section (c), in a dosage form that, imme-
3 diately prior to the date of the enactment
4 of this section, has been used to a material
5 extent and for a material time under sec-
6 tion 201(p)(2).

7 “(2) TREATMENT OF SUNSCREEN DRUGS.—
8 With respect to sunscreen drugs subject to this sec-
9 tion, the applicable requirements in terms of con-
10 formity with a final monograph, for purposes of
11 paragraph (1)(A)(i), shall be the requirements speci-
12 fied in part 352 of title 21, Code of Federal Regula-
13 tions, as published on May 21, 1999, beginning on
14 page 27687 of volume 64 of the Federal Register,
15 except that the applicable requirements governing ef-
16 fectiveness and labeling shall be those specified in
17 section 201.327 of title 21, Code of Federal Regula-
18 tions.

19 “(3) CATEGORY III DRUGS SUBJECT TO A TEN-
20 TATIVE FINAL MONOGRAPH; CATEGORY I DRUGS
21 SUBJECT TO PROPOSED MONOGRAPH OR ADVANCE
22 NOTICE OF PROPOSED RULEMAKING.—A drug that
23 is not described in paragraph (1), (2), or (4) is not
24 required to be the subject of an application approved

1 under section 505, and is not subject to section
2 503(b)(1), if—

3 “(A) the drug is—

4 “(i) classified in category III for safe-
5 ty or effectiveness in the preamble of a
6 proposed rule establishing a tentative final
7 monograph that is the most recently appli-
8 cable proposal or determination for such
9 drug issued under part 330 of title 21,
10 Code of Federal Regulations;

11 “(ii) in conformity with—

12 “(I) the conditions of use, includ-
13 ing indication and dosage strength, if
14 any, described for such category III
15 drug in such preamble or in an appli-
16 cable subsequent proposed rule;

17 “(II) the proposed requirements
18 for drugs classified in such tentative
19 final monograph in category I in the
20 most recently proposed rule estab-
21 lishing requirements related to such
22 tentative final monograph and in any
23 final rule establishing requirements
24 that are applicable to the drug; and

1 “(III) the general requirements
2 for nonprescription drugs and condi-
3 tions or requirements under sub-
4 section (b) or (k); and

5 “(iii) in a dosage form that, imme-
6 diately prior to the date of the enactment
7 of this section, had been used to a material
8 extent and for a material time under sec-
9 tion 201(p)(2); or

10 “(B) the drug is—

11 “(i) classified in category I for safety
12 and effectiveness under a proposed mono-
13 graph or advance notice of proposed rule-
14 making that is the most recently applicable
15 proposal or determination for such drug
16 issued under part 330 of title 21, Code of
17 Federal Regulations;

18 “(ii) in conformity with the require-
19 ments for nonprescription use of such pro-
20 posed monograph or advance notice of pro-
21 posed rulemaking, any applicable subse-
22 quent determination by the Secretary, the
23 general requirements for nonprescription
24 drugs, and conditions or requirements
25 under subsection (b) or (k); and

1 “(iii) in a dosage form that, imme-
2 diately prior to the date of the enactment
3 of this section, has been used to a material
4 extent and for a material time under sec-
5 tion 201(p)(2).

6 “(4) CATEGORY II DRUGS DEEMED NEW
7 DRUGS.—A drug that is classified in category II for
8 safety or effectiveness under a tentative final mono-
9 graph or that is subject to a determination to be not
10 generally recognized as safe and effective in a pro-
11 posed rule that is the most recently applicable pro-
12 posal issued under part 330 of title 21, Code of Fed-
13 eral Regulations, shall be deemed to be a new drug
14 under section 201(p), misbranded under section
15 502(ee), and subject to the requirement for an ap-
16 proved new drug application under section 505 be-
17 ginning on the day that is 180 calendar days after
18 the date of the enactment of this section, unless, be-
19 fore such day, the Secretary determines that it is in
20 the interest of public health to extend the period
21 during which the drug may be marketed without
22 such an approved new drug application.

23 “(5) DRUGS NOT GRASE DEEMED NEW
24 DRUGS.—A drug that the Secretary has determined
25 not to be generally recognized as safe and effective

1 under section 201(p)(1) under a final determination
2 issued under part 330 of title 21, Code of Federal
3 Regulations, shall be deemed to be a new drug under
4 section 201(p), misbranded under section 502(ee),
5 and subject to the requirement for an approved new
6 drug application under section 505.

7 “(6) OTHER DRUGS DEEMED NEW DRUGS.—
8 Except as provided in subsection (m), a drug is
9 deemed to be a new drug under section 201(p) and
10 misbranded under section 502(ee) if the drug—

11 “(A) is not subject to section 503(b)(1);
12 and

13 “(B) is not described in paragraph (1),
14 (2), (3), (4), or (5), or subsection (b)(1)(B).

15 “(b) ADMINISTRATIVE ORDERS.—

16 “(1) IN GENERAL.—

17 “(A) DETERMINATION.—The Secretary
18 may, on the initiative of the Secretary or at the
19 request of one or more requestors, issue an ad-
20 ministrative order determining whether there
21 are conditions under which a specific drug, a
22 class of drugs, or a combination of drugs, is de-
23 termined to be—

24 “(i) not subject to section 503(b)(1);
25 and

1 “(ii) generally recognized as safe and
2 effective under section 201(p)(1).

3 “(B) EFFECT.—A drug or combination of
4 drugs shall be deemed to not require approval
5 under section 505 if such drug or combination
6 of drugs—

7 “(i) is determined by the Secretary to
8 meet the conditions specified in clauses (i)
9 and (ii) of subparagraph (A);

10 “(ii) is marketed in conformity with
11 an administrative order under this sub-
12 section;

13 “(iii) meets the general requirements
14 for nonprescription drugs; and

15 “(iv) meets the requirements under
16 subsections (c) and (k).

17 “(C) STANDARD.—The Secretary shall find
18 that a drug is not generally recognized as safe
19 and effective under section 201(p)(1) if—

20 “(i) the evidence shows that the drug
21 is not generally recognized as safe and ef-
22 fective under section 201(p)(1); or

23 “(ii) the evidence is inadequate to
24 show that the drug is generally recognized

1 as safe and effective under section
2 201(p)(1).

3 “(2) ADMINISTRATIVE ORDERS INITIATED BY
4 THE SECRETARY.—

5 “(A) IN GENERAL.—In issuing an adminis-
6 trative order under paragraph (1) upon the
7 Secretary’s initiative, the Secretary shall—

8 “(i) make reasonable efforts to notify
9 informally, not later than 2 business days
10 before the issuance of the proposed order,
11 the sponsors of drugs who have a listing in
12 effect under section 510(j) for the drugs or
13 combination of drugs that will be subject
14 to the administrative order;

15 “(ii) after any such reasonable efforts
16 of notification—

17 “(I) issue a proposed administra-
18 tive order by publishing it on the
19 website of the Food and Drug Admin-
20 istration and include in such order the
21 reasons for the issuance of such order;
22 and

23 “(II) publish a notice of avail-
24 ability of such proposed order in the
25 Federal Register;

1 “(iii) except as provided in subpara-
2 graph (B), provide for a public comment
3 period with respect to such proposed order
4 of not less than 45 calendar days; and

5 “(iv) if, after completion of the pro-
6 ceedings specified in clauses (i) through
7 (iii), the Secretary determines that it is ap-
8 propriate to issue a final administrative
9 order—

10 “(I) issue the final administrative
11 order, together with a detailed state-
12 ment of reasons, which order shall not
13 take effect until the time for request-
14 ing judicial review under paragraph
15 (3)(D)(ii) has expired;

16 “(II) publish a notice of such
17 final administrative order in the Fed-
18 eral Register;

19 “(III) afford requestors of drugs
20 that will be subject to such order the
21 opportunity for formal dispute resolu-
22 tion up to the level of the Director of
23 the Center for Drug Evaluation and
24 Research, which initially must be re-
25 quested within 45 calendar days of

1 the issuance of the order, and, for
2 subsequent levels of appeal, within 30
3 calendar days of the prior decision;
4 and

5 “(IV) except with respect to
6 drugs described in paragraph (3)(B),
7 upon completion of the formal dispute
8 resolution procedure, inform the per-
9 sons which sought such dispute reso-
10 lution of their right to request a hear-
11 ing.

12 “(B) EXCEPTIONS.—When issuing an ad-
13 ministrative order under paragraph (1) on the
14 Secretary’s initiative proposing to determine
15 that a drug described in subsection (a)(3) is not
16 generally recognized as safe and effective under
17 section 201(p)(1), the Secretary shall follow the
18 procedures in subparagraph (A), except that—

19 “(i) the proposed order shall include
20 notice of—

21 “(I) the general categories of
22 data the Secretary has determined
23 necessary to establish that the drug is
24 generally recognized as safe and effec-
25 tive under section 201(p)(1); and

1 “(II) the format for submissions
2 by interested persons;

3 “(ii) the Secretary shall provide for a
4 public comment period of no less than 180
5 calendar days with respect to such pro-
6 posed order, except when the Secretary de-
7 termines, for good cause, that a shorter pe-
8 riod is in the interest of public health; and

9 “(iii) any person who submits data in
10 such comment period shall include a cer-
11 tification that the person has submitted all
12 evidence created, obtained, or received by
13 that person that is both within the cat-
14 egories of data identified in the proposed
15 order and relevant to a determination as to
16 whether the drug is generally recognized as
17 safe and effective under section 201(p)(1).

18 “(3) HEARINGS; JUDICIAL REVIEW.—

19 “(A) IN GENERAL.—Only a person who
20 participated in each stage of formal dispute res-
21 olution under subclause (III) of paragraph
22 (2)(A)(iv) of an administrative order with re-
23 spect to a drug may request a hearing con-
24 cerning a final administrative order issued
25 under such paragraph with respect to such

1 drug. If a hearing is sought, such person must
2 submit a request for a hearing, which shall be
3 based solely on information in the administra-
4 tive record, to the Secretary not later than 30
5 calendar days after receiving notice of the final
6 decision of the formal dispute resolution proce-
7 dure.

8 “(B) NO HEARING REQUIRED WITH RE-
9 SPECT TO ORDERS RELATING TO CERTAIN
10 DRUGS.—

11 “(i) IN GENERAL.—The Secretary
12 shall not be required to provide notice and
13 an opportunity for a hearing pursuant to
14 paragraph (2)(A)(iv) if the final adminis-
15 trative order involved relates to a drug—

16 “(I) that is described in sub-
17 section (a)(3)(A); and

18 “(II) with respect to which no
19 human or non-human data studies rel-
20 evant to the safety or effectiveness of
21 such drug have been submitted to the
22 administrative record since the
23 issuance of the most recent tentative
24 final monograph relating to such
25 drug.

1 “(ii) HUMAN DATA STUDIES AND
2 NON-HUMAN DATA DEFINED.—In this sub-
3 paragraph:

4 “(I) The term ‘human data stud-
5 ies’ means clinical trials of safety or
6 effectiveness (including actual use
7 studies), pharmacokinetics studies, or
8 bioavailability studies.

9 “(II) The term ‘non-human data’
10 means data from testing other than
11 with human subjects which provides
12 information concerning safety or ef-
13 fectiveness.

14 “(C) HEARING PROCEDURES.—

15 “(i) DENIAL OF REQUEST FOR HEAR-
16 ING.—If the Secretary determines that in-
17 formation submitted in a request for a
18 hearing under subparagraph (A) with re-
19 spect to a final administrative order issued
20 under paragraph (2)(A)(iv) does not iden-
21 tify the existence of a genuine and sub-
22 stantial question of material fact, the Sec-
23 retary may deny such request. In making
24 such a determination, the Secretary may
25 consider only information and data that

1 are based on relevant and reliable scientific
2 principles and methodologies.

3 “(ii) SINGLE HEARING FOR MULTIPLE
4 RELATED REQUESTS.—If more than one
5 request for a hearing is submitted with re-
6 spect to the same administrative order
7 under subparagraph (A), the Secretary
8 may direct that a single hearing be con-
9 ducted in which all persons whose hearing
10 requests were granted may participate.

11 “(iii) PRESIDING OFFICER.—The pre-
12 siding officer of a hearing requested under
13 subparagraph (A) shall—

14 “(I) be designated by the Sec-
15 retary;

16 “(II) not be an employee of the
17 Center for Drug Evaluation and Re-
18 search; and

19 “(III) not have been previously
20 involved in the development of the ad-
21 ministrative order involved or pro-
22 ceedings relating to that administra-
23 tive order.

24 “(iv) RIGHTS OF PARTIES TO HEAR-
25 ING.—The parties to a hearing requested

1 under subparagraph (A) shall have the
2 right to present testimony, including testi-
3 mony of expert witnesses, and to cross-ex-
4 amine witnesses presented by other parties.
5 Where appropriate, the presiding officer
6 may require that cross-examination by par-
7 ties representing substantially the same in-
8 terests be consolidated to promote effi-
9 ciency and avoid duplication.

10 “(v) FINAL DECISION.—

11 “(I) At the conclusion of a hear-
12 ing requested under subparagraph
13 (A), the presiding officer of the hear-
14 ing shall issue a decision containing
15 findings of fact and conclusions of
16 law. The decision of the presiding offi-
17 cer shall be final.

18 “(II) The final decision may not
19 take effect until the period under sub-
20 paragraph (D)(ii) for submitting a re-
21 quest for judicial review of such deci-
22 sion expires.

23 “(D) JUDICIAL REVIEW OF FINAL ADMIN-
24 ISTRATIVE ORDER.—

1 “(III) the date on which a final
2 decision is made following a hearing
3 under subparagraph (C)(v); or

4 “(IV) if no hearing is requested,
5 the date on which the time for re-
6 questing a hearing expires.

7 “(4) EXPEDITED PROCEDURE WITH RESPECT
8 TO ADMINISTRATIVE ORDERS INITIATED BY THE
9 SECRETARY.—

10 “(A) IMMINENT HAZARD TO THE PUBLIC
11 HEALTH.—

12 “(i) IN GENERAL.—In the case of a
13 determination by the Secretary that a
14 drug, class of drugs, or combination of
15 drugs subject to this section poses an im-
16 minent hazard to the public health, the
17 Secretary, after first making reasonable ef-
18 forts to notify, not later than 48 hours be-
19 fore issuance of such order under this sub-
20 paragraph, sponsors who have a listing in
21 effect under section 510(j) for such drug
22 or combination of drugs—

23 “(I) may issue an interim final
24 administrative order for such drug,
25 class of drugs, or combination of

1 drugs under paragraph (1), together
2 with a detailed statement of the rea-
3 sons for such order;

4 “(II) shall publish in the Federal
5 Register a notice of availability of any
6 such order; and

7 “(III) shall provide for a public
8 comment period of at least 45 cal-
9 endar days with respect to such in-
10 terim final order.

11 “(ii) NONDELEGATION.—The Sec-
12 retary may not delegate the authority to
13 issue an interim final administrative order
14 under this subparagraph.

15 “(B) SAFETY LABELING CHANGES.—

16 “(i) IN GENERAL.—In the case of a
17 determination by the Secretary that a
18 change in the labeling of a drug, class of
19 drugs, or combination of drugs subject to
20 this section is reasonably expected to miti-
21 gate a significant or unreasonable risk of
22 a serious adverse event associated with use
23 of the drug, the Secretary may—

24 “(I) make reasonable efforts to
25 notify informally, not later than 48

1 hours before the issuance of the in-
2 terim final order, the sponsors of
3 drugs who have a listing in effect
4 under section 510(j) for such drug or
5 combination of drugs;

6 “(II) after reasonable efforts of
7 notification, issue an interim final ad-
8 ministrative order in accordance with
9 paragraph (1) to require such change,
10 together with a detailed statement of
11 the reasons for such order;

12 “(III) publish in the Federal
13 Register a notice of availability of
14 such order; and

15 “(IV) provide for a public com-
16 ment period of at least 45 calendar
17 days with respect to such interim final
18 order.

19 “(ii) CONTENT OF ORDER.—An in-
20 terim final order issued under this sub-
21 paragraph with respect to the labeling of a
22 drug may provide for new warnings and
23 other information required for safe use of
24 the drug.

1 “(C) EFFECTIVE DATE.—An order under
2 subparagraph (A) or (B) shall take effect on a
3 date specified by the Secretary.

4 “(D) FINAL ORDER.—After the completion
5 of the proceedings in subparagraph (A) or (B),
6 the Secretary shall—

7 “(i) issue a final order in accordance
8 with paragraph (1);

9 “(ii) publish a notice of availability of
10 such final administrative order in the Fed-
11 eral Register; and

12 “(iii) afford sponsors of such drugs
13 that will be subject to such an order the
14 opportunity for formal dispute resolution
15 up to the level of the Director of the Cen-
16 ter for Drug Evaluation and Research,
17 which must initially be within 45 calendar
18 days of the issuance of the order, and for
19 subsequent levels of appeal, within 30 cal-
20 endar days of the prior decision.

21 “(E) HEARINGS.—A sponsor of a drug
22 subject to a final order issued under subpara-
23 graph (D) and that participated in each stage
24 of formal dispute resolution under clause (iii) of
25 such subparagraph may request a hearing on

1 such order. The provisions of subparagraphs
2 (A), (B), and (C) of paragraph (3), other than
3 paragraph (3)(C)(v)(II), shall apply with re-
4 spect to a hearing on such order in the same
5 manner and to the same extent as such provi-
6 sions apply with respect to a hearing on an ad-
7 ministrative order issued under paragraph
8 (2)(A)(iv).

9 “(F) TIMING.—

10 “(i) FINAL ORDER AND HEARING.—

11 The Secretary shall—

12 “(I) not later than 6 months
13 after the date on which the comment
14 period closes under subparagraph (A)
15 or (B), issue a final order in accord-
16 ance with paragraph (1); and

17 “(II) not later than 12 months
18 after the date on which such final
19 order is issued, complete any hearing
20 under subparagraph (E).

21 “(ii) DISPUTE RESOLUTION RE-
22 QUEST.—The Secretary shall specify in an
23 interim final order issued under subpara-
24 graph (A) or (B) such shorter periods for
25 requesting dispute resolution under sub-

1 paragraph (D)(iii) as are necessary to
2 meet the requirements of this subpara-
3 graph.

4 “(G) JUDICIAL REVIEW.—A final order
5 issued pursuant to subparagraph (F) shall be
6 subject to judicial review in accordance with
7 paragraph (3)(D).

8 “(5) ADMINISTRATIVE ORDER INITIATED AT
9 THE REQUEST OF A REQUESTOR.—

10 “(A) IN GENERAL.—In issuing an adminis-
11 trative order under paragraph (1) at the re-
12 quest of a requestor with respect to certain
13 drugs, classes of drugs, or combinations of
14 drugs—

15 “(i) the Secretary shall, after receiv-
16 ing a request under this subparagraph, de-
17 termine whether the request is sufficiently
18 complete and formatted to permit a sub-
19 stantive review;

20 “(ii) if the Secretary determines that
21 the request is sufficiently complete and for-
22 matted to permit a substantive review, the
23 Secretary shall—

24 “(I) file the request; and

1 “(II) initiate proceedings with re-
2 spect to issuing an administrative
3 order in accordance with paragraphs
4 (2) and (3); and

5 “(iii) except as provided in paragraph
6 (6), if the Secretary determines that a re-
7 quest does not meet the requirements for
8 filing or is not sufficiently complete and
9 formatted to permit a substantive review,
10 the requestor may demand that the request
11 be filed over protest, and the Secretary
12 shall initiate proceedings to review the re-
13 quest in accordance with paragraph (2)(A).

14 “(B) REQUEST TO INITIATE PRO-
15 CEEDINGS.—

16 “(i) IN GENERAL.—A requestor seek-
17 ing an administrative order under para-
18 graph (1) with respect to certain drugs,
19 classes of drugs, or combinations of drugs,
20 shall submit to the Secretary a request to
21 initiate proceedings for such order in the
22 form and manner as specified by the Sec-
23 retary. Such requestor may submit a re-
24 quest under this subparagraph for the
25 issuance of an administrative order—

1 “(I) determining whether a drug
2 is generally recognized as safe and ef-
3 fective under section 201(p)(1), ex-
4 empt from section 503(b)(1), and not
5 required to be the subject of an ap-
6 proved application under section 505;
7 or

8 “(II) determining whether a
9 change to a condition of use of a drug
10 is generally recognized as safe and ef-
11 fective under section 201(p)(1), ex-
12 empt from section 503(b)(1), and not
13 required to be the subject of an ap-
14 proved application under section 505,
15 if, absent such a changed condition of
16 use, such drug is—

17 “(aa) generally recognized
18 as safe and effective under sec-
19 tion 201(p)(1) in accordance with
20 subsection (a)(1), (a)(2), or an
21 order under this subsection; or

22 “(bb) subject to subsection
23 (a)(3), but only if such requestor
24 initiates such request in conjunc-
25 tion with a request for the Sec-

1 retary to determine whether such
2 drug is generally recognized as
3 safe and effective under section
4 201(p)(1), which is filed by the
5 Secretary under subparagraph
6 (A)(ii).

7 “(ii) EXCEPTION.—The Secretary is
8 not required to complete review of a re-
9 quest for a change described in clause
10 (i)(II) if the Secretary determines that
11 there is an inadequate basis to find the
12 drug is generally recognized as safe and ef-
13 fective under section 201(p)(1) under para-
14 graph (1) and issues a final order an-
15 nouncing that determination.

16 “(iii) WITHDRAWAL.—The requestor
17 may withdraw a request under this para-
18 graph, according to the procedures set
19 forth pursuant to subsection (d)(2)(B).
20 Notwithstanding any other provision of
21 this section, if such request is withdrawn,
22 the Secretary may cease proceedings under
23 this subparagraph.

24 “(C) EXCLUSIVITY.—

1 “(II) provides for a change in the
2 conditions of use of a drug, for which
3 new human data studies conducted or
4 sponsored by the requestor (or for
5 which the requestor has an exclusive
6 right of reference) were essential to
7 the issuance of such order.

8 “(iii) DRUGS DESCRIBED.—The drugs
9 described in this clause are drugs—

10 “(I) specified in subsection
11 (a)(1), (a)(2), or (a)(3);

12 “(II) subject to a final order
13 issued under this section;

14 “(III) subject to a final sun-
15 screen order (as defined in section
16 586(2)(A)); or

17 “(IV) described in subsection
18 (m)(1), other than drugs subject to an
19 active enforcement action under chap-
20 ter III of this Act.

21 “(iv) LIMITATIONS ON EXCLU-
22 SIVITY.—

23 “(I) IN GENERAL.—Only one 18-
24 month period under this subpara-
25 graph shall be granted, under each

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1 order described in clause (i), with re-
2 spect to changes (to the drug subject
3 to such order) which are either—

4 “(aa) changes described in
5 clause (ii)(I), relating to active
6 ingredients; or

7 “(bb) changes described in
8 clause (ii)(II), relating to condi-
9 tions of use.

10 “(II) NO EXCLUSIVITY AL-
11 LOWED.—No exclusivity shall apply to
12 changes to a drug which are—

13 “(aa) the subject of a Tier 2
14 OTC monograph order request
15 (as defined in section 744L);

16 “(bb) safety-related changes,
17 as defined by the Secretary, or
18 any other changes the Secretary
19 considers necessary to assure
20 safe use; or

21 “(cc) changes related to
22 methods of testing safety or effi-
23 cacy.

24 “(v) NEW HUMAN DATA STUDIES DE-
25 FINED.—In this subparagraph, the term

1 ‘new human data studies’ means clinical
2 trials of safety or effectiveness (including
3 actual use studies), pharmacokinetics stud-
4 ies, or bioavailability studies, the results of
5 which—

6 “(I) have not been relied on by
7 the Secretary to support—

8 “(aa) a proposed or final de-
9 termination that a drug described
10 in subclause (I), (II), or (III) of
11 clause (iii) is generally recognized
12 as safe and effective under sec-
13 tion 201(p)(1); or

14 “(bb) approval of a drug
15 that was approved under section
16 505; and

17 “(II) do not duplicate the results
18 of another study that was relied on by
19 the Secretary to support—

20 “(aa) a proposed or final de-
21 termination that a drug described
22 in subclause (I), (II), or (III) of
23 clause (iii) is generally recognized
24 as safe and effective under sec-
25 tion 201(p)(1); or

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1 “(bb) approval of a drug
2 that was approved under section
3 505.

4 “(vi) NOTIFICATION OF DRUG NOT
5 AVAILABLE FOR SALE.—A requestor that
6 is granted exclusivity with respect to a
7 drug under this subparagraph shall notify
8 the Secretary in writing within 1 year of
9 the issuance of the final administrative
10 order if the drug that is the subject of
11 such order will not be available for sale
12 within 1 year of the date of issuance of
13 such order. The requestor shall include
14 with such notice the—

15 “(I) identity of the drug by es-
16 tablished name and by proprietary
17 name, if any;

18 “(II) strength of the drug;

19 “(III) date on which the drug
20 will be available for sale, if known;
21 and

22 “(IV) reason for not marketing
23 the drug after issuance of the order.

24 “(6) INFORMATION REGARDING SAFE NON-
25 PRESCRIPTION MARKETING AND USE AS CONDITION

1 FOR FILING A GENERALLY RECOGNIZED AS SAFE
2 AND EFFECTIVE REQUEST.—

3 “(A) IN GENERAL.—In response to a re-
4 quest under this section that a drug described
5 in subparagraph (B) be generally recognized as
6 safe and effective, the Secretary—

7 “(i) may file such request, if the re-
8 quest includes information specified under
9 subparagraph (C) with respect to safe non-
10 prescription marketing and use of such
11 drug; or

12 “(ii) if the request fails to include in-
13 formation specified under subparagraph
14 (C), shall refuse to file such request and
15 require that nonprescription marketing of
16 the drug be pursuant to a new drug appli-
17 cation as described in subparagraph (D).

18 “(B) DRUG DESCRIBED.—A drug de-
19 scribed in this subparagraph is a nonprescrip-
20 tion drug which contains an active ingredient
21 not previously incorporated in a drug—

22 “(i) specified in subsection (a)(1),
23 (a)(2), or (a)(3);

24 “(ii) subject to a final order under
25 this section; or

1 “(iii) subject to a final sunscreen
2 order (as defined in section 586(2)(A)).

3 “(C) INFORMATION DEMONSTRATING
4 PRIMA FACIE SAFE NONPRESCRIPTION MAR-
5 KETING AND USE.—Information specified in
6 this subparagraph, with respect to a request de-
7 scribed in subparagraph (A)(i), is—

8 “(i) information sufficient for a prima
9 facie demonstration that the drug subject
10 to such request has a verifiable history of
11 being marketed and safely used by con-
12 sumers in the United States as a non-
13 prescription drug under comparable condi-
14 tions of use;

15 “(ii) if the drug has not been pre-
16 viously marketed in the United States as a
17 nonprescription drug, information suffi-
18 cient for a prima facie demonstration that
19 the drug was marketed and safely used
20 under comparable conditions of marketing
21 and use in a country listed in section
22 802(b)(1)(A) or designated by the Sec-
23 retary in accordance with section
24 802(b)(1)(B)—

1 “(I) for such period as needed to
2 provide reasonable assurances con-
3 cerning the safe nonprescription use
4 of the drug; and

5 “(II) during such time was sub-
6 ject to sufficient monitoring by a reg-
7 ulatory body considered acceptable by
8 the Secretary for such monitoring
9 purposes, including for adverse events
10 associated with nonprescription use of
11 the drug; or

12 “(iii) if the Secretary determines that
13 information described in clause (i) or (ii) is
14 not needed to provide a prima facie dem-
15 onstration that the drug can be safely mar-
16 keted and used as a nonprescription drug,
17 such other information the Secretary deter-
18 mines is sufficient for such purposes.

19 “(D) MARKETING PURSUANT TO NEW
20 DRUG APPLICATION.—In the case of a request
21 described in subparagraph (A)(ii), the drug
22 subject to such request may be resubmitted for
23 filing only if—

24 “(i) the drug is marketed as a non-
25 prescription drug, under conditions of use

1 comparable to the conditions specified in
2 the request, for such period as the Sec-
3 retary determines appropriate (not to ex-
4 ceed 5 consecutive years) pursuant to an
5 application approved under section 505;
6 and

7 “(ii) during such period, 1,000,000
8 retail packages of the drug, or an equiva-
9 lent quantity as determined by the Sec-
10 retary, were distributed for retail sale, as
11 determined in such manner as the Sec-
12 retary finds appropriate.

13 “(E) RULE OF APPLICATION.—Except in
14 the case of a request involving a drug described
15 in section 586(9), as in effect on January 1,
16 2017, if the Secretary refuses to file a request
17 under this paragraph, the requestor may not
18 file such request over protest under paragraph
19 (5)(A)(iii).

20 “(7) PACKAGING.—An administrative order
21 issued under paragraph (2), (4)(A), or (5) may in-
22 clude requirements for the packaging of a drug to
23 encourage use in accordance with labeling. Such re-
24 quirements may include unit dose packaging, re-
25 quirements for products intended for use by pedi-

1 atric populations, requirements to reduce risk of
2 harm from unsupervised ingestion, and other appro-
3 priate requirements. This paragraph does not au-
4 thorize the Food and Drug Administration to re-
5 quire standards or testing procedures as described in
6 part 1700 of title 16, Code of Federal Regulations.

7 “(8) FINAL AND TENTATIVE FINAL MONO-
8 GRAPHS FOR CATEGORY I DRUGS DEEMED FINAL
9 ADMINISTRATIVE ORDERS.—

10 “(A) IN GENERAL.—A final monograph or
11 tentative final monograph described in subpara-
12 graph (B) shall be deemed to be a final admin-
13 istrative order under this subsection and may
14 be amended, revoked, or otherwise modified in
15 accordance with the procedures of this sub-
16 section.

17 “(B) MONOGRAPHS DESCRIBED.—For pur-
18 poses of subparagraph (A), a final monograph
19 or tentative final monograph is described in this
20 subparagraph if it—

21 “(i) establishes conditions of use for a
22 drug described in paragraph (1) or (2) of
23 subsection (a); and

24 “(ii) represents the most recently pro-
25 mulgated version of such conditions, in-

1 cluding as modified, in whole or in part, by
2 any proposed or final rule.

3 “(C) DEEMED ORDERS INCLUDE HARMO-
4 NIZING TECHNICAL AMENDMENTS.—The
5 deemed establishment of a final administrative
6 order under subparagraph (A) shall be con-
7 strued to include any technical amendments to
8 such order as the Secretary determines nec-
9 essary to ensure that such order is appro-
10 priately harmonized, in terms of terminology or
11 cross-references, with the applicable provisions
12 of this Act (and regulations thereunder) and
13 any other orders issued under this section.

14 “(c) PROCEDURE FOR MINOR CHANGES.—

15 “(1) IN GENERAL.—Minor changes in the dos-
16 age form of a drug that is described in paragraph
17 (1) or (2) of subsection (a) or the subject of an
18 order issued under subsection (b) may be made by
19 a requestor without the issuance of an order under
20 subsection (b) if—

21 “(A) the requestor maintains such infor-
22 mation as is necessary to demonstrate that the
23 change—

24 “(i) will not affect the safety or effec-
25 tiveness of the drug; and

1 “(ii) will not materially affect the ex-
2 tent of absorption or other exposure to the
3 active ingredient in comparison to a suit-
4 able reference product; and

5 “(B) the change is in conformity with the
6 requirements of an applicable administrative
7 order issued by the Secretary under paragraph
8 (3).

9 “(2) ADDITIONAL INFORMATION.—

10 “(A) ACCESS TO RECORDS.—A sponsor
11 shall submit records requested by the Secretary
12 relating to such a minor change under section
13 704(a)(4), within 15 business days of receiving
14 such a request, or such longer period as the
15 Secretary may provide.

16 “(B) INSUFFICIENT INFORMATION.—If the
17 Secretary determines that the information con-
18 tained in such records is not sufficient to dem-
19 onstrate that the change does not affect the
20 safety or effectiveness of the drug or materially
21 affect the extent of absorption or other expo-
22 sure to the active ingredient, the Secretary—

23 “(i) may so inform the sponsor of the
24 drug in writing; and

1 “(ii) if the Secretary so informs the
2 sponsor, shall provide the sponsor of the
3 drug with a reasonable opportunity to pro-
4 vide additional information.

5 “(C) FAILURE TO SUBMIT SUFFICIENT IN-
6 FORMATION.—If the sponsor fails to provide
7 such additional information within a time pre-
8 scribed by the Secretary, or if the Secretary de-
9 termines that such additional information does
10 not demonstrate that the change does not—

11 “(i) affect the safety or effectiveness
12 of the drug; or

13 “(ii) materially affect the extent of
14 absorption or other exposure to the active
15 ingredient in comparison to a suitable ref-
16 erence product,

17 the drug as modified is a new drug under sec-
18 tion 201(p) and shall be deemed to be mis-
19 branded under section 502(ee).

20 “(3) DETERMINING WHETHER A CHANGE WILL
21 AFFECT SAFETY OR EFFECTIVENESS.—

22 “(A) IN GENERAL.—The Secretary shall
23 issue one or more administrative orders speci-
24 fying requirements for determining whether a
25 minor change made by a sponsor pursuant to

1 this subsection will affect the safety or effective-
2 ness of a drug or materially affect the extent of
3 absorption or other exposure to an active ingre-
4 dient in the drug in comparison to a suitable
5 reference product, together with guidance for
6 applying those orders to specific dosage forms.

7 “(B) STANDARD PRACTICES.—The orders
8 and guidance issued by the Secretary under
9 subparagraph (A) shall take into account rel-
10 evant public standards and standard practices
11 for evaluating the quality of drugs, and may
12 take into account the special needs of popu-
13 lations, including children.

14 “(d) CONFIDENTIALITY OF INFORMATION SUB-
15 MITTED TO THE SECRETARY.—

16 “(1) IN GENERAL.—Subject to paragraph (2),
17 any information, including reports of testing con-
18 ducted on the drug or drugs involved, that is sub-
19 mitted by a requestor in connection with proceedings
20 on an order under this section (including any minor
21 change under subsection (c)) and is a trade secret
22 or confidential information subject to section
23 552(b)(4) of title 5, United States Code, or section
24 1905 of title 18, United States Code, shall not be

1 disclosed to the public unless the requestor consents
2 to that disclosure.

3 “(2) PUBLIC AVAILABILITY.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), the Secretary shall—

6 “(i) make any information submitted
7 by a requestor in support of a request
8 under subsection (b)(5)(A) available to the
9 public not later than the date on which the
10 proposed order is issued; and

11 “(ii) make any information submitted
12 by any other person with respect to an
13 order requested (or initiated by the Sec-
14 retary) under subsection (b), available to
15 the public upon such submission.

16 “(B) LIMITATIONS ON PUBLIC AVAIL-
17 ABILITY.—Information described in subpara-
18 graph (A) shall not be made public if—

19 “(i) the information pertains to phar-
20 maceutical quality information, unless such
21 information is necessary to establish stand-
22 ards under which a drug is generally rec-
23 ognized as safe and effective under section
24 201(p)(1);

1 “(ii) the information is submitted in a
2 requestor-initiated request, but the re-
3 questor withdraws such request, in accord-
4 ance with withdrawal procedures estab-
5 lished by the Secretary, before the Sec-
6 retary issues the proposed order;

7 “(iii) the Secretary requests and ob-
8 tains the information under subsection (c)
9 and such information is not submitted in
10 relation to an order under subsection (b);
11 or

12 “(iv) the information is of the type
13 contained in raw datasets.

14 “(e) UPDATES TO DRUG LISTING INFORMATION.—
15 A sponsor who makes a change to a drug subject to this
16 section shall submit updated drug listing information for
17 the drug in accordance with section 510(j) within 30 cal-
18 endar days of the date when the drug is first commercially
19 marketed, except that a sponsor who was the order re-
20 questor with respect to an order subject to subsection
21 (b)(5)(C) (or a licensee, assignee, or successor in interest
22 of such requestor) shall submit updated drug listing infor-
23 mation on or before the date when the drug is first com-
24 mercially marketed.

1 “(f) APPROVALS UNDER SECTION 505.—The provi-
2 sions of this section shall not be construed to preclude a
3 person from seeking or maintaining the approval of an ap-
4 plication for a drug under sections 505(b)(1), 505(b)(2),
5 and 505(j). A determination under this section that a drug
6 is not subject to section 503(b)(1), is generally recognized
7 as safe and effective under section 201(p)(1), and is not
8 a new drug under section 201(p) shall constitute a finding
9 that the drug is safe and effective that may be relied upon
10 for purposes of an application under section 505(b)(2), so
11 that the applicant shall be required to submit for purposes
12 of such application only information needed to support any
13 modification of the drug that is not covered by such deter-
14 mination under this section.

15 “(g) PUBLIC AVAILABILITY OF ADMINISTRATIVE OR-
16 DERS.—The Secretary shall establish, maintain, update
17 (as determined necessary by the Secretary but no less fre-
18 quently than annually), and make publicly available, with
19 respect to orders issued under this section—

20 “(1) a repository of each final order and in-
21 terim final order in effect, including the complete
22 text of the order; and

23 “(2) a listing of all orders proposed and under
24 development under subsection (b)(2), including—

1 “(A) a brief description of each such order;
2 and

3 “(B) the Secretary’s expectations, if re-
4 sources permit, for issuance of proposed orders
5 over a 3-year period.

6 “(h) DEVELOPMENT ADVICE TO SPONSORS OR RE-
7 QUESTORS.—The Secretary shall establish procedures
8 under which sponsors or requestors may meet with appro-
9 priate officials of the Food and Drug Administration to
10 obtain advice on the studies and other information nec-
11 essary to support submissions under this section and other
12 matters relevant to the regulation of nonprescription
13 drugs and the development of new nonprescription drugs
14 under this section.

15 “(i) PARTICIPATION OF MULTIPLE SPONSORS OR RE-
16 QUESTORS.—The Secretary shall establish procedures to
17 facilitate efficient participation by multiple sponsors or re-
18 questors in proceedings under this section, including provi-
19 sion for joint meetings with multiple sponsors or reques-
20 tors or with organizations nominated by sponsors or re-
21 questors to represent their interests in a proceeding.

22 “(j) ELECTRONIC FORMAT.—All submissions under
23 this section shall be in electronic format.

24 “(k) EFFECT ON EXISTING REGULATIONS GOV-
25 ERNING NONPRESCRIPTION DRUGS.—

1 “(1) REGULATIONS OF GENERAL APPLICA-
2 BILITY TO NONPRESCRIPTION DRUGS.—Except as
3 provided in this subsection, nothing in this section
4 supersedes regulations establishing general require-
5 ments for nonprescription drugs, including regula-
6 tions of general applicability contained in parts 201,
7 250, and 330 of title 21, Code of Federal Regula-
8 tions, or any successor regulations. The Secretary
9 shall establish or modify such regulations by means
10 of rulemaking in accordance with section 553 of title
11 5, United States Code.

12 “(2) REGULATIONS ESTABLISHING REQUIRE-
13 MENTS FOR SPECIFIC NONPRESCRIPTION DRUGS.—

14 “(A) The provisions of section 310.545 of
15 title 21, Code of Federal Regulations, as in ef-
16 fect on the day before the date of the enact-
17 ment of this section, shall be deemed to be a
18 final order under subsection (b).

19 “(B) Regulations in effect on the day be-
20 fore the date of the enactment of this section,
21 establishing requirements for specific non-
22 prescription drugs marketed pursuant to this
23 section (including such requirements in parts
24 201 and 250 of title 21, Code of Federal Regu-
25 lations), shall be deemed to be final orders

1 under subsection (b), only as they apply to
2 drugs—

3 “(i) subject to paragraph (1), (2), (3),
4 or (4) of subsection (a); or

5 “(ii) otherwise subject to an order
6 under this section.

7 “(3) WITHDRAWAL OF REGULATIONS.—The
8 Secretary shall withdraw regulations establishing
9 final monographs and the procedures governing the
10 over-the-counter drug review under part 330 and
11 other relevant parts of title 21, Code of Federal
12 Regulations (as in effect on the day before the date
13 of the enactment of this section), or make technical
14 changes to such regulations to ensure conformity
15 with appropriate terminology and cross references.
16 Notwithstanding subchapter II of chapter 5 of title
17 5, United States Code, any such withdrawal or tech-
18 nical changes shall be made without public notice
19 and comment and shall be effective upon publication
20 through notice in the Federal Register (or upon such
21 date as specified in such notice).

22 “(l) GUIDANCE.—The Secretary shall issue guidance
23 that specifies—

1 “(1) the procedures and principles for formal
2 meetings between the Secretary and sponsors or re-
3 questors for drugs subject to this section;

4 “(2) the format and content of data submis-
5 sions to the Secretary under this section;

6 “(3) the format of electronic submissions to the
7 Secretary under this section;

8 “(4) consolidated proceedings for appeal and
9 the procedures for such proceedings where appro-
10 priate; and

11 “(5) for minor changes in drugs, recommenda-
12 tions on how to comply with the requirements in or-
13 ders issued under subsection (c)(3).

14 “(m) RULE OF CONSTRUCTION.—

15 “(1) IN GENERAL.—This section shall not af-
16 fect the treatment or status of a nonprescription
17 drug—

18 “(A) that is marketed without an applica-
19 tion approved under section 505 as of the date
20 of the enactment of this section;

21 “(B) that is not subject to an order issued
22 under this section; and

23 “(C) to which paragraph (1), (2), (3), (4),
24 or (5) of subsection (a) do not apply.

1 “(2) TREATMENT OF PRODUCTS PREVIOUSLY
2 FOUND TO BE SUBJECT TO TIME AND EXTENT RE-
3 QUIREMENTS.—

4 “(A) Notwithstanding subsection (a), a
5 drug described in subparagraph (B) may only
6 be lawfully marketed, without an application
7 approved under section 505, pursuant to an
8 order issued under this section.

9 “(B) A drug described in this subpara-
10 graph is a drug which, prior to the date of the
11 enactment of this section, the Secretary deter-
12 mined in a proposed or final rule to be ineligible
13 for review under the OTC drug review (as such
14 phrase ‘OTC drug review’ was used in section
15 330.14 of title 21, Code of Federal Regulations,
16 as in effect on the day before the date of the
17 enactment of this section).

18 “(3) PRESERVATION OF AUTHORITY.—

19 “(A) Nothing in paragraph (1) shall be
20 construed to preclude or limit the applicability
21 of any provision of this Act other than this sec-
22 tion.

23 “(B) Nothing in subsection (a) shall be
24 construed to prohibit the Secretary from issuing
25 an order under this section finding a drug to be

1 not generally recognized as safe and effective
2 under section 201(p)(1), as the Secretary deter-
3 mines appropriate.

4 “(n) INVESTIGATIONAL NEW DRUGS.—A drug is not
5 subject to this section if an exemption for investigational
6 use under section 505(i) is in effect for such drug.

7 “(o) INAPPLICABILITY OF PAPERWORK REDUCTION
8 ACT.—Chapter 35 of title 44, United States Code, shall
9 not apply to collections of information made under this
10 section.

11 “(p) INAPPLICABILITY OF NOTICE AND COMMENT
12 RULEMAKING AND OTHER REQUIREMENTS.—The re-
13 quirements of subsection (b) shall apply with respect to
14 orders issued under this section instead of the require-
15 ments of subchapter II of chapter 5 of title 5, United
16 States Code.

17 “(q) DEFINITIONS.—In this section:

18 “(1) The term ‘nonprescription drug’ refers to
19 a drug not subject to the requirements of section
20 503(b)(1).

21 “(2) The term ‘sponsor’ refers to any person
22 marketing, manufacturing, or processing a drug
23 that—

24 “(A) is listed pursuant to section 510(j);

25 and

1 “(B) is or will be subject to an administra-
2 tive order under this section of the Food and
3 Drug Administration.

4 “(3) The term ‘requestor’ refers to any person
5 or group of persons marketing, manufacturing, proc-
6 essing, or developing a drug.”.

7 (b) GAO STUDY.—Not later than 4 years after the
8 date of enactment of this Act, the Comptroller General
9 of the United States shall submit a study to the Com-
10 mittee on Energy and Commerce of the House of Rep-
11 resentatives and the Committee on Health, Education,
12 Labor, and Pensions of the Senate addressing the effec-
13 tiveness and overall impact of exclusivity under section
14 505G of the Federal Food, Drug, and Cosmetic Act, as
15 added by subsection (a), and section 586C of such Act
16 (21 U.S.C. 360fff–3), including the impact of such exclu-
17 sivity on consumer access. Such study shall include—

18 (1) an analysis of the impact of exclusivity
19 under such section 505G for nonprescription drug
20 products, including—

21 (A) the number of nonprescription drug
22 products that were granted exclusivity and the
23 indication for which the nonprescription drug
24 products were determined to be generally recog-
25 nized as safe and effective;

1 (B) whether the exclusivity for such drug
2 products was granted for—

3 (i) a new active ingredient (including
4 any ester or salt of the active ingredient);
5 or

6 (ii) changes in the conditions of use of
7 a drug, for which new human data studies
8 conducted or sponsored by the requestor
9 were essential;

10 (C) whether, and to what extent, the exclu-
11 sivity impacted the requestor's or sponsor's de-
12 cision to develop the drug product;

13 (D) an analysis of the implementation of
14 the exclusivity provision in such section 505G,
15 including—

16 (i) the resources used by the Food
17 and Drug Administration;

18 (ii) the impact of such provision on
19 innovation, as well as research and devel-
20 opment in the nonprescription drug mar-
21 ket;

22 (iii) the impact of such provision on
23 competition in the nonprescription drug
24 market;

1 (iv) the impact of such provision on
2 consumer access to nonprescription drug
3 products;

4 (v) the impact of such provision on
5 the prices of nonprescription drug prod-
6 ucts; and

7 (vi) whether the administrative orders
8 initiated by requestors under such section
9 505G have been sufficient to encourage the
10 development of nonprescription drug prod-
11 ucts that would likely not be otherwise de-
12 veloped, or developed in as timely a man-
13 ner; and

14 (E) whether the administrative orders ini-
15 tiated by requestors under such section 505G
16 have been sufficient incentive to encourage in-
17 novation in the nonprescription drug market;
18 and

19 (2) an analysis of the impact of exclusivity
20 under such section 586C for sunscreen ingredients,
21 including—

22 (A) the number of sunscreen ingredients
23 that were granted exclusivity and the specific
24 ingredient that was determined to be generally
25 recognized as safe and effective;

1 (B) whether, and to what extent, the exclu-
2 sivity impacted the requestor's or sponsor's de-
3 cision to develop the sunscreen ingredient;

4 (C) whether, and to what extent, the sun-
5 screen ingredient granted exclusivity had pre-
6 viously been available outside of the United
7 States;

8 (D) an analysis of the implementation of
9 the exclusivity provision in such section 586C,
10 including—

11 (i) the resources used by the Food
12 and Drug Administration;

13 (ii) the impact of such provision on
14 innovation, as well as research and devel-
15 opment in the sunscreen market;

16 (iii) the impact of such provision on
17 competition in the sunscreen market;

18 (iv) the impact of such provision on
19 consumer access to sunscreen products;

20 (v) the impact of such provision on
21 the prices of sunscreen products; and

22 (vi) whether the administrative orders
23 initiated by requestors under such section
24 505G have been utilized by sunscreen in-
25 gredient sponsors and whether such proc-

1 ess has been sufficient to encourage the
2 development of sunscreen ingredients that
3 would likely not be otherwise developed, or
4 developed in as timely a manner; and

5 (E) whether the administrative orders ini-
6 tiated by requestors under such section 586C
7 have been sufficient incentive to encourage in-
8 novation in the sunscreen market.

9 (c) CONFORMING AMENDMENT.—Section 751(d)(1)
10 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
11 379r(d)(1)) is amended—

12 (1) in the matter preceding subparagraph (A)—

13 (A) by striking “final regulation promul-
14 gated” and inserting “final order under section
15 505G”; and

16 (B) by striking “and not misbranded”; and

17 (2) in subparagraph (A), by striking “regula-
18 tion in effect” and inserting “regulation or order in
19 effect”.

20 **SEC. 3852. MISBRANDING.**

21 Section 502 of the Federal Food, Drug, and Cosmetic
22 Act (21 U.S.C. 352) is amended by adding at the end the
23 following:

24 “(ee) If it is a nonprescription drug that is subject
25 to section 505G, is not the subject of an application ap-

1 proved under section 505, and does not comply with the
2 requirements under section 505G.

3 “(ff) If it is a drug and it was manufactured, pre-
4 pared, propagated, compounded, or processed in a facility
5 for which fees have not been paid as required by section
6 744M.”.

7 **SEC. 3853. DRUGS EXCLUDED FROM THE OVER-THE-**
8 **COUNTER DRUG REVIEW.**

9 (a) IN GENERAL.—Nothing in this Act (or the
10 amendments made by this Act) shall apply to any non-
11 prescription drug (as defined in section 505G(q) of the
12 Federal Food, Drug, and Cosmetic Act, as added by sec-
13 tion 3851 of this subtitle) which was excluded by the Food
14 and Drug Administration from the Over-the-Counter
15 Drug Review in accordance with the paragraph numbered
16 25 on page 9466 of volume 37 of the Federal Register,
17 published on May 11, 1972.

18 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion shall be construed to preclude or limit the applica-
20 bility of any other provision of the Federal Food, Drug,
21 and Cosmetic Act (21 U.S.C. 301 et seq.).

22 **SEC. 3854. TREATMENT OF SUNSCREEN INNOVATION ACT.**

23 (a) REVIEW OF NONPRESCRIPTION SUNSCREEN AC-
24 TIVE INGREDIENTS.—

1 (1) APPLICABILITY OF SECTION 505G FOR
2 PENDING SUBMISSIONS.—

3 (A) IN GENERAL.—A sponsor of a non-
4 prescription sunscreen active ingredient or com-
5 bination of nonprescription sunscreen active in-
6 gredients that, as of the date of enactment of
7 this Act, is subject to a proposed sunscreen
8 order under section 586C of the Federal Food,
9 Drug, and Cosmetic Act (21 U.S.C. 360fff-3)
10 may elect, by means of giving written notifica-
11 tion to the Secretary of Health and Human
12 Services within 180 calendar days of the enact-
13 ment of this Act, to transition into the review
14 of such ingredient or combination of ingredients
15 pursuant to the process set out in section 505G
16 of the Federal Food, Drug, and Cosmetic Act,
17 as added by section 3851 of this subtitle.

18 (B) ELECTION EXERCISED.—Upon receipt
19 by the Secretary of Health and Human Services
20 of a timely notification under subparagraph
21 (A)—

22 (i) the proposed sunscreen order in-
23 volved is deemed to be a request for an
24 order under subsection (b) of section 505G
25 of the Federal Food, Drug, and Cosmetic

1 Act, as added by section 3851 of this sub-
2 title; and

3 (ii) such order is deemed to have been
4 accepted for filing under subsection
5 (b)(6)(A)(i) of such section 505G.

6 (C) ELECTION NOT EXERCISED.—If a noti-
7 fication under subparagraph (A) is not received
8 by the Secretary of Health and Human Services
9 within 180 calendar days of the date of enact-
10 ment of this Act, the review of the proposed
11 sunscreen order described in subparagraph
12 (A)—

13 (i) shall continue under section 586C
14 of the Federal Food, Drug, and Cosmetic
15 Act (21 U.S.C. 360fff–3); and

16 (ii) shall not be eligible for review
17 under section 505G, added by section 3851
18 of this subtitle.

19 (2) DEFINITIONS.—In this subsection, the
20 terms “sponsor”, “nonprescription”, “sunscreen ac-
21 tive ingredient”, and “proposed sunscreen order”
22 have the meanings given to those terms in section
23 586 of the Federal Food, Drug, and Cosmetic Act
24 (21 U.S.C. 360fff).

25 (b) AMENDMENTS TO SUNSCREEN PROVISIONS.—

1 (1) FINAL SUNSCREEN ORDERS.—Paragraph
2 (3) of section 586C(e) of the Federal Food, Drug,
3 and Cosmetic Act (21 U.S.C. 360fff–3(e)) is amend-
4 ed to read as follows:

5 “(3) RELATIONSHIP TO ORDERS UNDER SEC-
6 TION 505G.—A final sunscreen order shall be deemed
7 to be a final order under section 505G.”.

8 (2) MEETINGS.—Paragraph (7) of section
9 586C(b) of the Federal Food, Drug, and Cosmetic
10 Act (21 U.S.C. 360fff–3(b)) is amended—

11 (A) by striking “A sponsor may request”
12 and inserting the following:

13 “(A) IN GENERAL.—A sponsor may re-
14 quest”; and

15 (B) by adding at the end the following:

16 “(B) CONFIDENTIAL MEETINGS.—A spon-
17 sor may request one or more confidential meet-
18 ings with respect to a proposed sunscreen order,
19 including a letter deemed to be a proposed sun-
20 screen order under paragraph (3), to discuss
21 matters relating to data requirements to sup-
22 port a general recognition of safety and effec-
23 tiveness involving confidential information and
24 public information related to such proposed
25 sunscreen order, as appropriate. The Secretary

1 shall convene a confidential meeting with such
2 sponsor in a reasonable time period. If a spon-
3 sor requests more than one confidential meeting
4 for the same proposed sunscreen order, the Sec-
5 retary may refuse to grant an additional con-
6 fidential meeting request if the Secretary deter-
7 mines that such additional confidential meeting
8 is not reasonably necessary for the sponsor to
9 advance its proposed sunscreen order, or if the
10 request for a confidential meeting fails to in-
11 clude sufficient information upon which to base
12 a substantive discussion. The Secretary shall
13 publish a post-meeting summary of each con-
14 fidential meeting under this subparagraph that
15 does not disclose confidential commercial infor-
16 mation or trade secrets. This subparagraph
17 does not authorize the disclosure of confidential
18 commercial information or trade secrets subject
19 to 552(b)(4) of title 5, United States Code, or
20 section 1905 of title 18, United States Code.”.

21 (3) EXCLUSIVITY.—Section 586C of the Fed-
22 eral Food, Drug, and Cosmetic Act (21 U.S.C.
23 360fff–3) is amended by adding at the end the fol-
24 lowing:

25 “(f) EXCLUSIVITY.—

1 “(1) IN GENERAL.—A final sunscreen order
2 shall have the effect of authorizing solely the order
3 requestor (or the licensees, assignees, or successors
4 in interest of such requestor with respect to the sub-
5 ject of such request and listed under paragraph (5))
6 for a period of 18 months, to market a sunscreen in-
7 gredient under this section incorporating changes
8 described in paragraph (2) subject to the limitations
9 under paragraph (4), beginning on the date the re-
10 questor (or any licensees, assignees, or successors in
11 interest of such requestor with respect to the subject
12 of such request and listed under paragraph (5)) may
13 lawfully market such sunscreen ingredient pursuant
14 to the order.

15 “(2) CHANGES DESCRIBED.—A change de-
16 scribed in this paragraph is a change subject to an
17 order specified in paragraph (1) that permits a sun-
18 screen to contain an active sunscreen ingredient not
19 previously incorporated in a marketed sunscreen list-
20 ed in paragraph (3).

21 “(3) MARKETED SUNSCREEN.—The marketed
22 sunscreen ingredients described in this paragraph
23 are sunscreen ingredients—

24 “(A) marketed in accordance with a final
25 monograph for sunscreen drug products set

1 forth at part 352 of title 21, Code of Federal
2 Regulations (as published at 64 Fed. Reg.
3 27687); or

4 “(B) marketed in accordance with a final
5 order issued under this section.

6 “(4) LIMITATIONS ON EXCLUSIVITY.—Only one
7 18-month period may be granted per ingredient
8 under paragraph (1).

9 “(5) LISTING OF LICENSEES, ASSIGNEES, OR
10 SUCCESSORS IN INTEREST.—Requestors shall submit
11 to the Secretary at the time when a drug subject to
12 such request is introduced or delivered for introduc-
13 tion into interstate commerce, a list of licensees, as-
14 signees, or successors in interest under paragraph
15 (1).”.

16 (4) SUNSET PROVISION.—Subchapter I of chap-
17 ter V of the Federal Food, Drug, and Cosmetic Act
18 (21 U.S.C. 360fff et seq.) is amended by adding at
19 the end the following:

20 **“SEC. 586H. SUNSET.**

21 “‘This subchapter shall cease to be effective at the end
22 of fiscal year 2022.’”.

23 (5) TREATMENT OF FINAL SUNSCREEN
24 ORDER.—The Federal Food, Drug, and Cosmetic

1 Act is amended by striking section 586E of such Act
2 (21 U.S.C. 360fff-5).

3 (c) TREATMENT OF AUTHORITY REGARDING FINAL-
4 IZATION OF SUNSCREEN MONOGRAPH.—

5 (1) IN GENERAL.—

6 (A) REVISION OF FINAL SUNSCREEN
7 ORDER.—The Secretary of Health and Human
8 Services (referred to in this subsection as the
9 “Secretary”) shall amend and revise the final
10 administrative order concerning nonprescription
11 sunscreen (referred to in this subsection as the
12 “sunscreen order”) for which the content, prior
13 to the date of enactment of this Act, was rep-
14 resented by the final monograph for sunscreen
15 drug products set forth in part 352 of title 21,
16 Code of Federal Regulations (as in effect on
17 May 21, 1999).

18 (B) ISSUANCE OF REVISED SUNSCREEN
19 ORDER; EFFECTIVE DATE.—A revised sunscreen
20 order described in subparagraph (A) shall be—

21 (i) issued in accordance with the pro-
22 cedures described in section 505G(b)(2) of
23 the Federal Food, Drug, and Cosmetic
24 Act;

1 (ii) issued in proposed form not later
2 than 18 months after the date of enact-
3 ment of this Act; and

4 (iii) issued by the Secretary at least 1
5 year prior to the effective date of the re-
6 vised order.

7 (2) REPORTS.—If a revised sunscreen order
8 issued under paragraph (1) does not include provi-
9 sions related to the effectiveness of various sun pro-
10 tection factor levels, and does not address all dosage
11 forms known to the Secretary to be used in sun-
12 screens marketed in the United States without a
13 new drug application approved under section 505 of
14 the Federal Food, Drug, and Cosmetic Act (21
15 U.S.C. 355), the Secretary shall submit a report to
16 the Committee on Energy and Commerce of the
17 House of Representatives and the Committee on
18 Health, Education, Labor, and Pensions of the Sen-
19 ate on the rationale for omission of such provisions
20 from such order, and a plan and timeline to compile
21 any information necessary to address such provisions
22 through such order.

23 (d) TREATMENT OF NON-SUNSCREEN TIME AND EX-
24 TENT APPLICATIONS.—

1 (1) IN GENERAL.—Any application described in
2 section 586F of the Federal Food, Drug, and Cos-
3 metic Act (21 U.S.C. 360fff–6) that was submitted
4 to the Secretary pursuant to section 330.14 of title
5 21, Code of Federal Regulations, as such provisions
6 were in effect immediately prior to the date of enact-
7 ment date of this Act, shall be extinguished as of
8 such date of enactment, subject to paragraph (2).

9 (2) ORDER REQUEST.—Nothing in paragraph
10 (1) precludes the submission of an order request
11 under section 505G(b) of the Federal Food, Drug,
12 and Cosmetic Act, as added by section 3851 of this
13 subtitle, with respect to a drug that was the subject
14 of an application extinguished under paragraph (1).

15 **SEC. 3855. ANNUAL UPDATE TO CONGRESS ON APPRO-**
16 **PRIATE PEDIATRIC INDICATION FOR CER-**
17 **TAIN OTC COUGH AND COLD DRUGS.**

18 (a) IN GENERAL.—Subject to subsection (c), the Sec-
19 retary of Health and Human Services shall, beginning not
20 later than 1 year after the date of enactment of this Act,
21 annually submit to the Committee on Energy and Com-
22 merce of the House of Representatives and the Committee
23 on Health, Education, Labor, and Pensions of the Senate
24 a letter describing the progress of the Food and Drug Ad-
25 ministration—

1 (1) in evaluating the cough and cold monograph
2 described in subsection (b) with respect to children
3 under age 6; and

4 (2) as appropriate, revising such cough and cold
5 monograph to address such children through the
6 order process under section 505G(b) of the Federal
7 Food, Drug, and Cosmetic Act, as added by section
8 3851 of this subtitle.

9 (b) COUGH AND COLD MONOGRAPH DESCRIBED.—

10 The cough and cold monograph described in this sub-
11 section consists of the conditions under which nonprescrip-
12 tion drugs containing antitussive, expectorant, nasal de-
13 congestant, or antihistamine active ingredients (or com-
14 binations thereof) are generally recognized as safe and ef-
15 fective, as specified in part 341 of title 21, Code of Federal
16 Regulations (as in effect immediately prior to the date of
17 enactment of this Act), and included in an order deemed
18 to be established under section 505G(b) of the Federal
19 Food, Drug, and Cosmetic Act, as added by section 3851
20 of this subtitle.

21 (c) DURATION OF AUTHORITY.—The requirement
22 under subsection (a) shall terminate as of the date of a
23 letter submitted by the Secretary of Health and Human
24 Services pursuant to such subsection in which the Sec-
25 retary indicates that the Food and Drug Administration

1 has completed its evaluation and revised, in a final order,
2 as applicable, the cough and cold monograph as described
3 in subsection (a)(2).

4 **SEC. 3856. TECHNICAL CORRECTIONS.**

5 (a) IMPORTS AND EXPORTS.—Section
6 801(e)(4)(E)(iii) of the Federal Food, Drug, and Cosmetic
7 Act (21 U.S.C. 381(e)(4)(E)(iii)) is amended by striking
8 “subparagraph” each place such term appears and insert-
9 ing “paragraph”.

10 (b) FDA REAUTHORIZATION ACT OF 2017.—

11 (1) IN GENERAL.—Section 905(b)(4) of the
12 FDA Reauthorization Act of 2017 (Public Law 115–
13 52) is amended by striking “Section 744H(e)(2)(B)”
14 and inserting “Section 744H(f)(2)(B)”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall take effect as of the enact-
17 ment of the FDA Reauthorization Act of 2017
18 (Public Law 115–52).

19 **PART II—USER FEES**

20 **SEC. 3861. FINDING.**

21 The Congress finds that the fees authorized by the
22 amendments made in this part will be dedicated to OTC
23 monograph drug activities, as set forth in the goals identi-
24 fied for purposes of part 10 of subchapter C of chapter
25 VII of the Federal Food, Drug, and Cosmetic Act, in the

1 letters from the Secretary of Health and Human Services
2 to the Chairman of the Committee on Health, Education,
3 Labor, and Pensions of the Senate and the Chairman of
4 the Committee on Energy and Commerce of the House
5 of Representatives, as set forth in the Congressional
6 Record.

7 **SEC. 3862. FEES RELATING TO OVER-THE-COUNTER DRUGS.**

8 Subchapter C of chapter VII of the Federal Food,
9 Drug, and Cosmetic Act (21 U.S.C. 379f et seq.) is
10 amended by inserting after part 9 the following:

11 **“PART 10—FEES RELATING TO OVER-THE-**
12 **COUNTER DRUGS**

13 **“SEC. 744L. DEFINITIONS.**

14 “In this part:

15 “(1) The term ‘affiliate’ means a business enti-
16 ty that has a relationship with a second business en-
17 tity if, directly or indirectly—

18 “(A) one business entity controls, or has
19 the power to control, the other business entity;
20 or

21 “(B) a third party controls, or has power
22 to control, both of the business entities.

23 “(2) The term ‘contract manufacturing organi-
24 zation facility’ means an OTC monograph drug facil-
25 ity where neither the owner of such manufacturing

1 facility nor any affiliate of such owner or facility
2 sells the OTC monograph drug produced at such fa-
3 cility directly to wholesalers, retailers, or consumers
4 in the United States.

5 “(3) The term ‘costs of resources allocated for
6 OTC monograph drug activities’ means the expenses
7 in connection with OTC monograph drug activities
8 for—

9 “(A) officers and employees of the Food
10 and Drug Administration, contractors of the
11 Food and Drug Administration, advisory com-
12 mittees, and costs related to such officers, em-
13 ployees, and committees and costs related to
14 contracts with such contractors;

15 “(B) management of information, and the
16 acquisition, maintenance, and repair of com-
17 puter resources;

18 “(C) leasing, maintenance, renovation, and
19 repair of facilities and acquisition, maintenance,
20 and repair of fixtures, furniture, scientific
21 equipment, and other necessary materials and
22 supplies; and

23 “(D) collecting fees under section 744M
24 and accounting for resources allocated for OTC
25 monograph drug activities.

1 “(4) The term ‘FDA establishment identifier’ is
2 the unique number automatically generated by Food
3 and Drug Administration’s Field Accomplishments
4 and Compliance Tracking System (FACTS) (or any
5 successor system).

6 “(5) The term ‘OTC monograph drug’ means a
7 nonprescription drug without an approved new drug
8 application which is governed by the provisions of
9 section 505G.

10 “(6) The term ‘OTC monograph drug activities’
11 means activities of the Secretary associated with
12 OTC monograph drugs and inspection of facilities
13 associated with such products, including the fol-
14 lowing activities:

15 “(A) The activities necessary for review
16 and evaluation of OTC monographs and OTC
17 monograph order requests, including—

18 “(i) orders proposing or finalizing ap-
19 plicable conditions of use for OTC mono-
20 graph drugs;

21 “(ii) orders affecting status regarding
22 general recognition of safety and effective-
23 ness of an OTC monograph ingredient or
24 combination of ingredients under specified
25 conditions of use;

1 “(iii) all OTC monograph drug devel-
2 opment and review activities, including
3 intra-agency collaboration;

4 “(iv) regulation and policy develop-
5 ment activities related to OTC monograph
6 drugs;

7 “(v) development of product standards
8 for products subject to review and evalua-
9 tion;

10 “(vi) meetings referred to in section
11 505G(i);

12 “(vii) review of labeling prior to
13 issuance of orders related to OTC mono-
14 graph drugs or conditions of use; and

15 “(viii) regulatory science activities re-
16 lated to OTC monograph drugs.

17 “(B) Inspections related to OTC mono-
18 graph drugs.

19 “(C) Monitoring of clinical and other re-
20 search conducted in connection with OTC
21 monograph drugs.

22 “(D) Safety activities with respect to OTC
23 monograph drugs, including—

1 “(i) collecting, developing, and review-
2 ing safety information on OTC monograph
3 drugs, including adverse event reports;

4 “(ii) developing and using improved
5 adverse event data-collection systems, in-
6 cluding information technology systems;
7 and

8 “(iii) developing and using improved
9 analytical tools to assess potential safety
10 risks, including access to external data-
11 bases.

12 “(E) Other activities necessary for imple-
13 mentation of section 505G.

14 “(7) The term ‘OTC monograph order request’
15 means a request for an order submitted under sec-
16 tion 505G(b)(5).

17 “(8) The term ‘Tier 1 OTC monograph order
18 request’ means any OTC monograph order request
19 not determined to be a Tier 2 OTC monograph
20 order request.

21 “(9)(A) The term ‘Tier 2 OTC monograph
22 order request’ means, subject to subparagraph (B),
23 an OTC monograph order request for—

1 “(i) the reordering of existing information
2 in the drug facts label of an OTC monograph
3 drug;

4 “(ii) the addition of information to the
5 other information section of the drug facts label
6 of an OTC monograph drug, as limited by sec-
7 tion 201.66(c)(7) of title 21, Code of Federal
8 Regulations (or any successor regulations);

9 “(iii) modification to the directions for use
10 section of the drug facts label of an OTC mono-
11 graph drug, if such changes conform to changes
12 made pursuant to section 505G(c)(3)(A);

13 “(iv) the standardization of the concentra-
14 tion or dose of a specific finalized ingredient
15 within a particular finalized monograph;

16 “(v) a change to ingredient nomenclature
17 to align with nomenclature of a standards-set-
18 ting organization; or

19 “(vi) addition of an interchangeable term
20 in accordance with section 330.1 of title 21,
21 Code of Federal Regulations (or any successor
22 regulations).

23 “(B) The Secretary may, based on program im-
24 plementation experience or other factors found ap-
25 propriate by the Secretary, characterize any OTC

1 monograph order request as a Tier 2 OTC mono-
2 graph order request (including recharacterizing a re-
3 quest from Tier 1 to Tier 2) and publish such deter-
4 mination in a proposed order issued pursuant to sec-
5 tion 505G.

6 “(10)(A) The term ‘OTC monograph drug facil-
7 ity’ means a foreign or domestic business or other
8 entity that—

9 “(i) is—

10 “(I) under one management, either di-
11 rect or indirect; and

12 “(II) at one geographic location or ad-
13 dress engaged in manufacturing or proc-
14 essing the finished dosage form of an OTC
15 monograph drug;

16 “(ii) includes a finished dosage form man-
17 ufacturer facility in a contractual relationship
18 with the sponsor of one or more OTC mono-
19 graph drugs to manufacture or process such
20 drugs; and

21 “(iii) does not include a business or other
22 entity whose only manufacturing or processing
23 activities are one or more of the following: pro-
24 duction of clinical research supplies, testing, or
25 placement of outer packaging on packages con-

1 taining multiple products, for such purposes as
2 creating multipacks, when each monograph
3 drug product contained within the overpack-
4 aging is already in a final packaged form prior
5 to placement in the outer overpackaging.

6 “(B) For purposes of subparagraph (A)(i)(II),
7 separate buildings or locations within close proximity
8 are considered to be at one geographic location or
9 address if the activities conducted in such buildings
10 or locations are—

11 “(i) closely related to the same business
12 enterprise;

13 “(ii) under the supervision of the same
14 local management; and

15 “(iii) under a single FDA establishment
16 identifier and capable of being inspected by the
17 Food and Drug Administration during a single
18 inspection.

19 “(C) If a business or other entity would meet
20 criteria specified in subparagraph (A), but for being
21 under multiple management, the business or other
22 entity is deemed to constitute multiple facilities, one
23 per management entity, for purposes of this para-
24 graph.

1 “(11) The term ‘OTC monograph drug meet-
2 ing’ means any meeting regarding the content of a
3 proposed OTC monograph order request.

4 “(12) The term ‘person’ includes an affiliate of
5 a person.

6 “(13) The terms ‘requestor’ and ‘sponsor’ have
7 the meanings given such terms in section 505G.

8 **“SEC. 744M. AUTHORITY TO ASSESS AND USE OTC MONO-
9 GRAPH FEES.**

10 “(a) TYPES OF FEES.—Beginning with fiscal year
11 2021, the Secretary shall assess and collect fees in accord-
12 ance with this section as follows:

13 “(1) FACILITY FEE.—

14 “(A) IN GENERAL.—Each person that
15 owns a facility identified as an OTC monograph
16 drug facility on December 31 of the fiscal year
17 or at any time during the preceding 12-month
18 period shall be assessed an annual fee for each
19 such facility as determined under subsection
20 (c).

21 “(B) EXCEPTIONS.—

22 “(i) FACILITIES THAT CEASE ACTIVI-
23 TIES.—A fee shall not be assessed under
24 subparagraph (A) if the identified OTC
25 monograph drug facility—

1 “(I) has ceased all activities re-
2 lated to OTC monograph drugs prior
3 to December 31 of the year imme-
4 diately preceding the applicable fiscal
5 year; and

6 “(II) has updated its registration
7 to reflect such change under the re-
8 quirements for drug establishment
9 registration set forth in section 510.

10 “(ii) CONTRACT MANUFACTURING OR-
11 GANIZATIONS.—The amount of the fee for
12 a contract manufacturing organization fa-
13 cility shall be equal to two-thirds of the
14 amount of the fee for an OTC monograph
15 drug facility that is not a contract manu-
16 facturing organization facility.

17 “(C) AMOUNT.—The amount of fees estab-
18 lished under subparagraph (A) shall be estab-
19 lished under subsection (c).

20 “(D) DUE DATE.—

21 “(i) FOR FIRST PROGRAM YEAR.—For
22 fiscal year 2021, the facility fees required
23 under subparagraph (A) shall be due on
24 the later of—

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1 “(I) the first business day of
2 June of 2020; or

3 “(II) 45 calendar days after pub-
4 lication of the Federal Register notice
5 provided for under subsection
6 (c)(4)(A).

7 “(ii) SUBSEQUENT FISCAL YEARS.—
8 For each fiscal year after fiscal year 2021,
9 the facility fees required under subpara-
10 graph (A) shall be due on the later of—

11 “(I) the first business day of
12 June of such year; or

13 “(II) the first business day after
14 the enactment of an appropriations
15 Act providing for the collection and
16 obligation of fees under this section
17 for such year.

18 “(2) OTC MONOGRAPH ORDER REQUEST
19 FEE.—

20 “(A) IN GENERAL.—Each person that sub-
21 mits an OTC monograph order request shall be
22 subject to a fee for an OTC monograph order
23 request. The amount of such fee shall be—

24 “(i) for a Tier 1 OTC monograph
25 order request, \$500,000, adjusted for in-

1 “(D) REFUND OF FEE IF ORDER REQUEST
2 IS RECATEGORIZED AS A TIER 2 OTC MONO-
3 GRAPH ORDER REQUEST.—If the Secretary de-
4 termines that an OTC monograph request ini-
5 tially characterized as Tier 1 shall be re-charac-
6 terized as a Tier 2 OTC monograph order re-
7 quest, and the requestor has paid a Tier 1 fee
8 in accordance with subparagraph (A)(i), the
9 Secretary shall refund the requestor the dif-
10 ference between the Tier 1 and Tier 2 fees de-
11 termined under subparagraphs (A)(i) and
12 (A)(ii), respectively.

13 “(E) REFUND OF FEE IF ORDER REQUEST
14 REFUSED FOR FILING OR WITHDRAWN BEFORE
15 FILING.—The Secretary shall refund 75 percent
16 of the fee paid under subparagraph (B) for any
17 order request which is refused for filing or was
18 withdrawn before being accepted or refused for
19 filing.

20 “(F) FEES FOR ORDER REQUESTS PRE-
21 VIOUSLY REFUSED FOR FILING OR WITHDRAWN
22 BEFORE FILING.—An OTC monograph order
23 request that was submitted but was refused for
24 filing, or was withdrawn before being accepted
25 or refused for filing, shall be subject to the full

1 fee under subparagraph (A) upon being resub-
2 mitted or filed over protest.

3 “(G) REFUND OF FEE IF ORDER REQUEST
4 WITHDRAWN.—If an order request is withdrawn
5 after the order request was filed, the Secretary
6 may refund the fee or a portion of the fee if no
7 substantial work was performed on the order
8 request after the application was filed. The Sec-
9 retary shall have the sole discretion to refund a
10 fee or a portion of the fee under this subpara-
11 graph. A determination by the Secretary con-
12 cerning a refund under this subparagraph shall
13 not be reviewable.

14 “(3) REFUNDS.—

15 “(A) IN GENERAL.—Other than refunds
16 provided pursuant to any of subparagraphs (D)
17 through (G) of paragraph (2), the Secretary
18 shall not refund any fee paid under paragraph
19 (1) except as provided in subparagraph (B).

20 “(B) DISPUTES CONCERNING FEES.—To
21 qualify for the return of a fee claimed to have
22 been paid in error under paragraph (1) or (2),
23 a person shall submit to the Secretary a written
24 request justifying such return within 180 cal-
25 endar days after such fee was paid.

1 “(4) NOTICE.—Within the timeframe specified
2 in subsection (c), the Secretary shall publish in the
3 Federal Register the amount of the fees under para-
4 graph (1) for such fiscal year.

5 “(b) FEE REVENUE AMOUNTS.—

6 “(1) FISCAL YEAR 2021.—For fiscal year 2021,
7 fees under subsection (a)(1) shall be established to
8 generate a total facility fee revenue amount equal to
9 the sum of—

10 “(A) the annual base revenue for fiscal
11 year 2021 (as determined under paragraph
12 (3));

13 “(B) the dollar amount equal to the oper-
14 ating reserve adjustment for the fiscal year, if
15 applicable (as determined under subsection
16 (c)(2)); and

17 “(C) additional direct cost adjustments (as
18 determined under subsection (c)(3)).

19 “(2) SUBSEQUENT FISCAL YEARS.—For each of
20 the fiscal years 2022 through 2025, fees under sub-
21 section (a)(1) shall be established to generate a total
22 facility fee revenue amount equal to the sum of—

23 “(A) the annual base revenue for the fiscal
24 year (as determined under paragraph (3));

1 “(B) the dollar amount equal to the infla-
2 tion adjustment for the fiscal year (as deter-
3 mined under subsection (c)(1));

4 “(C) the dollar amount equal to the oper-
5 ating reserve adjustment for the fiscal year, if
6 applicable (as determined under subsection
7 (c)(2));

8 “(D) additional direct cost adjustments (as
9 determined under subsection (c)(3)); and

10 “(E) additional dollar amounts for each
11 fiscal year as follows:

12 “(i) \$7,000,000 for fiscal year 2022.

13 “(ii) \$6,000,000 for fiscal year 2023.

14 “(iii) \$7,000,000 for fiscal year 2024.

15 “(iv) \$3,000,000 for fiscal year 2025.

16 “(3) ANNUAL BASE REVENUE.—For purposes
17 of paragraphs (1)(A) and (2)(A), the dollar amount
18 of the annual base revenue for a fiscal year shall
19 be—

20 “(A) for fiscal year 2021, \$8,000,000; and

21 “(B) for fiscal years 2022 through 2025,
22 the dollar amount of the total revenue amount
23 established under this subsection for the pre-
24 vious fiscal year, not including any adjustments
25 made under subsection (c)(2) or (c)(3).

1 “(c) ADJUSTMENTS; ANNUAL FEE SETTING.—

2 “(1) INFLATION ADJUSTMENT.—

3 “(A) IN GENERAL.—For purposes of sub-
4 section (b)(2)(B), the dollar amount of the in-
5 flation adjustment to the annual base revenue
6 for fiscal year 2022 and each subsequent fiscal
7 year shall be equal to the product of—

8 “(i) such annual base revenue for the
9 fiscal year under subsection (b)(2); and

10 “(ii) the inflation adjustment percent-
11 age under subparagraph (C).

12 “(B) OTC MONOGRAPH ORDER REQUEST
13 FEES.—For purposes of subsection (a)(2), the
14 dollar amount of the inflation adjustment to the
15 fee for OTC monograph order requests for fis-
16 cal year 2022 and each subsequent fiscal year
17 shall be equal to the product of—

18 “(i) the applicable fee under sub-
19 section (a)(2) for the preceding fiscal year;
20 and

21 “(ii) the inflation adjustment percent-
22 age under subparagraph (C).

23 “(C) INFLATION ADJUSTMENT PERCENT-
24 AGE.—The inflation adjustment percentage

1 under this subparagraph for a fiscal year is
2 equal to—

3 “(i) for each of fiscal years 2022 and
4 2023, the average annual percent change
5 that occurred in the Consumer Price Index
6 for urban consumers (Washington-Balti-
7 more, DC–MD–VA–WV; Not Seasonally
8 Adjusted; All items; Annual Index) for the
9 first 3 years of the preceding 4 years of
10 available data; and

11 “(ii) for each of fiscal years 2024 and
12 2025, the sum of—

13 “(I) the average annual percent
14 change in the cost, per full-time equiv-
15 alent position of the Food and Drug
16 Administration, of all personnel com-
17 pensation and benefits paid with re-
18 spect to such positions for the first 3
19 years of the preceding 4 fiscal years,
20 multiplied by the proportion of per-
21 sonnel compensation and benefits
22 costs to total costs of OTC mono-
23 graph drug activities for the first 3
24 years of the preceding 4 fiscal years;
25 and

1 “(II) the average annual percent
2 change that occurred in the Consumer
3 Price Index for urban consumers
4 (Washington-Baltimore, DC-MD-VA-
5 WV; Not Seasonally Adjusted; All
6 items; Annual Index) for the first 3
7 years of the preceding 4 years of
8 available data multiplied by the pro-
9 portion of all costs other than per-
10 sonnel compensation and benefits
11 costs to total costs of OTC mono-
12 graph drug activities for the first 3
13 years of the preceding 4 fiscal years.

14 “(2) OPERATING RESERVE ADJUSTMENT.—

15 “(A) IN GENERAL.—For fiscal year 2021
16 and subsequent fiscal years, for purposes of
17 subsections (b)(1)(B) and (b)(2)(C), the Sec-
18 retary may, in addition to adjustments under
19 paragraph (1), further increase the fee revenue
20 and fees if such an adjustment is necessary to
21 provide operating reserves of carryover user
22 fees for OTC monograph drug activities for not
23 more than the number of weeks specified in
24 subparagraph (B).

1 “(B) NUMBER OF WEEKS.—The number of
2 weeks specified in this subparagraph is—

3 “(i) 3 weeks for fiscal year 2021;

4 “(ii) 7 weeks for fiscal year 2022;

5 “(iii) 10 weeks for fiscal year 2023;

6 “(iv) 10 weeks for fiscal year 2024;

7 and

8 “(v) 10 weeks for fiscal year 2025.

9 “(C) DECREASE.—If the Secretary has
10 carryover balances for such process in excess of
11 10 weeks of the operating reserves referred to
12 in subparagraph (A), the Secretary shall de-
13 crease the fee revenue and fees referred to in
14 such subparagraph to provide for not more than
15 10 weeks of such operating reserves.

16 “(D) RATIONALE FOR ADJUSTMENT.—If
17 an adjustment under this paragraph is made,
18 the rationale for the amount of the increase or
19 decrease (as applicable) in fee revenue and fees
20 shall be contained in the annual Federal Reg-
21 ister notice under paragraph (4) establishing
22 fee revenue and fees for the fiscal year involved.

23 “(3) ADDITIONAL DIRECT COST ADJUST-
24 MENT.—The Secretary shall, in addition to adjust-
25 ments under paragraphs (1) and (2), further in-

1 crease the fee revenue and fees for purposes of sub-
2 section (b)(2)(D) by an amount equal to—

3 “(A) \$14,000,000 for fiscal year 2021;

4 “(B) \$7,000,000 for fiscal year 2022;

5 “(C) \$4,000,000 for fiscal year 2023;

6 “(D) \$3,000,000 for fiscal year 2024; and

7 “(E) \$3,000,000 for fiscal year 2025.

8 “(4) ANNUAL FEE SETTING.—

9 “(A) FISCAL YEAR 2021.—The Secretary
10 shall, not later than the second Monday in
11 March of 2020—

12 “(i) establish OTC monograph drug
13 facility fees for fiscal year 2021 under sub-
14 section (a), based on the revenue amount
15 for such year under subsection (b) and the
16 adjustments provided under this sub-
17 section; and

18 “(ii) publish fee revenue, facility fees,
19 and OTC monograph order requests in the
20 Federal Register.

21 “(B) SUBSEQUENT FISCAL YEARS.—The
22 Secretary shall, for each fiscal year that begins
23 after September 30, 2021, not later than the
24 second Monday in March that precedes such fis-
25 cal year—

1 “(i) establish for such fiscal year,
2 based on the revenue amounts under sub-
3 section (b) and the adjustments provided
4 under this subsection—

5 “(I) OTC monograph drug facil-
6 ity fees under subsection (a)(1); and

7 “(II) OTC monograph order re-
8 quest fees under subsection (a)(2);
9 and

10 “(ii) publish such fee revenue
11 amounts, facility fees, and OTC mono-
12 graph order request fees in the Federal
13 Register.

14 “(d) IDENTIFICATION OF FACILITIES.—Each person
15 that owns an OTC monograph drug facility shall submit
16 to the Secretary the information required under this sub-
17 section each year. Such information shall, for each fiscal
18 year—

19 “(1) be submitted as part of the requirements
20 for drug establishment registration set forth in sec-
21 tion 510; and

22 “(2) include for each such facility, at a min-
23 imum, identification of the facility’s business oper-
24 ation as that of an OTC monograph drug facility.

25 “(e) EFFECT OF FAILURE TO PAY FEES.—

1 “(1) OTC MONOGRAPH DRUG FACILITY FEE.—

2 “(A) IN GENERAL.—Failure to pay the fee
3 under subsection (a)(1) within 20 calendar days
4 of the due date as specified in subparagraph
5 (D) of such subsection shall result in the fol-
6 lowing:

7 “(i) The Secretary shall place the fa-
8 cility on a publicly available arrears list.

9 “(ii) All OTC monograph drugs man-
10 ufactured in such a facility or containing
11 an ingredient manufactured in such a facil-
12 ity shall be deemed misbranded under sec-
13 tion 502(ff).

14 “(B) APPLICATION OF PENALTIES.—The
15 penalties under this paragraph shall apply until
16 the fee established by subsection (a)(1) is paid.

17 “(2) ORDER REQUESTS.—An OTC monograph
18 order request submitted by a person subject to fees
19 under subsection (a) shall be considered incomplete
20 and shall not be accepted for filing by the Secretary
21 until all fees owed by such person under this section
22 have been paid.

23 “(3) MEETINGS.—A person subject to fees
24 under this section shall be considered ineligible for

1 OTC monograph drug meetings until all such fees
2 owed by such person have been paid.

3 “(f) CREDITING AND AVAILABILITY OF FEES.—

4 “(1) IN GENERAL.—Fees authorized under sub-
5 section (a) shall be collected and available for obliga-
6 tion only to the extent and in the amount provided
7 in advance in appropriations Acts. Such fees are au-
8 thorized to remain available until expended. Such
9 sums as may be necessary may be transferred from
10 the Food and Drug Administration salaries and ex-
11 penses appropriation account without fiscal year lim-
12 itation to such appropriation account for salaries
13 and expenses with such fiscal year limitation. The
14 sums transferred shall be available solely for OTC
15 monograph drug activities.

16 “(2) COLLECTIONS AND APPROPRIATION
17 ACTS.—

18 “(A) IN GENERAL.—Subject to subpara-
19 graph (C), the fees authorized by this section
20 shall be collected and available in each fiscal
21 year in an amount not to exceed the amount
22 specified in appropriation Acts, or otherwise
23 made available for obligation, for such fiscal
24 year.

1 “(B) USE OF FEES AND LIMITATION.—
2 The fees authorized by this section shall be
3 available to defray increases in the costs of the
4 resources allocated for OTC monograph drug
5 activities (including increases in such costs for
6 an additional number of full-time equivalent po-
7 sitions in the Department of Health and
8 Human Services to be engaged in such activi-
9 ties), only if the Secretary allocates for such
10 purpose an amount for such fiscal year (exclud-
11 ing amounts from fees collected under this sec-
12 tion) no less than \$12,000,000, multiplied by
13 the adjustment factor applicable to the fiscal
14 year involved under subsection (c)(1).

15 “(C) COMPLIANCE.—The Secretary shall
16 be considered to have met the requirements of
17 subparagraph (B) in any fiscal year if the costs
18 funded by appropriations and allocated for OTC
19 monograph drug activities are not more than 15
20 percent below the level specified in such sub-
21 paragraph.

22 “(D) PROVISION FOR EARLY PAYMENTS IN
23 SUBSEQUENT YEARS.—Payment of fees author-
24 ized under this section for a fiscal year (after
25 fiscal year 2021), prior to the due date for such

1 fees, may be accepted by the Secretary in ac-
2 cordance with authority provided in advance in
3 a prior year appropriations Act.

4 “(3) AUTHORIZATION OF APPROPRIATIONS.—
5 For each of the fiscal years 2021 through 2025,
6 there is authorized to be appropriated for fees under
7 this section an amount equal to the total amount of
8 fees assessed for such fiscal year under this section.

9 “(g) COLLECTION OF UNPAID FEES.—In any case
10 where the Secretary does not receive payment of a fee as-
11 sessed under subsection (a) within 30 calendar days after
12 it is due, such fee shall be treated as a claim of the United
13 States Government subject to subchapter II of chapter 37
14 of title 31, United States Code.

15 “(h) CONSTRUCTION.—This section may not be con-
16 strued to require that the number of full-time equivalent
17 positions in the Department of Health and Human Serv-
18 ices, for officers, employers, and advisory committees not
19 engaged in OTC monograph drug activities, be reduced
20 to offset the number of officers, employees, and advisory
21 committees so engaged.

22 **“SEC. 744N. REAUTHORIZATION; REPORTING REQUIRE-**
23 **MENTS.**

24 “(a) PERFORMANCE REPORT.—Beginning with fiscal
25 year 2021, and not later than 120 calendar days after the

1 end of each fiscal year thereafter for which fees are col-
2 lected under this part, the Secretary shall prepare and
3 submit to the Committee on Energy and Commerce of the
4 House of Representatives and the Committee on Health,
5 Education, Labor, and Pensions of the Senate a report
6 concerning the progress of the Food and Drug Adminis-
7 tration in achieving the goals identified in the letters de-
8 scribed in section 3861(b) of the CARES Act during such
9 fiscal year and the future plans of the Food and Drug
10 Administration for meeting such goals.

11 “(b) FISCAL REPORT.—Not later than 120 calendar
12 days after the end of fiscal year 2021 and each subsequent
13 fiscal year for which fees are collected under this part,
14 the Secretary shall prepare and submit to the Committee
15 on Energy and Commerce of the House of Representatives
16 and the Committee on Health, Education, Labor, and
17 Pensions of the Senate a report on the implementation
18 of the authority for such fees during such fiscal year and
19 the use, by the Food and Drug Administration, of the fees
20 collected for such fiscal year.

21 “(c) PUBLIC AVAILABILITY.—The Secretary shall
22 make the reports required under subsections (a) and (b)
23 available to the public on the internet website of the Food
24 and Drug Administration.

25 “(d) REAUTHORIZATION.—

1 “(1) CONSULTATION.—In developing rec-
2 ommendations to present to the Congress with re-
3 spect to the goals described in subsection (a), and
4 plans for meeting the goals, for OTC monograph
5 drug activities for the first 5 fiscal years after fiscal
6 year 2025, and for the reauthorization of this part
7 for such fiscal years, the Secretary shall consult
8 with—

9 “(A) the Committee on Energy and Com-
10 merce of the House of Representatives;

11 “(B) the Committee on Health, Education,
12 Labor, and Pensions of the Senate;

13 “(C) scientific and academic experts;

14 “(D) health care professionals;

15 “(E) representatives of patient and con-
16 sumer advocacy groups; and

17 “(F) the regulated industry.

18 “(2) PUBLIC REVIEW OF RECOMMENDA-
19 TIONS.—After negotiations with the regulated indus-
20 try, the Secretary shall—

21 “(A) present the recommendations devel-
22 oped under paragraph (1) to the congressional
23 committees specified in such paragraph;

24 “(B) publish such recommendations in the
25 Federal Register;

1 “(C) provide for a period of 30 calendar
2 days for the public to provide written comments
3 on such recommendations;

4 “(D) hold a meeting at which the public
5 may present its views on such recommenda-
6 tions; and

7 “(E) after consideration of such public
8 views and comments, revise such recommenda-
9 tions as necessary.

10 “(3) TRANSMITTAL OF RECOMMENDATIONS.—
11 Not later than January 15, 2025, the Secretary
12 shall transmit to the Congress the revised rec-
13 ommendations under paragraph (2), a summary of
14 the views and comments received under such para-
15 graph, and any changes made to the recommenda-
16 tions in response to such views and comments.”.

17 **TITLE IV—ECONOMIC STA-**
18 **BILIZATION AND ASSISTANCE**
19 **TO SEVERELY DISTRESSED**
20 **SECTORS OF THE UNITED**
21 **STATES ECONOMY**

22 **SEC. 4001. SHORT TITLE.**

23 This title may be cited as the “Coronavirus Economic
24 Stabilization Act of 2020”.

1 **SEC. 4002. DEFINITIONS.**

2 In this title:

3 (1) AIR CARRIER.—The term “air carrier” has
4 the meaning such term has under section 40102 of
5 title 49, United States Code.

6 (2) CORONAVIRUS.—The term “coronavirus”
7 means SARS-CoV-2 or another coronavirus with
8 pandemic potential.

9 (3) COVERED LOSS.—The term “covered loss”
10 includes losses incurred directly or indirectly as a re-
11 sult of coronavirus, as determined by the Secretary.

12 (4) ELIGIBLE BUSINESS.—The term “eligible
13 business” means—

14 (A) an air carrier; or

15 (B) a United States business that has not
16 otherwise received adequate economic relief in
17 the form of loans or loan guarantees provided
18 under this Act.

19 (5) SECRETARY.—The term “Secretary” means
20 the Secretary of the Treasury, or the designee of the
21 Secretary of the Treasury.

22 (6) STATE.—The term “State” means any of
23 the several States, the District of Columbia, any of
24 the territories and possessions of the United States,
25 and any Indian tribe.

1 **SEC. 4003. EMERGENCY RELIEF AND TAXPAYER PROTEC-**
2 **TIONS.**

3 (a) IN GENERAL.—Notwithstanding any other provi-
4 sion of law, to provide liquidity to eligible businesses,
5 States, and municipalities related to losses incurred as a
6 result of coronavirus, the Secretary is authorized to make
7 loans, loan guarantees, and other investments in support
8 of eligible businesses, States, and municipalities that do
9 not, in the aggregate, exceed \$500,000,000,000 and pro-
10 vide the subsidy amounts necessary for such loans, loan
11 guarantees, and other investments in accordance with the
12 provisions of the Federal Credit Reform Act of 1990 (2
13 U.S.C. 661 et seq.).

14 (b) LOANS, LOAN GUARANTEES, AND OTHER IN-
15 VESTMENTS.—Loans, loan guarantees, and other invest-
16 ments made pursuant to subsection (a) shall be made
17 available as follows:

18 (1) Not more than \$50,000,000,000 shall be
19 available to make loans and loan guarantees for pas-
20 senger air carriers.

21 (2) Not more than \$8,000,000,000 shall be
22 available to make loans and loan guarantees for
23 cargo air carriers.

24 (3) Not more than \$17,000,000,000 shall be
25 available to make loans and loan guarantees for
26 businesses critical to maintaining national security.

1 (4) Not more than the sum of
2 \$425,000,000,000 and any amounts available under
3 paragraphs (1), (2), and (3) that are not used as
4 provided under those paragraphs shall be available
5 to make loans and loan guarantees to, and other in-
6 vestments in, programs or facilities established by
7 the Board of Governors of the Federal Reserve Sys-
8 tem for the purpose of providing liquidity to the fi-
9 nancial system that supports lending to eligible busi-
10 nesses, States, or municipalities by—

11 (A) purchasing obligations or other inter-
12 ests directly from issuers of such obligations or
13 other interests; or

14 (B) purchasing obligations or other inter-
15 ests in secondary markets or otherwise.

16 (c) TERMS AND CONDITIONS.—

17 (1) IN GENERAL.—

18 (A) FORMS; TERMS AND CONDITIONS.—A
19 loan, loan guarantee, or other investment shall
20 be made under this section in such form and on
21 such terms and conditions and contain such
22 covenants, representations, warranties, and re-
23 quirements (including requirements for audits)
24 as the Secretary determines appropriate. Any
25 loans made by the Secretary under this section

1 shall be at a rate determined by the Secretary
2 based on the risk and the current average yield
3 on outstanding marketable obligations of the
4 United States of comparable maturity.

5 (B) PROCEDURES.—As soon as prac-
6 ticable, but in no case later than 10 days after
7 the date of enactment of this Act, the Secretary
8 shall publish procedures for application and
9 minimum requirements, which may be supple-
10 mented by the Secretary in the Secretary's dis-
11 cretion, for making loans, loan guarantees, or
12 other investments under paragraphs (1), (2),
13 and (3) of subsection (b).

14 (2) LOANS AND LOAN GUARANTEES.—The Sec-
15 retary may enter into agreements to make loans or
16 loan guarantees to 1 or more eligible businesses
17 under paragraphs (1), (2), or (3) of subsection (b)
18 if the Secretary determines that, in the Secretary's
19 discretion—

20 (A) the applicant is an eligible business for
21 which credit is not reasonably available at the
22 time of the transaction;

23 (B) the intended obligation by the appli-
24 cant is prudently incurred;

1 (C) the loan or loan guarantee is suffi-
2 ciently secured or is made at a rate that—

3 (i) reflects the risk of the loan or loan
4 guarantee; and

5 (ii) is to the extent practicable, not
6 less than an interest rate based on market
7 conditions for comparable obligations prev-
8 alent prior to the outbreak of the
9 coronavirus disease 2019 (COVID–19);

10 (D) the duration of the loan or loan guar-
11 antee is as short as practicable and in any case
12 not longer than 5 years;

13 (E) except to the extent required under a
14 contractual obligation in effect as of the date of
15 enactment of this Act, the agreement prohibits
16 the eligible business from repurchasing any out-
17 standing equity interests while the loan or loan
18 guarantee is outstanding;

19 (F) the agreement requires the eligible
20 business to maintain its existing employment
21 levels as of March 13, 2020, to the extent prac-
22 ticable, while the loan or loan guarantee is out-
23 standing; and

24 (G) for purposes of a loan or loan guar-
25 antee under subsection (b)(3), the eligible bor-

1 rower must have incurred or is expected to
2 incur covered losses such that the continued op-
3 erations of the business are jeopardized, as de-
4 termined by the Secretary.

5 (3) FEDERAL RESERVE PROGRAMS OR FACILI-
6 TIES AND OTHER LOANS OR LOAN GUARANTEES.—

7 (A) TERMS AND CONDITIONS.—

8 (i) DEFINITION.—In this subpara-
9 graph, the term “direct loan” means a
10 loan under a bilateral loan agreement that
11 is entered into directly with an eligible
12 business as borrower and that is not part
13 of a syndicated loan, a loan originated by
14 a financial institution in the ordinary
15 course of business, or a securities or cap-
16 ital markets transaction.

17 (ii) PROHIBITION ON SHARE REPUR-
18 CHASES.—The Secretary may make a loan,
19 loan guarantee, or other investment under
20 subsection (b)(4) as part of a program or
21 facility that provides direct loans only if
22 the relevant eligible businesses agree not to
23 repurchase any outstanding equity inter-
24 ests while the direct loan is outstanding,
25 except to the extent required under a con-

1 tractual obligation in effect as of the date
2 of enactment of this Act.

3 (iii) WAIVER.—The Secretary may
4 waive the requirement under clause (ii)
5 with respect to any program or facility
6 upon a determination that such waiver is
7 not necessary to protect the interests of
8 the Federal Government.

9 (B) PROHIBITION ON LOAN FORGIVE-
10 NESS.—The principal amount of any obligation
11 issued by an eligible business, State, or munici-
12 pality that is acquired under a program or facil-
13 ity under paragraph (1), (2), (3), or (4) of sub-
14 section (b) shall not be reduced through loan
15 forgiveness.

16 (C) FEDERAL RESERVE ACT TAXPAYER
17 PROTECTIONS AND OTHER REQUIREMENTS
18 APPLY.—For the avoidance of doubt, any appli-
19 cable requirements under section 13(3) of the
20 Federal Reserve Act (12 U.S.C. 343(3)), in-
21 cluding requirements relating to loan
22 collateralization, taxpayer protection, and bor-
23 rower solvency, shall apply with respect to any
24 obligation or other interest issued by an eligible
25 business, State, or municipality that is acquired

1 under a program or facility under subsection
2 (b)(4).

3 (d) FINANCIAL PROTECTION OF GOVERNMENT.—

4 (1) IN GENERAL.—To the extent feasible and
5 practicable, the Secretary shall ensure that the com-
6 pensation of the Federal Government is commensu-
7 rate to the risk assumed in making loans and loan
8 guarantees under this section. The Secretary shall
9 liquidate any equity interests the Secretary acquires
10 under this section as soon as reasonably practicable,
11 consistent with maximizing returns to the Federal
12 Government. The Secretary shall not exercise voting
13 power with respect to any shares of common stock
14 acquired under this section.

15 (2) GOVERNMENT PARTICIPATION IN GAINS.—If
16 an eligible business receives a loan or loan guarantee
17 under paragraphs (1), (2), or (3) of subsection (b),
18 the Secretary is authorized to enter into contracts
19 under which the Federal Government, contingent on
20 the financial success of the eligible business, would
21 participate in the gains of the eligible business or its
22 security holders through the use of such instruments
23 as warrants, stock options, common or preferred
24 stock, or other appropriate equity instruments, pro-
25 vided that the Secretary shall not exercise voting

1 power with respect to any shares of common stock
2 so acquired.

3 (e) DEPOSIT OF PROCEEDS.—Amounts collected by
4 the Secretary under this section, including the repayment
5 of principal, proceeds of investments, earnings, and inter-
6 est collected, shall be deposited as follows:

7 (1) Amounts collected under paragraphs (1) or
8 (2) of subsection (b) shall be deposited in the Air-
9 port and Airway Trust Fund under section 9502 of
10 the Internal Revenue Code of 1986 up to the
11 amount of the difference between—

12 (A) the amount of deposits in such fund
13 forecast in such fund's budget for fiscal year
14 2020; and

15 (B) the amount deposited in such fund
16 during fiscal year 2020.

17 (2) Amounts collected under paragraphs (3) or
18 (4) of subsection (b) and any amount collected
19 under paragraphs (1) or (2) of subsection (b) that
20 is not deposited in the Airport and Airway Trust
21 Fund under the preceding subparagraph, shall be
22 deposited in the Treasury as miscellaneous receipts.

23 (f) ADMINISTRATIVE PROVISIONS.—Notwithstanding
24 any other provision of law, the Secretary may use not
25 greater than \$100,000,000 of the funds made available

1 under this section to pay costs and administrative ex-
2 penses associated with the loans, loan guarantees, and
3 other investments authorized under this section. The Sec-
4 retary is authorized to take such actions as the Secretary
5 deems necessary to carry out the authorities in this chap-
6 ter, including, without limitation—

7 (1) using direct hiring authority to hire employ-
8 ees to administer this title;

9 (2) entering into contracts, including contracts
10 for services authorized by this title;

11 (3) establishing vehicles that are authorized,
12 subject to supervision by the Secretary, to purchase,
13 hold, and sell assets and issue obligations; and

14 (4) issuing such regulations and other guidance
15 as may be necessary or appropriate to carry out the
16 authorities or purposes of this title.

17 (g) **FINANCIAL AGENTS.**—The Secretary is author-
18 ized to designate financial institutions, including but not
19 limited to, depositories, brokers, dealers, and other institu-
20 tions, as financial agents of the United States. Such insti-
21 tutions shall—

22 (1) perform all reasonable duties the Secretary
23 determines necessary to respond to the coronavirus;
24 and

1 (2) shall be paid for such duties using appro-
2 priations available to the Secretary to reimburse fi-
3 nancial institutions in their capacity as financial
4 agents of the United States.

5 (h) LOANS MADE BY OR GUARANTEED BY THE DE-
6 PARTMENT OF THE TREASURY TREATED AS INDEBTED-
7 NESS FOR TAX PURPOSES.—

8 (1) IN GENERAL.—Any loan made by or guar-
9 anteed by the Department of the Treasury under
10 this section shall be treated as indebtedness for pur-
11 poses of the Internal Revenue Code of 1986, shall be
12 treated as issued for its stated principal amount,
13 and stated interest on such loans shall be treated as
14 qualified stated interest.

15 (2) REGULATIONS OR GUIDANCE.—The Sec-
16 retary of the Treasury (or the Secretary's delegate)
17 shall prescribe such regulations or guidance as may
18 be necessary or appropriate to carry out the pur-
19 poses of this section, including guidance providing
20 that the acquisition of warrants, stock options, com-
21 mon or preferred stock or other equity under this
22 section does not result in an ownership change for
23 purposes of section 382 of the Internal Revenue
24 Code of 1986.

1 **SEC. 4004. LIMITATION ON CERTAIN EMPLOYEE COM-**
2 **PENSATION.**

3 (a) IN GENERAL.—The Secretary may only enter into
4 an agreement directly with an eligible business to make
5 a loan or loan guarantee under paragraph (1), (2), or (3)
6 of section 4003(b) if such agreement provides that, during
7 the 2-year period beginning March 1, 2020, and ending
8 March 1, 2022, no officer or employee of the eligible busi-
9 ness whose total compensation exceeded \$425,000 in cal-
10 endar year 2019 (other than an employee whose com-
11 pensation is determined through an existing collective bar-
12 gaining agreement entered into prior to March 1, 2020)—

13 (1) will receive from the eligible business total
14 compensation which exceeds, during any 12 consecu-
15 tive months of such 2-year period, the total com-
16 pensation received by the officer or employee from
17 the eligible business in calendar year 2019; and

18 (2) will receive from the eligible business sever-
19 ance pay or other benefits upon termination of em-
20 ployment with the eligible business which exceeds
21 twice the maximum total compensation received by
22 the officer or employee from the eligible business in
23 calendar year 2019.

24 (b) TOTAL COMPENSATION DEFINED.—In this sec-
25 tion, the term “total compensation” includes salary, bo-
26 nuses, awards of stock, and other financial benefits pro-

1 vided by an eligible business to an officer or employee of
2 the eligible business.

3 **SEC. 4005. CONTINUATION OF CERTAIN AIR SERVICE.**

4 The Secretary of Transportation is authorized to re-
5 quire, to the extent reasonable and practicable, an air car-
6 rier receiving loans and loan guarantees under section
7 4003 to maintain scheduled air transportation service as
8 the Secretary of Transportation deems necessary to ensure
9 services to any point served by that carrier before March
10 1, 2020. When considering whether to exercise the author-
11 ity granted by this section, the Secretary of Transpor-
12 tation shall take into consideration the air transportation
13 needs of small and remote communities. The authority
14 under this section, including any requirement issued by
15 the Secretary under this section, shall terminate on March
16 1, 2022.

17 **SEC. 4006. COORDINATION WITH SECRETARY OF TRANS-**
18 **PORTATION.**

19 In implementing this title with respect to air carriers,
20 the Secretary shall coordinate with the Secretary of
21 Transportation.

22 **SEC. 4007. SUSPENSION OF CERTAIN AVIATION EXCISE**
23 **TAXES.**

24 (a) **TRANSPORTATION BY AIR.**—In the case of any
25 amount paid for transportation by air (including any

1 amount treated as paid for transportation by air by reason
2 of section 4261(e)(3) of the Internal Revenue Code of
3 1986) during the excise tax holiday period, no tax shall
4 be imposed under section 4261 or 4271 of such Code. The
5 preceding sentence shall not apply to amounts paid on or
6 before the date of the enactment of this Act.

7 (b) USE OF KEROSENE IN COMMERCIAL AVIATION.—
8 In the case of kerosene used in commercial aviation (as
9 defined in section 4083 of the Internal Revenue Code of
10 1986) during the excise tax holiday period—

11 (1) no tax shall be imposed on such kerosene
12 under—

13 (A) section 4041(c) of the Internal Rev-
14 enue Code of 1986, or

15 (B) section 4081 of such Code (other than
16 at the rate provided in subsection (a)(2)(B)
17 thereof), and

18 (2) section 6427(l) of such Code shall be ap-
19 plied—

20 (A) by treating such use as a nontaxable
21 use, and

22 (B) without regard to paragraph (4)(A)(ii)
23 thereof.

24 (c) EXCISE TAX HOLIDAY PERIOD.—For purposes of
25 this section, the term “excise tax holiday period” means

1 the period beginning after the date of the enactment of
2 this section and ending before January 1, 2021.

3 **SEC. 4008. TRANSACTION ACCOUNT GUARANTEE AUTHOR-**
4 **ITY.**

5 (a) Section 1105 of the Dodd-Frank Wall Street Re-
6 form and Consumer Protection Act (12 U.S.C. 5612) is
7 amended—

8 (1) in subsection (f), by striking “shall not”
9 and inserting “may”; and

10 (2) by adding at the end the following:

11 “(h) APPROVAL OF GUARANTEE PROGRAM DURING
12 THE COVID-19 CRISIS.—For purposes of the congressional
13 joint resolution of approval provided for in subsections
14 (c)(1) and (2) and (d), notwithstanding any other provi-
15 sion of this section, the Federal Deposit Insurance Cor-
16 poration is approved upon enactment of this Act to estab-
17 lish a program provided for in subsection (a) without a
18 maximum guarantee provided that any such program and
19 any such guarantee shall terminate not later than Decem-
20 ber 31, 2020.”.

21 (b) FEDERAL CREDIT UNION TRANSACTION AC-
22 COUNT GUARANTEES.—Notwithstanding any other provi-
23 sion of law and in coordination with the Federal Deposit
24 Insurance Corporation, the National Credit Union Admin-
25 istration Board may by a vote of the Board increase to

1 unlimited, or such lower amount as the Board approves,
2 the share insurance coverage provided by the National
3 Credit Union Share Insurance Fund on any noninterest-
4 bearing transaction account in any federally insured credit
5 union without exception, provided that any such increase
6 shall terminate not later than December 31, 2020.

7 **SEC. 4009. TEMPORARY GOVERNMENT IN THE SUNSHINE**
8 **ACT RELIEF.**

9 (a) IN GENERAL.—Except as provided in subsection
10 (b), notwithstanding any other provision of law, if the
11 Chairman of the Board of Governors of the Federal Re-
12 serve System determines, in writing, that unusual and exi-
13 gent circumstances exist, the Board may conduct meetings
14 without regard to the requirements of section 552b of title
15 5, United States Code, during the period beginning on the
16 date of enactment of this Act and ending on the earlier
17 of—

18 (1) the date on which the public health emer-
19 gency declared by the Secretary of Health and
20 Human Services on January 31, 2020, under section
21 319 of the Public Health Service Act (42 U.S.C.
22 247d), terminates; or

23 (2) December 31, 2020.

24 (b) RECORDS.—The Board of Governors of the Fed-
25 eral Reserve System shall keep a record of all Board votes

1 and the reasons for such votes during the period described
2 in subsection (a).

3 **SEC. 4010. TEMPORARY HIRING FLEXIBILITY.**

4 (a) DEFINITION.—In this section, the term “covered
5 period” means the period beginning on the date of enact-
6 ment of this Act and ending on the sooner of—

7 (1) the termination date of the public health
8 emergency declared by the Secretary of Health and
9 Human Services on January 31, 2020, under section
10 319 of the Public Health Services Act (42 U.S.C.
11 247d) in response to COVID–19; or

12 (2) December 31, 2020.

13 (b) AUTHORITY.— During the covered period, the
14 Secretary of Housing and Urban Development and the Se-
15 curities and Exchange Commission may, without regard
16 to sections 3309 through 3318 of title 5, United States
17 Code, recruit and appoint candidates to fill temporary and
18 term appointments within their respective agencies upon
19 a determination that those expedited procedures are nec-
20 essary and appropriate to enable the respective agencies
21 to prevent, prepare for, or respond to COVID–19.

22 **SEC. 4011. TEMPORARY LENDING LIMIT WAIVER.**

23 (a) IN GENERAL.—Section 5200 of the Revised Stat-
24 utes of the United States (12 U.S.C. 84) is amended—

25 (1) in subsection (c)(7)—

1 (A) by inserting “any nonbank financial
2 company (as that term is defined in section 102
3 of the Financial Stability Act of 2010 (12
4 U.S.C. 5311)),” after “Loans or extensions of
5 credit to”; and

6 (B) by striking “financial institution or to”
7 and inserting “financial institution, or to”; and

8 (2) in subsection (d), by adding at the end of
9 paragraph (1) the following: “The Comptroller of
10 the Currency may, by order, exempt any transaction
11 or series of transactions from the requirements of
12 this section upon a finding by the Comptroller that
13 such exemption is in the public interest and con-
14 sistent with the purposes of this section.”.

15 (b) EFFECTIVE PERIOD.—This section, and the
16 amendments made by this section, shall be effective during
17 the period beginning on the date of enactment of this Act
18 and ending on the sooner of—

19 (1) the termination date of the public health
20 emergency declared by the Secretary of Health and
21 Human Services on January 31, 2020, under section
22 319 of the Public Health Services Act (42 U.S.C.
23 247d) in response to COVID–19; or

24 (2) December 31, 2020.

1 **SEC. 4012. TEMPORARY RELIEF FOR COMMUNITY BANKS.**

2 (a) DEFINITIONS.—In this section—

3 (1) the term “appropriate Federal banking
4 agency” has the meaning given the term in section
5 2 of the Economic Growth, Regulatory Relief, and
6 Consumer Protection Act (12 U.S.C. 5365 note);
7 and

8 (2) the terms “Community Bank Leverage
9 Ratio” and “qualifying community bank” have the
10 meanings given the terms in section 201(a) of the
11 Economic Growth, Regulatory Relief, and Consumer
12 Protection Act (12 U.S.C. 5371 note).

13 (b) INTERIM RULE.—

14 (1) IN GENERAL.—Notwithstanding any other
15 provision of law or regulation, the appropriate Fed-
16 eral banking agencies shall issue an interim final
17 rule that provides that, for the purposes of section
18 201 of the Economic Growth, Regulatory Relief, and
19 Consumer Protection Act (12 U.S.C. 5371 note)—

20 (A) the Community Bank Leverage Ratio
21 shall be 8 percent; and

22 (B) a qualifying community bank that falls
23 below the Community Bank Leverage Ratio es-
24 tablished under subparagraph (A) shall have a
25 reasonable grace period to satisfy the Commu-
26 nity Bank Leverage Ratio.

1 (2) EFFECTIVE PERIOD.—The interim rule
2 issued under paragraph (1) shall be effective during
3 the period beginning on the date on which the ap-
4 propriate Federal banking agencies issue the rule
5 and ending on the sooner of—

6 (A) the termination date of the public
7 health emergency declared by the Secretary of
8 Health and Human Services on January 31,
9 2020, under section 319 of the Public Health
10 Services Act (42 U.S.C. 247d) in response to
11 COVID-19; or

12 (B) December 31, 2020.

13 (c) GRACE PERIOD.—During a grace period de-
14 scribed in paragraph (1)(B), a qualifying community bank
15 to which the grace period applies may continue to be treat-
16 ed as a qualifying community bank and shall be presumed
17 to satisfy the capital and leverage requirements described
18 in section 201(c) of the Economic Growth, Regulatory Re-
19 lief, and Consumer Protection Act (12 U.S.C. 5371 note).

20 **SEC. 4013. TEMPORARY RELIEF FROM TROUBLED DEBT**
21 **RESTRUCTURINGS.**

22 (a) DEFINITIONS.—In this section:

23 (1) APPLICABLE PERIOD.—The term “applica-
24 ble period” means the period beginning on March 1,
25 2020 and ending on the date 60 days after the date

1 on which the public health emergency declared by
2 the Secretary of Health and Human Services on
3 January 31, 2020, under section 319 of the Public
4 Health Service Act (42 U.S.C. 247d), terminates.

5 (2) APPROPRIATE FEDERAL BANKING AGEN-
6 CY.—The term “appropriate Federal banking agen-
7 cy”—

8 (A) has the meaning given the term in sec-
9 tion 3 of the Federal Deposit Insurance Act (12
10 U.S.C. 1813); and

11 (B) includes the National Credit Union
12 Administration.

13 (b) SUSPENSION.—

14 (1) IN GENERAL.—During the applicable pe-
15 riod, a financial institution may elect to—

16 (A) suspend the requirements under
17 United States generally accepted accounting
18 principles for loan modifications related to the
19 coronavirus disease 2019 (COVID–19) pan-
20 demic that would otherwise be categorized as a
21 troubled debt restructuring; and

22 (B) suspend any determination of a loan
23 modified as a result of the effects of the
24 coronavirus disease 2019 (COVID–19) pan-

1 demic as being a troubled debt restructuring,
2 including impairment for accounting purposes.

3 (2) APPLICABILITY.—Any suspension under
4 paragraph (1)—

5 (A) shall be applicable for the term of the
6 loan modification, but solely with respect to any
7 modification, including a forbearance arrange-
8 ment, an interest rate modification, a repay-
9 ment plan, and any other similar arrangement
10 that defers or delays the payment of principal
11 or interest, that occurs during the applicable
12 period for a loan that was not more than 30
13 days past due as of December 31, 2019; and

14 (B) shall not apply to any adverse impact
15 on the credit of a borrower that is not related
16 to the coronavirus disease 2019 (COVID–19)
17 pandemic.

18 (c) DEFERENCE.—The appropriate Federal banking
19 agency of the financial institution shall defer to the deter-
20 mination of the financial institution to make a suspension
21 under this section.

22 (d) RECORDS.—For modified loans for which suspen-
23 sions under subsection (a) apply—

1 (1) financial institutions should continue to
2 maintain records of the volume of loans involved;
3 and

4 (2) the appropriate Federal banking agencies
5 may collect data about such loans for supervisory
6 purposes.

7 **SEC. 4014. OPTIONAL TEMPORARY RELIEF FROM CURRENT**
8 **EXPECTED CREDIT LOSSES.**

9 (a) DEFINITIONS.—In this section:

10 (1) APPROPRIATE FEDERAL BANKING AGEN-
11 CY.—The term “appropriate Federal banking agen-
12 cy”—

13 (A) has the meaning given the term in sec-
14 tion 3 of the Federal Deposit Insurance Act (12
15 U.S.C. 1813); and

16 (B) includes the National Credit Union
17 Administration.

18 (2) INSURED DEPOSITORY INSTITUTION.—The
19 term “insured depository institution”—

20 (A) has the meaning given the term in sec-
21 tion 3 of the Federal Deposit Insurance Act (12
22 U.S.C. 1813); and

23 (B) includes a federally insured credit
24 union.

1 (b) TEMPORARY RELIEF FROM CECL STAND-
2 ARDS.—Notwithstanding any other provision of law, no in-
3 sured depository institution, bank holding company, or
4 any affiliate thereof shall be required to comply with the
5 Financial Accounting Standards Board Accounting Stand-
6 ards Update No. 2016–13 (“Measurement of Credit
7 Losses on Financial Instruments”), including the current
8 expected credit losses methodology for estimating allow-
9 ances for credit losses, during the period beginning on the
10 date of enactment of this Act and ending on the earlier
11 of—

12 (1) the date on which the public health emer-
13 gency declared by the Secretary of Health and
14 Human Services on January 31, 2020, under section
15 319 of the Public Health Service Act (42 U.S.C.
16 247d), terminates; or

17 (2) December 31, 2020.

18 **SEC. 4015. NON-APPLICABILITY OF RESTRICTIONS ON ESF**

19 **DURING NATIONAL EMERGENCY.**

20 (a) IN GENERAL.—Section 131 of the Emergency
21 Economic Stabilization Act of 2008 (12 U.S.C. 5236)
22 shall not apply during the period beginning on the date
23 of enactment of this Act and ending on December 31,
24 2020. Any guarantee established as a result of the applica-

1 tion of subsection (a) shall terminate not later than De-
2 cember 31, 2020.

3 (b) DIRECT APPROPRIATION.—Upon the expiration
4 of the period described in subsection (a), there is appro-
5 priated, out of amounts in the Treasury not otherwise ap-
6 propriated, such sums as may be necessary to reimburse
7 the fund established under section 5302(a)(1) of title 31,
8 United States Code, for any funds that are used for the
9 Treasury Money Market Funds Guaranty Program for the
10 United States money market mutual fund industry to the
11 extent a claim payment made exceeds the balance of fees
12 collected by the fund.

13 **SEC. 4016. TEMPORARY CREDIT UNION PROVISIONS.**

14 (a) IN GENERAL.—

15 (1) DEFINITIONS.—Section 302(1) of the Fed-
16 eral Credit Union Act (12 U.S.C. 1795a(1)) is
17 amended, in the matter preceding subparagraph (A),
18 by striking “primarily serving natural persons”.

19 (2) MEMBERSHIP.—Section 304(b)(2) of the
20 Federal Credit Union Act (12 U.S.C. 1795c(b)(2))
21 is amended by striking “all those credit unions” and
22 inserting “such credit unions as the Board may in
23 its discretion determine”.

24 (3) EXTENSIONS OF CREDIT.—Section
25 306(a)(1) of the Federal Credit Union Act (12

1 U.S.C. 1795e(a)(1)) is amended, in the second sen-
2 tence, by striking “the intent of which is to expand
3 credit union portfolios” and inserting “without first
4 having obtained evidence from the applicant that the
5 applicant has made reasonable efforts to first use
6 primary sources of liquidity of the applicant, includ-
7 ing balance sheet and market funding sources, to
8 address the liquidity needs of the applicant”.

9 (4) POWERS OF THE BOARD.—Section
10 307(a)(4)(A) of the Federal Credit Union Act (12
11 U.S.C. 1795f(a)(4)(A)) is amended by inserting “,
12 provided that, the total face value of such obliga-
13 tions shall not exceed 16 times the subscribed cap-
14 ital stock and surplus of the Facility for the period
15 beginning on the date of enactment of the
16 Coronavirus Economic Stabilization Act of 2020 and
17 ending on December 31, 2020” after “Facility”.

18 (b) SUNSET.—

19 (1) IN GENERAL.—

20 (A) DEFINITIONS.—Section 302(1) of the
21 Federal Credit Union Act (12 U.S.C. 1795a(1))
22 is amended, in the matter preceding subpara-
23 graph (A), by inserting “primarily serving nat-
24 ural persons” after “credit unions”.

1 (B) MEMBERSHIP.—Section 304(b)(2) of
2 the Federal Credit Union Act (12 U.S.C.
3 1795c(b)(2)) is amended by striking “such
4 credit unions as the Board may in its discretion
5 determine” and inserting “all those credit
6 unions”.

7 (C) EXTENSIONS OF CREDIT.—Section
8 306(a)(1) of the Federal Credit Union Act (12
9 U.S.C. 1795e(a)(1)) is amended, in the second
10 sentence, by striking “without first having ob-
11 tained evidence from the applicant that the ap-
12 plicant has made reasonable efforts to first use
13 primary sources of liquidity of the applicant, in-
14 cluding balance sheet and market funding
15 sources, to address the liquidity needs of the
16 applicant” and inserting “the intent of which is
17 to expand credit union portfolios”.

18 (2) EFFECTIVE DATE.—The amendments made
19 by paragraph (1) shall take effect on December 31,
20 2020.

21 **SEC. 4017. INCREASING ACCESS TO MATERIALS NECESSARY**
22 **FOR NATIONAL SECURITY AND PANDEMIC**
23 **RECOVERY.**

24 Notwithstanding any other provision of law—

1 (1) during the 2-year period beginning on the
2 date of enactment of this Act, the requirements de-
3 scribed in sections 303(a)(6)(C) and 304(e) of the
4 Defense Production Act of 1950 (50 U.S.C.
5 4533(a)(6)(C), 4534(e)) shall not apply; and

6 (2) during the 1-year period beginning on the
7 date of enactment of this Act, the requirements de-
8 scribed in sections 302(d)(1) and 303 (a)(6)(B) of
9 the Defense Production Act of 1950 (50 U.S.C.
10 4532(d)(1), 4533(a)(6)(B)) shall not apply.

11 **SEC. 4018. REPORTS.**

12 (a) SECRETARY.—The Secretary shall, with respect
13 to the loans, loan guarantees, and other investments under
14 paragraphs (1), (2), and (3) of section 4003(b), make
15 such reports as are required under section 5302(c) of title
16 31, United States Code, provided that the names of appli-
17 cable eligible businesses, States, and municipalities and
18 the amounts of individual loans or loan guarantees may
19 be disclosed on a delayed basis of up to 6 months, if nec-
20 essary and appropriate to promote the stability of United
21 States financial markets or the safety and soundness of
22 eligible businesses, States, and municipalities.

23 (b) GOVERNMENT ACCOUNTABILITY OFFICE.—

24 (1) STUDY.—The Comptroller General of the
25 United States shall conduct a study on the loans,

1 loan guarantees, and other investments provided
2 under section 4003.

3 (2) REPORT.—Not later than 9 months after
4 the date of enactment of this Act, and annually
5 thereafter through the year succeeding the last year
6 for which loans or loan guarantees provided under
7 section 4003 are outstanding, the Comptroller Gen-
8 eral shall submit to the Committee on Banking,
9 Housing and Urban Affairs, Committee on Trans-
10 portation and Infrastructure, the Committee on Ap-
11 propriations, and the Committee on the Budget of
12 the House of Representatives and the Committee on
13 Commerce, Science, and Transportation, the Com-
14 mittee on Appropriations, and the Committee on the
15 Budget of the Senate a report on the loans and loan
16 guarantees provided under section 4003.

17 **SEC. 4019. DIRECT APPROPRIATION.**

18 (a) IN GENERAL.—Notwithstanding any other provi-
19 sion of law, there is appropriated, out of amounts in the
20 Treasury not otherwise appropriated, to the fund estab-
21 lished under section 5302(a)(1) of title 31, United States
22 Code, \$500,000,000,000 to carry out this title.

23 (b) TECHNICAL AND CONFORMING AMENDMENT.—
24 Section 5302(a) of title 31, United States Code, is amend-
25 ed—

1 (1) by striking “and” before “section 3”; and

2 (2) by inserting “and the Coronavirus Eco-
3 nomic Stabilization Act of 2020,” before “and for
4 investing”.

5 (c) CLARIFICATION.—

6 (1) IN GENERAL.—On January 1, 2021, any re-
7 maining funds made available under section 4003(b)
8 may not be used—

9 (A) to make new loans, loan guarantees, or
10 other investments; and

11 (B) except as provided in paragraph (2),
12 may not be used for any other purpose.

13 (2) DEFICIT REDUCTION.—Any funds described
14 in paragraph (1) shall be transferred to the general
15 fund of the Treasury to be used for deficit reduction.

16 **SEC. 4020. COVID-19 BORROWING AUTHORITY FOR THE**
17 **UNITED STATES POSTAL SERVICE.**

18 (a) DEFINITIONS.—In this section—

19 (1) the term “COVID-19 emergency” means
20 the emergency involving Federal primary responsi-
21 bility determined to exist by the President under
22 section 501(b) of the Robert T. Stafford Disaster
23 Relief and Emergency Assistance Act (42 U.S.C.
24 5191(b)) with respect to the Coronavirus Disease
25 2019 (COVID-19); and

1 (2) the term “Postal Service” means the United
2 States Postal Service.

3 (b) **ADDITIONAL BORROWING AUTHORITY.**—Not-
4 withstanding section 2005 of title 39, United States Code,
5 or any other provision of law, if the Postal Service deter-
6 mines that, due to the COVID–19 emergency, the Postal
7 Service will not be able to fund operating expenses without
8 borrowing money—

9 (1) the Postal Service may borrow money from
10 the Treasury in an amount not to exceed
11 \$10,000,000,000—

12 (A) to be used for such operating expenses;

13 and

14 (B) which may not be used to pay any out-
15 standing debt of the Postal Service; and

16 (2) the Secretary of the Treasury may lend up
17 to the amount described in paragraph (1) at the re-
18 quest of the Postal Service, upon terms and condi-
19 tions mutually agreed upon by the Secretary and the
20 Postal Service.

21 (c) **PRIORITIZATION OF DELIVERY FOR MEDICAL**
22 **PURPOSES DURING COVID–19 EMERGENCY.**—Notwith-
23 standing any other provision of law, during the COVID–
24 19 emergency, the Postal Service—

1 (1) shall prioritize delivery of postal products
2 for medical purposes; and

3 (2) may establish temporary delivery points, in
4 such form and manner as the Postal Service deter-
5 mines necessary, to protect employees of the Postal
6 Service and individuals receiving deliveries from the
7 Postal Service.

8 **SEC. 4021. RULE OF CONSTRUCTION.**

9 Nothing in this title shall be construed to allow the
10 Secretary to provide relief to eligible businesses, States,
11 and municipalities except in the form of loans, loan guar-
12 antees, and other investments as provided in this title and
13 under terms and conditions that are in the interest of the
14 Federal Government.

15 **SEC. 4022. TERMINATION OF AUTHORITY.**

16 (a) IN GENERAL.—Except as provided in subsection
17 (b), on December 31, 2020, the authority provided under
18 this title to make new loans, loan guarantees, or other in-
19 vestments shall terminate.

20 (b) OUTSTANDING.—Any loan, loan guarantee, or
21 other investment outstanding on the date described in sub-
22 section (a)—

23 (1) may be modified, restructured, or otherwise
24 amended; and

25 (2) may not be forgiven.

1 (c) DURATION.—The duration of any loan or loan
2 guarantee made under paragraph (1), (2), or (3) of section
3 4003(b) that is modified, restructured, or otherwise
4 amended under subsection (b)(1) shall not be extended be-
5 yond 5 years from the initial origination date of the loan
6 or loan guarantee.

7 **TITLE V—BUDGETARY**
8 **PROVISIONS**

9 **SEC. 5001. EMERGENCY DESIGNATION.**

10 (a) IN GENERAL.—The amounts provided under this
11 division are designated as an emergency requirement pur-
12 suant to section 4(g) of the Statutory Pay-As-You-Go Act
13 of 2010 (2 U.S.C. 933(g)).

14 (b) DESIGNATION IN SENATE.—In the Senate, this
15 division is designated as an emergency requirement pursu-
16 ant to section 4112(a) of H. Con. Res. 71 (115th Con-
17 gress), the concurrent resolution on the budget for fiscal
18 year 2018.