

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for a complete substitute.

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

S. 178

To condemn gross human rights violations of ethnic Turkic Muslims in Xinjiang, and calling for an end to arbitrary detention, torture, and harassment of these communities inside and outside China.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Delivering Immediate
5 Relief to America’s Families, Schools and Small Busi-
6 nesses Act”.

7 **SEC. 2. TABLE OF CONTENTS.**

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

Sec. 1. Short title.

Sec. 2. Table of contents.

2

Sec. 3. References.

DIVISION A—LIABILITY PROTECTIONS, CONTINUED RELIEF FOR
SMALL BUSINESSES AND WORKERS, PUBLIC HEALTH EN-
HANCEMENTS, AND EDUCATIONAL SUPPORT

TITLE I—SUNSETS AND OFFSETS

Sec. 1001. Emergency relief and taxpayer protections.
Sec. 1002. Direct appropriation.
Sec. 1003. Termination of authority.
Sec. 1004. Rescissions.

TITLE II—CORONAVIRUS LIABILITY RELIEF

Sec. 2001. Short title.
Sec. 2002. Findings and purposes.
Sec. 2003. Definitions.

Subtitle A—Liability Relief

PART I—LIABILITY LIMITATIONS FOR INDIVIDUALS AND ENTITIES
ENGAGED IN BUSINESSES, SERVICES, ACTIVITIES, OR ACCOMMODATIONS

Sec. 2121. Application of part.
Sec. 2122. Liability; safe harbor.

PART II—LIABILITY LIMITATIONS FOR HEALTH CARE PROVIDERS

Sec. 2141. Application of part.
Sec. 2142. Liability for health care professionals and health care facilities dur-
ing coronavirus public health emergency.

PART III—SUBSTANTIVE AND PROCEDURAL PROVISIONS FOR CORONAVIRUS-
RELATED ACTIONS GENERALLY

Sec. 2161. Jurisdiction.
Sec. 2162. Limitations on suits.
Sec. 2163. Procedures for suit in district courts of the united states.
Sec. 2164. Demand letters; cause of action.

PART IV—RELATION TO LABOR AND EMPLOYMENT LAWS

Sec. 2181. Limitation on violations under specific laws.
Sec. 2182. Liability for conducting testing at workplace.
Sec. 2183. Joint employment and independent contracting.
Sec. 2184. Exclusion of certain notification requirements as a result of the
COVID-19 public health emergency.

Subtitle B—Products

Sec. 2201. Applicability of the targeted liability protections for pandemic and
epidemic products and security countermeasures with respect
to covid-19.

Subtitle C—General Provisions

Sec. 2301. Severability.

3

TITLE III—ASSISTANCE FOR AMERICAN FAMILIES

Sec. 3001. Short title.

Sec. 3002. Extension of the Federal Pandemic Unemployment Compensation program.

TITLE IV—SMALL BUSINESS PROGRAMS

Sec. 4001. Small business recovery.

TITLE V—POSTAL SERVICE ASSISTANCE

Sec. 5001. COVID-19 funding for the United States Postal Service.

TITLE VI—EDUCATIONAL SUPPORT AND CHILD CARE

Subtitle A—Emergency Education Freedom Grants; Tax Credits for Contributions to Eligible Scholarship-granting Organizations

Sec. 6001. Emergency education freedom grants.

Sec. 6002. Tax credits for contributions to eligible scholarship-granting organizations.

Sec. 6003. Education Freedom Scholarships web portal and administration.

Sec. 6004. 529 account funding for homeschool and additional elementary and secondary expenses.

Subtitle B—Back to Work Child Care Grants

Sec. 6101. Back to Work Child Care grants.

TITLE VII—PANDEMIC PREPARATION AND STRATEGIC STOCKPILE

Sec. 7001. Sustained on-shore manufacturing capacity for public health emergencies.

Sec. 7002. Improving and sustaining State medical stockpiles.

Sec. 7003. Strengthening the Strategic National Stockpile.

TITLE VIII—CORONAVIRUS RELIEF FUND EXTENSION

Sec. 8001. Extension of period to use Coronavirus Relief Fund payments.

TITLE IX—CHARITABLE GIVING

Sec. 9001. Increase in limitation on partial above the line deduction for charitable contributions.

TITLE X—CRITICAL MINERALS

Sec. 10001. Mineral security.

Sec. 10002. Rare earth element advanced coal technologies.

TITLE XI—MISCELLANEOUS PROVISIONS

Sec. 11001. Emergency designation.

DIVISION B—CORONAVIRUS RESPONSE ADDITIONAL
SUPPLEMENTAL APPROPRIATIONS ACT, 2020

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.

6 **DIVISION A—LIABILITY PROTEC-**
7 **TIONS, CONTINUED RELIEF**
8 **FOR SMALL BUSINESSES AND**
9 **WORKERS, PUBLIC HEALTH**
10 **ENHANCEMENTS, AND EDU-**
11 **CATIONAL SUPPORT**

12 **TITLE I—SUNSETS AND OFFSETS**

13 **SEC. 1001. EMERGENCY RELIEF AND TAXPAYER PROTEC-**
14 **TIONS.**

15 Section 4003 of the CARES Act (15 U.S.C. 9061)
16 is amended in subsection (e) by striking “Amounts” and
17 inserting “Notwithstanding any other provision of law,
18 amounts”.

19 **SEC. 1002. DIRECT APPROPRIATION.**

20 Section 4027 of the CARES Act (15 U.S.C. 9063)
21 is amended by adding at the end the following:

22 “(d) REDUCTION.—The appropriation made under
23 this section shall be reduced, on January 19, 2021, by
24 an amount equal to the difference between
25 \$454,000,000,000 and the aggregate amount of loans,
26 loan guarantees, and other investments that the Secretary

1 has made or committed to make under section 4003(b)(4)
2 as of such date.”.

3 **SEC. 1003. TERMINATION OF AUTHORITY.**

4 Section 4029 of the CARES Act (15 U.S.C. 9063)
5 is amended by adding at the end the following:

6 “(c) FEDERAL RESERVE PROGRAMS OR FACILI-
7 TIES.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of law, after January 4, 2021, the Board
10 of Governors of the Federal Reserve System and the
11 Federal Reserve banks shall not make any loan, pur-
12 chase any obligation, asset, security, or other inter-
13 est, or make any extension of credit through any
14 program or facility established under section 13(3)
15 of the Federal Reserve Act (12 U.S.C. 343(3)) in
16 which the Secretary made a loan, loan guarantee, or
17 other investment using funds appropriated under
18 section 4027, other than any such loan, purchase, or
19 extension of credit for which a complete application
20 was submitted on or before January 4, 2021, pro-
21 vided that such loan, purchase, or extension of credit
22 is made on or before January 18, 2021, and under
23 the terms and conditions of the program or facility
24 as in effect on the date the complete application was
25 submitted.

1 “(2) NO MODIFICATION.—On or after January
2 19, 2021, the Board of Governors of the Federal Re-
3 serve System and the Federal Reserve banks shall
4 not modify the terms and conditions of any program
5 or facility established under section 13(3) of the
6 Federal Reserve Act (12 U.S.C. 343(3)) in which
7 the Secretary made a loan, loan guarantee, or other
8 investment using funds appropriated under section
9 4027, but may modify or restructure a loan, obliga-
10 tion, asset, security, or other interest, or extension
11 of credit made or purchased through any such pro-
12 gram or facility provided that—

13 “(A) the loan, obligation, asset, security,
14 or other interest, or extension of credit is for an
15 eligible business, including an eligible nonprofit
16 organization; and

17 “(B) the modification or restructuring re-
18 lates to a single and specific eligible business,
19 including an eligible nonprofit organization; and

20 “(C) the modification or restructuring is
21 necessary to minimize costs to taxpayers that
22 could arise from a default on the loan, obliga-
23 tion, asset, security, or other interest, or exten-
24 sion of credit.”.

1 **SEC. 1004. RESCISSIONS.**

2 (a) PPP AND SUBSIDY FOR CERTAIN LOAN PAY-
3 MENTS.—Of the unobligated balances in the appropria-
4 tions account under the heading “Small Business Admin-
5 istration—Business Loans Program Account, CARES
6 Act” as of the day before the date of enactment of this
7 Act, effective on the date of enactment of this Act
8 \$146,000,000,000 shall be rescinded and deposited into
9 the general fund of the Treasury.

10 (b) EXCHANGE STABILIZATION FUND.—Section
11 4003 of the CARES Act (15 U.S.C. 9042) is amended—

12 (1) in subsection (a), by striking
13 “\$500,000,000,000” and inserting
14 “\$296,000,000,000”; and

15 (2) in subsection (b)(4), in the matter pre-
16 ceding subparagraph (A), by striking
17 “\$454,000,000,000” and inserting
18 “\$250,000,000,000”.

19 **TITLE II—CORONAVIRUS**
20 **LIABILITY RELIEF**

21 **SEC. 2001. SHORT TITLE.**

22 This title may be cited as the “Safeguarding Amer-
23 ica’s Frontline Employees To Offer Work Opportunities
24 Required to Kickstart the Economy Act” or the “SAFE
25 TO WORK Act”.

1 **SEC. 2002. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) The SARS–CoV–2 virus that originated in
4 China and causes the disease COVID–19 has caused
5 untold misery and devastation throughout the world,
6 including in the United States.

7 (2) For months, frontline health care workers
8 and health care facilities have fought the virus with
9 courage and resolve. They did so at first with very
10 little information about how to treat the virus and
11 developed strategies to save lives of the people of the
12 United States in real time. They risked their per-
13 sonal health and wellbeing to protect and treat their
14 patients.

15 (3) Businesses in the United States kicked into
16 action to produce and procure personal protective
17 equipment, such as masks, gloves, face shields, and
18 hand sanitizer, and other necessary medical supplies,
19 such as ventilators, at unprecedented rates.

20 (4) To halt the spread of the disease, State and
21 local governments took drastic measures. They shut
22 down small and large businesses, schools, colleges
23 and universities, religious, philanthropic and other
24 nonprofit institutions, and local government agen-
25 cies. They ordered people to remain in their homes.

1 (5) This standstill was needed to slow the
2 spread of the virus. But it devastated the economy
3 of the United States. The sum of hundreds of local-
4 level and State-level decisions to close nearly every
5 space in which people might gather brought inter-
6 state commerce nearly to a halt.

7 (6) This halt led to the loss of millions of jobs.
8 These lost jobs were not a natural consequence of
9 the economic environment, but rather the result of
10 a drastic, though temporary, response to the unprec-
11 edented nature of this global pandemic.

12 (7) Congress passed a series of statutes to ad-
13 dress the health care and economic crises—the
14 Coronavirus Preparedness and Response Supple-
15 mental Appropriations Act, 2020 (Public Law 116–
16 123; 134 Stat. 146), the Families First Coronavirus
17 Response Act (Public Law 116–127; 134 Stat. 178),
18 the Coronavirus Aid, Relief, and Economic Security
19 Act or the CARES Act (Public Law 116–136), and
20 the Paycheck Protection Program and Health Care
21 Enhancement Act (Public Law 116–139; 134 Stat.
22 620). In these laws Congress exercised its power
23 under the Commerce and Spending Clauses of the
24 Constitution of the United States to direct trillions
25 of taxpayer dollars toward efforts to aid workers,

1 businesses, State and local governments, health care
2 workers, and patients.

3 (8) This legislation provided short-term insula-
4 tion from the worst of the economic storm, but these
5 laws alone cannot protect the United States from
6 further devastation. Only reopening the economy so
7 that workers can get back to work and students can
8 get back to school can accomplish that goal.

9 (9) The Constitution of the United States spe-
10 cifically enumerates the legislative powers of Con-
11 gress. One of those powers is the regulation of inter-
12 state commerce. The Government is not a substitute
13 for the economy, but it has the authority and the
14 duty to act when interstate commerce is threatened
15 and damaged. As applied to the present crisis, Con-
16 gress can deploy its power over interstate commerce
17 to promote a prudent reopening of businesses and
18 other organizations that serve as the foundation and
19 backbone of the national economy and of commerce
20 among the States. These include small and large
21 businesses, schools (which are substantial employers
22 in their own right and provide necessary services to
23 enable parents and other caregivers to return to
24 work), colleges and universities (which are substan-
25 tial employers and supply the interstate market for

1 higher-education services), religious, philanthropic
2 and other nonprofit institutions (which are substan-
3 tial employers and provide necessary services to their
4 communities), and local government agencies.

5 (10) Congress must also ensure that the Na-
6 tion's health care workers and health care facilities
7 are able to act fully to defeat the virus.

8 (11) Congress must also safeguard its invest-
9 ment of taxpayer dollars under the CARES Act and
10 other coronavirus legislation. Congress must ensure
11 that those funds are used to help businesses and
12 workers survive and recover from the economic cri-
13 sis, and to help health care workers and health care
14 facilities defeat the virus. CARES Act funds cannot
15 be diverted from these important purposes to line
16 the pockets of the trial bar.

17 (12) One of the chief impediments to the con-
18 tinued flow of interstate commerce as this public-
19 health crisis has unfolded is the risk of litigation.
20 Small and large businesses, schools, colleges and
21 universities, religious, philanthropic and other non-
22 profit institutions, and local government agencies
23 confront the risk of a tidal wave of lawsuits accusing
24 them of exposing employees, customers, students,
25 and worshipers to coronavirus. Health care workers

1 face the threat of lawsuits arising from their efforts
2 to fight the virus.

3 (13) They confront this litigation risk even as
4 they work tirelessly to comply with the coronavirus
5 guidance, rules, and regulations issued by local gov-
6 ernments, State governments, and the Federal Gov-
7 ernment. They confront this risk notwithstanding
8 equipment and staffing shortages. And they confront
9 this risk while also grappling with constantly chang-
10 ing information on how best to protect employees,
11 customers, students, and worshipers from the virus,
12 and how best to treat it.

13 (14) These lawsuits pose a substantial risk to
14 interstate commerce because they threaten to keep
15 small and large businesses, schools, colleges and uni-
16 versities, religious, philanthropic and other nonprofit
17 institutions, and local government agencies from re-
18 opening for fear of expensive litigation that might
19 prove to be meritless. These lawsuits further threat-
20 en to undermine the Nation's fight against the virus
21 by exposing our health care workers and health care
22 facilities to liability for difficult medical decisions
23 they have made under trying and uncertain cir-
24 cumstances.

1 (15) These lawsuits also risk diverting taxpayer
2 money provided under the CARES Act and other
3 coronavirus legislation from its intended purposes to
4 the pockets of opportunistic trial lawyers.

5 (16) This risk is not purely local. It is nec-
6 essarily national in scale. A patchwork of local and
7 State rules governing liability in coronavirus-related
8 lawsuits creates tremendous unpredictability for ev-
9 eryone participating in interstate commerce and acts
10 as a significant drag on national recovery. The ag-
11 gregation of each individual potential liability risk
12 poses a substantial and unprecedented threat to
13 interstate commerce.

14 (17) The accumulated economic risks for these
15 potential defendants directly and substantially af-
16 fects interstate commerce. Individuals and entities
17 potentially subject to coronavirus-related liability will
18 structure their decisionmaking to avoid that liability.
19 Small and large businesses, schools, colleges and
20 universities, religious, philanthropic and other non-
21 profit institutions, and local government agencies
22 may decline to reopen because of the risk of litiga-
23 tion. They may limit their output or engagement
24 with customers and communities to avoid the risk of
25 litigation. These individual economic decisions sub-

1 stantially affect interstate commerce because, as a
2 whole, they will prevent the free and fair exchange
3 of goods and services across State lines. Such eco-
4 nomic activity that, individually and in the aggre-
5 gate, substantially affects interstate commerce is
6 precisely the sort of conduct that should be subject
7 to congressional regulation.

8 (18) Lawsuits against health care workers and
9 facilities pose a similarly dangerous risk to interstate
10 commerce. Interstate commerce will not truly re-
11 bound from this crisis until the virus is defeated,
12 and that will not happen unless health care workers
13 and facilities are free to combat vigorously the virus
14 and treat patients with coronavirus and those other-
15 wise impacted by the response to coronavirus.

16 (19) Subjecting health care workers and facili-
17 ties to onerous litigation even as they have done
18 their level best to combat a virus about which very
19 little was known when it arrived in the United
20 States would divert important health care resources
21 from hospitals and providers to courtrooms.

22 (20) Such a diversion would substantially affect
23 interstate commerce by degrading the national ca-
24 pacity for combating the virus and saving patients,

1 thereby substantially elongating the period before
2 interstate commerce could fully re-engage.

3 (21) Congress also has the authority to deter-
4 mine the jurisdiction of the courts of the United
5 States, to set the standards for causes of action they
6 can hear, and to establish the rules by which those
7 causes of action should proceed. Congress therefore
8 must act to set rules governing liability in
9 coronavirus-related lawsuits.

10 (22) These rules necessarily must be temporary
11 and carefully tailored to the interstate crisis caused
12 by the coronavirus pandemic. They must extend no
13 further than necessary to meet this uniquely na-
14 tional crisis for which a patchwork of State and local
15 tort laws are ill-suited.

16 (23) Because of the national scope of the eco-
17 nomic and health care dangers posed by the risks of
18 coronavirus-related lawsuits, establishing temporary
19 rules governing liability for certain coronavirus-re-
20 lated tort claims is a necessary and proper means of
21 carrying into execution Congress's power to regulate
22 commerce among the several States.

23 (24) Because Congress must safeguard the in-
24 vestment of taxpayer dollars it made in the CARES
25 Act and other coronavirus legislation, and ensure

1 that they are used for their intended purposes and
2 not diverted for other purposes, establishing tem-
3 porary rules governing liability for certain
4 coronavirus-related tort claims is a necessary and
5 proper means of carrying into execution Congress’s
6 power to provide for the general welfare of the
7 United States.

8 (b) PURPOSES.—Pursuant to the powers delegated to
9 Congress by article I, section 8, clauses 1, 3, 9, and 18,
10 and article III, section 2, clause 1 of the Constitution of
11 the United States, the purposes of this title are to—

12 (1) establish necessary and consistent standards
13 for litigating certain claims specific to the unique
14 coronavirus pandemic;

15 (2) prevent the overburdening of the court sys-
16 tems with undue litigation;

17 (3) encourage planning, care, and appropriate
18 risk management by small and large businesses,
19 schools, colleges and universities, religious, philan-
20 thropic and other nonprofit institutions, local gov-
21 ernment agencies, and health care providers;

22 (4) ensure that the Nation’s recovery from the
23 coronavirus economic crisis is not burdened or
24 slowed by the substantial risk of litigation;

1 (5) prevent litigation brought to extract settle-
2 ments and enrich trial lawyers rather than vindicate
3 meritorious claims;

4 (6) protect interstate commerce from the bur-
5 dens of potentially meritless litigation;

6 (7) ensure the economic recovery proceeds with-
7 out artificial and unnecessary delay;

8 (8) protect the interests of the taxpayers by en-
9 suring that emergency taxpayer support continues to
10 aid businesses, workers, and health care providers
11 rather than enrich trial lawyers; and

12 (9) protect the highest and best ideals of the
13 national economy, so businesses can produce and
14 serve their customers, workers can work, teachers
15 can teach, students can learn, and believers can wor-
16 ship.

17 **SEC. 2003. DEFINITIONS.**

18 In this title:

19 (1) **APPLICABLE GOVERNMENT STANDARDS**
20 **AND GUIDANCE.**—The term “applicable government
21 standards and guidance” means—

22 (A) any mandatory standards or regula-
23 tions specifically concerning the prevention or
24 mitigation of the transmission of coronavirus
25 issued by the Federal Government, or a State

1 or local government with jurisdiction over an in-
2 dividual or entity, whether provided by execu-
3 tive, judicial, or legislative order; and

4 (B) with respect to an individual or entity
5 that, at the time of the actual, alleged, feared,
6 or potential for exposure to coronavirus is not
7 subject to any mandatory standards or regula-
8 tions described in subparagraph (A), any guid-
9 ance, standards, or regulations specifically con-
10 cerning the prevention or mitigation of the
11 transmission of coronavirus issued by the Fed-
12 eral Government, or a State or local govern-
13 ment with jurisdiction over the individual or en-
14 tity.

15 (2) BUSINESSES, SERVICES, ACTIVITIES, OR AC-
16 COMMODATIONS.—The term “businesses, services,
17 activities, or accommodations” means any act by an
18 individual or entity, irrespective of whether the act
19 is carried on for profit, that is interstate or foreign
20 commerce, that involves persons or things in inter-
21 state or foreign commerce, that involves the channels
22 or instrumentalities of interstate or foreign com-
23 merce, that substantially affects interstate or foreign
24 commerce, or that is otherwise an act subject to reg-
25 ulation by Congress as necessary and proper to

1 carry into execution Congress’s powers to regulate
2 interstate or foreign commerce or to spend funds for
3 the general welfare.

4 (3) CORONAVIRUS.—The term “coronavirus”
5 means any disease, health condition, or threat of
6 harm caused by the SARS-CoV-2 virus or a virus
7 mutating therefrom.

8 (4) CORONAVIRUS EXPOSURE ACTION.—

9 (A) IN GENERAL.—The term “coronavirus
10 exposure action” means a civil action—

11 (i) brought by a person who suffered
12 personal injury or is at risk of suffering
13 personal injury, or a representative of a
14 person who suffered personal injury or is
15 at risk of suffering personal injury;

16 (ii) brought against an individual or
17 entity engaged in businesses, services, ac-
18 tivities, or accommodations; and

19 (iii) alleging that an actual, alleged,
20 feared, or potential for exposure to
21 coronavirus caused the personal injury or
22 risk of personal injury, that—

23 (I) occurred in the course of the
24 businesses, services, activities, or ac-

1 commodations of the individual or en-
2 tity; and
3 (II) occurred—
4 (aa) on or after December 1,
5 2019; and
6 (bb) before the later of—
7 (AA) October 1, 2024;
8 or
9 (BB) the date on which
10 there is no declaration by
11 the Secretary of Health and
12 Human Services under sec-
13 tion 319F–3(b) of the Pub-
14 lic Health Service Act (42
15 U.S.C. 247d–6d(b)) (relat-
16 ing to medical counter-
17 measures) that is in effect
18 with respect to coronavirus,
19 including the Declaration
20 Under the Public Readiness
21 and Emergency Prepared-
22 ness Act for Medical Coun-
23 termeasures Against
24 COVID–19 (85 Fed. Reg.
25 15198) issued by the Sec-

1 (B) the assessment or care of an individual
2 with a confirmed or suspected case of
3 coronavirus; or

4 (C) the care of any individual who is ad-
5 mitted to, presents to, receives services from, or
6 resides at, a health care provider for any pur-
7 pose during the period of a Federal emergency
8 declaration concerning coronavirus, if such pro-
9 vider's decisions or activities with respect to
10 such individual are impacted as a result of
11 coronavirus.

12 (7) CORONAVIRUS-RELATED MEDICAL LIABIL-
13 ITY ACTION.—

14 (A) IN GENERAL.—The term “coronavirus-
15 related medical liability action” means a civil
16 action—

17 (i) brought by a person who suffered
18 personal injury, or a representative of a
19 person who suffered personal injury;

20 (ii) brought against a health care pro-
21 vider; and

22 (iii) alleging any harm, damage,
23 breach, or tort resulting in the personal in-
24 jury alleged to have been caused by, be
25 arising out of, or be related to a health

1 care provider's act or omission in the
2 course of arranging for or providing
3 coronavirus-related health care services
4 that occurred—

5 (I) on or after December 1,
6 2019; and

7 (II) before the later of—

8 (aa) October 1, 2024; or

9 (bb) the date on which there
10 is no declaration by the Secretary
11 of Health and Human Services
12 under section 319F–3(b) of the
13 Public Health Service Act (42
14 U.S.C. 247d–6d(b)) (relating to
15 covered countermeasures) that is
16 in effect with respect to
17 coronavirus, including the Dec-
18 laration Under the Public Readiness
19 and Emergency Prepared-
20 ness Act for Medical Counter-
21 measures Against COVID–19 (85
22 Fed. Reg. 15198) issued by the
23 Secretary of Health and Human
24 Services on March 17, 2020.

1 (B) EXCLUSIONS.—The term
2 “coronavirus-related medical liability action”
3 does not include—

4 (i) a criminal, civil, or administrative
5 enforcement action brought by the Federal
6 Government or any State, local, or Tribal
7 government; or

8 (ii) a claim alleging intentional dis-
9 crimination on the basis of race, color, na-
10 tional origin, religion, sex (including preg-
11 nancy), disability, genetic information, or
12 age.

13 (8) EMPLOYER.—The term “employer”—

14 (A) means any person serving as an em-
15 ployer or acting directly in the interest of an
16 employer in relation to an employee;

17 (B) includes a public agency; and

18 (C) does not include any labor organization
19 (other than when acting as an employer) or any
20 person acting in the capacity of officer or agent
21 of such labor organization.

22 (9) GOVERNMENT.—The term “government”
23 means an agency, instrumentality, or other entity of
24 the Federal Government, a State government (in-
25 cluding multijurisdictional agencies, instrumental-

1 ities, and entities), a local government, or a Tribal
2 government.

3 (10) GROSS NEGLIGENCE.—The term “gross
4 negligence” means a conscious, voluntary act or
5 omission in reckless disregard of—

6 (A) a legal duty;

7 (B) the consequences to another party; and

8 (C) applicable government standards and
9 guidance.

10 (11) HARM.—The term “harm” includes—

11 (A) physical and nonphysical contact that
12 results in personal injury to an individual; and

13 (B) economic and noneconomic losses.

14 (12) HEALTH CARE PROVIDER.—

15 (A) IN GENERAL.—The term “health care
16 provider” means any person, including an
17 agent, volunteer (subject to subparagraph (C)),
18 contractor, employee, or other entity, who is—

19 (i) required by Federal or State law to
20 be licensed, registered, or certified to pro-
21 vide health care and is so licensed, reg-
22 istered, or certified (or is exempt from any
23 such requirement);

24 (ii) otherwise authorized by Federal or
25 State law to provide care (including serv-

1 ices and supports furnished in a home or
2 community-based residential setting under
3 the State Medicaid program or a waiver of
4 that program); or

5 (iii) considered under applicable Fed-
6 eral or State law to be a health care pro-
7 vider, health care professional, health care
8 institution, or health care facility.

9 (B) INCLUSION OF ADMINISTRATORS, SU-
10 PERVISORS, ETC.—The term “health care pro-
11 vider” includes a health care facility adminis-
12 trator, executive, supervisor, board member or
13 trustee, or another individual responsible for di-
14 recting, supervising, or monitoring the provision
15 of coronavirus-related health care services in a
16 comparable role.

17 (C) INCLUSION OF VOLUNTEERS.—The
18 term “health care provider” includes volunteers
19 that meet the following criteria:

20 (i) The volunteer is a health care pro-
21 fessional providing coronavirus-related
22 health care services.

23 (ii) The act or omission by the volun-
24 teer occurs—

1 (I) in the course of providing
2 health care services;

3 (II) in the health care profes-
4 sional's capacity as a volunteer;

5 (III) in the course of providing
6 health care services that—

7 (aa) are within the scope of
8 the license, registration, or cer-
9 tification of the volunteer, as de-
10 fined by the State of licensure,
11 registration, or certification; and

12 (bb) do not exceed the scope
13 of license, registration, or certifi-
14 cation of a substantially similar
15 health professional in the State
16 in which such act or omission oc-
17 curs; and

18 (IV) in a good-faith belief that
19 the individual being treated is in need
20 of health care services.

21 (13) INDIVIDUAL OR ENTITY.—The term “indi-
22 vidual or entity” means—

23 (A) any natural person, corporation, com-
24 pany, trade, business, firm, partnership, joint
25 stock company, vessel in rem, educational insti-

1 tution, labor organization, or similar organiza-
2 tion or group of organizations;

3 (B) any nonprofit organization, foundation,
4 society, or association organized for religious,
5 charitable, educational, or other purposes; or

6 (C) any State, Tribal, or local government.

7 (14) LOCAL GOVERNMENT.—The term “local
8 government” means any unit of government within
9 a State, including a—

10 (A) county;

11 (B) borough;

12 (C) municipality;

13 (D) city;

14 (E) town;

15 (F) township;

16 (G) parish;

17 (H) local public authority, including any
18 public housing agency under the United States
19 Housing Act of 1937 (42 U.S.C. 1437 et seq.);

20 (I) special district;

21 (J) school district;

22 (K) intrastate district;

23 (L) council of governments, whether or not
24 incorporated as a nonprofit corporation under
25 State law; and

1 (M) agency or instrumentality of—

2 (i) multiple units of local government

3 (including units of local government lo-

4 cated in different States); or

5 (ii) an intra-State unit of local gov-

6 ernment.

7 (15) MANDATORY.—The term “mandatory”,
8 with respect to applicable government standards and
9 guidance, means the standards or regulations are
10 themselves enforceable by the issuing government
11 through criminal, civil, or administrative action.

12 (16) PERSONAL INJURY.—The term “personal
13 injury” means—

14 (A) actual or potential physical injury to
15 an individual or death caused by a physical in-
16 jury; or

17 (B) mental suffering, emotional distress, or
18 similar injuries suffered by an individual in con-
19 nection with a physical injury.

20 (17) STATE.—The term “State”—

21 (A) means any State of the United States,
22 the District of Columbia, the Commonwealth of
23 Puerto Rico, the Northern Mariana Islands, the
24 United States Virgin Islands, Guam, American
25 Samoa, and any other territory or possession of

1 the United States, and any political subdivision
2 or instrumentality thereof; and

3 (B) includes any agency or instrumentality
4 of 2 or more of the entities described in sub-
5 paragraph (A).

6 (18) TRIBAL GOVERNMENT.—

7 (A) IN GENERAL.—The term “Tribal gov-
8 ernment” means the recognized governing body
9 of any Indian tribe included on the list pub-
10 lished by the Secretary of the Interior pursuant
11 to section 104(a) of the Federally Recognized
12 Indian Tribe List Act of 1994 (25 U.S.C.
13 5131(a)).

14 (B) INCLUSION.—The term “Tribal gov-
15 ernment” includes any subdivision (regardless
16 of the laws and regulations of the jurisdiction
17 in which the subdivision is organized or incor-
18 porated) of a governing body described in sub-
19 paragraph (A) that—

20 (i) is wholly owned by that governing
21 body; and

22 (ii) has been delegated the right to ex-
23 ercise 1 or more substantial governmental
24 functions of the governing body.

1 (19) WILLFUL MISCONDUCT.—The term “will-
2 ful misconduct” means an act or omission that is
3 taken—

4 (A) intentionally to achieve a wrongful
5 purpose;

6 (B) knowingly without legal or factual jus-
7 tification; and

8 (C) in disregard of a known or obvious risk
9 that is so great as to make it highly probable
10 that the harm will outweigh the benefit.

11 **Subtitle A—Liability Relief**

12 **PART I—LIABILITY LIMITATIONS FOR INDIVID-** 13 **UALS AND ENTITIES ENGAGED IN BUSI-** 14 **NESSES, SERVICES, ACTIVITIES, OR ACCOM-** 15 **MODATIONS**

16 **SEC. 2121. APPLICATION OF PART.**

17 (a) CAUSE OF ACTION; TRIBAL SOVEREIGN IMMU-
18 NITY.—

19 (1) CAUSE OF ACTION.—

20 (A) IN GENERAL.—This part creates an
21 exclusive cause of action for coronavirus expo-
22 sure actions.

23 (B) LIABILITY.—A plaintiff may prevail in
24 a coronavirus exposure action only in accord-
25 ance with the requirements of this subtitle.

1 (C) APPLICATION.—The provisions of this
2 part shall apply to—

3 (i) any cause of action that is a
4 coronavirus exposure action that was filed
5 before the date of enactment of this Act
6 and that is pending on such date of enact-
7 ment; and

8 (ii) any coronavirus exposure action
9 filed on or after such date of enactment.

10 (2) PRESERVATION OF LIABILITY LIMITS AND
11 DEFENSES.—Except as otherwise explicitly provided
12 in this part, nothing in this part expands any liabil-
13 ity otherwise imposed or limits any defense other-
14 wise available under Federal, State, or Tribal law.

15 (3) IMMUNITY.—Nothing in this part abrogates
16 the immunity of any State, or waives the immunity
17 of any Tribal government. The limitations on liabil-
18 ity provided under this part shall control in any ac-
19 tion properly filed against a State or Tribal govern-
20 ment pursuant to a duly executed waiver by the
21 State or Tribe of sovereign immunity and stating
22 claims within the scope of this part.

23 (b) PREEMPTION AND SUPERSEDURE.—

24 (1) IN GENERAL.—Except as described in para-
25 graphs (2) through (6), this part preempts and su-

1 persedes any Federal, State, or Tribal law, including
2 statutes, regulations, rules, orders, proclamations, or
3 standards that are enacted, promulgated, or estab-
4 lished under common law, related to recovery for
5 personal injuries caused by actual, alleged, feared, or
6 potential for exposure to coronavirus.

7 (2) STRICTER LAWS NOT PREEMPTED OR SU-
8 PERSEDED.—Nothing in this part shall be construed
9 to affect the applicability of any provision of any
10 Federal, State, or Tribal law that imposes stricter
11 limits on damages or liabilities for personal injury
12 caused by, arising out of, or related to an actual, al-
13 leged, feared, or potential for exposure to
14 coronavirus, or otherwise affords greater protection
15 to defendants in any coronavirus exposure action,
16 than are provided in this part. Any such provision
17 of Federal, State, or Tribal law shall be applied in
18 addition to the requirements of this part and not in
19 lieu thereof.

20 (3) WORKERS' COMPENSATION LAWS NOT PRE-
21 EMPTED OR SUPERSEDED.—Nothing in this part
22 shall be construed to affect the applicability of any
23 State or Tribal law providing for a claim for benefits
24 under a workers' compensation scheme or program,

1 or to preempt or supersede an exclusive remedy
2 under such scheme or program.

3 (4) ENFORCEMENT ACTIONS.—Nothing in this
4 part shall be construed to impair, limit, or affect the
5 authority of the Federal Government, or of any
6 State, local, or Tribal government, to bring any
7 criminal, civil, or administrative enforcement action
8 against any individual or entity.

9 (5) DISCRIMINATION CLAIMS.—Nothing in this
10 part shall be construed to affect the applicability of
11 any provision of any Federal, State, or Tribal law
12 that creates a cause of action for intentional dis-
13 crimination on the basis of race, color, national ori-
14 gin, religion, sex (including pregnancy), disability,
15 genetic information, or age.

16 (6) MAINTENANCE AND CURE.—Nothing in this
17 part shall be construed to affect a seaman’s right to
18 claim maintenance and cure benefits.

19 (c) STATUTE OF LIMITATIONS.—A coronavirus expo-
20 sure action may not be commenced in any Federal, State,
21 or Tribal government court later than 1 year after the
22 date of the actual, alleged, feared, or potential for expo-
23 sure to coronavirus.

1 **SEC. 2122. LIABILITY; SAFE HARBOR.**

2 (a) REQUIREMENTS FOR LIABILITY FOR EXPOSURE
3 TO CORONAVIRUS.—Notwithstanding any other provision
4 of law, and except as otherwise provided in this section,
5 no individual or entity engaged in businesses, services, ac-
6 tivities, or accommodations shall be liable in any
7 coronavirus exposure action unless the plaintiff can prove
8 by clear and convincing evidence that—

9 (1) in engaging in the businesses, services, ac-
10 tivities, or accommodations, the individual or entity
11 was not making reasonable efforts in light of all the
12 circumstances to comply with the applicable govern-
13 ment standards and guidance in effect at the time
14 of the actual, alleged, feared, or potential for expo-
15 sure to coronavirus;

16 (2) the individual or entity engaged in gross
17 negligence or willful misconduct that caused an ac-
18 tual exposure to coronavirus; and

19 (3) the actual exposure to coronavirus caused
20 the personal injury of the plaintiff.

21 (b) REASONABLE EFFORTS TO COMPLY.—

22 (1) CONFLICTING APPLICABLE GOVERNMENT
23 STANDARDS AND GUIDANCE.—

24 (A) IN GENERAL.—If more than 1 govern-
25 ment to whose jurisdiction an individual or enti-
26 ty is subject issues applicable government

1 standards and guidance, and the applicable gov-
2 ernment standards and guidance issued by 1 or
3 more of the governments conflicts with the ap-
4 plicable government standards and guidance
5 issued by 1 or more of the other governments,
6 the individual or entity shall be considered to
7 have made reasonable efforts in light of all the
8 circumstances to comply with the applicable
9 government standards and guidance for pur-
10 poses of subsection (a)(1) unless the plaintiff
11 establishes by clear and convincing evidence
12 that the individual or entity was not making
13 reasonable efforts in light of all the cir-
14 cumstances to comply with any of the con-
15 flicting applicable government standards and
16 guidance issued by any government to whose ju-
17 risdiction the individual or entity is subject.

18 (B) EXCEPTION.—If mandatory standards
19 and regulations constituting applicable govern-
20 ment standards and guidance issued by any
21 government with jurisdiction over the individual
22 or entity conflict with applicable government
23 standards and guidance that are not mandatory
24 and are issued by any other government with
25 jurisdiction over the individual or entity or by

1 the same government that issued the mandatory
2 standards and regulations, the plaintiff may es-
3 tablish that the individual or entity did not
4 make reasonable efforts in light of all the cir-
5 cumstances to comply with the applicable gov-
6 ernment standards and guidance for purposes
7 of subsection (a)(1) by establishing by clear and
8 convincing evidence that the individual or entity
9 was not making reasonable efforts in light of all
10 the circumstances to comply with the manda-
11 tory standards and regulations to which the in-
12 dividual or entity was subject.

13 (2) WRITTEN OR PUBLISHED POLICY.—

14 (A) IN GENERAL.—If an individual or enti-
15 ty engaged in businesses, services, activities, or
16 accommodations maintained a written or pub-
17 lished policy on the mitigation of transmission
18 of coronavirus at the time of the actual, alleged,
19 feared, or potential for exposure to coronavirus
20 that complied with, or was more protective
21 than, the applicable government standards and
22 guidance to which the individual or entity was
23 subject, the individual or entity shall be pre-
24 sumed to have made reasonable efforts in light
25 of all the circumstances to comply with the ap-

1 plicable government standards and guidance for
2 purposes of subsection (a)(1).

3 (B) REBUTTAL.—The plaintiff may rebut
4 the presumption under subparagraph (A) by es-
5 tablishing that the individual or entity was not
6 complying with the written or published policy
7 at the time of the actual, alleged, feared, or po-
8 tential for exposure to coronavirus.

9 (C) ABSENCE OF A WRITTEN OR PUB-
10 LISHED POLICY.—The absence of a written or
11 published policy shall not give rise to a pre-
12 sumption that the individual or entity did not
13 make reasonable efforts in light of all the cir-
14 cumstances to comply with the applicable gov-
15 ernment standards and guidance for purposes
16 of subsection (a)(1).

17 (3) TIMING.—For purposes of subsection
18 (a)(1), a change to a policy or practice by an indi-
19 vidual or entity before or after the actual, alleged,
20 feared, or potential for exposure to coronavirus, shall
21 not be evidence of liability for the actual, alleged,
22 feared, or potential for exposure to coronavirus.

23 (c) THIRD PARTIES.—No individual or entity shall be
24 held liable in a coronavirus exposure action for the acts
25 or omissions of a third party, unless—

1 (1) the individual or entity had an obligation
2 under general common law principles to control the
3 acts or omissions of the third party; or

4 (2) the third party was an agent of the indi-
5 vidual or entity.

6 (d) MITIGATION.—Changes to the policies, practices,
7 or procedures of an individual or entity for complying with
8 the applicable government standards and guidance after
9 the time of the actual, alleged, feared, or potential for ex-
10 posure to coronavirus, shall not be considered evidence of
11 liability or culpability.

12 **PART II—LIABILITY LIMITATIONS FOR HEALTH**
13 **CARE PROVIDERS**

14 **SEC. 2141. APPLICATION OF PART.**

15 (a) IN GENERAL.—

16 (1) CAUSE OF ACTION.—

17 (A) IN GENERAL.—This part creates an
18 exclusive cause of action for coronavirus-related
19 medical liability actions.

20 (B) LIABILITY.—A plaintiff may prevail in
21 a coronavirus-related medical liability action
22 only in accordance with the requirements of this
23 subtitle.

24 (C) APPLICATION.—The provisions of this
25 part shall apply to—

1 (i) any cause of action that is a
2 coronavirus-related medical liability action
3 that was filed before the date of enactment
4 of this Act and that is pending on such
5 date of enactment; and

6 (ii) any coronavirus-related medical li-
7 ability action filed on or after such date of
8 enactment.

9 (2) PRESERVATION OF LIABILITY LIMITS AND
10 DEFENSES.—Except as otherwise explicitly provided
11 in this part, nothing in this part expands any liabil-
12 ity otherwise imposed or limits any defense other-
13 wise available under Federal, State, or Tribal law.

14 (3) IMMUNITY.—Nothing in this part abrogates
15 the immunity of any State, or waives the immunity
16 of any Tribal government. The limitations on liabil-
17 ity provided under this part shall control in any ac-
18 tion properly filed against a State or Tribal govern-
19 ment pursuant to a duly executed waiver by the
20 State or Tribe of sovereign immunity and stating
21 claims within the scope of this part.

22 (b) PREEMPTION AND SUPERSEDURE.—

23 (1) IN GENERAL.—Except as described in para-
24 graphs (2) through (6), this part preempts and su-
25 persedes any Federal, State, or Tribal law, including

1 statutes, regulations, rules, orders, proclamations, or
2 standards that are enacted, promulgated, or estab-
3 lished under common law, related to recovery for
4 personal injuries caused by, arising out of, or related
5 to an act or omission by a health care provider in
6 the course of arranging for or providing coronavirus-
7 related health care services.

8 (2) STRICTER LAWS NOT PREEMPTED OR SU-
9 PERSEDED.—Nothing in this part shall be construed
10 to affect the applicability of any provision of any
11 Federal, State, or Tribal law that imposes stricter
12 limits on damages or liabilities for personal injury
13 caused by, arising out of, or related to an act or
14 omission by a health care provider in the course of
15 arranging for or providing coronavirus-related health
16 care services, or otherwise affords greater protection
17 to defendants in any coronavirus-related medical li-
18 ability action than are provided in this part. Any
19 such provision of Federal, State, or Tribal law shall
20 be applied in addition to the requirements of this
21 part and not in lieu thereof.

22 (3) ENFORCEMENT ACTIONS.—Nothing in this
23 part shall be construed to impair, limit, or affect the
24 authority of the Federal Government, or of any
25 State, local, or Tribal government to bring any

1 criminal, civil, or administrative enforcement action
2 against any health care provider.

3 (4) DISCRIMINATION CLAIMS.—Nothing in this
4 part shall be construed to affect the applicability of
5 any provision of any Federal, State, or Tribal law
6 that creates a cause of action for intentional dis-
7 crimination on the basis of race, color, national ori-
8 gin, religion, sex (including pregnancy), disability,
9 genetic information, or age.

10 (5) PUBLIC READINESS AND EMERGENCY PRE-
11 PAREDNESS.—Nothing in this part shall be con-
12 strued to affect the applicability of section 319F–3
13 of the Public Health Service Act (42 U.S.C. 247d–
14 6d) to any act or omission involving a covered coun-
15 termeasure, as defined in subsection (i) of such sec-
16 tion in arranging for or providing coronavirus-re-
17 lated health care services. Nothing in this part shall
18 be construed to affect the applicability of section
19 319F–4 of the Public Health Service Act (42 U.S.C.
20 247d–6e).

21 (6) VACCINE INJURY.—To the extent that title
22 XXI of the Public Health Service Act (42 U.S.C.
23 300aa–1 et seq.) establishes a Federal rule applica-
24 ble to a civil action brought for a vaccine-related in-

1 jury or death, this part does not affect the applica-
2 tion of that rule to such an action.

3 (c) STATUTE OF LIMITATIONS.—A coronavirus-re-
4 lated medical liability action may not be commenced in
5 any Federal, State, or Tribal government court later than
6 1 year after the date of the alleged harm, damage, breach,
7 or tort, unless tolled for—

8 (1) proof of fraud;

9 (2) intentional concealment; or

10 (3) the presence of a foreign body, which has no
11 therapeutic or diagnostic purpose or effect, in the
12 person of the injured person.

13 **SEC. 2142. LIABILITY FOR HEALTH CARE PROFESSIONALS**
14 **AND HEALTH CARE FACILITIES DURING**
15 **CORONAVIRUS PUBLIC HEALTH EMERGENCY.**

16 (a) REQUIREMENTS FOR LIABILITY FOR
17 CORONAVIRUS-RELATED HEALTH CARE SERVICES.—Not-
18 withstanding any other provision of law, and except as
19 provided in subsection (b), no health care provider shall
20 be liable in a coronavirus-related medical liability action
21 unless the plaintiff can prove by clear and convincing evi-
22 dence—

23 (1) gross negligence or willful misconduct by
24 the health care provider; and

1 (2) that the alleged harm, damage, breach, or
2 tort resulting in the personal injury was directly
3 caused by the alleged gross negligence or willful mis-
4 conduct.

5 (b) EXCEPTIONS.—For purposes of this section, acts,
6 omissions, or decisions resulting from a resource or staff-
7 ing shortage shall not be considered willful misconduct or
8 gross negligence.

9 **PART III—SUBSTANTIVE AND PROCEDURAL PRO-**
10 **VISIONS FOR CORONAVIRUS-RELATED AC-**
11 **TIONS GENERALLY**

12 **SEC. 2161. JURISDICTION.**

13 (a) JURISDICTION.—The district courts of the United
14 States shall have concurrent original jurisdiction of any
15 coronavirus-related action.

16 (b) REMOVAL.—

17 (1) IN GENERAL.—A coronavirus-related action
18 of which the district courts of the United States
19 have original jurisdiction under subsection (a) that
20 is brought in a State or Tribal government court
21 may be removed to a district court of the United
22 States in accordance with section 1446 of title 28,
23 United States Code, except that—

24 (A) notwithstanding subsection (b)(2)(A)
25 of such section, such action may be removed by

1 any defendant without the consent of all de-
2 fendants; and

3 (B) notwithstanding subsection (b)(1) of
4 such section, for any cause of action that is a
5 coronavirus-related action that was filed in a
6 State court before the date of enactment of this
7 Act and that is pending in such court on such
8 date of enactment, and of which the district
9 courts of the United States have original juris-
10 diction under subsection (a), any defendant
11 may file a notice of removal of a civil action or
12 proceeding within 30 days of the date of enact-
13 ment of this Act.

14 (2) PROCEDURE AFTER REMOVAL.—Section
15 1447 of title 28, United States Code, shall apply to
16 any removal of a case under paragraph (1), except
17 that, notwithstanding subsection (d) of such section,
18 a court of appeals of the United States shall accept
19 an appeal from an order of a district court granting
20 or denying a motion to remand the case to the State
21 or Tribal government court from which it was re-
22 moved if application is made to the court of appeals
23 of the United States not later than 10 days after the
24 entry of the order.

1 **SEC. 2162. LIMITATIONS ON SUITS.**

2 (a) **JOINT AND SEVERAL LIABILITY LIMITATIONS.—**

3 (1) **IN GENERAL.**—An individual or entity
4 against whom a final judgment is entered in any
5 coronavirus-related action shall be liable solely for
6 the portion of the judgment that corresponds to the
7 relative and proportionate responsibility of that indi-
8 vidual or entity. In determining the percentage of re-
9 sponsibility of any defendant, the trier of fact shall
10 determine that percentage as a percentage of the
11 total fault of all individuals or entities, including the
12 plaintiff, who caused or contributed to the total loss
13 incurred by the plaintiff.

14 (2) **PROPORTIONATE LIABILITY.—**

15 (A) **DETERMINATION OF RESPONSIBILITY.**—In any coronavirus-related action, the
16 court shall instruct the jury to answer special
17 interrogatories, or, if there is no jury, the court
18 shall make findings with respect to each defend-
19 ant, including defendants who have entered into
20 settlements with the plaintiff or plaintiffs, con-
21 cerning the percentage of responsibility, if any,
22 of each defendant, measured as a percentage of
23 the total fault of all individuals or entities who
24 caused or contributed to the loss incurred by
25 the plaintiff.
26

1 (B) FACTORS FOR CONSIDERATION.—In
2 determining the percentage of responsibility
3 under this subsection, the trier of fact shall
4 consider—

5 (i) the nature of the conduct of each
6 individual or entity found to have caused
7 or contributed to the loss incurred by the
8 plaintiff; and

9 (ii) the nature and extent of the caus-
10 al relationship between the conduct of each
11 such individual or entity and the damages
12 incurred by the plaintiff.

13 (3) JOINT LIABILITY FOR SPECIFIC INTENT OR
14 FRAUD.—Notwithstanding paragraph (1), in any
15 coronavirus-related action the liability of a defendant
16 is joint and several if the trier of fact specifically de-
17 termines that the defendant—

18 (A) acted with specific intent to injure the
19 plaintiff; or

20 (B) knowingly committed fraud.

21 (4) RIGHT TO CONTRIBUTION NOT AF-
22 FECTED.—Nothing in this subsection affects the
23 right, under any other law, of a defendant to con-
24 tribution with respect to another defendant deter-
25 mined under paragraph (3) to have acted with spe-

1 cific intent to injure the plaintiff or to have know-
2 ingly committed fraud.

3 (b) LIMITATIONS ON DAMAGES.—In any coronavirus-
4 related action—

5 (1) the award of compensatory damages shall
6 be limited to economic losses incurred as the result
7 of the personal injury, harm, damage, breach, or
8 tort, except that the court may award damages for
9 noneconomic losses if the trier of fact determines
10 that the personal injury, harm, damage, breach, or
11 tort was caused by the willful misconduct of the in-
12 dividual or entity;

13 (2) punitive damages—

14 (A) may be awarded only if the trier of
15 fact determines that the personal injury to the
16 plaintiff was caused by the willful misconduct of
17 the individual or entity; and

18 (B) may not exceed the amount of compen-
19 satory damages awarded; and

20 (3) the amount of monetary damages awarded
21 to a plaintiff shall be reduced by the amount of com-
22 pensation received by the plaintiff from another
23 source in connection with the personal injury, harm,
24 damage, breach, or tort, such as insurance or reim-
25 bursement by a government.

1 (c) PREEMPTION AND SUPERSEDURE.—

2 (1) IN GENERAL.—Except as described in para-
3 graphs (2) and (3), this section preempts and super-
4 sedes any Federal, State, or Tribal law, including
5 statutes, regulations, rules, orders, proclamations, or
6 standards that are enacted, promulgated, or estab-
7 lished under common law, related to joint and sev-
8 eral liability, proportionate or contributory liability,
9 contribution, or the award of damages for any
10 coronavirus-related action.

11 (2) STRICTER LAWS NOT PREEMPTED OR SU-
12 PERSEDED.—Nothing in this section shall be con-
13 strued to affect the applicability of any provision of
14 any Federal, State, or Tribal law that—

15 (A) limits the liability of a defendant in a
16 coronavirus-related action to a lesser degree of
17 liability than the degree of liability determined
18 under this section;

19 (B) otherwise affords a greater degree of
20 protection from joint or several liability than is
21 afforded by this section; or

22 (C) limits the damages that can be recov-
23 ered from a defendant in a coronavirus-related
24 action to a lesser amount of damages than the
25 amount determined under this section.

1 (3) PUBLIC READINESS AND EMERGENCY PRE-
2 PAREDNESS.—Nothing in this part shall be con-
3 strued to affect the applicability of section 319F–3
4 of the Public Health Service Act (42 U.S.C. 247d–
5 6d) to any act or omission involving a covered coun-
6 termeasure, as defined in subsection (i) of such sec-
7 tion in arranging for or providing coronavirus-re-
8 lated health care services. Nothing in this part shall
9 be construed to affect the applicability of section
10 319F–4 of the Public Health Service Act (42 U.S.C.
11 247d–6e).

12 **SEC. 2163. PROCEDURES FOR SUIT IN DISTRICT COURTS OF**
13 **THE UNITED STATES.**

14 (a) PLEADING WITH PARTICULARITY.—In any
15 coronavirus-related action filed in or removed to a district
16 court of the United States—

17 (1) the complaint shall plead with particu-
18 larity—

19 (A) each element of the plaintiff’s claim;
20 and

21 (B) with respect to a coronavirus exposure
22 action, all places and persons visited by the per-
23 son on whose behalf the complaint was filed and
24 all persons who visited the residence of the per-
25 son on whose behalf the complaint was filed

1 during the 14-day-period before the onset of the
2 first symptoms allegedly caused by coronavirus,
3 including—

4 (i) each individual or entity against
5 which a complaint is filed, along with the
6 factual basis for the belief that such indi-
7 vidual or entity was a cause of the per-
8 sonal injury alleged; and

9 (ii) every other person or place visited
10 by the person on whose behalf the com-
11 plaint was filed and every other person
12 who visited the residence of the person on
13 whose behalf the complaint was filed dur-
14 ing such period, along with the factual
15 basis for the belief that these persons and
16 places were not the cause of the personal
17 injury alleged; and

18 (2) the complaint shall plead with particularity
19 each alleged act or omission constituting gross neg-
20 ligence or willful misconduct that resulted in per-
21 sonal injury, harm, damage, breach, or tort.

22 (b) SEPARATE STATEMENTS CONCERNING THE NA-
23 TURE AND AMOUNT OF DAMAGES AND REQUIRED STATE
24 OF MIND.—

1 (1) NATURE AND AMOUNT OF DAMAGES.—In
2 any coronavirus-related action filed in or removed to
3 a district court of the United States in which mone-
4 tary damages are requested, there shall be filed with
5 the complaint a statement of specific information as
6 to the nature and amount of each element of dam-
7 ages and the factual basis for the damages calcula-
8 tion.

9 (2) REQUIRED STATE OF MIND.—In any
10 coronavirus-related action filed in or removed to a
11 district court of the United States in which a claim
12 is asserted on which the plaintiff may prevail only on
13 proof that the defendant acted with a particular
14 state of mind, there shall be filed with the com-
15 plaint, with respect to each element of that claim, a
16 statement of the facts giving rise to a strong infer-
17 ence that the defendant acted with the required
18 state of mind.

19 (c) VERIFICATION AND MEDICAL RECORDS.—

20 (1) VERIFICATION REQUIREMENT.—

21 (A) IN GENERAL.—The complaint in a
22 coronavirus-related action filed in or removed to
23 a district court of the United States shall in-
24 clude a verification, made by affidavit of the
25 plaintiff under oath, stating that the pleading is

1 true to the knowledge of the deponent, except
2 as to matters specifically identified as being al-
3 leged on information and belief, and that as to
4 those matters the plaintiff believes it to be true.

5 (B) IDENTIFICATION OF MATTERS AL-
6 LEGED UPON INFORMATION AND BELIEF.—Any
7 matter that is not specifically identified as
8 being alleged upon the information and belief of
9 the plaintiff, shall be regarded for all purposes,
10 including a criminal prosecution, as having been
11 made upon the knowledge of the plaintiff.

12 (2) MATERIALS REQUIRED.—In any
13 coronavirus-related action filed in or removed to a
14 district court of the United States, the plaintiff shall
15 file with the complaint—

16 (A) an affidavit by a physician or other
17 qualified medical expert who did not treat the
18 person on whose behalf the complaint was filed
19 that explains the basis for such physician's or
20 other qualified medical expert's belief that such
21 person suffered the personal injury, harm, dam-
22 age, breach, or tort alleged in the complaint;
23 and

1 (B) certified medical records documenting
2 the alleged personal injury, harm, damage,
3 breach, or tort.

4 (d) APPLICATION WITH FEDERAL RULES OF CIVIL
5 PROCEDURE.—This section applies exclusively to any
6 coronavirus-related action filed in or removed to a district
7 court of the United States and, except to the extent that
8 this section requires additional information to be con-
9 tained in or attached to pleadings, nothing in this section
10 is intended to amend or otherwise supersede applicable
11 rules of Federal civil procedure.

12 (e) CIVIL DISCOVERY FOR ACTIONS IN DISTRICT
13 COURTS OF THE UNITED STATES.—

14 (1) TIMING.—Notwithstanding any other provi-
15 sion of law, in any coronavirus-related action filed in
16 or removed to a district court of the United States,
17 no discovery shall be allowed before—

18 (A) the time has expired for the defendant
19 to answer or file a motion to dismiss; and

20 (B) if a motion to dismiss is filed, the
21 court has ruled on the motion.

22 (2) STANDARD.—Notwithstanding any other
23 provision of law, the court in any coronavirus-related
24 action that is filed in or removed to a district court
25 of the United States—

1 (A) shall permit discovery only with re-
2 spect to matters directly related to material
3 issues contested in the coronavirus-related ac-
4 tion; and

5 (B) may compel a response to a discovery
6 request (including a request for admission, an
7 interrogatory, a request for production of docu-
8 ments, or any other form of discovery request)
9 under rule 37 of the Federal Rules of Civil Pro-
10 cedure, only if the court finds that—

11 (i) the requesting party needs the in-
12 formation sought to prove or defend as to
13 a material issue contested in such action;
14 and

15 (ii) the likely benefits of a response to
16 such request equal or exceed the burden or
17 cost for the responding party of providing
18 such response.

19 (f) INTERLOCUTORY APPEAL AND STAY OF DIS-
20 COVERY.—The courts of appeals of the United States shall
21 have jurisdiction of an appeal from a motion to dismiss
22 that is denied in any coronavirus-related action in a dis-
23 trict court of the United States. The district court shall
24 stay all discovery in such a coronavirus-related action until
25 the court of appeals has disposed of the appeal.

1 (g) CLASS ACTIONS AND MULTIDISTRICT LITIGA-
2 TION PROCEEDINGS.—

3 (1) CLASS ACTIONS.—In any coronavirus-re-
4 lated action that is filed in or removed to a district
5 court of the United States and is maintained as a
6 class action or multidistrict litigation—

7 (A) an individual or entity shall only be a
8 member of the class if the individual or entity
9 affirmatively elects to be a member; and

10 (B) the court, in addition to any other no-
11 tice required by applicable Federal or State law,
12 shall direct notice of the action to each member
13 of the class, which shall include—

14 (i) a concise and clear description of
15 the nature of the action;

16 (ii) the jurisdiction where the case is
17 pending; and

18 (iii) the fee arrangements with class
19 counsel, including—

20 (I) the hourly fee being charged;

21 or

22 (II) if it is a contingency fee, the
23 percentage of the final award which
24 will be paid, including an estimate of
25 the total amount that would be paid if

1 the requested damages were to be
2 granted; and

3 (III) if the cost of the litigation
4 is being financed, a description of the
5 financing arrangement.

6 (2) MULTIDISTRICT LITIGATIONS.—

7 (A) TRIAL PROHIBITION.—In any coordi-
8 nated or consolidated pretrial proceedings con-
9 ducted pursuant to section 1407(b) of title 28,
10 United States Code, the judge or judges to
11 whom coronavirus-related actions are assigned
12 by the Judicial Panel on Multidistrict Litigation
13 may not conduct a trial in a coronavirus-related
14 action transferred to or directly filed in the pro-
15 ceedings unless all parties to that coronavirus-
16 related action consent.

17 (B) REVIEW OF ORDERS.—The court of
18 appeals of the United States having jurisdiction
19 over the transferee district court shall permit
20 an appeal to be taken from any order issued in
21 the conduct of coordinated or consolidated pre-
22 trial proceedings conducted pursuant to section
23 1407(b) of title 28, United States Code, if the
24 order is applicable to 1 or more coronavirus-re-
25 lated actions and an immediate appeal from the

1 order may materially advance the ultimate ter-
2 mination of 1 or more coronavirus-related ac-
3 tions in the proceedings.

4 **SEC. 2164. DEMAND LETTERS; CAUSE OF ACTION.**

5 (a) CAUSE OF ACTION.—If any person transmits or
6 causes another to transmit in any form and by any means
7 a demand for remuneration in exchange for settling, re-
8 leasing, waiving, or otherwise not pursuing a claim that
9 is, or could be, brought as part of a coronavirus-related
10 action, the party receiving such a demand shall have a
11 cause of action for the recovery of damages occasioned by
12 such demand and for declaratory judgment in accordance
13 with chapter 151 of title 28, United States Code, if the
14 claim for which the letter was transmitted was meritless.

15 (b) DAMAGES.—Damages available under subsection
16 (a) shall include—

17 (1) compensatory damages including costs in-
18 curred in responding to the demand; and

19 (2) punitive damages, if the court determines
20 that the defendant had knowledge or was reckless
21 with regard to the fact that the claim was meritless.

22 (c) ATTORNEY’S FEES AND COSTS.—In an action
23 commenced under subsection (a), if the plaintiff is a pre-
24 vailing party, the court shall, in addition to any judgment

1 awarded to a plaintiff, allow a reasonable attorney's fee
2 to be paid by the defendant, and costs of the action.

3 (d) JURISDICTION.—The district courts of the United
4 States shall have concurrent original jurisdiction of all
5 claims arising under subsection (a).

6 (e) ENFORCEMENT BY THE ATTORNEY GENERAL.—

7 (1) IN GENERAL.—Whenever the Attorney Gen-
8 eral has reasonable cause to believe that any person
9 or group of persons is engaged in a pattern or prac-
10 tice of transmitting demands for remuneration in ex-
11 change for settling, releasing, waiving, or otherwise
12 not pursuing a claim that is, or could be, brought
13 as part of a coronavirus-related action and that is
14 meritless, the Attorney General may commence a
15 civil action in any appropriate district court of the
16 United States.

17 (2) RELIEF.—In a civil action under paragraph
18 (1), the court may, to vindicate the public interest,
19 assess a civil penalty against the respondent in an
20 amount not exceeding \$50,000 per transmitted de-
21 mand for remuneration in exchange for settling, re-
22 leasing, waiving or otherwise not pursuing a claim
23 that is meritless.

24 (3) DISTRIBUTION OF CIVIL PENALTIES.—If
25 the Attorney General obtains civil penalties in ac-

1 cordance with paragraph (2), the Attorney General
2 shall distribute the proceeds equitably among those
3 persons aggrieved by the respondent's pattern or
4 practice of transmitting demands for remuneration
5 in exchange for settling, releasing, waiving or other-
6 wise not pursuing a claim that is meritless.

7 **PART IV—RELATION TO LABOR AND**
8 **EMPLOYMENT LAWS**

9 **SEC. 2181. LIMITATION ON VIOLATIONS UNDER SPECIFIC**
10 **LAWS.**

11 (a) IN GENERAL.—

12 (1) DEFINITION.—In this subsection, the term
13 “covered Federal employment law” means any of the
14 following:

15 (A) The Occupational Safety and Health
16 Act of 1970 (29 U.S.C. 651 et seq.) (including
17 any standard included in a State plan approved
18 under section 18 of such Act (29 U.S.C. 667)).

19 (B) The Fair Labor Standards Act of
20 1938 (29 U.S.C. 201 et seq.).

21 (C) The Age Discrimination in Employ-
22 ment Act of 1967 (29 U.S.C. 621 et seq.).

23 (D) The Worker Adjustment and Retraining
24 Notification Act (29 U.S.C. 2101 et seq.).

1 (E) Title VII of the Civil Rights Act of
2 1964 (42 U.S.C. 2000e et seq.).

3 (F) Title II of the Genetic Information
4 Nondiscrimination Act of 2008 (42 U.S.C.
5 2000ff et seq.).

6 (G) Title I of the Americans with Disabil-
7 ities Act of 1990 (42 U.S.C. 12111 et seq.).

8 (2) LIMITATION.—Notwithstanding any provi-
9 sion of a covered Federal employment law, in any
10 action, proceeding, or investigation resulting from or
11 related to an actual, alleged, feared, or potential for
12 exposure to coronavirus, or a change in working con-
13 ditions caused by a law, rule, declaration, or order
14 related to coronavirus, an employer shall not be sub-
15 ject to any enforcement proceeding or liability under
16 any provision of a covered Federal employment law
17 if the employer—

18 (A) was relying on and generally following
19 applicable government standards and guidance;

20 (B) knew of the obligation under the rel-
21 evant provision; and

22 (C) attempted to satisfy any such obliga-
23 tion by—

24 (i) exploring options to comply with
25 such obligations and with the applicable

1 government standards and guidance (such
2 as through the use of virtual training or
3 remote communication strategies);

4 (ii) implementing interim alternative
5 protections or procedures; or

6 (iii) following guidance issued by the
7 relevant agency with jurisdiction with re-
8 spect to any exemptions from such obliga-
9 tion.

10 (b) PUBLIC ACCOMMODATION LAWS.—

11 (1) DEFINITIONS.—In this subsection—

12 (A) the term “auxiliary aids and services”
13 has the meaning given the term in section 4 of
14 the Americans with Disabilities Act of 1990 (42
15 U.S.C. 12103);

16 (B) the term “covered public accommoda-
17 tion law” means—

18 (i) title III of the Americans with Dis-
19 abilities Act of 1990 (42 U.S.C. 12181 et
20 seq.); or

21 (ii) title II of the Civil Rights Act of
22 1964 (42 U.S.C. 2000a et seq.);

23 (C) the term “place of public accommoda-
24 tion” means—

1 (i) a place of public accommodation,
2 as defined in section 201 of the Civil
3 Rights Act of 1964 (42 U.S.C. 2000a); or

4 (ii) a public accommodation, as de-
5 fined in section 301 of the Americans with
6 Disabilities Act of 1990 (42 U.S.C.
7 12181); and

8 (D) the term “public health emergency pe-
9 riod” means a period designated a public health
10 emergency period by a Federal, State, or local
11 government authority.

12 (2) ACTIONS AND MEASURES DURING A PUBLIC
13 HEALTH EMERGENCY.—

14 (A) IN GENERAL.—Notwithstanding any
15 other provision of law or regulation, during any
16 public health emergency period, no person who
17 owns, leases (or leases to), or operates a place
18 of public accommodation shall be liable under,
19 or found in violation of, any covered public ac-
20 commodation law for any action or measure
21 taken regarding coronavirus and that place of
22 public accommodation, if such person—

23 (i) has determined that the significant
24 risk of substantial harm to public health or
25 the health of employees cannot be reduced

1 or eliminated by reasonably modifying poli-
2 cies, practices, or procedures, or the provi-
3 sion of an auxiliary aid or service; or

4 (ii) has offered such a reasonable
5 modification or auxiliary aid or service but
6 such offer has been rejected by the indi-
7 vidual protected by the covered law.

8 (B) REQUIRED WAIVER PROHIBITED.—For
9 purposes of this subsection, no person who
10 owns, leases (or leases to), or operates a place
11 of public accommodation shall be required to
12 waive any measure, requirement, or rec-
13 ommendation that has been adopted in accord-
14 ance with a requirement or recommendation
15 issued by the Federal Government or any State
16 or local government with regard to coronavirus,
17 in order to offer such a reasonable modification
18 or auxiliary aids and services.

19 **SEC. 2182. LIABILITY FOR CONDUCTING TESTING AT WORK-**
20 **PLACE.**

21 Notwithstanding any other provision of Federal,
22 State, or local law, an employer, or other person who hires
23 or contracts with other individuals to provide services, that
24 conducts tests for coronavirus on the employees of the em-
25 ployer or persons hired or contracted to provide services

1 shall not be liable for any action or personal injury directly
2 resulting from such testing, except for those personal inju-
3 ries caused by the gross negligence or intentional mis-
4 conduct of the employer or other person.

5 **SEC. 2183. JOINT EMPLOYMENT AND INDEPENDENT CON-**
6 **TRACTING.**

7 Notwithstanding any other provision of Federal or
8 State law, including any covered Federal employment law
9 (as defined in section 2181(a)), the Labor Management
10 Relations Act, 1947 (29 U.S.C. 141 et seq.), the Employ-
11 ment Retirement Income Security Act of 1974 (29 U.S.C.
12 1001 et seq.), and the Family and Medical Leave Act of
13 1993 (29 U.S.C. 2601 et seq.), it shall not constitute evi-
14 dence of a joint employment relationship or employment
15 relationship for any employer to provide or require, for
16 an employee of another employer or for an independent
17 contractor, any of the following:

18 (1) Coronavirus-related policies, procedures, or
19 training.

20 (2) Personal protective equipment or training
21 for the use of such equipment.

22 (3) Cleaning or disinfecting services or the
23 means for such cleaning or disinfecting.

24 (4) Workplace testing for coronavirus.

1 (5) Temporary assistance due to coronavirus,
2 including financial assistance or other health and
3 safety benefits.

4 **SEC. 2184. EXCLUSION OF CERTAIN NOTIFICATION RE-**
5 **QUIREMENTS AS A RESULT OF THE COVID-19**
6 **PUBLIC HEALTH EMERGENCY.**

7 (a) DEFINITIONS.—Section 2(a) of the Worker Ad-
8 justment and Retraining Notification Act (29 U.S.C.
9 2101(a)) is amended—

10 (1) in paragraph (2), by adding before the
11 semicolon at the end the following: “and the shut-
12 down, if occurring during the covered period, is not
13 a result of the COVID–19 national emergency”;

14 (2) in paragraph (3)—

15 (A) in subparagraph (A), by striking
16 “and” at the end;

17 (B) in subparagraph (B), by adding “and”
18 at the end; and

19 (C) by adding at the end the following:

20 “(C) if occurring during the covered pe-
21 riod, is not a result of the COVID–19 national
22 emergency;”;

23 (3) in paragraph (7), by striking “and”;

24 (4) in paragraph (8), by striking the period at
25 the end and inserting a semicolon; and

1 (5) by adding at the end the following:

2 “(9) the term ‘covered period’ means the period
3 that—

4 “(A) begins on January 1, 2020; and

5 “(B) ends 90 days after the last date of
6 the COVID–19 national emergency; and

7 “(10) the term ‘COVID–19 national emergency’
8 means the national emergency declared by the Presi-
9 dent under the National Emergencies Act (50
10 U.S.C. 1601 et seq.) with respect to the Coronavirus
11 Disease 2019 (COVID–19).”.

12 (b) EXCLUSION FROM DEFINITION OF EMPLOYMENT
13 LOSS.—Section 2(b) of the Worker Adjustment and Re-
14 training Notification Act (29 U.S.C. 2101(b)) is amended
15 by adding at the end the following:

16 “(3) Notwithstanding subsection (a)(6), during
17 the covered period an employee may not be consid-
18 ered to have experienced an employment loss if the
19 termination, layoff exceeding 6 months, or reduction
20 in hours of work of more than 50 percent during
21 each month of any 6-month period involved is a re-
22 sult of the COVID–19 national emergency.”.

Subtitle B—Products

SEC. 2201. APPLICABILITY OF THE TARGETED LIABILITY PROTECTIONS FOR PANDEMIC AND EPI- DEMIC PRODUCTS AND SECURITY COUNTER- MEASURES WITH RESPECT TO COVID-19.

(a) IN GENERAL.—Section 319F–3(i)(1) of the Public Health Service Act (42 U.S.C. 247d–6d(i)(1)) is amended—

(1) in subparagraph (C), by striking “; or” and inserting a semicolon;

(2) in subparagraph (D), by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(E) a drug (as such term is defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act), biological product (including a vaccine) (as such term is defined in section 351(i)), or device (as such term is defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act) that—

“(i) is the subject of a notice of use of enforcement discretion issued by the Secretary if such drug, biological product, or device is used—

“(I) when such notice is in effect;

1 “(II) within the scope of such no-
2 tice; and

3 “(III) in compliance with other
4 applicable requirements of the Federal
5 Food, Drug, and Cosmetic Act that
6 are not the subject of such notice;

7 “(ii) in the case of a device, is exempt
8 from the requirement under section 510(k)
9 of the Federal Food, Drug, and Cosmetic
10 Act; or

11 “(iii) in the case of a drug—

12 “(I) meets the requirements for
13 marketing under a final administra-
14 tive order under section 505G of the
15 Federal Food, Drug, and Cosmetic
16 Act; or

17 “(II) is marketed in accordance
18 with section 505G(a)(3) of such Act.”.

19 (b) CLARIFYING MEANS OF DISTRIBUTION.—Section
20 319F–3(a)(5) of the Public Health Service Act (42 U.S.C.
21 247d–6d(a)(5)) is amended by inserting “by, or in part-
22 nership with, Federal, State, or local public health officials
23 or the private sector” after “distribution” the first place
24 it appears.

1 (c) NO CHANGE TO ADMINISTRATIVE PROCEDURE
2 ACT APPLICATION TO ENFORCEMENT DISCRETION EXER-
3 CISE.—Section 319F–3 of the Public Health Service Act
4 (42 U.S.C. 247d–6d) is amended by adding at the end
5 the following:

6 “(j) RULE OF CONSTRUCTION.—Nothing in this sec-
7 tion shall be construed—

8 “(1) to require use of procedures described in
9 section 553 of title 5, United States Code, for a no-
10 tice of use of enforcement discretion for which such
11 procedures are not otherwise required; or

12 “(2) to affect whether such notice constitutes
13 final agency action within the meaning of section
14 704 of title 5, United States Code.”.

15 **Subtitle C—General Provisions**

16 **SEC. 2301. SEVERABILITY.**

17 If any provision of this title, an amendment made by
18 this title, or the application of such a provision or amend-
19 ment to any person or circumstance is held to be unconsti-
20 tutional, the remaining provisions of and amendments
21 made by this title, as well as the application of such provi-
22 sion or amendment to any person other than the parties
23 to the action holding the provision or amendment to be
24 unconstitutional, or to any circumstances other than those
25 presented in such action, shall not be affected thereby.

1 **TITLE III—ASSISTANCE FOR**
2 **AMERICAN FAMILIES**

3 **SEC. 3001. SHORT TITLE.**

4 This title may be cited as the “Continued Financial
5 Relief to Americans Act of 2020”.

6 **SEC. 3002. EXTENSION OF THE FEDERAL PANDEMIC UNEM-**
7 **PLOYMENT COMPENSATION PROGRAM.**

8 (a) EXTENSION.—Section 2104(e)(2) of division A of
9 the CARES Act (15 U.S.C. 9023(e)(2)) is amended by
10 striking “July 31, 2020” and inserting “December 27,
11 2020”.

12 (b) AMOUNT.—

13 (1) IN GENERAL.—Section 2104(b) of division
14 A of the CARES Act (15 U.S.C. 9023(b)) is amend-
15 ed—

16 (A) in paragraph (1)(B), by striking “of
17 \$600” and inserting “equal to the amount spec-
18 ified in paragraph (3)”; and

19 (B) by adding at the end the following new
20 paragraph:

21 “(3) AMOUNT OF FEDERAL PANDEMIC UNEM-
22 PLOYMENT COMPENSATION.—The amount specified
23 in this paragraph is the following amount:

24 “(A) For weeks of unemployment begin-
25 ning after the date on which an agreement is

1 entered into under this section and ending on
2 or before July 31, 2020, \$600.

3 “(B) For weeks of unemployment begin-
4 ning after the last week under subparagraph
5 (A) and ending on or before December 27,
6 2020, \$300.”.

7 (2) TECHNICAL AMENDMENT REGARDING AP-
8 PPLICATION TO SHORT-TIME COMPENSATION PRO-
9 GRAMS AND AGREEMENTS.—Section 2104(i)(2) of
10 division A of the CARES Act (15 U.S.C. 9023(i)(2))
11 is amended—

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

14 (B) in subparagraph (D), by striking the
15 period at the end and inserting “; and”; and

16 (C) by adding at the end the following:

17 “(E) short-time compensation under sec-
18 tion 2108 or 2109.”.

19 (c) EXTENSION OF ENHANCED BENEFITS UNDER
20 THE RAILROAD UNEMPLOYMENT INSURANCE ACT.—Sec-
21 tion 2(a)(5)(A) of the Railroad Unemployment Insurance
22 Act (45 U.S.C. 352(a)(5)(A)) is amended by inserting
23 after the first sentence the following new sentence: “Not-
24 withstanding paragraph (3), subsection (c)(1)(B), and any
25 other limitation on total benefits in this Act, for registra-

tion periods beginning after July 31, 2020, but on or before December 27, 2020, a recovery benefit in the amount of \$600 shall be payable with respect to a qualified employee for a period in which the individual received unemployment benefits under paragraph (1)(A).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the CARES Act (15 U.S.C. 9001 note).

TITLE IV—SMALL BUSINESS PROGRAMS

SEC. 4001. SMALL BUSINESS RECOVERY.

(a) SHORT TITLE.—This section may be cited as the “Continuing the Paycheck Protection Program Act”.

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATION; ADMINISTRATOR.—The terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively.

(2) SMALL BUSINESS CONCERN.—The term “small business concern” has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

(c) EMERGENCY RULEMAKING AUTHORITY.— Not later than 30 days after the date of enactment of this Act, the Administrator shall issue regulations to carry out this

1 section and the amendments made by this section without
2 regard to the notice requirements under section 553(b) of
3 title 5, United States Code.

4 (d) ADDITIONAL ELIGIBLE EXPENSES.—

5 (1) ALLOWABLE USE OF PPP LOAN.—Section
6 7(a)(36)(F)(i) of the Small Business Act (15 U.S.C.
7 636(a)(36)(F)(i)) is amended—

8 (A) in subclause (VI), by striking “and” at
9 the end;

10 (B) in subclause (VII), by striking the pe-
11 riod at the end and inserting a semicolon; and

12 (C) by adding at the end the following:

13 “(VIII) covered operations ex-
14 penditures, as defined in section
15 1106(a) of the CARES Act (15
16 U.S.C. 9005(a));

17 “(IX) covered property damage
18 costs, as defined in such section
19 1106(a);

20 “(X) covered supplier costs, as
21 defined in such section 1106(a); and

22 “(XI) covered worker protection
23 expenditures, as defined in such sec-
24 tion 1106(a).”.

1 (2) LOAN FORGIVENESS.—Section 1106 of the
2 CARES Act (15 U.S.C. 9005) is amended—

3 (A) in subsection (a)—

4 (i) by redesignating paragraphs (6),
5 (7), and (8) as paragraphs (10), (11), and
6 (12), respectively;

7 (ii) by redesignating paragraph (5) as
8 paragraph (8);

9 (iii) by redesignating paragraph (4) as
10 paragraph (6);

11 (iv) by redesignating paragraph (3) as
12 paragraph (4);

13 (v) by inserting after paragraph (2)
14 the following:

15 “(3) the term ‘covered operations expenditure’
16 means a payment for any business software or cloud
17 computing service that facilitates business oper-
18 ations, product or service delivery, the processing,
19 payment, or tracking of payroll expenses, human re-
20 sources, sales and billing functions, or accounting or
21 tracking of supplies, inventory, records and ex-
22 penses;”;

23 (vi) by inserting after paragraph (4),
24 as so redesignated, the following:

1 “(5) the term ‘covered property damage cost’
2 means a cost related to property damage and van-
3 dalism or looting due to public disturbances that oc-
4 curred during 2020 that was not covered by insur-
5 ance or other compensation;”;

6 (vii) by inserting after paragraph (6),
7 as so redesignated, the following:

8 “(5) the term ‘covered supplier cost’ means an
9 expenditure made by an entity to a supplier of goods
10 pursuant to a contract in effect before February 15,
11 2020 for the supply of goods that are essential to
12 the operations of the entity at the time at which the
13 expenditure is made;”;

14 (viii) by inserting after paragraph (8),
15 as so redesignated, the following:

16 “(9) the term ‘covered worker protection ex-
17 penditure’—

18 “(A) means an operating or a capital ex-
19 penditure that is required to facilitate the adap-
20 tation of the business activities of an entity to
21 comply with requirements established or guid-
22 ance issued by the Department of Health and
23 Human Services, the Centers for Disease Con-
24 trol, or the Occupational Safety and Health Ad-
25 ministration during the period beginning on

1 March 1, 2020 and ending December 31, 2020
2 related to the maintenance of standards for
3 sanitation, social distancing, or any other work-
4 er or customer safety requirement related to
5 COVID-19;

6 “(B) may include—

7 “(i) the purchase, maintenance, or
8 renovation of assets that create or ex-
9 pand—

10 “(I) a drive-through window fa-
11 cility;

12 “(II) an indoor, outdoor, or com-
13 bined air or air pressure ventilation or
14 filtration system;

15 “(III) a physical barrier such as
16 a sneeze guard;

17 “(IV) an indoor, outdoor, or com-
18 bined commercial real property;

19 “(V) an onsite or offsite health
20 screening capability; or

21 “(VI) other assets relating to the
22 compliance with the requirements or
23 guidance described in subparagraph
24 (A), as determined by the Adminis-
25 trator in consultation with the Sec-

1 retary of Health and Human Services
2 and the Secretary of Labor; and

3 “(ii) the purchase of—

4 “(I) covered materials described
5 in section 328.103(a) of title 44, Code
6 of Federal Regulations, or any suc-
7 cessor regulation;

8 “(II) particulate filtering face-
9 piece respirators approved by the Na-
10 tional Institute for Occupational Safe-
11 ty and Health, including those ap-
12 proved only for emergency use author-
13 ization; or

14 “(III) other kinds of personal
15 protective equipment, as determined
16 by the Administrator in consultation
17 with the Secretary of Health and
18 Human Services and the Secretary of
19 Labor; and

20 “(C) does not include residential real prop-
21 erty or intangible property;”; and

22 (ix) in paragraph (11), as so redesign-
23 nated—

24 (I) in subparagraph (C), by strik-
25 ing “and” at the end;

1 (II) in subparagraph (D), by
2 striking “and” at the end; and

3 (III) by adding at the end the
4 following:

5 “(E) covered operations expenditures;

6 “(F) covered property damage costs;

7 “(G) covered supplier costs; and

8 “(H) covered worker protection expendi-
9 tures; and”;

10 (B) in subsection (b), by adding at the end
11 the following:

12 “(5) Any covered operations expenditure.

13 “(6) Any covered property damage cost.

14 “(7) Any covered supplier cost.

15 “(8) Any covered worker protection expendi-
16 ture.”;

17 (C) in subsection (d)(8), by inserting “any
18 payment on any covered operations expenditure,
19 any payment on any covered property damage
20 cost, any payment on any covered supplier cost,
21 any payment on any covered worker protection
22 expenditure,” after “rent obligation,”; and

23 (D) in subsection (e)—

24 (i) in paragraph (2), by inserting

25 “payments on covered operations expendi-

1 tures, payments on covered property dam-
2 age costs, payments on covered supplier
3 costs, payments on covered worker protec-
4 tion expenditures,” after “lease obliga-
5 tions,”; and

6 (ii) in paragraph (3)(B), by inserting
7 “make payments on covered operations ex-
8 penditures, make payments on covered
9 property damage costs, make payments on
10 covered supplier costs, make payments on
11 covered worker protection expenditures,”
12 after “rent obligation,”.

13 (e) LENDER SAFE HARBOR.—Subsection (h) of sec-
14 tion 1106 of the CARES Act (15 U.S.C. 9005) is amended
15 to read as follows:

16 “(h) HOLD HARMLESS.—

17 “(1) IN GENERAL.—A lender may rely on any
18 certification or documentation submitted by an ap-
19 plicant for a covered loan or an eligible recipient of
20 a covered loan that—

21 “(A) is submitted pursuant to any statu-
22 tory requirement relating to covered loans or
23 any rule or guidance issued to carry out any ac-
24 tion relating to covered loans; and

1 “(B) attests that the applicant or eligible
2 recipient, as applicable, has accurately verified
3 any certification or documentation provided to
4 the lender.

5 “(2) NO ENFORCEMENT ACTION.—With respect
6 to a lender that relies on a certification or docu-
7 mentation described in paragraph (1)—

8 “(A) an enforcement action may not be
9 taken against the lender acting in good faith re-
10 lating to origination or forgiveness of a covered
11 loan based on such reliance; and

12 “(B) the lender acting in good faith shall
13 not be subject to any penalties relating to origi-
14 nation or forgiveness of a covered loan based on
15 such reliance.”.

16 (f) SELECTION OF COVERED PERIOD FOR FORGIVE-
17 NESS.—Section 1106 of the CARES Act (15 U.S.C. 9005)
18 is amended—

19 (1) by amending paragraph (4) of subsection
20 (a), as so redesignated by subsection (d) of this sec-
21 tion, to read as follows:

22 “(4) the term ‘covered period’ means the pe-
23 riod—

24 “(A) beginning on the date of the origina-
25 tion of a covered loan; and

1 “(B) ending on a date selected by the eligi-
2 ble recipient of the covered loan that occurs
3 during the period—

4 “(i) beginning on the date that is 8
5 weeks after such date of origination; and

6 “(ii) ending on December 31, 2020;”;
7 and

8 (2) by striking subsection (l).

9 (g) SIMPLIFIED APPLICATION.—Section 1106 of the
10 CARES Act (15 U.S.C. 9005), as amended by subsection
11 (f) of this section, is amended—

12 (1) in subsection (e), in the matter preceding
13 paragraph (1), by striking “An eligible” and insert-
14 ing “Except as provided in subsection (l), an eligi-
15 ble”;

16 (2) in subsection (f), by inserting “or the infor-
17 mation required under subsection (l), as applicable”
18 after “subsection (e)”; and

19 (3) by adding at the end the following:

20 “(l) SIMPLIFIED APPLICATION.—

21 “(1) COVERED LOANS UNDER \$150,000.—

22 “(A) IN GENERAL.—Notwithstanding sub-
23 section (e), with respect to a covered loan made
24 to an eligible recipient that is not more than
25 \$150,000, the covered loan amount shall be for-

1 given under this section if the eligible recipi-
2 ent—

3 “(i) signs and submits to the lender a
4 one-page online or paper form, to be estab-
5 lished by the Administrator not later than
6 7 days after the date of enactment of the
7 Continuing the Paycheck Protection Pro-
8 gram Act, that—

9 “(I) reports the amount of the
10 covered loan amount spent by the eli-
11 gible recipient—

12 “(aa) on payroll costs; and

13 “(bb) on the sum of—

14 “(AA) payments of in-
15 terest on any covered mort-
16 gage obligation (which shall
17 not include any prepayment
18 of or payment of principal
19 on a covered mortgage obli-
20 gation);

21 “(BB) payments on any
22 covered rent obligation;

23 “(CC) covered utility
24 payments;

1 “(DD) covered oper-
2 ations expenditures;

3 “(EE) covered property
4 damage costs;

5 “(FF) covered supplier
6 costs; and

7 “(GG) covered worker
8 protection expenditures; and

9 “(II) attests that the eligible re-
10 cipient made a good faith effort to
11 comply with the requirements under
12 section 7(a)(36) of the Small Business
13 Act (15 U.S.C. 636(a)(36)); and

14 “(ii) retains records relevant to the
15 form that prove compliance with those re-
16 quirements—

17 “(I) with respect to employment
18 records, for the 4-year period fol-
19 lowing submission of the form; and

20 “(II) with respect to other
21 records, for the 3-year period fol-
22 lowing submission of the form.

23 “(B) DEMOGRAPHIC INFORMATION.—An
24 eligible recipient of a covered loan described in
25 subparagraph (A) may complete and submit

1 any form related to borrower demographic in-
2 formation.

3 “(C) AUDIT.—The Administrator may—

4 “(i) review and audit covered loans
5 described in subparagraph (A); and

6 “(ii) in the case of fraud, ineligibility,
7 or other material noncompliance with ap-
8 plicable loan or loan forgiveness require-
9 ments, modify—

10 “(I) the amount of a covered loan
11 described in subparagraph (A); or

12 “(II) the loan forgiveness amount
13 with respect to a covered loan de-
14 scribed in subparagraph (A).

15 “(2) COVERED LOANS BETWEEN \$150,000 AND
16 \$2,000,000.—

17 “(A) IN GENERAL.—Notwithstanding sub-
18 section (e), with respect to a covered loan made
19 to an eligible recipient that is more than
20 \$150,000 and not more than \$2,000,000—

21 “(i) the eligible recipient seeking loan
22 forgiveness under this section—

23 “(I) is not required to submit the
24 supporting documentation described
25 in paragraph (1) or (2) of subsection

1 (e) or the certification described in
2 subsection (e)(3)(A);

3 “(II) shall retain—

4 “(aa) all employment
5 records relevant to the applica-
6 tion for loan forgiveness for the
7 4-year period following submis-
8 sion of the application; and

9 “(bb) all other supporting
10 documentation relevant to the ap-
11 plication for loan forgiveness for
12 the 3-year period following sub-
13 mission of the application; and

14 “(III) may complete and submit
15 any form related to borrower demo-
16 graphic information;

17 “(ii) review by the lender of an appli-
18 cation submitted by the eligible recipient
19 for loan forgiveness under this section shall
20 be limited to whether the lender received a
21 complete application, with all fields com-
22 pleted, initialed, or signed, as applicable;
23 and

24 “(iii) the lender shall—

1 “(I) accept the application sub-
2 mitted by the eligible recipient for
3 loan forgiveness under this section;
4 and

5 “(II) submit the application to
6 the Administrator.

7 “(B) AUDIT.—The Administrator may—

8 “(i) review and audit covered loans
9 described in subparagraph (A); and

10 “(ii) in the case of fraud, ineligibility,
11 or other material noncompliance with ap-
12 plicable loan or loan forgiveness require-
13 ments, modify—

14 “(I) the amount of a covered loan
15 described in subparagraph (A); or

16 “(II) the loan forgiveness amount
17 with respect to a covered loan de-
18 scribed in subparagraph (A).

19 “(3) AUDIT PLAN.—

20 “(A) IN GENERAL.—Not later than 30
21 days after the date of enactment of the Con-
22 tinuing the Paycheck Protection Program Act,
23 the Administrator shall submit to the Com-
24 mittee on Small Business and Entrepreneurship
25 of the Senate and the Committee on Small

1 Business of the House of Representatives an
2 audit plan that details—

3 “(i) the policies and procedures of the
4 Administrator for conducting reviews and
5 audits of covered loans; and

6 “(ii) the metrics that the Adminis-
7 trator shall use to determine which covered
8 loans will be audited for each category of
9 covered loans described in paragraphs (1)
10 and (2).

11 “(B) REPORTS.—Not later than 30 days
12 after the date on which the Administrator sub-
13 mits the audit plan required under subpara-
14 graph (A), and each month thereafter, the Ad-
15 ministrator shall submit to the Committee on
16 Small Business and Entrepreneurship of the
17 Senate and the Committee on Small Business
18 of the House of Representatives a report on the
19 review and audit activities of the Administrator
20 under this subsection, which shall include—

21 “(i) the number of active reviews and
22 audits;

23 “(ii) the number of reviews and audits
24 that have been ongoing for more than 60
25 days; and

1 “(iii) any substantial changes made to
2 the audit plan submitted under subpara-
3 graph (A).”.

4 (h) GROUP INSURANCE PAYMENTS AS PAYROLL
5 COSTS.—Section 7(a)(36)(A)(viii)(I)(aa)(EE) of the
6 Small Business Act (15 U.S.C.
7 636(a)(36)(A)(viii)(I)(aa)(EE)) is amended by inserting
8 “and other group insurance” before “benefits”.

9 (i) PAYCHECK PROTECTION PROGRAM SECOND
10 DRAW LOANS.—Section 7(a) of the Small Business Act
11 (15 U.S.C. 636(a)) is amended by adding at the end the
12 following:

13 “(37) PAYCHECK PROTECTION PROGRAM SEC-
14 OND DRAW LOANS.—

15 “(A) DEFINITIONS.—In this paragraph—
16 “(i) the terms ‘community financial
17 institutions’, ‘credit union’, ‘eligible self-
18 employed individual’, ‘insured depository
19 institution’, ‘nonprofit organization’, ‘pay-
20 roll costs’, ‘seasonal employer’, and ‘vet-
21 erans organization’ have the meanings
22 given those terms in paragraph (36), ex-
23 cept that ‘eligible entity’ shall be sub-
24 stituted for ‘eligible recipient’ each place it
25 appears in the definitions of those terms;

1 “(ii) the term ‘covered loan’ means a
2 loan made under this paragraph;

3 “(iii) the terms ‘covered mortgage ob-
4 ligation’, ‘covered operating expenditure’,
5 ‘covered property damage cost’, ‘covered
6 rent obligation’, ‘covered supplier cost’,
7 ‘covered utility payment’, and ‘covered
8 worker protection expenditure’ have the
9 meanings given those terms in section
10 1106(a) of the CARES Act (15 U.S.C.
11 9005(a));

12 “(iv) the term ‘covered period’ means
13 the period beginning on the date of the
14 origination of a covered loan and ending on
15 December 31, 2020;

16 “(v) the term ‘eligible entity’—

17 “(I) means any business concern,
18 nonprofit organization, veterans orga-
19 nization, Tribal business concern, eli-
20 gible self-employed individual, sole
21 proprietor, independent contractor, or
22 small agricultural cooperative that—

23 “(aa)(AA) with respect to a
24 business concern, would qualify
25 as a small business concern by

1 the annual receipts size standard
2 (if applicable) established by sec-
3 tion 121.201 of title 13, Code of
4 Federal Regulations, or any suc-
5 cessor regulation; or

6 “(BB) if the entity does not
7 qualify as a small business con-
8 cern, meets the alternative size
9 standard established under sec-
10 tion 3(a)(5);

11 “(bb) employs not more
12 than 300 employees; and

13 “(cc)(AA) except as provided
14 in subitems (BB), (CC), and
15 (DD), had gross receipts during
16 the first or second quarter in
17 2020 that are not less than 35
18 percent less than the gross re-
19 cepts of the entity during the
20 same quarter in 2019;

21 “(BB) if the entity was not
22 in business during the first or
23 second quarter of 2019, but was
24 in business during the third and
25 fourth quarter of 2019, had gross

1 receipts during the first or sec-
2 ond quarter of 2020 that are less
3 than 35 percent of the amount of
4 the gross receipts of the entity
5 during the third or fourth quar-
6 ter of 2019;

7 “(CC) if the entity was not
8 in business during the first, sec-
9 ond, or third quarter of 2019,
10 but was in business during the
11 fourth quarter of 2019, had gross
12 receipts during the first or sec-
13 ond quarter of 2020 that are less
14 than 35 percent of the amount of
15 the gross receipts of the entity
16 during the fourth quarter of
17 2019; or

18 “(DD) if the entity was not
19 in business during 2019, but was
20 in operation on February 15,
21 2020, had gross receipts during
22 the second quarter of 2020 that
23 are less than 35 percent of the
24 amount of the gross receipts of

1 the entity during the first quar-
2 ter of 2020;

3 “(II) includes an organization de-
4 scribed in subparagraph (D)(vii) of
5 paragraph (36) that is eligible to re-
6 ceive a loan under that paragraph and
7 that meets the requirements described
8 in items (aa) and (cc) of subclause
9 (I); and

10 “(III) does not include—

11 “(aa) an issuer, the securi-
12 ties of which are listed on an ex-
13 change registered a national se-
14 curities exchange under section 6
15 of the Securities Exchange Act of
16 1934 (15 U.S.C. 78f);

17 “(bb) any entity that—

18 “(AA) is a type of busi-
19 ness concern described in
20 subsection (b), (c), (d), (e),
21 (f), (h), (l) (m), (p), (q), (r),
22 or (s) of section 120.110 of
23 title 13, Code of Federal
24 Regulations, or any suc-
25 cessor regulation;

1 “(BB) is a type of busi-
2 ness concern described in
3 section 120.110(g) of title
4 13, Code of Federal Regula-
5 tions, or any successor regu-
6 lation, except as otherwise
7 provided in the interim final
8 rule of the Administration
9 entitled ‘Business Loan Pro-
10 gram Temporary Changes;
11 Paycheck Protection Pro-
12 gram—Additional Eligibility
13 Criteria and Requirements
14 for Certain Pledges of
15 Loans’ (85 Fed. Reg. 21747
16 (April 20, 2020));

17 “(CC) is a type of busi-
18 ness concern described in
19 section 120.110(i) of title
20 13, Code of Federal Regula-
21 tions, or any successor regu-
22 lation, except if the business
23 concern is an organization
24 described in paragraph
25 (36)(D)(vii);

1 “(DD) is a type of
2 business concern described
3 in section 120.110(j) of title
4 13, Code of Federal Regula-
5 tions, or any successor regu-
6 lation, except as otherwise
7 provided in the interim final
8 rules of the Administration
9 entitled ‘Business Loan Pro-
10 gram Temporary Changes;
11 Paycheck Protection Pro-
12 gram—Eligibility of Certain
13 Electric Cooperatives’ (85
14 Fed. Reg. 29847 (May 19,
15 2020)) and ‘Business Loan
16 Program Temporary
17 Changes; Paycheck Protec-
18 tion Program—Eligibility of
19 Certain Telephone Coopera-
20 tives’ (85 Fed. Reg. 35550
21 (June 11, 2020)) or any
22 other guidance or rule
23 issued or that may be issued
24 by the Administrator;

1 “(EE) is a type of busi-
2 ness concern described in
3 section 120.110(n) of title
4 13, Code of Federal Regula-
5 tions, or any successor regu-
6 lation, except as otherwise
7 provided in the interim final
8 rule of the Administration
9 entitled ‘Business Loan Pro-
10 gram Temporary Changes;
11 Paycheck Protection Pro-
12 gram—Additional Eligibility
13 Revisions to First Interim
14 Final Rule’ (85 Fed. Reg.
15 38301 (June 26, 2020)) or
16 any other guidance or rule
17 issued or that may be issued
18 by the Administrator;

19 “(FF) is a type of busi-
20 ness concern described in
21 section 120.110(o) of title
22 13, Code of Federal Regula-
23 tions, or any successor regu-
24 lation, except as otherwise
25 provided in any guidance or

1 rule issued or that may be
2 issued by the Administrator;
3 or

4 “(GG) is an entity that
5 would be described in the
6 subsections listed in
7 subitems (AA) through (FF)
8 if the entity were a business
9 concern; or

10 “(HH) is assigned, or
11 was approved for a loan
12 under paragraph (36) with,
13 a North American Industry
14 Classification System code
15 beginning with 52;

16 “(cc) any business concern
17 or entity primarily engaged in
18 political or lobbying activities,
19 which shall include any entity
20 that is organized for research or
21 for engaging in advocacy in areas
22 such as public policy or political
23 strategy or otherwise describes
24 itself as a think tank in any pub-
25 lic documents; or

1 “(dd) any business concern
2 or entity—

3 “(AA) for which an en-
4 tity created in or organized
5 under the laws of the Peo-
6 ple’s Republic of China or
7 the Special Administrative
8 Region of Hong Kong, or
9 that has significant oper-
10 ations in the People’s Re-
11 public of China or the Spe-
12 cial Administrative Region
13 of Hong Kong, owns or
14 holds, directly or indirectly,
15 not less than 20 percent of
16 the economic interest of the
17 business concern or entity,
18 including as equity shares or
19 a capital or profit interest in
20 a limited liability company
21 or partnership; or

22 “(BB) that retains, as
23 a member of the board of di-
24 rectors of the business con-
25 cern, a person who is a resi-

100

1 costs incurred or paid by the eli-
2 gible entity during—

3 “(AA) the 1-year period
4 before the date on which the
5 loan is made; or

6 “(BB) calendar year
7 2019; by

8 “(bb) 2.5; or

9 “(II) \$2,000,000.

10 “(ii) SEASONAL EMPLOYERS.—The
11 maximum amount of a covered loan made
12 to an eligible entity that is a seasonal em-
13 ployer is the lesser of—

14 “(I) the product obtained by mul-
15 tiplying—

16 “(aa) at the election of the
17 eligible entity, the average total
18 monthly payments for payroll
19 costs incurred or paid by the eli-
20 gible entity—

21 “(AA) for a 12-week
22 period beginning February
23 15, 2019 or March 1, 2019
24 and ending June 30, 2019;
25 or

1 “(BB) for a consecutive
2 12-week period between May
3 1, 2019 and September 15,
4 2019; by
5 “(bb) 2.5; or
6 “(II) \$2,000,000.

7 “(iii) NEW ENTITIES.—The maximum
8 amount of a covered loan made to an eligi-
9 ble entity that did not exist during the 1-
10 year period preceding February 15, 2020
11 is the lesser of—

12 “(I) the product obtained by mul-
13 tiplying—

14 “(aa) the quotient obtained
15 by dividing—

16 “(AA) the sum of the
17 total monthly payments by
18 the eligible entity for payroll
19 costs paid or incurred by the
20 eligible entity as of the date
21 on which the eligible entity
22 applies for the covered loan;
23 by

24 “(BB) the number of
25 months in which those pay-

1 roll costs were paid or in-
2 curred; by

3 “(bb) 2.5; or

4 “(II) \$2,000,000.

5 “(iv) LIMIT FOR MULTIPLE LOCA-
6 TIONS.—With respect to an eligible entity
7 with more than 1 physical location, the
8 total amount of all covered loans shall be
9 not more than \$2,000,000.

10 “(v) LOAN NUMBER LIMITATION.—An
11 eligible entity may only receive 1 covered
12 loan.

13 “(vi) 90 DAY RULE FOR MAXIMUM
14 LOAN AMOUNT.—The maximum aggregate
15 loan amount of loans guaranteed under
16 this subsection that are approved for an el-
17 igible entity (including any affiliates) with-
18 in 90 days of approval of another loan
19 under this subsection for the eligible entity
20 (including any affiliates) shall not exceed
21 \$10,000,000.

22 “(D) EXCEPTION FROM CERTAIN CERTIFI-
23 CATION REQUIREMENTS.—An eligible entity ap-
24 plying for a covered loan shall not be required

1 to make the certification described in subclause
2 (III) or (IV) of paragraph (36)(G)(i).

3 “(E) FEE WAIVER.—With respect to a cov-
4 ered 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 “(F) ELIGIBLE CHURCHES AND RELIGIOUS
12 ORGANIZATIONS.—

13 “(i) SENSE OF CONGRESS.—It is the
14 sense of Congress that the interim final
15 rule of the Administration entitled ‘Busi-
16 ness Loan Program Temporary Changes;
17 Paycheck Protection Program’ (85 Fed.
18 Reg. 20817 (April 15, 2020)) properly
19 clarified the eligibility of churches and reli-
20 gious organizations for loans made under
21 paragraph (36).

22 “(ii) APPLICABILITY OF PROHIBI-
23 TION.—The prohibition on eligibility estab-
24 lished by section 120.110(k) of title 13,
25 Code of Federal Regulations, or any suc-

1 cessor regulation, shall not apply to a cov-
2 ered loan.

3 “(G) GROSS RECEIPTS FOR NONPROFIT
4 AND VETERANS ORGANIZATIONS.—For purposes
5 of calculating gross receipts under subpara-
6 graph (A)(v)(I)(cc) for an eligible entity that is
7 a nonprofit organization, a veterans organiza-
8 tion, or an organization described in subpara-
9 graph (A)(v)(II), gross receipts—

10 “(i) shall include proceeds from fund-
11 raising events, federated campaigns, gifts,
12 donor-advised funds, and funds from simi-
13 lar sources; and

14 “(ii) shall not include—

15 “(I) Federal grants (excluding
16 any loan forgiveness on loans received
17 under paragraph (36) or this para-
18 graph);

19 “(II) revenues from a supporting
20 organization;

21 “(III) grants from private foun-
22 dations that are disbursed over the
23 course of more than 1 calendar year;
24 or

1 “(IV) any contribution of prop-
2 erty other than money, stocks, bonds,
3 and other securities, provided that the
4 non-cash contribution is not sold by
5 the organization in a transaction un-
6 related to the tax-exempt purpose of
7 the organization.

8 “(H) LOAN FORGIVENESS.—

9 “(i) IN GENERAL.—Except as other-
10 wise provided in this subparagraph, an eli-
11 gible entity shall be eligible for forgiveness
12 of indebtedness on a covered loan in the
13 same manner as an eligible recipient with
14 respect to a loan made under paragraph
15 (36), as described in section 1106 of the
16 CARES Act (15 U.S.C. 9005).

17 “(ii) FORGIVENESS AMOUNT.—An eli-
18 gible entity shall be eligible for forgiveness
19 of indebtedness on a covered loan in an
20 amount equal to the sum of the following
21 costs incurred or expenditures made during
22 the covered period:

23 “(I) Payroll costs.

24 “(II) Any payment of interest on
25 any covered mortgage obligation

1 (which shall not include any prepay-
2 ment of or payment of principal on a
3 covered mortgage obligation).

4 “(III) Any covered operations ex-
5 penditure.

6 “(IV) Any covered property dam-
7 age cost.

8 “(V) Any payment on any cov-
9 ered rent obligation.

10 “(VI) Any covered utility pay-
11 ment.

12 “(VII) Any covered supplier cost.

13 “(VIII) Any covered worker pro-
14 tection expenditure.

15 “(iii) LIMITATION ON FORGIVENESS
16 FOR ALL ELIGIBLE ENTITIES.—The for-
17 giveness amount under this subparagraph
18 shall be equal to the lesser of—

19 “(I) the amount described in
20 clause (ii); and

21 “(II) the amount equal to the
22 quotient obtained by dividing—

23 “(aa) the amount of the cov-
24 ered loan used for payroll costs
25 during the covered period; and

1 “(bb) 0.60.

2 “(I) LENDER ELIGIBILITY.—Except as
3 otherwise provided in this paragraph, a lender
4 approved to make loans under paragraph (36)
5 may make covered loans under the same terms
6 and conditions as in paragraph (36).

7 “(J) REIMBURSEMENT FOR LOAN PROC-
8 ESSING AND SERVICING.—The Administrator
9 shall reimburse a lender authorized to make a
10 covered loan in an amount that is—

11 “(i) 3 percent of the principal amount
12 of the financing of the covered loan up to
13 \$350,000; and

14 “(ii) 1 percent of the principal
15 amount of the financing of the covered
16 loan above \$350,000, if applicable.

17 “(K) SET ASIDE FOR SMALL ENTITIES.—
18 Not less than \$25,000,000,000 of the total
19 amount of covered loans guaranteed by the Ad-
20 ministrator shall be made to eligible entities
21 with not more than 10 employees as of Feb-
22 ruary 15, 2020.

23 “(L) SET ASIDE FOR COMMUNITY FINAN-
24 CIAL INSTITUTIONS, SMALL INSURED DEPOSI-
25 TORY INSTITUTIONS, CREDIT UNIONS, AND

1 FARM CREDIT SYSTEM INSTITUTIONS.—Not less
2 than \$10,000,000,000 of the total amount of
3 covered loans guaranteed by the Administrator
4 shall be made by—

5 “(i) community financial institutions;

6 “(ii) insured depository institutions
7 with consolidated assets of less than
8 \$10,000,000,000;

9 “(iii) credit unions with consolidated
10 assets of less than \$10,000,000,000; and

11 “(iv) institutions of the Farm Credit
12 System chartered under the Farm Credit
13 Act of 1971 (12 U.S.C. 2001 et seq.) with
14 consolidated assets of less than
15 \$10,000,000,000 (not including the Fed-
16 eral Agricultural Mortgage Corporation).

17 “(M) PUBLICATION OF GUIDANCE.—Not
18 later than 10 days after the date of enactment
19 of this paragraph, the Administrator shall issue
20 guidance addressing barriers to accessing cap-
21 ital for minority, underserved, veteran, and
22 women-owned business concerns for the purpose
23 of ensuring equitable access to covered loans.

24 “(N) STANDARD OPERATING PROCE-
25 DURE.—The Administrator shall, to the max-

1 imum extent practicable, allow a lender ap-
2 proved to make covered loans to use existing
3 program guidance and standard operating pro-
4 cedures for loans made under this subsection.

5 “(O) PROHIBITION ON USE OF PROCEEDS
6 FOR LOBBYING ACTIVITIES.—None of the pro-
7 ceeds of a covered loan may be used for—

8 “(i) lobbying activities, as defined in
9 section 3 of the Lobbying Disclosure Act of
10 1995 (2 U.S.C. 1602);

11 “(ii) lobbying expenditures related to
12 a State or local election; or

13 “(iii) expenditures designed to influ-
14 ence the enactment of legislation, appro-
15 priations, regulation, administrative action,
16 or Executive order proposed or pending be-
17 fore Congress or any State government,
18 State legislature, or local legislature or leg-
19 islative body.”.

20 (j) CONTINUED ACCESS TO THE PAYCHECK PROTEC-
21 TION PROGRAM.—

22 (1) IN GENERAL.—Section 7(a)(36)(E)(ii) of
23 the Small Business Act (15 U.S.C.
24 636(a)(36)(E)(ii)) is amended by striking
25 “\$10,000,000” and inserting “\$2,000,000”.

1 (2) APPLICABILITY OF MAXIMUM LOAN AMOUNT
2 CALCULATION.—

3 (A) DEFINITIONS.—In this paragraph, the
4 terms “covered loan” and “eligible recipient”
5 have the meanings given those terms in section
6 7(a)(36) of the Small Business Act (15 U.S.C.
7 636(a)(36)).

8 (B) APPLICABILITY.—The amendment
9 made by paragraph (1) shall apply only with re-
10 spect to a covered loan applied for by an eligible
11 recipient on or after the date of enactment of
12 this Act.

13 (k) INCREASED ABILITY FOR PAYCHECK PROTEC-
14 TION PROGRAM BORROWERS TO REQUEST AN INCREASE
15 IN LOAN AMOUNT DUE TO UPDATED REGULATIONS.—

16 (1) DEFINITIONS.—In this subsection, the
17 terms “covered loan” and “eligible recipient” have
18 the meanings given those terms in section 7(a)(36)
19 of the Small Business Act (15 U.S.C. 636(a)(36)).

20 (2) INCREASED AMOUNT.—Notwithstanding the
21 interim final rule issued by the Administration enti-
22 tled “Business Loan Program Temporary Changes;
23 Paycheck Protection Program—Loan Increases” (85
24 Fed. Reg. 29842 (May 19, 2020)), an eligible recipi-
25 ent of a covered loan that is eligible for an increased

1 covered loan amount as a result of any interim final
2 rule that allows for covered loan increases may sub-
3 mit a request for an increase in the covered loan
4 amount even if—

5 (A) the initial covered loan amount has
6 been fully disbursed; or

7 (B) the lender of the initial covered loan
8 has submitted to the Administration a Form
9 1502 report related to the covered loan.

10 (l) CALCULATION OF MAXIMUM LOAN AMOUNT FOR
11 FARMERS AND RANCHERS UNDER THE PAYCHECK PRO-
12 TECTION PROGRAM.—

13 (1) IN GENERAL.—Section 7(a)(36) of the
14 Small Business Act (15 U.S.C. 636(a)(36)), as
15 amended by subsection (j) of this section, is amend-
16 ed—

17 (A) in subparagraph (E), in the matter
18 preceding clause (i), by striking “During” and
19 inserting “Except as provided in subparagraph
20 (T), during”; and

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

22 “(T) CALCULATION OF MAXIMUM LOAN
23 AMOUNT FOR FARMERS AND RANCHERS.—

1 “(i) DEFINITION.—In this subpara-
2 graph, the term ‘covered recipient’ means
3 an eligible recipient that—

4 “(I) operates as a sole propri-
5 etorship or as an independent con-
6 tractor, or is an eligible self-employed
7 individual;

8 “(II) reports farm income or ex-
9 penses on a Schedule F (or any equiv-
10 alent successor schedule); and

11 “(III) was in business during the
12 period beginning on February 15,
13 2019 and ending on June 30, 2019.

14 “(ii) NO EMPLOYEES.—With respect
15 to covered recipient without employees, the
16 maximum covered loan amount shall be the
17 lesser of—

18 “(I) the sum of—

19 “(aa) the product obtained
20 by multiplying—

21 “(AA) the gross income
22 of the covered recipient in
23 2019, as reported on a
24 Schedule F (or any equiva-
25 lent successor schedule),

that is not more than
\$100,000, divided by 12;
and

“(BB) 2.5; and

“(bb) the outstanding amount of a loan under subsection (b)(2) that was made during the period beginning on January 31, 2020 and ending on April 3, 2020 that the borrower intends to refinance under the covered loan, not including any amount of any advance under the loan that is not required to be repaid; or

“(II) \$2,000,000.

“(iii) WITH EMPLOYEES.—With respect to a covered recipient with employees, the maximum covered loan amount shall be calculated using the formula described in subparagraph (E), except that the gross income of the covered recipient described in clause (ii)(I)(aa)(AA) of this subparagraph, as divided by 12, shall be

1 added to the sum calculated under sub-
2 paragraph (E)(i)(I).

3 “(iv) RECALCULATION.—A lender that
4 made a covered loan to a covered recipient
5 before the date of enactment of this sub-
6 paragraph may, at the request of the cov-
7 ered recipient—

8 “(I) recalculate the maximum
9 loan amount applicable to that cov-
10 ered loan based on the formula de-
11 scribed in clause (ii) or (iii), as appli-
12 cable, if doing so would result in a
13 larger covered loan amount; and

14 “(II) provide the covered recipi-
15 ent with additional covered loan
16 amounts based on that recalcula-
17 tion.”.

18 (m) FARM CREDIT SYSTEM INSTITUTIONS.—

19 (1) DEFINITION OF FARM CREDIT SYSTEM IN-
20 STITUTION.—In this subsection, the term “Farm
21 Credit System institution”—

22 (A) means an institution of the Farm
23 Credit System chartered under the Farm Credit
24 Act of 1971 (12 U.S.C. 2001 et seq.); and

1 (B) does not include the Federal Agricul-
2 tural Mortgage Corporation.

3 (2) FACILITATION OF PARTICIPATION IN PPP
4 AND SECOND DRAW LOANS.—

5 (A) APPLICABLE RULES.—Solely with re-
6 spect to loans under paragraphs (36) and (37)
7 of section 7(a) of the Small Business Act (15
8 U.S.C. 636(a)), Farm Credit Administration
9 regulations and guidance issued as of July 14,
10 2020, and compliance with such regulations and
11 guidance, shall be deemed functionally equiva-
12 lent to requirements referenced in section
13 3(a)(iii)(II) of the interim final rule of the Ad-
14 ministration entitled “Business Loan Program
15 Temporary Changes; Paycheck Protection Pro-
16 gram” (85 Fed. Reg. 20811 (April 15, 2020))
17 or any similar requirement referenced in that
18 interim final rule in implementing such para-
19 graph (37).

20 (B) APPLICABILITY OF CERTAIN LOAN RE-
21 QUIREMENTS.—For purposes of making loans
22 under paragraph (36) or (37) of section 7(a) of
23 the Small Business Act (15 U.S.C. 636(a)) or
24 forgiving those loans in accordance with section
25 1106 of the CARES Act (15 U.S.C. 9005) and

1 subparagraph (H) of such paragraph (37), sec-
2 tions 4.13, 4.14, and 4.14A of the Farm Credit
3 Act of 1971 (12 U.S.C. 2199, 2202, 2202a)
4 (including regulations issued under those sec-
5 tions) shall not apply.

6 (C) RISK WEIGHT.—

7 (i) IN GENERAL.—With respect to the
8 application of Farm Credit Administration
9 capital requirements, a loan described in
10 clause (ii)—

11 (I) shall receive a risk weight of
12 zero percent; and

13 (II) shall not be included in the
14 calculation of any applicable leverage
15 ratio or other applicable capital ratio
16 or calculation.

17 (ii) LOANS DESCRIBED.—A loan re-
18 ferred to in clause (i) is—

19 (I) a loan made by a Farm Cred-
20 it Bank described in section 1.2(a) of
21 the Farm Credit Act of 1971 (12
22 U.S.C. 2002(a)) to a Federal Land
23 Bank Association, a Production Credit
24 Association, or an agricultural credit
25 association described in that section

1 to make loans under paragraph (36)
2 or (37) of section 7(a) of the Small
3 Business Act (15 U.S.C. 636(a)) or
4 forgive those loans in accordance with
5 section 1106 of the CARES Act (15
6 U.S.C. 9005) and subparagraph (H)
7 of such paragraph (37); or

8 (II) a loan made by a Federal
9 Land Bank Association, a Production
10 Credit Association, an agricultural
11 credit association, or the bank for co-
12 operatives described in section 1.2(a)
13 of the Farm Credit Act of 1971 (12
14 U.S.C. 2002(a)) under paragraph
15 (36) or (37) of section 7(a) of the
16 Small Business Act (15 U.S.C.
17 636(a)).

18 (D) RESERVATION OF LOAN GUARAN-
19 TEES.—Section 7(a)(36)(S) of the Small Busi-
20 ness Act (15 U.S.C. 636(a)(36)(S)) is amend-
21 ed—

22 (i) in clause (i)—

23 (I) in subclause (I), by striking
24 “and” at the end;

1 (II) in subclause (II), by striking
2 the period at the end and inserting “;
3 and”; and

4 (III) by adding at the end the
5 following:

6 “(III) institutions of the Farm
7 Credit System chartered under the
8 Farm Credit Act of 1971 (12 U.S.C.
9 2001 et seq.) with consolidated assets
10 of not less than \$10,000,000,000 and
11 less than \$50,000,000,000.”; and
12 (ii) in clause (ii)—

13 (I) in subclause (II), by striking
14 “and” at the end;

15 (II) in subclause (III), by strik-
16 ing the period at the end and insert-
17 ing “; and”; and

18 (III) by adding at the end the
19 following:

20 “(IV) institutions of the Farm
21 Credit System chartered under the
22 Farm Credit Act of 1971 (12 U.S.C.
23 2001 et seq.) with consolidated assets
24 of less than \$10,000,000,000.”.

25 (n) DEFINITION OF SEASONAL EMPLOYER.—

1 (1) PPP LOANS.—Section 7(a)(36)(A) of the
2 Small Business Act (15 U.S.C. 636(a)(36)(A)) is
3 amended—

4 (A) in clause (xi), by striking “and” at the
5 end;

6 (B) in clause (xii), by striking the period
7 at the end and inserting “; and”; and

8 (C) by adding at the end the following:

9 “(xiii) the term ‘seasonal employer’
10 means an eligible recipient that—

11 “(I) does not operate for more
12 than 7 months in any calendar year;
13 or

14 “(II) during the preceding cal-
15 endar year, had gross receipts for any
16 6 months of that year that were not
17 more than 33.33 percent of the gross
18 receipts of the employer for the other
19 6 months of that year.”.

20 (2) LOAN FORGIVENESS.—Paragraph (12) of
21 section 1106(a) of the CARES Act (15 U.S.C.
22 9005(a)), as so redesignated by subsection (d)(2) of
23 this section, is amended to read as follows:

24 “(12) the terms ‘payroll costs’ and ‘seasonal
25 employer’ have the meanings given those terms in

1 section 7(a)(36) of the Small Business Act (15
2 U.S.C. 636(a)(36)).”.

(o) ELIGIBILITY OF 501(c)(6) ORGANIZATIONS FOR
LOANS UNDER THE PAYCHECK PROTECTION PRO-
GRAM.—Section 7(a)(36)(D) of the Small Business Act
(15 U.S.C. 636(a)(36)(D)) is amended—

7 (1) in clause (v), by inserting “or whether an
8 organization described in clause (vii) employs not
9 more than 150 employees,” after “clause (i)(I),”;

10 (2) in clause (vi), by inserting “, an organiza-
11 tion described in clause (vii),” after “nonprofit orga-
12 nization”; and

13 (3) by adding at the end the following:

14 “(vii) ELIGIBILITY FOR CERTAIN
15 501(C)(6) ORGANIZATIONS.—

“(I) IN GENERAL.—Except as provided in subclause (II), any organization that is described in section 501(c)(6) of the Internal Revenue Code and that is exempt from taxation under section 501(a) of such Code (excluding professional sports leagues and organizations with the purpose of promoting or participating in a political campaign or other activ-

ity) shall be eligible to receive a covered loan if—

“(aa) the organization does not receive more than 10 percent of its receipts from lobbying activities;

“(bb) the lobbying activities of the organization do not comprise more than 10 percent of the total activities of the organization; and

“(cc) the organization employs not more than 150 employees.

“(II) DESTINATION MARKETING ORGANIZATIONS.—Notwithstanding subclause (I), during the covered period, any destination marketing organization shall be eligible to receive a covered loan if—

“(aa) the destination marketing organization does not receive more than 10 percent of its receipts from lobbying activities;

1 “(bb) the lobbying activities
2 of the destination marketing or-
3 ganization do not comprise more
4 than 10 percent of the total ac-
5 tivities of the organization;

6 “(cc) the destination mar-
7 keting organization employs not
8 more than 150 employees; and

9 “(dd) the destination mar-
10 keting organization—

11 “(AA) is described in
12 section 501(c) of the Inter-
13 nal Revenue Code and is ex-
14 empt from taxation under
15 section 501(a) of such Code;
16 or

17 “(BB) is a quasi-gov-
18 ernmental entity or is a po-
19 litical subdivision of a State
20 or local government, includ-
21 ing any instrumentality of
22 those entities.”.

23 (p) PROHIBITION ON USE OF LOAN PROCEEDS FOR
24 LOBBYING ACTIVITIES.—Section 7(a)(36)(F) of the Small

1 Business Act (15 U.S.C. 636(a)(36)(F)) is amended by
2 adding at the end the following:

3 “(vi) PROHIBITION.—None of the pro-
4 ceeds of a covered loan may be used for—

5 “(I) lobbying activities, as de-
6 fined in section 3 of the Lobbying
7 Disclosure Act of 1995 (2 U.S.C.
8 1602);

9 “(II) lobbying expenditures re-
10 lated to a State or local election; or

11 “(III) expenditures designed to
12 influence the enactment of legislation,
13 appropriations, regulation, adminis-
14 trative action, or Executive order pro-
15 posed or pending before Congress or
16 any State government, State legisla-
17 ture, or local legislature or legislative
18 body.”.

19 (q) EFFECTIVE DATE; APPLICABILITY.—The amend-
20 ments made to paragraph (36) of section 7(a) of the Small
21 Business Act (15 U.S.C. 636(a)) and title I of the CARES
22 Act (Public Law 116–136) under this section shall be ef-
23 fective as if included in the CARES Act and shall apply
24 to any loan made pursuant to section 7(a)(36) of the
25 Small Business Act (15 U.S.C. 636(a)(36)).

1 (r) BANKRUPTCY PROVISIONS.—

2 (1) IN GENERAL.—Section 364 of title 11,
3 United States Code, is amended by adding at the
4 end the following:

5 “(g)(1) The court, after notice and a hearing, may
6 authorize a debtor in possession or a trustee that is au-
7 thorized to operate the business of the debtor under sec-
8 tion 1183, 1184, 1203, 1204, or 1304 of this title to ob-
9 tain a loan under paragraph (36) or (37) of section 7(a)
10 of the Small Business Act (15 U.S.C. 636(a)), and such
11 loan shall be treated as a debt to the extent the loan is
12 not forgiven in accordance with section 1106 of the
13 CARES Act (15 U.S.C. 9005) or subparagraph (H) of
14 such paragraph (37), as applicable, with priority equal to
15 a claim of the kind specified in subsection (c)(1) of this
16 section.

17 “(2) The trustee may incur debt described in para-
18 graph (1) notwithstanding any provision in a contract,
19 prior order authorizing the trustee to incur debt under this
20 section, prior order authorizing the trustee to use cash col-
21 lateral under section 363, or applicable law that prohibits
22 the debtor from incurring additional debt.

23 “(3) The court shall hold a hearing within 7 days
24 after the filing and service of the motion to obtain a loan
25 described in paragraph (1). Notwithstanding the Federal

1 Rules of Bankruptcy Procedure, at such hearing, the court
2 may grant relief on a final basis.”.

3 (2) ALLOWANCE OF ADMINISTRATIVE EX-
4 PENSES.—Section 503(b) of title 11, United States
5 Code, is amended—

6 (A) in paragraph (8)(B), by striking “and”
7 at the end;

8 (B) in paragraph (9), by striking the pe-
9 riod at the end and inserting “; and”; and

10 (C) by adding at the end the following:

11 “(10) any debt incurred under section
12 364(g)(1) of this title.”.

13 (3) CONFIRMATION OF PLAN FOR REORGANIZA-
14 TION.—Section 1191 of title 11, United States Code,
15 is amended by adding at the end the following:

16 “(f) SPECIAL PROVISION RELATED TO COVID-19
17 PANDEMIC.—Notwithstanding section 1129(a)(9)(A) of
18 this title and subsection (e) of this section, a plan that
19 provides for payment of a claim of a kind specified in sec-
20 tion 503(b)(10) of this title may be confirmed under sub-
21 section (b) of this section if the plan proposes to make
22 payments on account of such claim when due under the
23 terms of the loan giving rise to such claim.”.

24 (4) CONFIRMATION OF PLAN FOR FAMILY
25 FARMERS AND FISHERMEN.—Section 1225 of title

1 11, United States Code, is amended by adding at
2 the end the following:

3 “(d) Notwithstanding section 1222(a)(2) of this title
4 and subsection (b)(1) of this section, a plan that provides
5 for payment of a claim of a kind specified in section
6 503(b)(10) of this title may be confirmed if the plan pro-
7 poses to make payments on account of such claim when
8 due under the terms of the loan giving rise to such
9 claim.”.

10 (5) CONFIRMATION OF PLAN FOR INDIVID-
11 UALS.—Section 1325 of title 11, United States
12 Code, is amended by adding at the end the fol-
13 lowing:

14 “(d) Notwithstanding section 1322(a)(2) of this title
15 and subsection (b)(1) of this section, a plan that provides
16 for payment of a claim of a kind specified in section
17 503(b)(10) of this title may be confirmed if the plan pro-
18 poses to make payments on account of such claim when
19 due under the terms of the loan giving rise to such
20 claim.”.

21 (6) EFFECTIVE DATE; SUNSET.—

22 (A) EFFECTIVE DATE.—The amendments
23 made by paragraphs (1) through (5) shall—

24 (i) take effect on the date on which
25 the Administrator submits to the Director

1 of the Executive Office for United States
2 Trustees a written determination that, sub-
3 ject to satisfying any other eligibility re-
4 quirements, any debtor in possession or
5 trustee that is authorized to operate the
6 business of the debtor under section 1183,
7 1184, 1203, 1204, or 1304 of title 11,
8 United States Code, would be eligible for a
9 loan under paragraphs (36) and (37) of
10 section 7(a) of the Small Business Act (15
11 U.S.C. 636(a)); and

12 (ii) apply to any case pending on or
13 commenced on or after the date described
14 in clause (i).

15 (B) SUNSET.—

16 (i) IN GENERAL.—If the amendments
17 made by this subsection take effect under
18 subparagraph (A), effective on the date
19 that is 2 years after the date of enactment
20 of this Act—

21 (I) section 364 of title 11, United
22 States Code, is amended by striking
23 subsection (g);

24 (II) section 503(b) of title 11,
25 United States Code, is amended—

1 (aa) in paragraph (8)(B), by
2 adding “and” at the end;

3 (bb) in paragraph (9), by
4 striking “; and” at the end and
5 inserting a period; and

6 (cc) by striking paragraph
7 (10);

8 (III) section 1191 of title 11,
9 United States Code, is amended by
10 striking subsection (f);

11 (IV) section 1225 of title 11,
12 United States Code, is amended by
13 striking subsection (d); and

14 (V) section 1325 of title 11,
15 United States Code, is amended by
16 striking subsection (d).

17 (ii) APPLICABILITY.—Notwithstanding
18 the amendments made by clause (i) of this
19 subparagraph, if the amendments made by
20 paragraphs (1), (2), (3), (4), and (5) take
21 effect under subparagraph (A) of this
22 paragraph, such amendments shall apply
23 to any case under title 11, United States
24 Code, commenced before the date that is 2

1 years after the date of enactment of this
2 Act.

3 (s) OVERSIGHT.—

4 (1) COMPLIANCE WITH OVERSIGHT REQUIRE-
5 MENTS.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), on and after the date of en-
8 actment of this Act, the Administrator shall
9 comply with any data or information requests
10 or inquiries made by the Comptroller General of
11 the United States not later than 30 days (or
12 such later date as the Comptroller General may
13 specify) after receiving the request or inquiry.

14 (B) EXCEPTION.—If the Administrator is
15 unable to comply with a request or inquiry de-
16 scribed in subparagraph (A) within the 30-day
17 period or, if applicable, later period described in
18 that clause, the Administrator shall, during
19 that 30-day (or later) period, submit to the
20 Committee on Small Business and Entrepre-
21 neurship of the Senate and the Committee on
22 Small Business of the House of Representatives
23 a notification that includes a detailed justifica-
24 tion for the inability of the Administrator to
25 comply with the request or inquiry.

1 (2) TESTIMONY.—Not later than the date that
2 is 30 days after the date of enactment of this Act,
3 and every quarter thereafter until the date that is 2
4 years after the date of enactment of this Act, the
5 Administrator and the Secretary of the Treasury
6 shall testify before the Committee on Small Business
7 and Entrepreneurship of the Senate and the Com-
8 mittee on Small Business of the House of Rep-
9 resentatives regarding implementation of this section
10 and the amendments made by this section.

11 (t) CONFLICTS OF INTEREST.—

12 (1) DEFINITIONS.—In this subsection:

13 (A) CONTROLLING INTEREST.—The term
14 “controlling interest” means owning, control-
15 ling, or holding not less than 20 percent, by
16 vote or value, of the outstanding amount of any
17 class of equity interest in an entity.

18 (B) COVERED ENTITY.—

19 (i) DEFINITION.—The term “covered
20 entity” means an entity in which a covered
21 individual directly or indirectly holds a
22 controlling interest.

23 (ii) TREATMENT OF SECURITIES.—

24 For the purpose of determining whether an
25 entity is a covered entity, the securities

1 owned, controlled, or held by 2 or more in-
2 dividuals who are related as described in
3 subparagraph (C)(ii) shall be aggregated.

4 (C) COVERED INDIVIDUAL.—The term
5 “covered individual” means—

6 (i) the President, the Vice President,
7 the head of an Executive department, or a
8 Member of Congress; and

9 (ii) the spouse, child, son-in-law, or
10 daughter-in-law, as determined under ap-
11 plicable common law, of an individual de-
12 scribed in clause (i).

13 (D) EXECUTIVE DEPARTMENT.—The term
14 “Executive department” has the meaning given
15 the term in section 101 of title 5, United States
16 Code.

17 (E) MEMBER OF CONGRESS.—The term
18 “Member of Congress” means a Member of the
19 Senate or House of Representatives, a Delegate
20 to the House of Representatives, and the Resi-
21 dent Commissioner from Puerto Rico.

22 (F) EQUITY INTEREST.—The term “equity
23 interest” means—

24 (i) a share in an entity, without re-
25 gard to whether the share is—

- 1 (I) transferable; or
- 2 (II) classified as stock or any-
- 3 thing similar;
- 4 (ii) a capital or profit interest in a
- 5 limited liability company or partnership; or
- 6 (iii) a warrant or right, other than a
- 7 right to convert, to purchase, sell, or sub-
- 8 scribe to a share or interest described in
- 9 clause (i) or (ii), respectively.

10 (2) REQUIREMENT.—The principal executive of-

11 ficer and the principal financial officer, or individ-

12 uals performing similar functions, of an entity seek-

13 ing to enter a transaction made under paragraph

14 (36) or (37) of section 7(a) of the Small Business

15 Act (15 U.S.C. 636(a)), as added and amended by

16 this section, shall, before that transaction is ap-

17 proved, disclose to the Administrator whether the

18 entity is a covered entity.

19 (3) APPLICABILITY.—The requirement under

20 paragraph (2)—

21 (A) shall apply with respect to any trans-

22 action made under paragraph (36) or (37) of

23 section 7(a) of the Small Business Act (15

24 U.S.C. 636(a)), as added and amended by this

1 section, on or after the date of enactment of
2 this Act; and

3 (B) shall not apply with respect to—

4 (i) any transaction described in sub-
5 paragraph (A) that was made before the
6 date of enactment of this Act; or

7 (ii) forgiveness under section 1106 of
8 the CARES Act (15 U.S.C. 9005) or any
9 other provision of law of any loan associ-
10 ated with any transaction described in sub-
11 paragraph (A) that was made before the
12 date of enactment of this Act.

13 (u) COMMITMENT AUTHORITY AND APPROPRIA-
14 TIONS.—

15 (1) COMMITMENT AUTHORITY.—Section
16 1102(b) of the CARES Act (Public Law 116–136)
17 is amended—

18 (A) in paragraph (1)—

19 (i) in the paragraph heading, by in-
20 serting “AND SECOND DRAW” after
21 “PPP”;

22 (ii) by striking “August 8, 2020” and
23 inserting “December 31, 2020”;

24 (iii) by striking “paragraph (36)” and
25 inserting “paragraphs (36) and (37)”; and

1 (iv) by striking “\$659,000,000,000”
2 and inserting “\$816,640,000,000”; and
3 (B) by amending paragraph (2) to read as
4 follows:

5 “(2) OTHER 7(A) LOANS.—During fiscal year
6 2020, the amount authorized for commitments for
7 section 7(a) of the Small Business Act (15 U.S.C.
8 636(a)) under the heading ‘Small Business Adminis-
9 tration—Business Loans Program Account’ in the
10 Financial Services and General Government Appro-
11 priations Act, 2020 (division C of Public Law 116–
12 193) shall apply with respect to any commitments
13 under such section 7(a) other than under para-
14 graphs (36) and (37) of such section 7(a).”.

15 (2) DIRECT APPROPRIATIONS.—

16 (A) NEW DIRECT APPROPRIATIONS FOR
17 PPP LOANS, SECOND DRAW LOANS, AND THE
18 MBDA.—

19 (i) PPP AND SECOND DRAW LOANS.—

20 There is appropriated, out of amounts in
21 the Treasury not otherwise appropriated,
22 for the fiscal year ending September 30,
23 2020, to remain available until September
24 30, 2021, for additional amounts—

1 (I) \$257,640,000,000 under the
2 heading “Small Business Administra-
3 tion—Business Loans Program Ac-
4 count, CARES Act” for the cost of
5 guaranteed loans as authorized under
6 paragraph (36) and (37) of section
7 7(a) of the Small Business Act (15
8 U.S.C. 636(a)), as amended and
9 added by this Act;

10 (II) \$10,000,000 under the head-
11 ing “Department of Commerce—Mi-
12 nority Business Development Agency”
13 for minority business centers of the
14 Minority Business Development Agen-
15 cy to provide technical assistance to
16 small business concerns; and

17 (III) \$50,000,000 under the
18 heading “Small Business Administra-
19 tion—Salaries and Expenses” for the
20 cost of carrying out reviews and au-
21 dits of loans under subsection (l) of
22 section 1106 of the CARES Act (15
23 U.S.C. 9005), as amended by this
24 Act.

1 (B) AVAILABILITY OF AMOUNTS APPRO-
2 PRIATED FOR THE OFFICE OF INSPECTOR GEN-
3 ERAL.—Section 1107(a)(3) of the CARES Act
4 (15 U.S.C. 9006(a)(3)) is amended by striking
5 “September 20, 2024” and inserting “ex-
6 pended”.

7 **TITLE V—POSTAL SERVICE**
8 **ASSISTANCE**

9 **SEC. 5001. COVID-19 FUNDING FOR THE UNITED STATES**
10 **POSTAL SERVICE.**

11 Section 6001 of the CARES Act (Public Law 116–
12 136; 134 Stat. 281) is amended—

13 (1) in the section heading, by striking “**BOR-**
14 **ROWING AUTHORITY**” and inserting “**FUNDING**”;

15 (2) by redesignating subsection (c) as sub-
16 section (e); and

17 (3) by inserting after subsection (b) the fol-
18 lowing:

19 “(c) AVAILABILITY OF AMOUNTS; NO REPAYMENT
20 REQUIRED.—Notwithstanding subsection (b) or any
21 agreement entered into between the Secretary of the
22 Treasury and the Postal Service under that subsection,
23 the Postal Service—

1 “(1) may only use amounts borrowed under
2 that subsection if the Postal Service has less than
3 \$8,000,000,000 in cash on hand; and

4 “(2) shall not be required to repay the amounts
5 borrowed under that subsection.

6 “(d) CERTIFICATIONS.—

7 “(1) POSTAL REGULATORY COMMISSION.—The
8 Postal Service shall certify in its quarterly and au-
9 dited annual reports to the Postal Regulatory Com-
10 mission under section 3654 of title 39, United
11 States Code, and in conformity with the require-
12 ments of section 13 or 15(d) of the Securities Ex-
13 change Act of 1934 (15 U.S.C. 78m, 78o(d)), any
14 expenditures made using amounts borrowed under
15 subsection (b) of this section.

16 “(2) CONGRESS.—Not later than 15 days after
17 filing a report described in paragraph (1) with the
18 Postal Regulatory Commission, the Postal Service
19 shall submit a copy of the information required to
20 be certified under that paragraph to the Committee
21 on Homeland Security and Governmental Affairs of
22 the Senate and the Committee on Oversight and Re-
23 form of the House of Representatives.”.

1 **TITLE VI—EDUCATIONAL**
2 **SUPPORT AND CHILD CARE**
3 **Subtitle A—Emergency Education**
4 **Freedom Grants; Tax Credits for**
5 **Contributions to Eligible Schol-**
6 **arship-granting Organizations**

7 SEC. 6001. EMERGENCY EDUCATION FREEDOM GRANTS.

8 (a) DEFINITIONS.—In this section:

9 (1) ELIGIBLE SCHOLARSHIP-GRANTING ORGANI-
10 ZATION.—The term “eligible scholarship-granting
11 organization” means—

12 (A) an organization that—

(i) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;

(ii) provides qualifying scholarships to individual elementary and secondary students who—

(I) reside in the State in which the eligible scholarship-granting organization is recognized; or

(II) in the case of funds provided to the Secretary of the Interior, attending elementary schools or sec-

1 ondary schools operated or funded by
2 the Bureau of Indian Education;

3 (iii) allocates at least 90 percent of
4 qualified contributions to qualifying schol-
5 arships on an annual basis; and

6 (iv) provides qualifying scholarships
7 to—

8 (I) more than 1 eligible student;

9 (II) more than 1 eligible family;

10 and

11 (III) different eligible students
12 attending more than 1 education pro-
13 vider;

14 (B) an organization that—

15 (i) is described in section 501(c)(3) of
16 the Internal Revenue Code of 1986 and ex-
17 empt from taxation under section 501(a)
18 of such Code; and

19 (ii) pursuant to State law, was able,
20 as of January 1, 2021, to receive contribu-
21 tions that are eligible for a State tax credit
22 if such contributions are used by the orga-
23 nization to provide scholarships to indi-
24 vidual elementary and secondary students,

1 including scholarships for attending private
2 schools; or

3 (C) an organization identified by a Gov-
4 ernor of a State to receive a subgrant from the
5 State under subsection (d).

6 (2) EMERGENCY EDUCATION FREEDOM GRANT
7 FUNDS.—The term “emergency education freedom
8 grant funds” means the amount of funds available
9 under subsection (b)(1) for this section that are not
10 reserved under subsection (c)(1).

11 (3) QUALIFIED CONTRIBUTION.—The term
12 “qualified contribution” means a contribution of
13 cash to any eligible scholarship-granting organiza-
14 tion.

15 (4) QUALIFIED EXPENSE.—The term “qualified
16 expense” means any educational expense that is—

17 (A) for an individual student’s elementary
18 or secondary education, as recognized by the
19 State; or

20 (B) for the secondary education component
21 of an individual elementary or secondary stu-
22 dent’s career and technical education, as de-
23 fined by section 3(5) of the Carl D. Perkins Ca-
24 reer and Technical Education Act of 2006 (20
25 U.S.C. 2302(5)).

1 (5) QUALIFYING SCHOLARSHIP.—The term
2 “qualifying scholarship” means a scholarship grant-
3 ed by an eligible scholarship-granting organization to
4 an individual elementary or secondary student for a
5 qualified expense.

6 (6) SECRETARY.—The term “Secretary” means
7 the Secretary of Education.

8 (7) STATE.—The term “State” means each of
9 the 50 States, the District of Columbia, and the
10 Commonwealth of Puerto Rico.

11 (b) GRANTS.—

12 (1) PROGRAM AUTHORIZED.—From the funds
13 appropriated to carry out this section, the Secretary
14 shall carry out subsection (c) and award emergency
15 education freedom grants to States with approved
16 applications, in order to enable the States to award
17 subgrants to eligible scholarship-granting organiza-
18 tions under subsection (d).

19 (2) TIMING.—The Secretary shall make the al-
20 lotments required under this subsection by not later
21 than 30 days after the date of enactment of this
22 Act.

23 (c) RESERVATION AND ALLOTMENTS.—

1 (1) IN GENERAL.—From the amounts made
2 available under subsection (b)(1), the Secretary
3 shall—

4 (A) reserve—

5 (i) one-half of 1 percent for allotments
6 for the United States Virgin Islands,
7 Guam, American Samoa, and the Com-
8 monwealth of the Northern Mariana Is-
9 lands, to be distributed among those out-
10 lying areas on the basis of their relative
11 need, as determined by the Secretary, in
12 accordance with the purpose of this sec-
13 tion; and

14 (ii) one-half of 1 percent of such
15 amounts for the Secretary of the Interior,
16 acting through the Bureau of Indian Edu-
17 cation, to be used to provide subgrants de-
18 scribed in subsection (d) to eligible scholar-
19 ship-granting organizations that serve stu-
20 dents attending elementary schools or sec-
21 ondary schools operated or funded by the
22 Bureau of Indian Education; and

23 (B) subject to paragraph (2), allot each
24 State that submits an approved application
25 under this section the sum of—

1 (i) the amount that bears the same
2 relation to 20 percent of the emergency
3 education freedom grant funds as the num-
4 ber of individuals aged 5 through 17 in the
5 State, as determined by the Secretary on
6 the basis of the most recent satisfactory
7 data, bears to the number of those individ-
8 uals, as so determined, in all such States
9 that submitted approved applications; and

10 (ii) an amount that bears the same re-
11 lationship to 80 percent of the emergency
12 education freedom grant funds as the num-
13 ber of individuals aged 5 through 17 from
14 families with incomes below the poverty
15 line in the State, as determined by the Sec-
16 retary on the basis of the most recent sat-
17 isfactory data, bears to the number of
18 those individuals, as so determined, in all
19 such States that submitted approved appli-
20 cations.

21 (2) MINIMUM ALLOTMENT.—No State shall re-
22 ceive an allotment under this subsection for a fiscal
23 year that is less than one-half of 1 percent of the
24 amount of emergency education freedom grant funds
25 available for such fiscal year.

1 (d) SUBGRANTS TO ELIGIBLE SCHOLARSHIP-GRANT-
2 ING ORGANIZATIONS.—

3 (1) IN GENERAL.—A State that receives an al-
4 lotment under this section shall use the allotment to
5 award subgrants, on a basis determined appropriate
6 by the State, to eligible scholarship-granting organi-
7 zations in the State.

8 (2) INITIAL TIMING.—

9 (A) STATES WITH EXISTING TAX CREDIT
10 SCHOLARSHIP PROGRAM.—By not later than 30
11 days after receiving an allotment under sub-
12 section (c)(1)(B), a State with an existing, as
13 of the date of application for an allotment
14 under this section, tax credit scholarship pro-
15 gram shall use not less than 50 percent of the
16 allotment to award subgrants to eligible schol-
17 arship-granting organizations under subsection
18 (a)(1)(B) in the State in proportion to the con-
19 tributions received in calendar year 2019 that
20 were eligible for a State tax credit if such con-
21 tributions are used by the organization to pro-
22 vide scholarships to individual elementary and
23 secondary students, including scholarships for
24 attending private schools.

1 (B) STATES WITHOUT TAX CREDIT SCHOL-
2 ARSHIP PROGRAMS.—By not later than 60 days
3 after receiving an allotment under subsection
4 (c)(1)(B), a State without a tax credit scholar-
5 ship program shall use not less than 50 percent
6 of the allotment to award subgrants to eligible
7 scholarship-granting organizations in the State.

8 (3) USES OF FUNDS.— An eligible scholarship-
9 granting organization that receives a subgrant under
10 this subsection—

11 (A) may reserve not more than 5 percent
12 of the subgrant funds for public outreach, stu-
13 dent and family support activities, and adminis-
14 trative expenses related to the subgrant; and

15 (B) shall use not less than 95 percent of
16 the subgrant funds to provide qualifying schol-
17 arships for qualified expenses only to individual
18 elementary school and secondary school stu-
19 dents who reside in the State in which the eligi-
20 ble scholarship-granting organization is recog-
21 nized.

22 (e) REALLOCATION.—A State shall return to the Sec-
23 retary any amounts of the allotment received under this
24 section that the State does not award as subgrants under
25 subsection (d) by March 30, 2021, and the Secretary shall

1 reallocate such funds to the remaining eligible States in
2 accordance with subsection (c)(1)(B).

3 (f) RULES OF CONSTRUCTION.—

4 (1) IN GENERAL.—A qualifying scholarship
5 awarded to a student from funds provided under this
6 section shall not be considered assistance to the
7 school or other educational provider that enrolls, or
8 provides educational services to, the student or the
9 student's parents.

10 (2) EXCLUSION FROM INCOME.—

11 (A) INCOME TAXES.—For purposes of the
12 Internal Revenue Code of 1986, gross income
13 shall not include any amount received by an in-
14 dividual as a qualifying scholarship.

15 (B) FEDERALLY FUNDED PROGRAMS.—

16 Any amount received by an individual as a
17 qualifying scholarship shall not be taken into
18 account as income or resources for purposes of
19 determining the eligibility of such individual or
20 any other individual for benefits or assistance,
21 or the amount or extent of such benefits or as-
22 sistance, under any Federal program or under
23 any State or local program financed in whole or
24 in part with Federal funds.

1 (3) PROHIBITION OF CONTROL OVER NON-
2 PUBLIC EDUCATION PROVIDERS.—

3 (A)(i) Nothing in this section shall be con-
4 strued to permit, allow, encourage, or authorize
5 any Federal control over any aspect of any pri-
6 vate, religious, or home education provider,
7 whether or not a home education provider is
8 treated as a private school or home school
9 under State law.

10 (ii) This section shall not be construed to
11 exclude private, religious, or home education
12 providers from participation in programs or
13 services under this section.

14 (B) Nothing in this section shall be con-
15 strued to permit, allow, encourage, or authorize
16 a State to mandate, direct, or control any as-
17 pect of a private or home education provider,
18 regardless of whether or not a home education
19 provider is treated as a private school under
20 State law.

21 (C) No participating State shall exclude,
22 discriminate against, or otherwise disadvantage
23 any education provider with respect to pro-
24 grams or services under this section based in
25 whole or in part on the provider's religious

1 character or affiliation, including religiously
2 based or mission-based policies or practices.

3 (4) PARENTAL RIGHTS TO USE SCHOLAR-
4 SHIPS.—No participating State shall disfavor or dis-
5 courage the use of qualifying scholarships for the
6 purchase of elementary and secondary education
7 services, including those services provided by private
8 or nonprofit entities, such as faith-based providers.

9 (5) STATE AND LOCAL AUTHORITY.—Nothing
10 in this section shall be construed to modify a State
11 or local government’s authority and responsibility to
12 fund education.

13 (g) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to carry out this section
15 such sums as may be necessary.

16 **SEC. 6002. TAX CREDITS FOR CONTRIBUTIONS TO ELIGIBLE**
17 **SCHOLARSHIP-GRANTING ORGANIZATIONS.**

18 (a) CREDIT FOR INDIVIDUALS.—Subpart A of part
19 IV of subchapter A of chapter 1 of the Internal Revenue
20 Code of 1986 is amended by adding after section 25D the
21 following new section:

22 **“SEC. 25E. CONTRIBUTIONS TO ELIGIBLE SCHOLARSHIP-**
23 **GRANTING ORGANIZATIONS.**

24 “(a) ALLOWANCE OF CREDIT.—Subject to section
25 6003(c) of the Delivering Immediate Relief to America’s

1 Families, Schools and Small Businesses Act, in the case
2 of an individual, there shall be allowed as a credit against
3 the tax imposed by this chapter for the taxable year an
4 amount equal to the sum of any qualified contributions
5 made by the taxpayer during the taxable year.

6 “(b) AMOUNT OF CREDIT.—The credit allowed under
7 subsection (a) for any taxable year shall not exceed 10
8 percent of the taxpayer’s adjusted gross income for the
9 taxable year.

10 “(c) DEFINITIONS.—For purposes of this section—

11 “(1) ELIGIBLE SCHOLARSHIP-GRANTING ORGA-
12 NIZATION.—The term ‘eligible scholarship-granting
13 organization’ means—

14 “(A) an organization that—

15 “(i) is described in section 501(c)(3)
16 and exempt from taxation under section
17 501(a),

18 “(ii) provides qualifying scholarships
19 to individual elementary and secondary
20 students who—

21 “(I) reside in the State in which
22 the eligible scholarship-granting orga-
23 nization is recognized, or

1 “(II) in the case of the Bureau of
2 Indian Education, are members of a
3 federally recognized tribe,

4 “(iii) a State identifies to the Sec-
5 retary as an eligible scholarship-granting
6 organization under section 6003(c)(5)(B)
7 of the Delivering Immediate Relief to
8 America’s Families, Schools and Small
9 Businesses Act,

10 “(iv) allocates at least 90 percent of
11 qualified contributions to qualifying schol-
12 arships on an annual basis, and

13 “(v) provides qualifying scholarships
14 to—

15 “(I) more than 1 eligible student,

16 “(II) more than 1 eligible family,

17 and

18 “(III) different eligible students
19 attending more than 1 education pro-
20 vider, or

21 “(B) an organization that—

22 “(i) is described in section 501(c)(3)
23 and exempt from taxation under section
24 501(a), and

1 “(ii) pursuant to State law, was able,
2 as of January 1, 2021, to receive contribu-
3 tions that are eligible for a State tax credit
4 if such contributions are used by the orga-
5 nization to provide scholarships to indi-
6 vidual elementary and secondary students,
7 including scholarships for attending private
8 schools.

9 “(2) QUALIFIED CONTRIBUTION.—The term
10 ‘qualified contribution’ means a contribution of cash
11 to any eligible scholarship-granting organization.

12 “(3) QUALIFIED EXPENSE.—The term ‘quali-
13 fied expense’ means any educational expense that
14 is—

15 “(A) for an individual student’s elementary
16 or secondary education, as recognized by the
17 State, or

18 “(B) for the secondary education compo-
19 nent of an individual elementary or secondary
20 student’s career and technical education, as de-
21 fined by section 3(5) of the Carl D. Perkins Ca-
22 reer and Technical Education Act of 2006 (20
23 U.S.C. 2302(5)).

24 “(4) QUALIFYING SCHOLARSHIP.—The term
25 ‘qualifying scholarship’ means a scholarship granted

1 by an eligible scholarship-granting organization to
2 an individual elementary or secondary student for a
3 qualified expense.

4 “(5) STATE.—The term ‘State’ means each of
5 the 50 States, the District of Columbia, the Com-
6 monwealth of Puerto Rico, the outlying areas (as de-
7 fined in section 1121(c) of the Elementary and Sec-
8 ondary Education Act of 1965 (20 U.S.C. 6331(c)),
9 and the Department of the Interior (acting through
10 the Bureau of Indian Education).

11 “(d) RULES OF CONSTRUCTION.—

12 “(1) IN GENERAL.—A qualifying scholarship
13 awarded to a student from the proceeds of a quali-
14 fied contribution under this section shall not be con-
15 sidered assistance to the school or other educational
16 provider that enrolls, or provides educational services
17 to, the student or the student’s parents.

18 “(2) EXCLUSION FROM INCOME.—Gross income
19 shall not include any amount received by an indi-
20 vidual as a qualifying scholarship and such amount
21 shall not be taken into account as income or re-
22 sources for purposes of determining the eligibility of
23 such individual or any other individual for benefits
24 or assistance, or the amount or extent of such bene-
25 fits or assistance, under any Federal program or

1 under any State or local program financed in whole
2 or in part with Federal funds.

3 “(3) PROHIBITION OF CONTROL OVER NON-
4 PUBLIC EDUCATION PROVIDERS.—

5 “(A)(i) Nothing in this section shall be
6 construed to permit, allow, encourage, or au-
7 thorize any Federal control over any aspect of
8 any private, religious, or home education pro-
9 vider, whether or not a home education provider
10 is treated as a private school or home school
11 under State law.

12 “(ii) This section shall not be construed to
13 exclude private, religious, or home education
14 providers from participation in programs or
15 services under this section.

16 “(B) Nothing in this section shall be con-
17 strued to permit, allow, encourage, or authorize
18 an entity submitting a list of eligible scholar-
19 ship-granting organizations on behalf of a State
20 pursuant to section 6003(c)(5) of the Delivering
21 Immediate Relief to America’s Families,
22 Schools and Small Businesses Act to mandate,
23 direct, or control any aspect of a private or
24 home education provider, regardless of whether

1 or not a home education provider is treated as
2 a private school under State law.

3 “(C) No participating State or entity act-
4 ing on behalf of a State pursuant to section
5 6003(c)(5) of the Delivering Immediate Relief
6 to America’s Families, Schools and Small Busi-
7 nesses Act shall exclude, discriminate against,
8 or otherwise disadvantage any education pro-
9 vider with respect to programs or services
10 under this section based in whole or in part on
11 the provider’s religious character or affiliation,
12 including religiously-based or mission-based
13 policies or practices.

14 “(4) PARENTAL RIGHTS TO USE SCHOLAR-
15 SHIPS.—No participating State or entity acting on
16 behalf of a State pursuant to section 6003(c)(5) of
17 the Delivering Immediate Relief to America’s Fami-
18 lies, Schools and Small Businesses Act shall disfavor
19 or discourage the use of qualifying scholarships for
20 the purchase of elementary and secondary education
21 services, including those services provided by private
22 or nonprofit entities, such as faith-based providers.

23 “(5) STATE AND LOCAL AUTHORITY.—Nothing
24 in this section shall be construed to modify a State

1 or local government's authority and responsibility to
2 fund education.

3 “(e) DENIAL OF DOUBLE BENEFIT.—The Secretary
4 shall prescribe such regulations or other guidance to en-
5 sure that the sum of the tax benefits provided by Federal,
6 State, or local law for a qualified contribution receiving
7 a Federal tax credit in any taxable year does not exceed
8 the sum of the qualified contributions made by the tax-
9 payer for the taxable year.

10 “(f) CARRYFORWARD OF CREDIT.—If a tax credit al-
11 lowed under this section is not fully used within the appli-
12 cable taxable year because of insufficient tax liability on
13 the part of the taxpayer, the unused amount may be car-
14 ried forward for a period not to exceed 5 years.

15 “(g) ELECTION.—This section shall apply to a tax-
16 payer for a taxable year only if the taxpayer elects to have
17 this section apply for such taxable year.

18 “(h) ALTERNATIVE MINIMUM TAX.—For purposes of
19 calculating the alternative minimum tax under section 55,
20 a taxpayer may use any credit received for a qualified con-
21 tribution under this section.

22 “(i) TERMINATION.—This section shall not apply to
23 any contributions made in taxable years beginning after
24 December 31, 2022.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for subpart A of part IV of subchapter A of chapter 1
3 of the Internal Revenue Code of 1986 is amended by in-
4 serting after the item relating to section 25D the following
5 new item:

“Sec. 25E. Contributions to eligible scholarship-granting organizations.”.

6 (c) CREDIT FOR CORPORATIONS.—Subpart D of part
7 IV of subchapter A of chapter 1 of the Internal Revenue
8 Code of 1986 is amended by adding at the end the fol-
9 lowing new section:

10 **“SEC. 45U. CONTRIBUTIONS TO ELIGIBLE SCHOLARSHIP-**
11 **GRANTING ORGANIZATIONS.**

12 “(a) ALLOWANCE OF CREDIT.—Subject to section
13 6003(c) of the Delivering Immediate Relief to America’s
14 Families, Schools and Small Businesses Act, for purposes
15 of section 38, in the case of a domestic corporation, there
16 shall be allowed as a credit against the tax imposed by
17 this chapter for the taxable year an amount equal to the
18 sum of any qualified contributions (as defined in section
19 25E(c)(2)) made by such corporation during the taxable
20 year.

21 “(b) AMOUNT OF CREDIT.—The credit allowed under
22 subsection (a) for any taxable year shall not exceed 5 per-
23 cent of the taxable income (as defined in section
24 170(b)(2)(D)) of the domestic corporation for such taxable
25 year.

1 “(c) ADDITIONAL PROVISIONS.—For purposes of this
2 section, any qualified contributions made by a domestic
3 corporation shall be subject to the provisions of section
4 25E (including subsection (d) of such section), to the ex-
5 tent applicable.

6 “(d) ELECTION.—This section shall apply to a tax-
7 payer for a taxable year only if the taxpayer elects to have
8 this section apply for such taxable year.

9 “(e) TERMINATION.—This section shall not apply to
10 any contributions made in taxable years beginning after
11 December 31, 2022.”.

12 (d) CREDIT PART OF GENERAL BUSINESS CRED-
13 IT.—Section 38(b) is amended—

14 (1) by striking “plus” at the end of paragraph
15 (32);

16 (2) by striking the period at the end of para-
17 graph (33) and inserting “, plus”; and

18 (3) by adding at the end the following new
19 paragraph:

20 “(34) the credit for qualified contributions de-
21 termined under section 45U(a).”.

22 (e) CLERICAL AMENDMENT.—The table of sections
23 for subpart D of part IV of subchapter A of chapter 1
24 is amended by adding at the end the following new item:

“Sec. 45U. Contributions to eligible scholarship-granting organizations.”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2020.

4 **SEC. 6003. EDUCATION FREEDOM SCHOLARSHIPS WEB**
5 **PORTAL AND ADMINISTRATION.**

6 (a) IN GENERAL.—The Secretary of the Treasury
7 shall, in coordination with the Secretary of Education, es-
8 tablish, host, and maintain a web portal that—

9 (1) lists all eligible scholarship-granting organi-
10 zations;

11 (2) enables a taxpayer to make a qualifying
12 contribution to one or more eligible scholarship-
13 granting organizations and to immediately obtain
14 both a pre-approval of a tax credit for that contribu-
15 tion and a receipt for tax filings;

16 (3) provides information about the tax benefits
17 under sections 25E and 45U of the Internal Rev-
18 enue Code of 1986; and

19 (4) enables a State to submit and update infor-
20 mation about its programs and its eligible scholar-
21 ship-granting organizations for informational pur-
22 poses only, including information on—

23 (A) student eligibility;

24 (B) allowable educational expenses;

1 (C) the types of allowable education pro-
2 viders;

3 (D) the percentage of funds an organiza-
4 tion may use for program administration; and

5 (E) the percentage of total contributions
6 the organization awards in a calendar year.

7 (b) NONPORTAL CONTRIBUTIONS.—A taxpayer may
8 opt to make a contribution directly to an eligible scholar-
9 ship-granting organization, instead of through the web
10 portal described in subsection (a), provided that the tax-
11 payer, or the eligible scholarship-granting organization on
12 behalf of the taxpayer, applies for, and receives pre-ap-
13 proval for a tax credit from the Secretary of the Treasury
14 in coordination with the Secretary of Education.

15 (c) NATIONAL AND STATE LIMITATIONS ON CRED-
16 ITS.—

17 (1) NATIONAL LIMITATION.—For each fiscal
18 year, the total amount of qualifying contributions for
19 which a credit is allowed under sections 25E and
20 45U of the Internal Revenue Code of 1986 shall not
21 exceed \$5,000,000,000.

22 (2) ALLOCATION OF LIMITATION.—

23 (A) INITIAL ALLOCATIONS.—For each cal-
24 endar year, with respect to the limitation under
25 paragraph (1), the Secretary of the Treasury,

1 in consultation with the Secretary of Education,
2 shall—

3 (i) allocate to each State an amount
4 equal to the sum of the qualifying con-
5 tributions made in the State in the pre-
6 vious year; and

7 (ii) from any amounts remaining fol-
8 lowing allocations made under clause (i),
9 allocate to each participating State an
10 amount equal to the sum of—

11 (I) an amount that bears the
12 same relationship to 20 percent of
13 such remaining amount as the num-
14 ber of individuals aged 5 through 17
15 in the State, as determined by the
16 Secretary of Education on the basis of
17 the most recent satisfactory data,
18 bears to the number of those individ-
19 uals in all such States, as so deter-
20 mined; and

21 (II) an amount that bears the
22 same relationship to 80 percent of
23 such remaining amount as the num-
24 ber of individuals aged 5 through 17
25 from families with incomes below the

1 poverty line in the State, as deter-
2 mined by the Secretary of Education,
3 on the basis of the most recent satis-
4 factory data, bears to the number of
5 those individuals in all such States, as
6 so determined.

7 (B) MINIMUM ALLOCATION.—Notwith-
8 standing subparagraph (A), no State receiving
9 an allocation under this section may receive less
10 than $\frac{1}{2}$ of 1 percent of the amount allocated
11 for a fiscal year.

12 (3) ALLOWABLE PARTNERSHIPS.—A State may
13 choose to administer the allocation it receives under
14 paragraph (2) in partnership with one or more
15 States, provided that the eligible scholarship-grant-
16 ing organizations in each partner State serve stu-
17 dents who reside in all States in the partnership.

18 (4) TOTAL ALLOCATION.—A State's allocation,
19 for any fiscal year, is the sum of the amount deter-
20 mined for such State under subparagraphs (A) and
21 (B) of paragraph (2).

22 (5) ALLOCATION AND ADJUSTMENTS.—

23 (A) INITIAL ALLOCATION TO STATES.—Not
24 later than November 1 of the year preceding a
25 year for which there is a national limitation on

1 credits under paragraph (1) (referred to in this
2 section as the “applicable year”), or as early as
3 practicable with respect to the first year, the
4 Secretary of the Treasury shall announce the
5 State allocations under paragraph (2) for the
6 applicable year.

7 (B) LIST OF ELIGIBLE SCHOLARSHIP-
8 GRANTING ORGANIZATIONS.—

9 (i) IN GENERAL.—Not later than Jan-
10 uary 1 of each applicable year, or as early
11 as practicable with respect to the first
12 year, each State shall provide the Sec-
13 retary of the Treasury a list of eligible
14 scholarship-granting organizations, includ-
15 ing a certification that the entity submit-
16 ting the list on behalf of the State has the
17 authority to perform this function.

18 (ii) RULE OF CONSTRUCTION.—Nei-
19 ther this section nor any other Federal law
20 shall be construed as limiting the entities
21 that may submit the list on behalf of a
22 State.

23 (C) REALLOCATION OF UNCLAIMED CRED-
24 ITS.—The Secretary of the Treasury shall re-

1 allocate a State's allocation to other States, in
2 accordance with paragraph (2), if the State—

3 (i) chooses not to identify scholarship-
4 granting organizations under subparagraph
5 (B) in any applicable year; or

6 (ii) does not have an existing eligible
7 scholarship-granting organization.

8 (D) REALLOCATION.—On or after April 1
9 of any applicable year, the Secretary of the
10 Treasury may reallocate, to one or more other
11 States that have eligible scholarship-granting
12 organizations in the States, without regard to
13 paragraph (2), the allocation of a State for
14 which the State's allocation has not been
15 claimed.

16 (d) DEFINITIONS.—Any term used in this section
17 which is also used in section 25E of the Internal Revenue
18 Code of 1986 shall have the same meaning as when used
19 in such section.

20 **SEC. 6004. 529 ACCOUNT FUNDING FOR HOMESCHOOL AND**
21 **ADDITIONAL ELEMENTARY AND SECONDARY**
22 **EXPENSES.**

23 (a) IN GENERAL.—Section 529(c)(7) of the Internal
24 Revenue Code of 1986 is amended—

25 (1) by striking “Any reference” and inserting

1 “(A) IN GENERAL.—Any reference”, and
2 (2) by adding at the end the following new sub-
3 paragraphs:

4 “(B) ADDITIONAL EXPENSES.—In the case
5 of any distribution made after the date of the
6 enactment of the Delivering Immediate Relief
7 to America’s Families, Schools and Small Busi-
8 nesses Act and before January 1, 2023, any
9 reference in this section to the term ‘qualified
10 higher education expense’ shall include a ref-
11 erence to the following expenses in connection
12 with enrollment or attendance at, or for stu-
13 dents enrolled at or attending, an elementary or
14 secondary public, private, or religious school:

15 “(i) Curriculum and curricular mate-
16 rials.

17 “(ii) Books or other instructional ma-
18 terials.

19 “(iii) Online educational materials.

20 “(iv) Tuition for tutoring or edu-
21 cational classes outside of the home, in-
22 cluding at a tutoring facility, but only if
23 the tutor or instructor is not related to the
24 student and—

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1 “(I) is licensed as a teacher in
2 any State,

3 “(II) has taught at an eligible
4 educational institution, or

5 “(III) is a subject matter expert
6 in the relevant subject.

7 “(v) Fees for a nationally standard-
8 ized norm-referenced achievement test, an
9 advanced placement examination, or any
10 examinations related to college or univer-
11 sity admission.

12 “(vi) Fees for dual enrollment in an
13 institution of higher education.

14 “(vii) Educational therapies for stu-
15 dents with disabilities provided by a li-
16 censed or accredited practitioner or pro-
17 vider, including occupational, behavioral,
18 physical, and speech-language therapies.

19 “(C) TREATMENT OF HOMESCHOOL EX-
20 PENSES.—In the case of any distribution made
21 after the date of the enactment of the Deliv-
22 ering Immediate Relief to America’s Families,
23 Schools and Small Businesses Act and before
24 January 1, 2023, the term ‘qualified higher
25 education expense’ shall include expenses for

1 the purposes described in subparagraphs (A)
2 and (B) in connection with a homeschool
3 (whether treated as a homeschool or a private
4 school for purposes of applicable State law).”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to distributions made after the
7 date of the enactment of this Act.

8 **Subtitle B—Back to Work Child** 9 **Care Grants**

10 **SEC. 6101. BACK TO WORK CHILD CARE GRANTS.**

11 (a) PURPOSE.—The purpose of this section is to sup-
12 port the recovery of the United States economy by pro-
13 viding assistance to aid in reopening child care programs,
14 and maintaining the availability of child care in the United
15 States, so that parents can access safe care and return
16 to work.

17 (b) DEFINITIONS.—In this section:

18 (1) COVID–19 PUBLIC HEALTH EMERGENCY.—
19 The term “COVID–19 public health emergency”
20 means the public health emergency declared by the
21 Secretary of Health and Human Services under sec-
22 tion 319 of the Public Health Service Act (42
23 U.S.C. 247d) on January 31, 2020, with respect to
24 COVID–19, including any renewal of such declara-
25 tion.

1 (2) ELIGIBLE CHILD CARE PROVIDER.—The
2 term “eligible child care provider” means—

3 (A) an eligible child care provider as de-
4 fined in section 658P(6)(A) of the Child Care
5 and Development Block Grant Act of 1990 (42
6 U.S.C. 9858n(6)(A)); and

7 (B) a child care provider that—

8 (i) is license-exempt and operating le-
9 gally in the State;

10 (ii) is not providing child care services
11 to relatives; and

12 (iii) satisfies State and local require-
13 ments, including those referenced in sec-
14 tion 658E(c)(2)(I) of the Child Care and
15 Development Block Grant Act of 1990
16 ((42 U.S.C. 9858c)(c)(2)(I)).

17 (3) INDIAN TRIBE; TRIBAL ORGANIZATION.—
18 The terms “Indian tribe” and “tribal organization”
19 have the meanings given the terms in section 658P
20 of the Child Care and Development Block Grant Act
21 of 1990 (42 U.S.C. 9858n).

22 (4) LEAD AGENCY.—The term “lead agency”
23 has the meaning given the term in section 658P of
24 the Child Care and Development Block Grant Act of
25 1990 (42 U.S.C. 9858n).

1 (5) QUALIFIED CHILD CARE PROVIDER.—The
2 term “qualified child care provider” means an eligi-
3 ble child care provider with an application approved
4 under subsection (g) for the program involved.

5 (6) SECRETARY.—The term “Secretary” means
6 the Secretary of Health and Human Services.

7 (7) STATE.—The term “State” has the mean-
8 ing given the term in section 658P of the Child Care
9 and Development Block Grant Act of 1990 (42
10 U.S.C. 9858n).

11 (c) GRANTS FOR CHILD CARE PROGRAMS.—From
12 the funds appropriated to carry out this section, the Sec-
13 retary shall make Back to Work Child Care grants to
14 States, Indian tribes, and tribal organizations, that submit
15 notices of intent to provide assurances under subsection
16 (d)(2). The grants shall provide for subgrants to qualified
17 child care providers, for a transition period of not more
18 than 9 months to assist in paying for fixed costs and in-
19 creased operating expenses due to COVID–19, and to re-
20 enroll children in an environment that supports the health
21 and safety of children and staff.

22 (d) PROCESS FOR ALLOCATION OF FUNDS.—

23 (1) ALLOCATION.—Any funds that are appro-
24 priated to carry out this section shall be distributed
25 by the Secretary to the Administration for Children

1 and Families for distribution under the Child Care
2 and Development Block Grant Act of 1990 (42
3 U.S.C. 9857 et seq.) in accordance with subsection
4 (e)(2) of this section.

5 (2) NOTICE.—Not later than 7 days after funds
6 are appropriated to carry out this section, the Sec-
7 retary shall provide to States, Indian tribes, and
8 tribal organizations a notice of funding availability,
9 for Back to Work Child Care grants under sub-
10 section (c) from allotments and payments under sub-
11 section (e)(2). The Secretary shall issue a notice of
12 the funding allocations for each State, Indian tribe,
13 and tribal organization not later than 14 days after
14 funds are appropriated to carry out this section.

15 (3) NOTICE OF INTENT.—Not later than 14
16 days after issuance of a notice of funding allocations
17 under paragraph (1), a State, Indian tribe, or tribal
18 organization that seeks such a grant shall submit to
19 the Secretary a notice of intent to provide assur-
20 ances for such grant. The notice of intent shall in-
21 clude a certification that the State, Indian tribe, or
22 tribal organization will repay the grant funds if such
23 State, Indian tribe, or tribal organization fails to
24 provide assurances that meet the requirements of
25 subsection (f) or to comply with such an assurance.

1 (4) GRANTS TO LEAD AGENCIES.—The Sec-
2 retary may make grants under subsection (c) to the
3 lead agency of each State, Indian tribe, or tribal or-
4 ganization, upon receipt of the notice of intent to
5 provide assurances for such grant.

6 (5) PROVISION OF ASSURANCES.—Not later
7 than 15 days after receiving the grant, the State, In-
8 dian tribe, or tribal organization shall provide assur-
9 ances that meet the requirements of subsection (f).

10 (e) FEDERAL RESERVATION; ALLOTMENTS AND PAY-
11 MENTS.—

12 (1) RESERVATION.—The Secretary shall reserve
13 not more than 1 percent of the amount appropriated
14 to carry out this section to pay for the costs of the
15 Federal administration of this section. The amount
16 appropriated to carry out this section and reserved
17 under this paragraph shall remain available through
18 fiscal year 2021.

19 (2) ALLOTMENTS AND PAYMENTS.—The Sec-
20 retary shall use the remaining portion of such
21 amount to make allotments and payments, to States,
22 Indian tribes, and tribal organizations that submit
23 such a notice of intent to provide assurances, in ac-
24 cordance with paragraphs (1) and (2) of subsection
25 (a), and subsection (b), of section 658O of the Child

1 Care and Development Block Grant Act of 1990 (42
2 U.S.C. 9858m), for the grants described in sub-
3 section (c).

4 (f) ASSURANCES.—A State, Indian tribe, or tribal or-
5 ganization that receives a grant under subsection (c) shall
6 provide to the Secretary assurances that the lead agency
7 will—

8 (1) require as a condition of subgrant funding
9 under subsection (g) that each eligible child care
10 provider applying for a subgrant from the lead agen-
11 cy—

12 (A) has been an eligible child care provider
13 in continuous operation and serving children
14 through a child care program immediately prior
15 to March 1, 2020;

16 (B) agree to follow all applicable State,
17 local, and tribal health and safety requirements
18 and, if applicable, enhanced protocols for child
19 care services and related to COVID–19 or an-
20 other health or safety condition;

21 (C) agree to comply with the documenta-
22 tion and reporting requirements under sub-
23 section (h); and

24 (D) certify in good faith that the child care
25 program of the provider will remain open for

1 not less than 1 year after receiving such a
2 subgrant, unless such program is closed due to
3 extraordinary circumstances, including a state
4 of emergency declared by the Governor or a
5 major disaster or emergency declared by the
6 President under section 401 or 501, respec-
7 tively, of the Robert T. Stafford Disaster Relief
8 and Emergency Assistance Act (42 U.S.C.
9 5170, 5191);

10 (2) ensure eligible child care providers in urban,
11 suburban, and rural areas can readily apply for and
12 access funding under this section, which shall in-
13 clude the provision of technical assistance either di-
14 rectly or through resource and referral agencies or
15 staffed family child care provider networks;

16 (3) ensure that subgrant funds are made avail-
17 able to eligible child care providers regardless of
18 whether the eligible child care provider is providing
19 services for which assistance is made available under
20 the Child Care and Development Block Grant Act of
21 1990 (42 U.S.C. 9857 et seq.) at the time of appli-
22 cation for a subgrant;

23 (4) through at least December 31, 2020, con-
24 tinue to expend funds provided under the Child Care
25 and Development Block Grant Act of 1990 (42

1 U.S.C. 9857 et seq.) for the purpose of continuing
2 payments and assistance to qualified child care pro-
3 viders on the basis of applicable reimbursements
4 prior to March 2020;

5 (5) undertake a review of burdensome State,
6 local, and tribal regulations and requirements that
7 hinder the opening of new licensed child care pro-
8 grams to meet the needs of the working families in
9 the State or tribal community, as applicable;

10 (6) make available to the public, which shall in-
11 clude, at a minimum, posting to an internet website
12 of the lead agency—

13 (A) notice of funding availability through
14 subgrants for qualified child care providers
15 under this section; and

16 (B) the criteria for awarding subgrants for
17 qualified child care providers, including the
18 methodology the lead agency used to determine
19 and disburse funds in accordance with subpara-
20 graphs (D) and (E) of subsection (g)(4); and

21 (7) ensure the maintenance of a delivery system
22 of child care services throughout the State that pro-
23 vides for child care in a variety of settings, including
24 the settings of family child care providers.

25 (g) LEAD AGENCY USE OF FUNDS.—

1 (1) IN GENERAL.—A lead agency that receives
2 a Back to Work Child Care grant under this sec-
3 tion—

4 (A) shall use a portion that is not less
5 than 94 percent of the grant funds to award
6 subgrants to qualified child care providers as
7 described in the lead agency’s assurances pur-
8 suant to subsection (f);

9 (B) shall reserve not more than 6 percent
10 of the funds to—

11 (i) use not less than 1 percent of the
12 funds to provide technical assistance and
13 support in applying for and accessing
14 funding through such subgrants to eligible
15 child care providers, including to rural pro-
16 viders, family child care providers, and
17 providers with limited administrative ca-
18 pacity; and

19 (ii) use the remainder of the reserved
20 funds to—

21 (I) administer subgrants to quali-
22 fied child care providers under para-
23 graph (4), which shall include moni-
24 toring the compliance of qualified
25 child care providers with applicable

1 State, local, and tribal health and
2 safety requirements; and

3 (II) comply with the reporting
4 and documentation requirements de-
5 scribed in subsection (h); and

6 (C)(i) shall not make more than 1
7 subgrant under paragraph (4) to a child care
8 provider, except as described in clause (ii); and

9 (ii) may make multiple subgrants to a
10 qualified child care provider, if the lead agency
11 makes each subgrant individually for 1 child
12 care program operated by the provider and the
13 funds from the multiple subgrants are not
14 pooled for use for more than 1 of the programs.

15 (2) ROLE OF THIRD PARTY.—The lead agency
16 may designate a third party, such as a child care re-
17 source and referral agency, to carry out the respon-
18 sibilities of the lead agency, and oversee the activi-
19 ties conducted by qualified child care providers
20 under this subsection.

21 (3) OBLIGATION AND RETURN OF FUNDS.—

22 (A) OBLIGATION.—

23 (i) IN GENERAL.—The lead agency
24 shall obligate at least 50 percent of the
25 grant funds in the portion described in

1 paragraph (1)(A) for subgrants to quali-
2 fied child care providers by the day that is
3 6 months after the date of enactment of
4 this Act.

5 (ii) WAIVERS.—At the request of a
6 State, Indian tribe, or tribal organization,
7 and for good cause shown, the Secretary
8 may waive the requirement under clause (i)
9 for the State, Indian tribe, or tribal orga-
10 nization.

11 (B) RETURN OF FUNDS.—Not later than
12 the date that is 12 months after a grant is
13 awarded to a lead agency in accordance with
14 this section, the lead agency shall return to the
15 Secretary any of the grant funds that are not
16 obligated by the lead agency by such date. The
17 Secretary shall return any funds received under
18 this subparagraph to the Treasury of the
19 United States.

20 (4) SUBGRANTS.—

21 (A) IN GENERAL.—A lead agency that re-
22 ceives a grant under subsection (c) shall make
23 subgrants to qualified child care providers to
24 assist in paying for fixed costs and increased
25 operating expenses, for a transition period of

1 not more than 9 months, so that parents have
2 a safe place for their children to receive child
3 care as the parents return to the workplace.

4 (B) USE OF FUNDS.—A qualified child
5 care provider may use subgrant funds for—

6 (i) sanitation and other costs associ-
7 ated with cleaning the facility, including
8 deep cleaning in the case of an outbreak of
9 COVID–19, of a child care program used
10 to provide child care services;

11 (ii) recruiting, retaining, and compen-
12 sating child care staff, including providing
13 professional development to the staff re-
14 lated to child care services and applicable
15 State, local, and tribal health and safety
16 requirements and, if applicable, enhanced
17 protocols for child care services and related
18 to COVID–19 or another health or safety
19 condition;

20 (iii) paying for fixed operating costs
21 associated with providing child care serv-
22 ices, including the costs of payroll, the con-
23 tinuation of existing (as of March 1, 2020)
24 employee benefits, mortgage or rent, utili-
25 ties, and insurance;

1 (iv) acquiring equipment and supplies
2 (including personal protective equipment)
3 necessary to provide child care services in
4 a manner that is safe for children and
5 staff in accordance with applicable State,
6 local, and tribal health and safety require-
7 ments;

8 (v) replacing materials that are no
9 longer safe to use as a result of the
10 COVID–19 public health emergency;

11 (vi) making facility changes and re-
12 pairs to address enhanced protocols for
13 child care services related to COVID–19 or
14 another health or safety condition, to en-
15 sure children can safely occupy a child care
16 facility;

17 (vii) purchasing or updating equip-
18 ment and supplies to serve children during
19 nontraditional hours;

20 (viii) adapting the child care program
21 or curricula to accommodate children who
22 have not had recent access to a child care
23 setting;

1 (ix) carrying out any other activity re-
2 lated to the child care program of a quali-
3 fied child care provider; and

4 (x) reimbursement of expenses in-
5 curred before the provider received a
6 subgrant under this paragraph, if the use
7 for which the expenses are incurred is de-
8 scribed in any of clauses (i) through (ix)
9 and is disclosed in the subgrant application
10 for such subgrant.

11 (C) SUBGRANT APPLICATION.—To be
12 qualified to receive a subgrant under this para-
13 graph, an eligible child care provider shall sub-
14 mit an application to the lead agency in such
15 form and containing such information as the
16 lead agency may reasonably require, includ-
17 ing—

18 (i) a budget plan that includes—

19 (I) information describing how
20 the eligible child care provider will use
21 the subgrant funds to pay for fixed
22 costs and increased operating ex-
23 penses, including, as applicable, pay-
24 roll, employee benefits, mortgage or

1 rent, utilities, and insurance, de-
2 scribed in subparagraph (B)(iii);

3 (II) data on current operating
4 capacity, taking into account previous
5 operating capacity for a period of time
6 prior to the COVID–19 public health
7 emergency, and updated group size
8 limits and staff-to-child ratios;

9 (III) child care enrollment, at-
10 tendance, and revenue projections
11 based on current operating capacity
12 and previous enrollment and revenue
13 for the period described in subclause
14 (II); and

15 (IV) a demonstration of how the
16 subgrant funds will assist in pro-
17 moting the long-term viability of the
18 eligible child care provider and how
19 the eligible child care provider will
20 sustain its operations after the ces-
21 sation of funding under this section;

22 (ii) assurances that the eligible child
23 care provider will—

24 (I) report to the lead agency, be-
25 fore every month for which the

1 subgrant funds are to be received,
2 data on current financial characteris-
3 tics, including revenue, and data on
4 current average enrollment and at-
5 tendance;

6 (II) not artificially suppress rev-
7 enue, enrollment, or attendance for
8 the purposes of receiving subgrant
9 funding;

10 (III) provide the necessary docu-
11 mentation under subsection (h) to the
12 lead agency, including providing docu-
13 mentation of expenditures of subgrant
14 funds; and

15 (IV) implement all applicable
16 State, local, and tribal health and
17 safety requirements and, if applicable,
18 enhanced protocols for child care serv-
19 ices and related to COVID–19 or an-
20 other health or safety condition; and

21 (iii) a certification in good faith that
22 the child care program will remain open
23 for not less than 1 year after receiving a
24 subgrant under this paragraph, unless
25 such program is closed due to extraor-

1 dinary circumstances described in sub-
2 section (f)(1)(D).

3 (D) SUBGRANT DISBURSEMENT.—In pro-
4 viding funds through a subgrant under this
5 paragraph—

6 (i) the lead agency shall—

7 (I) disburse such subgrant funds
8 to a qualified child care provider in
9 installments made not less than once
10 monthly;

11 (II) disburse a subgrant install-
12 ment for a month after the qualified
13 child care provider has provided, be-
14 fore that month, the enrollment, at-
15 tendance, and revenue data required
16 under subparagraph (C)(ii)(I) and, if
17 applicable, current operating capacity
18 data required under subparagraph
19 (C)(i)(II); and

20 (III) make subgrant installments
21 to any qualified child care provider for
22 a period of not more than 9 months;
23 and

24 (ii) the lead agency may, notwith-
25 standing subparagraph (E)(i), disburse an

1 initial subgrant installment to a provider
2 in a greater amount than that subpara-
3 graph provides for, and adjust the suc-
4 ceeding installments, as applicable.

5 (E) SUBGRANT INSTALLMENT AMOUNT.—

6 The lead agency—

7 (i) shall determine the amount of a
8 subgrant installment under this paragraph
9 by basing the amount on—

10 (I)(aa) at a minimum, the fixed
11 costs associated with the provision of
12 child care services by a qualified child
13 care provider; and

14 (bb) at the election of the lead
15 agency, an additional amount deter-
16 mined by the State, for the purposes
17 of assisting qualified child care pro-
18 viders with, as applicable, increased
19 operating costs and lost revenue, asso-
20 ciated with the COVID-19 public
21 health emergency; and

22 (II) any other methodology that
23 the lead agency determines to be ap-
24 propriate, and which is disclosed in

1 reporting submitted by the lead agen-
2 cy under subsection (f)(6)(B);

3 (ii) shall ensure that, for any period
4 for which subgrant funds are disbursed
5 under this paragraph, no qualified child
6 care provider receives a subgrant install-
7 ment that when added to current revenue
8 for that period exceeds the revenue for the
9 corresponding period 1 year prior; and

10 (iii) may factor in decreased operating
11 capacity due to updated group size limits
12 and staff-to-child ratios, in determining
13 subgrant installment amounts.

14 (F) REPAYMENT OF SUBGRANT FUNDS.—

15 A qualified child care provider that receives a
16 subgrant under this paragraph shall be required
17 to repay the subgrant funds if the lead agency
18 determines that the provider fails to provide the
19 assurances described in subparagraph
20 (C)(ii)(II), or to comply with such an assur-
21 ance.

22 (5) SUPPLEMENT NOT SUPPLANT.—Amounts
23 made available to carry out this section shall be used
24 to supplement and not supplant other Federal,
25 State, tribal, and local public funds expended to pro-

1 vide child care services, including funds provided
2 under the Child Care and Development Block Grant
3 Act of 1990 (42 U.S.C. 9857 et seq.) and State and
4 tribal child care programs.

5 (h) DOCUMENTATION AND REPORTING REQUIRE-
6 MENTS.—

7 (1) DOCUMENTATION.—A State, Indian tribe,
8 or tribal organization receiving a grant under sub-
9 section (c) shall provide documentation of any State
10 or tribal expenditures from grant funds received
11 under subsection (c) in accordance with section
12 658K(b) of the Child Care Development Block
13 Grant Act of 1990 (42 U.S.C. 9858i(b)), and to the
14 independent entity described in that section.

15 (2) REPORTS.—

16 (A) LEAD AGENCY REPORT.—A lead agen-
17 cy receiving a grant under subsection (c) shall,
18 not later than 12 months after receiving such
19 grant, submit a report to the Secretary that in-
20 cludes for the State or tribal community in-
21 volved a description of the program of sub-
22 grants carried out to meet the objectives of this
23 section, including—

24 (i) a description of how the lead agen-
25 cy determined—

1 (I) the criteria for awarding sub-
2 grants for qualified child care pro-
3 viders, including the methodology the
4 lead agency used to determine and
5 disburse funds in accordance with
6 subparagraphs (D) and (E) of sub-
7 section (g)(4); and

8 (II) the types of providers that
9 received priority for the subgrants, in-
10 cluding considerations related to—

11 (aa) setting;

12 (bb) average monthly reve-
13 nues, enrollment, and attendance,
14 before and during the COVID–19
15 public health emergency and
16 after the expiration of State,
17 local, and tribal stay-at-home or-
18 ders; and

19 (cc) geographically based
20 child care service needs across
21 the State or tribal community;
22 and

23 (ii) the number of eligible child care
24 providers in operation and serving children
25 on March 1, 2020, and the average num-

1 ber of such providers for March 2020 and
2 each of the 11 months following,
3 disaggregated by age of children served,
4 geography, region, center-based child care
5 setting, and family child care setting;

6 (iii) the number of child care slots, in
7 the capacity of a qualified child care pro-
8 vider given applicable group size limits and
9 staff-to-child ratios, that were open for at-
10 tendance of children on March 1, 2020,
11 the average number of such slots for
12 March 2020 and each of 11 months fol-
13 lowing, disaggregated by age of children
14 served, geography, region, center-based
15 child care setting, and family child care
16 setting;

17 (iv)(I) the number of qualified child
18 care providers that received a subgrant
19 under subsection (g)(4), disaggregated by
20 age of children served, geography, region,
21 center-based child care setting, and family
22 child care setting, and the average and
23 range of the amounts of the subgrants
24 awarded; and

1 (II) the percentage of all eligible child
2 care providers that are qualified child care
3 providers that received such a subgrant,
4 disaggregated as described in subclause
5 (I); and

6 (v) information concerning how quali-
7 fied child care providers receiving sub-
8 grants under subsection (g)(4) used the
9 subgrant funding received, disaggregated
10 by the allowable uses of funds described in
11 subsection (g)(4)(B).

12 (B) REPORT TO CONGRESS.—Not later
13 than 90 days after receiving the lead agency re-
14 ports required under subparagraph (A), the
15 Secretary shall make publicly available and pro-
16 vide to the Committee on Health, Education,
17 Labor, and Pensions of the Senate and the
18 Committee on Education and Labor of the
19 House of Representatives a report summarizing
20 the findings of the lead agency reports.

21 (i) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as may be
23 necessary to carry out the activities under this section.

24 (j) EXCLUSION FROM INCOME.—For purposes of the
25 Internal Revenue Code of 1986, gross income shall not

1 include any amount received by a qualified child care pro-
2 vider under this section.

3 **TITLE VII—PANDEMIC PREPARA-**
4 **TION AND STRATEGIC STOCK-**
5 **PILE**

6 **SEC. 7001. SUSTAINED ON-SHORE MANUFACTURING CAPAC-**
7 **ITY FOR PUBLIC HEALTH EMERGENCIES.**

8 (a) IN GENERAL.—Section 319L of the Public
9 Health Service Act (42 U.S.C. 247d–7e) is amended—

10 (1) in subsection (a)(6)(B)—

11 (A) by redesignating clauses (iv) and (v) as
12 clauses (v) and (vi), respectively;

13 (B) by inserting after clause (iii), the fol-
14 lowing:

15 “(iv) activities to support domestic
16 manufacturing surge capacity of products
17 or platform technologies, including manu-
18 facturing capacity and capabilities to uti-
19 lize platform technologies to provide for
20 flexible manufacturing initiatives;”; and

21 (C) in clause (vi) (as so redesignated), by
22 inserting “manufacture,” after “improvement,”;

23 (2) in subsection (b)—

24 (A) in the first sentence of paragraph (1),
25 by inserting “support for domestic manufac-

1 turing surge capacity,” after “initiatives for in-
2 novation,”; and

3 (B) in paragraph (2)—

4 (i) in subparagraph (B), by striking
5 “and” at the end;

6 (ii) by redesignating subparagraph
7 (C) as subparagraph (D); and

8 (iii) by inserting after subparagraph
9 (B), the following:

10 “(C) activities to support manufacturing
11 surge capacities and capabilities to increase the
12 availability of existing medical countermeasures
13 and utilize existing novel platforms to manufac-
14 ture new medical countermeasures to meet
15 manufacturing demands to address threats that
16 pose a significant level of risk to national secu-
17 rity; and”;

18 (3) in subsection (c)—

19 (A) in paragraph (2)—

20 (i) in subparagraph (C), by striking
21 “and” at the end;

22 (ii) in subparagraph (D), by striking
23 the period and inserting “; and”; and

24 (iii) by adding at the end the fol-
25 lowing:

1 “(E) promoting domestic manufacturing
2 surge capacity and capabilities for counter-
3 measure advanced research and development,
4 including facilitating contracts to support flexi-
5 ble or surge manufacturing.”;

6 (B) in paragraph (4)—

7 (i) in subparagraph (B)—

8 (I) in clause (iii), by striking
9 “and” at the end;

10 (II) in clause (iv), by striking the
11 period and inserting “; and”; and

12 (III) by adding at the end the
13 following:

14 “(v) support and maintain domestic
15 manufacturing surge capacity and capabili-
16 ties, including through contracts to sup-
17 port flexible or surge manufacturing, to en-
18 sure that additional production of counter-
19 measures is available in the event that the
20 Secretary determines there is such a need
21 for additional production.”;

22 (ii) in subparagraph (D)—

23 (I) in clause (ii), by striking
24 “and” at the end;

1 (II) by redesignating clause (iii)
2 as clause (iv); and

3 (III) by inserting after clause (ii)
4 the following:

5 “(iii) research to advance manufac-
6 turing capacities and capabilities for med-
7 ical countermeasures and platform tech-
8 nologies that may be utilized for medical
9 countermeasures; and”; and

10 (iii) in subparagraph (E), by striking
11 clause (ix); and

12 (C) in paragraph (7)(C)(i), by striking “up
13 to 100 highly qualified individuals, or up to 50
14 percent of the total number of employees,
15 whichever is less,” and inserting “75 percent of
16 the total number of employees”;

17 (4) in subsection (e)(1)—

18 (A) by redesignating subparagraphs (B)
19 through (D) as subparagraphs (C) through (E),
20 respectively; and

21 (B) by inserting after subparagraph (A),
22 the following:

23 “(B) TEMPORARY FLEXIBILITY.—During a
24 public health emergency under section 319, the
25 Secretary shall be provided with an additional

1 60 business days to comply with information re-
2 quests for the disclosure of information under
3 section 552 of title 5, United States Code, re-
4 lated to the activities under this section (unless
5 such activities are otherwise exempt under sub-
6 paragraph (A)).”; and
7 (5) in subsection (f)—

8 (A) in paragraph (1), by striking “Not
9 later than 180 days after the date of enactment
10 of this subsection” and inserting “Not later
11 than 180 days after the date of enactment of
12 the Delivering Immediate Relief to America’s
13 Families, Schools and Small Businesses Act”;
14 and

15 (B) in paragraph (2), by striking “Not
16 later than 1 year after the date of enactment of
17 this subsection” and inserting “Not later than
18 1 year after the date of enactment of
19 the Delivering Immediate Relief to America’s
20 Families, Schools and Small Businesses Act”.

21 (b) MEDICAL COUNTERMEASURE INNOVATION PART-
22 NER.—The restrictions under section 202 of division A of
23 the Further Consolidated Appropriations Act, 2020 (Pub-
24 lic Law 116–94), or any other provision of law imposing
25 a restriction on salaries of individuals related to a previous

1 appropriation to the Department of Health and Human
2 Services, shall not apply with respect to salaries paid pur-
3 suant to an agreement under the medical countermeasure
4 innovation partner program under section 319L(c)(4)(E)
5 of the Public Health Service Act (42 U.S.C. 247d-
6 7e(c)(4)(E)).

7 **SEC. 7002. IMPROVING AND SUSTAINING STATE MEDICAL**
8 **STOCKPILES.**

9 Section 319F-2 of the Public Health Service Act (42
10 U.S.C. 247d-6b) is amended by adding at the end the fol-
11 lowing:

12 “(i) IMPROVING AND MAINTAINING STATE MEDICAL
13 STOCKPILES.—

14 “(1) IN GENERAL.—The Secretary, acting
15 through the Assistant Secretary for Preparedness
16 and Response, shall award grants, contracts, or co-
17 operative agreements to eligible entities to maintain
18 a stockpile of appropriate drugs, vaccines and other
19 biological products, medical devices, and other med-
20 ical supplies (including personal protective equip-
21 ment, ancillary medical supplies, and other applica-
22 ble supplies required for the administration of drugs,
23 vaccines and other biological products, medical de-
24 vices, and diagnostic tests) to be used during a pub-
25 lic health emergency declared by the Governor of a

1 State or by the Secretary under section 319, or a
2 major disaster or emergency declared by the Presi-
3 dent under section 401 or 501, respectively, of the
4 Robert T. Stafford Disaster Relief and Emergency
5 Assistance Act, in order to support the preparedness
6 goals described in paragraphs (2), (3), and (8) of
7 section 2802(b).

8 “(2) ELIGIBLE ENTITIES.—

9 “(A) IN GENERAL.—To be eligible to re-
10 ceive an award under paragraph (1), an entity
11 shall—

12 “(i) be a State or consortium of
13 States that is a recipient of an award
14 under section 319C–1(b); and

15 “(ii) prepare, in consultation with ap-
16 propriate health care providers and health
17 officials within the State or consortium of
18 States, and submit to the Secretary an ap-
19 plication that contains such information as
20 the Secretary may require, including a
21 plan for the State stockpile and a descrip-
22 tion of the activities such entity will carry
23 out under the agreement, consistent with
24 the requirements of paragraph (3).

1 “(B) LIMITATION.—The Secretary may
2 make an award under this subsection to not
3 more than one eligible entity in each State.

4 “(C) SUPPLEMENT NOT SUPPLANT.—
5 Awards, contracts, or grants awarded under
6 this subsection shall supplement, not supplant,
7 the reserve amounts of medical supplies pro-
8 cured by and for the Strategic National Stock-
9 pile under subsection (a).

10 “(D) ADMINISTRATIVE EXPENSES.—Not
11 more than 5 percent of amounts received by an
12 entity pursuant to an award under this sub-
13 section may be used for administrative ex-
14 penses.

15 “(E) CLARIFICATION.—An eligible entity
16 receiving an award under this subsection may
17 assign a lead entity to manage the State stock-
18 pile, which may be a recipient of an award
19 under section 319C–2(b).

20 “(F) REQUIREMENT OF MATCHING
21 FUNDS.—

22 “(i) IN GENERAL.—Subject to clause
23 (ii), the Secretary may not make an award
24 under this subsection unless the applicant
25 agrees, with respect to the costs to be in-

1 curred by the applicant in carrying out the
2 purpose described in this subsection, to
3 make available non-Federal contributions
4 toward such costs in an amount equal to—

5 “(I) for each of fiscal years 2023
6 and 2024, not less than \$1 for each
7 \$10 of Federal funds provided in the
8 award;

9 “(II) for each of fiscal years
10 2025 and 2026, not less than \$1 for
11 each \$5 of Federal funds provided in
12 the award; and

13 “(III) for fiscal year 2027 and
14 each fiscal year thereafter, not less
15 than \$1 for each \$3 of Federal funds
16 provided in the award.

17 “(ii) WAIVER.—

18 “(I) IN GENERAL.—The Sec-
19 retary may, upon the request of a
20 State, waive the requirement under
21 clause (i) in whole or in part if the
22 Secretary determines that extraor-
23 dinary economic conditions in the
24 State in the fiscal year involved or in

1 the previous fiscal year justify the
2 waiver.

3 “(II) APPLICABILITY OF WAIV-
4 ER.—A waiver provided by the Sec-
5 retary under this subparagraph shall
6 apply only to the fiscal year involved.

7 “(3) STOCKPILING ACTIVITIES AND REQUIRE-
8 MENTS.—A recipient of a grant, contract, or cooper-
9 ative agreement under this subsection shall use such
10 funds to carry out the following:

11 “(A) Maintaining a stockpile of appro-
12 priate drugs, vaccines and other biological prod-
13 ucts, medical devices, and other supplies (in-
14 cluding personal protective equipment, ancillary
15 medical supplies, and other applicable supplies
16 required for the administration of drugs, vac-
17 cines and other biological products, medical de-
18 vices, and diagnostic tests) to be used during a
19 public health emergency in such numbers,
20 types, and amounts as the State determines
21 necessary, consistent with such State’s stockpile
22 plan. Such a recipient may not use funds to
23 support the stockpiling of countermeasures as
24 defined under subsection (c), unless the eligible
25 entity provides justification for maintaining

1 such products and the Secretary determines
2 such appropriate and applicable.

3 “(B) Deploying the stockpile as required
4 by the State to respond to an actual or poten-
5 tial public health emergency.

6 “(C) Replenishing and making necessary
7 additions or modifications to the contents of
8 such stockpile or stockpiles, including to ad-
9 dress potential depletion.

10 “(D) In consultation with Federal, State,
11 and local officials, take into consideration the
12 availability, deployment, dispensing, and admin-
13 istration requirements of medical products with-
14 in the stockpile.

15 “(E) Ensuring that procedures are fol-
16 lowed for inventory management and account-
17 ing, and for the physical security of the stock-
18 pile, as appropriate.

19 “(F) Reviewing and revising, as appro-
20 priate, the contents of the stockpile on a reg-
21 ular basis to ensure that to the extent prac-
22 ticable, advanced technologies and medical
23 products are considered.

24 “(G) Carrying out exercises, drills, and
25 other training for purposes of stockpile deploy-

1 ment, dispensing, and administration of medical
2 products, and for purposes of assessing the ca-
3 pability of such stockpile to address the medical
4 supply needs of public health emergencies of
5 varying types and scales, which may be con-
6 ducted in accordance with requirements related
7 to exercises, drills, and other training for recipi-
8 ents of awards under section 319C–1 or 319C–
9 2, as applicable.

10 “(H) Carrying out other activities as the
11 State determines appropriate, to support State
12 efforts to prepare for, and respond to, public
13 health threats.

14 “(4) STATE PLAN COORDINATION.—The eligible
15 entity under this subsection shall ensure appropriate
16 coordination of the State stockpile plan developed
17 pursuant to paragraph (2)(A)(ii) and the plans re-
18 quired pursuant to section 319C–1.

19 “(5) GUIDANCE FOR STATES.—Not later than
20 180 days after the date of enactment of this sub-
21 section, the Secretary, acting through the Assistant
22 Secretary for Preparedness and Response, shall
23 issue guidance for States related to maintaining and
24 replenishing a stockpile of medical products. The
25 Secretary shall update such guidance as appropriate.

1 “(6) ASSISTANCE TO STATES.—The Secretary
2 shall provide assistance to States, including technical
3 assistance, as appropriate, to maintain and improve
4 State and local public health preparedness capabilities
5 to distribute and dispense medical products
6 from a State stockpile.

7 “(7) COORDINATION WITH THE STRATEGIC NA-
8 TIONAL STOCKPILE.—Each recipient of an award
9 under this subsection shall ensure that the State
10 stockpile plan developed pursuant to paragraph
11 (2)(A)(ii) contains such information as the Secretary
12 may require related to current inventory of supplies
13 maintained pursuant to paragraph (3), and any
14 plans to replenish such supplies, or procure new or
15 alternative supplies. The Secretary shall use infor-
16 mation obtained from State stockpile plans to inform
17 the maintenance and management of the Strategic
18 National Stockpile pursuant to subsection (a).

19 “(8) PERFORMANCE AND ACCOUNTABILITY.—

20 “(A) IN GENERAL.—The Secretary, acting
21 through the Assistant Secretary for Prepared-
22 ness and Response, shall develop and implement
23 a process to review and audit entities in receipt
24 of an award under this subsection, including by
25 establishing metrics to ensure that each entity

1 receiving such an award is carrying out activi-
2 ties in accordance with the applicable State
3 stockpile plan. The Secretary may require enti-
4 ties to—

5 “(i) measure progress toward achiev-
6 ing the outcome goals; and

7 “(ii) at least annually, test, exercise,
8 and rigorously evaluate the stockpile ca-
9 pacity and response capabilities of the enti-
10 ty, and report to the Secretary on the re-
11 sults of such test, exercise, and evaluation,
12 and on progress toward achieving outcome
13 goals, based on criteria established by the
14 Secretary.

15 “(B) NOTIFICATION OF FAILURE.—The
16 Secretary shall develop and implement a proc-
17 ess to notify entities that are determined by the
18 Secretary to have failed to meet the require-
19 ments of the terms of an award under this sub-
20 section. Such process shall provide such entities
21 with the opportunity to correct such noncompli-
22 ance. An entity that fails to correct such non-
23 compliance shall be subject to subparagraph
24 (C).

1 “(C) WITHHOLDING OF CERTAIN AMOUNTS
2 FROM ENTITIES THAT FAIL TO ACHIEVE
3 BENCHMARKS OR SUBMIT STATE STOCKPILE
4 PLAN.—Beginning with fiscal year 2022, and in
5 each succeeding fiscal year, the Secretary shall
6 withhold from each entity that has failed sub-
7 stantially to meet the terms of an award under
8 this subsection for at least 1 of the 2 imme-
9 diately preceding fiscal years (beginning with
10 fiscal year 2022), the amount allowed for ad-
11 ministrative expenses described in described in
12 paragraph (2)(D).

13 “(9) AUTHORIZATION OF APPROPRIATIONS.—
14 For the purpose of carrying out this subsection,
15 there are authorized to be appropriated
16 \$1,000,000,000 for each of fiscal years 2021
17 through 2030, to remain available until expended.”.

18 **SEC. 7003. STRENGTHENING THE STRATEGIC NATIONAL**
19 **STOCKPILE.**

20 Section 319F–2 of the Public Health Service Act (42
21 U.S.C. 247d–6b) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (2)(A), by adding “and
24 the contracts issued under paragraph (5)” after
25 “paragraph (1)”

1 (B) in paragraph (3)(F), by striking “Sec-
2 retary of Homeland Security” and inserting
3 “Secretary of Health and Human Services, in
4 coordination with or at the request of, the Sec-
5 retary of Homeland Security,”;

6 (C) by redesignating paragraph (5) as
7 paragraph (6);

8 (D) by inserting after paragraph (4) the
9 following:

10 “(5) SURGE CAPACITY.—The Secretary, in
11 maintaining the stockpile under paragraph (1) and
12 carrying out procedures under paragraph (3), may—

13 “(A) enter into contracts or cooperative
14 agreements with vendors for procurement,
15 maintenance, and storage of reserve amounts of
16 drugs, vaccines and other biological products,
17 medical devices, and other medical supplies (in-
18 cluding personal protective equipment, ancillary
19 medical supplies, and other applicable supplies
20 required for the administration of drugs, vac-
21 cines and other biological products, medical de-
22 vices, and diagnostic tests in the stockpile),
23 under such terms and conditions (including
24 quantity, production schedule, maintenance

1 costs, and price of product) as the Secretary
2 may specify, including for purposes of—

3 “(i) maintenance and storage of re-
4 serve amounts of products intended to be
5 delivered to the ownership of the Federal
6 Government under the contract, which may
7 consider costs of shipping, or otherwise
8 transporting, handling, storage, and re-
9 lated costs for such product or products;
10 and

11 “(ii) maintaining domestic manufac-
12 turing capacity of such products to ensure
13 additional reserved production capacity of
14 such products is available, and that such
15 products are provided in a timely manner,
16 to be delivered to the ownership of the
17 Federal Government under the contract
18 and deployed in the event that the Sec-
19 retary determines that there is a need to
20 quickly purchase additional quantities of
21 such product; and

22 “(B) promulgate such regulations as the
23 Secretary determines necessary to implement
24 this paragraph.”; and

1 (E) in subparagraph (A) of paragraph (6),
2 as so redesignated—

3 (i) in clause (viii), by striking “; and”
4 and inserting a semicolon;

5 (ii) in clause (ix), by striking the pe-
6 riod and inserting “; and”; and

7 (iii) by adding at the end the fol-
8 lowing:

9 “(x) an assessment of the contracts or
10 cooperative agreements entered into pursu-
11 ant to paragraph (5).”; and

12 (2) in subsection (c)(2)(C), by striking “on an
13 annual basis” and inserting “not later than March
14 15 of each year”.

15 **TITLE VIII—CORONAVIRUS**
16 **RELIEF FUND EXTENSION**

17 **SEC. 8001. EXTENSION OF PERIOD TO USE CORONAVIRUS**
18 **RELIEF FUND PAYMENTS.**

19 Section 601(d)(3) of the Social Security Act (42
20 U.S.C. 801(d)(3)) is amended by striking “December 30,
21 2020” and inserting “September 30, 2021”.

1 **TITLE IX—CHARITABLE GIVING**

2 **SEC. 9001. INCREASE IN LIMITATION ON PARTIAL ABOVE**
3 **THE LINE DEDUCTION FOR CHARITABLE**
4 **CONTRIBUTIONS.**

5 (a) INCREASE.—

6 (1) IN GENERAL.—Paragraph (22) of section
7 62(a) of the Internal Revenue Code of 1986 is
8 amended to read as follows:

9 “(22) CHARITABLE CONTRIBUTIONS.—In the
10 case of a taxable year beginning in 2020 of an indi-
11 vidual to whom section 63(b) applies for such tax-
12 able year, the deduction under section 170(a) (deter-
13 mined without regard to section 170(b)) for qualified
14 charitable contributions (not in excess of the applica-
15 ble amount).”.

16 (2) APPLICABLE AMOUNT.—Paragraph (1) of
17 section 62(f) of the Internal Revenue Code of 1986
18 is amended to read as follows:

19 “(1) APPLICABLE AMOUNT.—The term ‘applica-
20 ble amount’ means \$600 (twice such amount in the
21 case of a joint return).”.

22 (3) CONFORMING AMENDMENT.—Section
23 62(f)(2)(B) of such Code is amended by striking
24 “(determined without regard to subsection (b) there-
25 of)”.

1 (b) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE
2 TO OVERSTATED DEDUCTION.—

3 (1) IN GENERAL.—Section 6662(b) of the In-
4 ternal Revenue Code of 1986 is amended by insert-
5 ing after paragraph (8) the following:

6 “(9) Any overstatement of qualified charitable
7 contributions (as defined in section 62(f)).”.

8 (2) INCREASED PENALTY.—Section 6662 of
9 such Code is amended by adding at the end the fol-
10 lowing new subsection:

11 “(1) INCREASE IN PENALTY IN CASE OF OVERSTATE-
12 MENT OF QUALIFIED CHARITABLE CONTRIBUTIONS.—In
13 the case of any portion of an underpayment which is at-
14 tributable to one or more overstatements of a qualified
15 charitable contribution (as defined in section 62(f)), sub-
16 section (a) shall be applied with respect to such portion
17 by substituting ‘50 percent’ for ‘20 percent’.”.

18 (3) EXCEPTION TO APPROVAL OF ASSESS-
19 MENT.—Section 6751(b)(2)(A) is amended by strik-
20 ing “or 6655” and inserting “6655, or 6662 (but
21 only with respect to an addition to tax by reason of
22 subsection (b)(9) thereof)”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2019.

1 **TITLE X—CRITICAL MINERALS**

2 **SEC. 10001. MINERAL SECURITY.**

3 (a) DEFINITIONS.—In this section:

4 (1) BYPRODUCT.—The term “byproduct”
5 means a critical mineral—

6 (A) the recovery of which depends on the
7 production of a host mineral that is not des-
8 ignated as a critical mineral; and

9 (B) that exists in sufficient quantities to
10 be recovered during processing or refining.

11 (2) CRITICAL MINERAL.—

12 (A) IN GENERAL.—The term “critical min-
13 eral” means any mineral, element, substance, or
14 material designated as critical by the Secretary
15 under subsection (c).

16 (B) EXCLUSIONS.—The term “critical
17 mineral” does not include—

18 (i) fuel minerals, including oil, natural
19 gas, or any other fossil fuels; or

20 (ii) water, ice, or snow.

21 (3) INDIAN TRIBE.—The term “Indian tribe”
22 has the meaning given the term in section 4 of the
23 Indian Self-Determination and Education Assistance
24 Act (25 U.S.C. 5304).

1 (4) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 (5) STATE.—The term “State” means—

4 (A) a State;

5 (B) the District of Columbia;

6 (C) the Commonwealth of Puerto Rico;

7 (D) Guam;

8 (E) American Samoa;

9 (F) the Commonwealth of the Northern
10 Mariana Islands; and

11 (G) the United States Virgin Islands.

12 (b) POLICY.—

13 (1) IN GENERAL.—Section 3 of the National
14 Materials and Minerals Policy, Research and Devel-
15 opment Act of 1980 (30 U.S.C. 1602) is amended
16 in the second sentence—

17 (A) by striking paragraph (3) and insert-
18 ing the following:

19 “(3) establish an analytical and forecasting ca-
20 pability for identifying critical mineral demand, sup-
21 ply, and other factors to allow informed actions to
22 be taken to avoid supply shortages, mitigate price
23 volatility, and prepare for demand growth and other
24 market shifts;”;

1 (B) in paragraph (6), by striking “and”
2 after the semicolon at the end; and

3 (C) by striking paragraph (7) and insert-
4 ing the following:

5 “(7) facilitate the availability, development, and
6 environmentally responsible production of domestic
7 resources to meet national material or critical min-
8 eral needs;

9 “(8) avoid duplication of effort, prevent unnec-
10 essary paperwork, and minimize delays in the ad-
11 ministration of applicable laws (including regula-
12 tions) and the issuance of permits and authoriza-
13 tions necessary to explore for, develop, and produce
14 critical minerals and to construct critical mineral
15 manufacturing facilities in accordance with applica-
16 ble environmental and land management laws;

17 “(9) strengthen—

18 “(A) educational and research capabilities
19 at not lower than the secondary school level;
20 and

21 “(B) workforce training for exploration
22 and development of critical minerals and critical
23 mineral manufacturing;

1 “(10) bolster international cooperation through
2 technology transfer, information sharing, and other
3 means;

4 “(11) promote the efficient production, use, and
5 recycling of critical minerals;

6 “(12) develop alternatives to critical minerals;
7 and

8 “(13) establish contingencies for the production
9 of, or access to, critical minerals for which viable
10 sources do not exist within the United States.”.

11 (2) CONFORMING AMENDMENT.—Section 2(b)
12 of the National Materials and Minerals Policy, Re-
13 search and Development Act of 1980 (30 U.S.C.
14 1601(b)) is amended by striking “(b) As used in this
15 Act, the term” and inserting the following:

16 “(b) DEFINITIONS.—In this Act:

17 “(1) CRITICAL MINERAL.—The term ‘critical
18 mineral’ means any mineral, element, substance, or
19 material designated as critical by the Secretary
20 under section 3168(c) of the National Defense Au-
21 thorization Act for Fiscal Year 2021.

22 “(2) MATERIALS.—The term”.

23 (c) CRITICAL MINERAL DESIGNATIONS.—

24 (1) DRAFT METHODOLOGY AND LIST.—The
25 Secretary, acting through the Director of the United

1 States Geological Survey (referred to in this sub-
2 section as the “Secretary”), shall publish in the Fed-
3 eral Register for public comment—

4 (A) a description of the draft methodology
5 used to identify a draft list of critical minerals;

6 (B) a draft list of minerals, elements, sub-
7 stances, and materials that qualify as critical
8 minerals; and

9 (C) a draft list of critical minerals recov-
10 ered as byproducts.

11 (2) AVAILABILITY OF DATA.—If available data
12 is insufficient to provide a quantitative basis for the
13 methodology developed under this subsection, quali-
14 tative evidence may be used to the extent necessary.

15 (3) FINAL METHODOLOGY AND LIST.—After re-
16 viewing public comments on the draft methodology
17 and the draft lists published under paragraph (1)
18 and updating the methodology and lists as appro-
19 priate, not later than 45 days after the date on
20 which the public comment period with respect to the
21 draft methodology and draft lists closes, the Sec-
22 retary shall publish in the Federal Register—

23 (A) a description of the final methodology
24 for determining which minerals, elements, sub-

1 stances, and materials qualify as critical min-
2 erals;

3 (B) the final list of critical minerals; and

4 (C) the final list of critical minerals recov-
5 ered as byproducts.

6 (4) DESIGNATIONS.—

7 (A) IN GENERAL.—For purposes of car-
8 rying out this subsection, the Secretary shall
9 maintain a list of minerals, elements, sub-
10 stances, and materials designated as critical,
11 pursuant to the final methodology published
12 under paragraph (3), that the Secretary deter-
13 mines—

14 (i) are essential to the economic or
15 national security of the United States;

16 (ii) the supply chain of which is vul-
17 nerable to disruption (including restrictions
18 associated with foreign political risk, ab-
19 rupt demand growth, military conflict, vio-
20 lent unrest, anti-competitive or protec-
21 tionist behaviors, and other risks through-
22 out the supply chain); and

23 (iii) serve an essential function in the
24 manufacturing of a product (including en-
25 ergy technology-, defense-, currency-, agri-

1 culture-, consumer electronics-, and health
2 care-related applications), the absence of
3 which would have significant consequences
4 for the economic or national security of the
5 United States.

6 (B) INCLUSIONS.—Notwithstanding the
7 criteria under paragraph (3), the Secretary may
8 designate and include on the list any mineral,
9 element, substance, or material determined by
10 another Federal agency to be strategic and crit-
11 ical to the defense or national security of the
12 United States.

13 (C) REQUIRED CONSULTATION.—The Sec-
14 retary shall consult with the Secretaries of De-
15 fense, Commerce, Agriculture, and Energy and
16 the United States Trade Representative in des-
17 ignating minerals, elements, substances, and
18 materials as critical under this paragraph.

19 (5) SUBSEQUENT REVIEW.—

20 (A) IN GENERAL.—The Secretary, in con-
21 sultation with the Secretaries of Defense, Com-
22 merce, Agriculture, and Energy and the United
23 States Trade Representative, shall review the
24 methodology and list under paragraph (3) and
25 the designations under paragraph (4) at least

1 every 3 years, or more frequently as the Sec-
2 retary considers to be appropriate.

3 (B) REVISIONS.—Subject to paragraph
4 (4)(A), the Secretary may—

5 (i) revise the methodology described in
6 this subsection;

7 (ii) determine that minerals, elements,
8 substances, and materials previously deter-
9 mined to be critical minerals are no longer
10 critical minerals; and

11 (iii) designate additional minerals, ele-
12 ments, substances, or materials as critical
13 minerals.

14 (6) NOTICE.—On finalization of the method-
15 ology and the list under paragraph (3), or any revi-
16 sion to the methodology or list under paragraph (5),
17 the Secretary shall submit to Congress written no-
18 tice of the action.

19 (d) RESOURCE ASSESSMENT.—

20 (1) IN GENERAL.—Not later than 4 years after
21 the date of enactment of this Act, in consultation
22 with applicable State (including geological surveys),
23 local, academic, industry, and other entities, the Sec-
24 retary (acting through the Director of the United
25 States Geological Survey) or a designee of the Sec-

1 retary, shall complete a comprehensive national as-
2 sessment of each critical mineral that—

3 (A) identifies and quantifies known critical
4 mineral resources, using all available public and
5 private information and datasets, including ex-
6 ploration histories; and

7 (B) provides a quantitative and qualitative
8 assessment of undiscovered critical mineral re-
9 sources throughout the United States, including
10 probability estimates of tonnage and grade,
11 using all available public and private informa-
12 tion and datasets, including exploration his-
13 tories.

14 (2) SUPPLEMENTARY INFORMATION.—In car-
15 rying out this subsection, the Secretary may carry
16 out surveys and field work (including drilling, re-
17 mote sensing, geophysical surveys, topographical and
18 geological mapping, and geochemical sampling and
19 analysis) to supplement existing information and
20 datasets available for determining the existence of
21 critical minerals in the United States.

22 (3) PUBLIC ACCESS.—Subject to applicable law,
23 to the maximum extent practicable, the Secretary
24 shall make all data and metadata collected from the
25 comprehensive national assessment carried out

1 under paragraph (1) publically and electronically ac-
2 cessible.

3 (4) TECHNICAL ASSISTANCE.—At the request of
4 the Governor of a State or the head of an Indian
5 tribe, the Secretary may provide technical assistance
6 to State governments and Indian tribes conducting
7 critical mineral resource assessments on non-Federal
8 land.

9 (5) PRIORITIZATION.—

10 (A) IN GENERAL.—The Secretary may se-
11 quence the completion of resource assessments
12 for each critical mineral such that critical min-
13 erals considered to be most critical under the
14 methodology established under subsection (c)
15 are completed first.

16 (B) REPORTING.—During the period be-
17 ginning not later than 1 year after the date of
18 enactment of this Act and ending on the date
19 of completion of all of the assessments required
20 under this subsection, the Secretary shall sub-
21 mit to Congress on an annual basis an interim
22 report that—

23 (i) identifies the sequence and sched-
24 ule for completion of the assessments if the
25 Secretary sequences the assessments; or

1 (ii) describes the progress of the as-
2 sessments if the Secretary does not se-
3 quence the assessments.

4 (6) UPDATES.—The Secretary may periodically
5 update the assessments conducted under this sub-
6 section based on—

7 (A) the generation of new information or
8 datasets by the Federal Government; or

9 (B) the receipt of new information or
10 datasets from critical mineral producers, State
11 geological surveys, academic institutions, trade
12 associations, or other persons.

13 (7) ADDITIONAL SURVEYS.—The Secretary
14 shall complete a resource assessment for each addi-
15 tional mineral or element subsequently designated as
16 a critical mineral under subsection (c)(5)(B) not
17 later than 2 years after the designation of the min-
18 eral or element.

19 (8) REPORT.—Not later than 2 years after the
20 date of enactment of this Act, the Secretary shall
21 submit to Congress a report describing the status of
22 geological surveying of Federal land for any mineral
23 commodity—

24 (A) for which the United States was de-
25 pendent on a foreign country for more than 25

1 percent of the United States supply, as depicted
2 in the report issued by the United States Geo-
3 logical Survey entitled “Mineral Commodity
4 Summaries 2020”; but

5 (B) that is not designated as a critical
6 mineral under subsection (c).

7 (e) PERMITTING.—

8 (1) SENSE OF CONGRESS.—It is the sense of
9 Congress that—

10 (A) critical minerals are fundamental to
11 the economy, competitiveness, and security of
12 the United States;

13 (B) to the maximum extent practicable,
14 the critical mineral needs of the United States
15 should be satisfied by minerals responsibly pro-
16 duced and recycled in the United States; and

17 (C) the Federal permitting process has
18 been identified as an impediment to mineral
19 production and the mineral security of the
20 United States.

21 (2) PERFORMANCE IMPROVEMENTS.—To im-
22 prove the quality and timeliness of decisions, the
23 Secretary (acting through the Director of the Bu-
24 reau of Land Management) and the Secretary of Ag-
25 riculture (acting through the Chief of the Forest

1 Service) (referred to in this subsection as the “Sec-
2 retaries”) shall, to the maximum extent practicable,
3 with respect to critical mineral production on Fed-
4 eral land, complete Federal permitting and review
5 processes with maximum efficiency and effectiveness,
6 while supporting vital economic growth, by—

7 (A) establishing and adhering to timelines
8 and schedules for the consideration of, and final
9 decisions regarding, applications, operating
10 plans, leases, licenses, permits, and other use
11 authorizations for mineral-related activities on
12 Federal land;

13 (B) establishing clear, quantifiable, and
14 temporal permitting performance goals and
15 tracking progress against those goals;

16 (C) engaging in early collaboration among
17 agencies, project sponsors, and affected stake-
18 holders—

19 (i) to incorporate and address the in-
20 terests of those parties; and

21 (ii) to minimize delays;

22 (D) ensuring transparency and account-
23 ability by using cost-effective information tech-
24 nology to collect and disseminate information

1 regarding individual projects and agency per-
2 formance;

3 (E) engaging in early and active consulta-
4 tion with State, local, and Indian tribal govern-
5 ments to avoid conflicts or duplication of effort,
6 resolve concerns, and allow for concurrent,
7 rather than sequential, reviews;

8 (F) providing demonstrable improvements
9 in the performance of Federal permitting and
10 review processes, including lower costs and
11 more timely decisions;

12 (G) expanding and institutionalizing per-
13 mitting and review process improvements that
14 have proven effective;

15 (H) developing mechanisms to better com-
16 municate priorities and resolve disputes among
17 agencies at the national, regional, State, and
18 local levels; and

19 (I) developing other practices, such as
20 preapplication procedures.

21 (3) REVIEW AND REPORT.—Not later than 1
22 year after the date of enactment of this Act, the
23 Secretaries shall submit to Congress a report that—

24 (A) identifies additional measures (includ-
25 ing regulatory and legislative proposals, as ap-

1 propriate) that would increase the timeliness of
2 permitting activities for the exploration and de-
3 velopment of domestic critical minerals;

4 (B) identifies options (including cost recov-
5 ery paid by permit applicants) for ensuring ade-
6 quate staffing and training of Federal entities
7 and personnel responsible for the consideration
8 of applications, operating plans, leases, licenses,
9 permits, and other use authorizations for crit-
10 ical mineral-related activities on Federal land;

11 (C) quantifies the amount of time typically
12 required (including range derived from min-
13 imum and maximum durations, mean, median,
14 variance, and other statistical measures or rep-
15 resentations) to complete each step (including
16 those aspects outside the control of the execu-
17 tive branch, such as judicial review, applicant
18 decisions, or State and local government in-
19 volvement) associated with the development and
20 processing of applications, operating plans,
21 leases, licenses, permits, and other use author-
22 izations for critical mineral-related activities on
23 Federal land, which shall serve as a baseline for
24 the performance metric under paragraph (4);
25 and

1 (D) describes actions carried out pursuant
2 to paragraph (2).

3 (4) PERFORMANCE METRIC.—Not later than 90
4 days after the date of submission of the report
5 under paragraph (3), the Secretaries, after providing
6 public notice and an opportunity to comment, shall
7 develop and publish a performance metric for evalu-
8 ating the progress made by the executive branch to
9 expedite the permitting of activities that will in-
10 crease exploration for, and development of, domestic
11 critical minerals, while maintaining environmental
12 standards.

13 (5) ANNUAL REPORTS.—Beginning with the
14 first budget submission by the President under sec-
15 tion 1105 of title 31, United States Code, after pub-
16 lication of the performance metric required under
17 paragraph (4), and annually thereafter, the Secre-
18 taries shall submit to Congress a report that—

19 (A) summarizes the implementation of rec-
20 ommendations, measures, and options identified
21 in subparagraphs (A) and (B) of paragraph (3);

22 (B) using the performance metric under
23 paragraph (4), describes progress made by the
24 executive branch, as compared to the baseline
25 established pursuant to paragraph (3)(C), on

1 expediting the permitting of activities that will
2 increase exploration for, and development of,
3 domestic critical minerals; and

4 (C) compares the United States to other
5 countries in terms of permitting efficiency and
6 any other criteria relevant to the globally com-
7 petitive critical minerals industry.

8 (6) INDIVIDUAL PROJECTS.—Using data from
9 the Secretaries generated under paragraph (5), the
10 Director of the Office of Management and Budget
11 shall prioritize inclusion of individual critical mineral
12 projects on the website operated by the Office of
13 Management and Budget in accordance with section
14 1122 of title 31, United States Code.

15 (7) REPORT OF SMALL BUSINESS ADMINISTRA-
16 TION.—Not later than 1 year and 300 days after the
17 date of enactment of this Act, the Administrator of
18 the Small Business Administration shall submit to
19 the applicable committees of Congress a report that
20 assesses the performance of Federal agencies with
21 respect to—

22 (A) complying with chapter 6 of title 5,
23 United States Code (commonly known as the
24 “Regulatory Flexibility Act”), in promulgating

1 regulations applicable to the critical minerals
2 industry; and

3 (B) performing an analysis of regulations
4 applicable to the critical minerals industry that
5 may be outmoded, inefficient, duplicative, or ex-
6 cessively burdensome.

7 (f) FEDERAL REGISTER PROCESS.—

8 (1) DEPARTMENTAL REVIEW.—Absent any ex-
9 traordinary circumstance, and except as otherwise
10 required by law, the Secretary and the Secretary of
11 Agriculture shall ensure that each Federal Register
12 notice described in paragraph (2) shall be—

13 (A) subject to any required reviews within
14 the Department of the Interior or the Depart-
15 ment of Agriculture; and

16 (B) published in final form in the Federal
17 Register not later than 45 days after the date
18 of initial preparation of the notice.

19 (2) PREPARATION.—The preparation of Federal
20 Register notices required by law associated with the
21 issuance of a critical mineral exploration or mine
22 permit shall be delegated to the organizational level
23 within the agency responsible for issuing the critical
24 mineral exploration or mine permit.

1 (3) TRANSMISSION.—All Federal Register no-
2 tices regarding official document availability, an-
3 nouncements of meetings, or notices of intent to un-
4 dertake an action shall be originated in, and trans-
5 mitted to the Federal Register from, the office in
6 which, as applicable—

7 (A) the documents or meetings are held; or

8 (B) the activity is initiated.

9 (g) RECYCLING, EFFICIENCY, AND ALTERNATIVES.—

10 (1) ESTABLISHMENT.—The Secretary of En-
11 ergy (referred to in this subsection as the “Sec-
12 retary”) shall conduct a program of research and de-
13 velopment—

14 (A) to promote the efficient production,
15 use, and recycling of critical minerals through-
16 out the supply chain; and

17 (B) to develop alternatives to critical min-
18 erals that do not occur in significant abundance
19 in the United States.

20 (2) COOPERATION.—In carrying out the pro-
21 gram, the Secretary shall cooperate with appro-
22 priate—

23 (A) Federal agencies and National Labora-
24 tories;

25 (B) critical mineral producers;

- 1 (C) critical mineral processors;
- 2 (D) critical mineral manufacturers;
- 3 (E) trade associations;
- 4 (F) academic institutions;
- 5 (G) small businesses; and
- 6 (H) other relevant entities or individuals.

7 (3) ACTIVITIES.—Under the program, the Sec-
8 retary shall carry out activities that include the iden-
9 tification and development of—

10 (A) advanced critical mineral extraction,
11 production, separation, alloying, or processing
12 technologies that decrease the energy consump-
13 tion, environmental impact, and costs of those
14 activities, including—

15 (i) efficient water and wastewater
16 management strategies;

17 (ii) technologies and management
18 strategies to control the environmental im-
19 pacts of radionuclides in ore tailings;

20 (iii) technologies for separation and
21 processing; and

22 (iv) technologies for increasing the re-
23 covery rates of byproducts from host metal
24 ores;

1 (B) technologies or process improvements
2 that minimize the use, or lead to more efficient
3 use, of critical minerals across the full supply
4 chain;

5 (C) technologies, process improvements, or
6 design optimizations that facilitate the recycling
7 of critical minerals, and options for improving
8 the rates of collection of products and scrap
9 containing critical minerals from post-con-
10 sumer, industrial, or other waste streams;

11 (D) commercial markets, advanced storage
12 methods, energy applications, and other bene-
13 ficial uses of critical minerals processing by-
14 products;

15 (E) alternative minerals, metals, and mate-
16 rials, particularly those available in abundance
17 within the United States and not subject to po-
18 tential supply restrictions, that lessen the need
19 for critical minerals; and

20 (F) alternative energy technologies or al-
21 ternative designs of existing energy tech-
22 nologies, particularly those that use minerals
23 that—

24 (i) occur in abundance in the United
25 States; and

1 (ii) are not subject to potential supply
2 restrictions.

3 (4) REPORTS.—Not later than 2 years after the
4 date of enactment of this Act, and annually there-
5 after, the Secretary shall submit to Congress a re-
6 port summarizing the activities, findings, and
7 progress of the program.

8 (h) ANALYSIS AND FORECASTING.—

9 (1) CAPABILITIES.—In order to evaluate exist-
10 ing critical mineral policies and inform future ac-
11 tions that may be taken to avoid supply shortages,
12 mitigate price volatility, and prepare for demand
13 growth and other market shifts, the Secretary (act-
14 ing through the Director of the United States Geo-
15 logical Survey) or a designee of the Secretary, in
16 consultation with the Energy Information Adminis-
17 tration, academic institutions, and others in order to
18 maximize the application of existing competencies re-
19 lated to developing and maintaining computer-mod-
20 els and similar analytical tools, shall conduct and
21 publish the results of an annual report that in-
22 cludes—

23 (A) as part of the annually published Min-
24 eral Commodity Summaries from the United
25 States Geological Survey, a comprehensive re-

1 view of critical mineral production, consump-
2 tion, and recycling patterns, including—

3 (i) the quantity of each critical min-
4 eral domestically produced during the pre-
5 ceding year;

6 (ii) the quantity of each critical min-
7 eral domestically consumed during the pre-
8 ceding year;

9 (iii) market price data or other price
10 data for each critical mineral;

11 (iv) an assessment of—

12 (I) critical mineral requirements
13 to meet the national security, energy,
14 economic, industrial, technological,
15 and other needs of the United States
16 during the preceding year;

17 (II) the reliance of the United
18 States on foreign sources to meet
19 those needs during the preceding year;
20 and

21 (III) the implications of any sup-
22 ply shortages, restrictions, or interrup-
23 tions during the preceding year;

1 (v) the quantity of each critical min-
2 eral domestically recycled during the pre-
3 ceding year;

4 (vi) the market penetration during the
5 preceding year of alternatives to each crit-
6 ical mineral;

7 (vii) a discussion of international
8 trends associated with the discovery, pro-
9 duction, consumption, use, costs of produc-
10 tion, prices, and recycling of each critical
11 mineral as well as the development of al-
12 ternatives to critical minerals; and

13 (viii) such other data, analyses, and
14 evaluations as the Secretary finds are nec-
15 essary to achieve the purposes of this sub-
16 section; and

17 (B) a comprehensive forecast, entitled the
18 “Annual Critical Minerals Outlook”, of pro-
19 jected critical mineral production, consumption,
20 and recycling patterns, including—

21 (i) the quantity of each critical min-
22 eral projected to be domestically produced
23 over the subsequent 1-year, 5-year, and
24 10-year periods;

1 (ii) the quantity of each critical min-
2 eral projected to be domestically consumed
3 over the subsequent 1-year, 5-year, and
4 10-year periods;

5 (iii) an assessment of—

6 (I) critical mineral requirements
7 to meet projected national security,
8 energy, economic, industrial, techno-
9 logical, and other needs of the United
10 States;

11 (II) the projected reliance of the
12 United States on foreign sources to
13 meet those needs; and

14 (III) the projected implications of
15 potential supply shortages, restric-
16 tions, or disruptions;

17 (iv) the quantity of each critical min-
18 eral projected to be domestically recycled
19 over the subsequent 1-year, 5-year, and
20 10-year periods;

21 (v) the market penetration of alter-
22 natives to each critical mineral projected to
23 take place over the subsequent 1-year, 5-
24 year, and 10-year periods;

1 (vi) a discussion of reasonably foresee-
2 able international trends associated with
3 the discovery, production, consumption,
4 use, costs of production, and recycling of
5 each critical mineral as well as the develop-
6 ment of alternatives to critical minerals;
7 and

8 (vii) such other projections relating to
9 each critical mineral as the Secretary de-
10 termines to be necessary to achieve the
11 purposes of this subsection.

12 (2) PROPRIETARY INFORMATION.—In preparing
13 a report described in paragraph (1), the Secretary
14 shall ensure, consistent with section 5(f) of the Na-
15 tional Materials and Minerals Policy, Research and
16 Development Act of 1980 (30 U.S.C. 1604(f)),
17 that—

18 (A) no person uses the information and
19 data collected for the report for a purpose other
20 than the development of or reporting of aggre-
21 gate data in a manner such that the identity of
22 the person or firm who supplied the information
23 is not discernible and is not material to the in-
24 tended uses of the information;

1 (B) no person discloses any information or
2 data collected for the report unless the informa-
3 tion or data has been transformed into a statis-
4 tical or aggregate form that does not allow the
5 identification of the person or firm who sup-
6 plied particular information; and

7 (C) procedures are established to require
8 the withholding of any information or data col-
9 lected for the report if the Secretary determines
10 that withholding is necessary to protect propri-
11 etary information, including any trade secrets
12 or other confidential information.

13 (i) EDUCATION AND WORKFORCE.—

14 (1) WORKFORCE ASSESSMENT.—Not later than
15 1 year and 300 days after the date of enactment of
16 this Act, the Secretary of Labor (in consultation
17 with the Secretary, the Director of the National
18 Science Foundation, institutions of higher education
19 with substantial expertise in mining, institutions of
20 higher education with significant expertise in min-
21 erals research, including fundamental research into
22 alternatives, and employers in the critical minerals
23 sector) shall submit to Congress an assessment of
24 the domestic availability of technically trained per-
25 sonnel necessary for critical mineral exploration, de-

1 velopment, assessment, production, manufacturing,
2 recycling, analysis, forecasting, education, and re-
3 search, including an analysis of—

4 (A) skills that are in the shortest supply as
5 of the date of the assessment;

6 (B) skills that are projected to be in short
7 supply in the future;

8 (C) the demographics of the critical min-
9 erals industry and how the demographics will
10 evolve under the influence of factors such as an
11 aging workforce;

12 (D) the effectiveness of training and edu-
13 cation programs in addressing skills shortages;

14 (E) opportunities to hire locally for new
15 and existing critical mineral activities;

16 (F) the sufficiency of personnel within rel-
17 evant areas of the Federal Government for
18 achieving the policies described in section 3 of
19 the National Materials and Minerals Policy, Re-
20 search and Development Act of 1980 (30
21 U.S.C. 1602); and

22 (G) the potential need for new training
23 programs to have a measurable effect on the
24 supply of trained workers in the critical min-
25 erals industry.

1 (2) CURRICULUM STUDY.—

2 (A) IN GENERAL.—The Secretary and the
3 Secretary of Labor shall jointly enter into an
4 arrangement with the National Academy of
5 Sciences and the National Academy of Engi-
6 neering under which the Academies shall co-
7 ordinate with the National Science Foundation
8 on conducting a study—

9 (i) to design an interdisciplinary pro-
10 gram on critical minerals that will support
11 the critical mineral supply chain and im-
12 prove the ability of the United States to
13 increase domestic, critical mineral explo-
14 ration, development, production, manufac-
15 turing, research, including fundamental re-
16 search into alternatives, and recycling;

17 (ii) to address undergraduate and
18 graduate education, especially to assist in
19 the development of graduate level pro-
20 grams of research and instruction that
21 lead to advanced degrees with an emphasis
22 on the critical mineral supply chain or
23 other positions that will increase domestic,
24 critical mineral exploration, development,
25 production, manufacturing, research, in-

1 cluding fundamental research into alter-
2 natives, and recycling;

3 (iii) to develop guidelines for pro-
4 posals from institutions of higher edu-
5 cation with substantial capabilities in the
6 required disciplines for activities to im-
7 prove the critical mineral supply chain and
8 advance the capacity of the United States
9 to increase domestic, critical mineral explo-
10 ration, research, development, production,
11 manufacturing, and recycling; and

12 (iv) to outline criteria for evaluating
13 performance and recommendations for the
14 amount of funding that will be necessary
15 to establish and carry out the program de-
16 scribed in paragraph (3).

17 (B) REPORT.—Not later than 2 years after
18 the date of enactment of this Act, the Secretary
19 shall submit to Congress a description of the re-
20 sults of the study required under subparagraph
21 (A).

22 (3) PROGRAM.—

23 (A) ESTABLISHMENT.—The Secretary and
24 the Secretary of Labor shall jointly conduct a
25 competitive grant program under which institu-

1 tions of higher education may apply for and re-
2 ceive 4-year grants for—

3 (i) startup costs for newly designated
4 faculty positions in integrated critical min-
5 eral education, research, innovation, train-
6 ing, and workforce development programs
7 consistent with paragraph (2);

8 (ii) internships, scholarships, and fel-
9 lowships for students enrolled in programs
10 related to critical minerals;

11 (iii) equipment necessary for inte-
12 grated critical mineral innovation, training,
13 and workforce development programs; and

14 (iv) research of critical minerals and
15 their applications, particularly concerning
16 the manufacture of critical components
17 vital to national security.

18 (B) RENEWAL.—A grant under this para-
19 graph shall be renewable for up to 2 additional
20 3-year terms based on performance criteria out-
21 lined under paragraph (2)(A)(iv).

22 (j) NATIONAL GEOLOGICAL AND GEOPHYSICAL DATA
23 PRESERVATION PROGRAM.—Section 351(k) of the Energy
24 Policy Act of 2005 (42 U.S.C. 15908(k)) is amended by
25 striking “\$30,000,000 for each of fiscal years 2006

1 through 2010” and inserting “\$5,000,000 for each of fis-
2 cal years 2021 through 2030, to remain available until ex-
3 pended”.

4 (k) ADMINISTRATION.—

5 (1) IN GENERAL.—The National Critical Mate-
6 rials Act of 1984 (30 U.S.C. 1801 et seq.) is re-
7 pealed.

8 (2) CONFORMING AMENDMENT.—Section 3(d)
9 of the National Superconductivity and Competitive-
10 ness Act of 1988 (15 U.S.C. 5202(d)) is amended
11 in the first sentence by striking “, with the assist-
12 ance of the National Critical Materials Council as
13 specified in the National Critical Materials Act of
14 1984 (30 U.S.C. 1801 et seq.),”.

15 (3) SAVINGS CLAUSES.—

16 (A) IN GENERAL.—Nothing in this section
17 or an amendment made by this section modifies
18 any requirement or authority provided by—

19 (i) the matter under the heading “**GE-**
20 **OLOGICAL SURVEY**” of the first section
21 of the Act of March 3, 1879 (43 U.S.C.
22 31(a)); or

23 (ii) the first section of Public Law
24 87–626 (43 U.S.C. 31(b)).

1 (B) EFFECT ON DEPARTMENT OF DE-
2 FENSE.—Nothing in this section or an amend-
3 ment made by this section affects the authority
4 of the Secretary of Defense with respect to the
5 work of the Department of Defense on critical
6 material supplies in furtherance of the national
7 defense mission of the Department of Defense.

8 (C) SECRETARIAL ORDER NOT AF-
9 FECTED.—This section shall not apply to any
10 mineral described in Secretarial Order No.
11 3324, issued by the Secretary on December 3,
12 2012, in any area to which the order applies.

13 (4) APPLICATION OF CERTAIN PROVISIONS.—

14 (A) IN GENERAL.—Subsections (e) and (f)
15 shall apply to—

16 (i) an exploration project in which the
17 presence of a byproduct is reasonably ex-
18 pected, based on known mineral
19 companionality, geologic formation, min-
20 eralogy, or other factors; and

21 (ii) a project that demonstrates that
22 the byproduct is of sufficient grade that,
23 when combined with the production of a
24 host mineral, the byproduct is economic to
25 recover, as determined by the applicable

1 Secretary in accordance with subparagraph
2 (B).

3 (B) REQUIREMENT.—In making the deter-
4 mination under subparagraph (A)(ii), the appli-
5 cable Secretary shall consider the cost effective-
6 ness of the byproducts recovery.

7 (I) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to carry out this section
9 \$50,000,000 for each of fiscal years 2021 through 2030.

10 **SEC. 10002. RARE EARTH ELEMENT ADVANCED COAL TECH-**
11 **NOLOGIES.**

12 (a) PROGRAM FOR EXTRACTION AND RECOVERY OF
13 RARE EARTH ELEMENTS AND MINERALS FROM COAL
14 AND COAL BYPRODUCTS.—

15 (1) IN GENERAL.—The Secretary of Energy,
16 acting through the Assistant Secretary for Fossil
17 Energy (referred to in this section as the “Sec-
18 retary”), shall carry out a program under which the
19 Secretary shall develop advanced separation tech-
20 nologies for the extraction and recovery of rare earth
21 elements and minerals from coal and coal byprod-
22 ucts.

23 (2) AUTHORIZATION OF APPROPRIATIONS.—
24 There is authorized to be appropriated to the Sec-
25 retary to carry out the program described in para-

1 graph (1) \$23,000,000 for each of fiscal years 2021
2 through 2028.

3 (b) REPORT.—Not later than 1 year after the date
4 of enactment of this Act, the Secretary shall submit to
5 the Committee on Energy and Natural Resources of the
6 Senate and the Committee on Energy and Commerce of
7 the House of Representatives a report evaluating the de-
8 velopment of advanced separation technologies for the ex-
9 traction and recovery of rare earth elements and minerals
10 from coal and coal byproducts, including acid mine drain-
11 age from coal mines.

12 **TITLE XI—MISCELLANEOUS**
13 **PROVISIONS**

14 **SEC. 11001. EMERGENCY DESIGNATION.**

15 (a) IN GENERAL.—The amounts provided by this di-
16 vision and the amendments made by this division are des-
17 ignated as an emergency requirement pursuant to section
18 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2
19 U.S.C. 933(g)).

20 (b) DESIGNATION IN SENATE.—In the Senate, this
21 division and the amendments made by this division are
22 designated as an emergency requirement pursuant to sec-
23 tion 4112(a) of H. Con. Res. 71 (115th Congress), the
24 concurrent resolution on the budget for fiscal year 2018.

1 **DIVISION B—CORONAVIRUS RESPONSE**
2 **ADDITIONAL SUPPLEMENTAL APPRO-**
3 **PRIATIONS ACT, 2020**

4 The following sums are hereby are appropriated, out
5 of any money in the Treasury not otherwise appropriated,
6 for the fiscal year ending September 30, 2020, and for
7 other purposes, namely:

8 **TITLE I**

9 **DEPARTMENT OF HEALTH AND HUMAN**
10 **SERVICES**

11 **PAYMENTS TO STATES FOR THE CHILD CARE AND**
12 **DEVELOPMENT BLOCK GRANT**

13 For an additional amount for “Payments to States
14 for the Child Care and Development Block Grant”,
15 \$5,000,000,000, to remain available through September
16 30, 2021, to prevent, prepare for, and respond to
17 coronavirus, domestically or internationally, including for
18 Federal administrative expenses, which shall be used to
19 supplement, not supplant State, Territory, and Tribal gen-
20 eral revenue funds for child care assistance for low-income
21 families within the United States (including territories)
22 without regard to requirements in sections
23 658E(c)(3)(D)–(E) or 658G of the Child Care and Devel-
24 opment Block Grant Act: *Provided*, That funds provided
25 under this heading in this Act may be used to provide con-

1 tinued payments and assistance to child care providers in
2 the case of decreased enrollment or closures related to
3 coronavirus, and to assure they are able to remain open
4 or reopen as appropriate and applicable: *Provided further*,
5 That States, Territories, and Tribes are encouraged to
6 place conditions on payments to child care providers that
7 ensure that child care providers use a portion of funds
8 received to continue to pay the salaries and wages of staff:
9 *Provided further*, That the Secretary shall remind States
10 that CCDBG State plans do not need to be amended prior
11 to utilizing existing authorities in the CCDBG Act for the
12 purposes provided herein: *Provided further*, That States,
13 Territories, and Tribes are authorized to use funds appro-
14 priated under this heading in this Act to provide child care
15 assistance to health care sector employees, emergency re-
16 sponders, sanitation workers, and other workers deemed
17 essential during the response to coronavirus by public offi-
18 cials, without regard to the income eligibility requirements
19 of section 658P(4) of such Act: *Provided further*, That
20 funds appropriated under this heading in this Act shall
21 be available to eligible child care providers under section
22 658P(6) of the CCDBG Act, even if such providers were
23 not receiving CCDBG assistance prior to the public health
24 emergency as a result of the coronavirus and any renewal
25 of such declaration pursuant to such section 319, for the

1 purposes of cleaning and sanitation, and other activities
2 necessary to maintain or resume the operation of pro-
3 grams: *Provided further*, That payments made under this
4 heading in this Act may be obligated in this fiscal year
5 or the succeeding two fiscal years: *Provided further*, That
6 funds appropriated under this heading in this Act may be
7 made available to restore amounts, either directly or
8 through reimbursement, for obligations incurred to pre-
9 vent, prepare for, and respond to coronavirus, domestically
10 or internationally, prior to the date of enactment of this
11 Act: *Provided further*, That such amount is designated by
12 the Congress as being for an emergency requirement pur-
13 suant to section 251(b)(2)(A)(i) of the Balanced Budget
14 and Emergency Deficit Control Act of 1985.

15 BACK TO WORK CHILD CARE GRANTS

16 For an additional amount for “Back to Work Child
17 Care Grants”, \$10,000,000,000, to remain available
18 through September 30, 2021, to prevent, prepare for, and
19 respond to coronavirus, domestically or internationally,
20 which shall be for activities to carry out Back to Work
21 Child Care Grants as authorized by section 6101 of divi-
22 sion A of this Act: *Provided*, That such amount is des-
23 ignated by the Congress as being for an emergency re-
24 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-
25 anced Budget and Emergency Deficit Control Act of 1985.

1 OFFICE OF THE SECRETARY
2 PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY
3 FUND
4 (INCLUDING TRANSFER OF FUNDS)

5 For an additional amount for “Public Health and So-
6 cial Services Emergency Fund”, \$31,000,000,000, to re-
7 main available until September 30, 2024, to prevent, pre-
8 pare for, and respond to coronavirus, domestically or
9 internationally, including the development of necessary
10 countermeasures and vaccines, prioritizing platform-based
11 technologies with U.S.-based manufacturing capabilities,
12 the purchase of vaccines, therapeutics, diagnostics, nec-
13 essary medical supplies, as well as medical surge capacity,
14 addressing blood supply chain, workforce modernization,
15 telehealth access and infrastructure, initial advanced man-
16 ufacturing, novel dispensing, enhancements to the U.S.
17 Commissioned Corps, and other preparedness and re-
18 sponse activities: *Provided*, That funds appropriated under
19 this paragraph in this Act may be used to develop and
20 demonstrate innovations and enhancements to manufac-
21 turing platforms to support such capabilities: *Provided*
22 *further*, That the Secretary of Health and Human Services
23 shall purchase vaccines developed using funds made avail-
24 able under this paragraph in this Act to respond to an
25 outbreak or pandemic related to coronavirus in quantities

1 determined by the Secretary to be adequate to address the
2 public health need: *Provided further*, That products pur-
3 chased by the Federal government with funds made avail-
4 able under this paragraph in this Act, including vaccines,
5 therapeutics, and diagnostics, shall be purchased in ac-
6 cordance with Federal Acquisition Regulation guidance on
7 fair and reasonable pricing: *Provided further*, That the
8 Secretary may take such measures authorized under cur-
9 rent law to ensure that vaccines, therapeutics, and
10 diagnostics developed from funds provided in this Act will
11 be affordable in the commercial market: *Provided further*,
12 That in carrying out the previous proviso, the Secretary
13 shall not take actions that delay the development of such
14 products: *Provided further*, That the Secretary shall en-
15 sure that protections remain for individuals enrolled in
16 group or individual health care coverage with pre-existing
17 conditions, including those linked to coronavirus: *Provided*
18 *further*, That products purchased with funds appropriated
19 under this paragraph in this Act may, at the discretion
20 of the Secretary of Health and Human Services, be depos-
21 ited in the Strategic National Stockpile under section
22 319F–2 of the Public Health Service Act: *Provided fur-*
23 *ther*, That of the amount appropriated under this para-
24 graph in this Act, not more than \$2,000,000,000 shall be
25 for the Strategic National Stockpile under section 319F–

1 2(a) of such Act: *Provided further*, That funds appro-
2 priated under this paragraph in this Act may be trans-
3 ferred to, and merged with, the fund authorized by section
4 319F–4, the Covered Counter measure Process Fund, of
5 the Public Health Service Act: *Provided further*, That of
6 the amount appropriated under this paragraph in this Act,
7 not more than \$2,000,000,000, to remain available until
8 September 30, 2022, shall be for activities to improve and
9 sustain State medical stockpiles, as described in the
10 amendments made by section 7002 of division A of this
11 Act: *Provided further*, That of the amount appropriated
12 under this paragraph in this Act, \$20,000,000,000 shall
13 be available to the Biomedical Advanced Research and De-
14 velopment Authority for necessary expenses of manufac-
15 turing, production, and purchase, at the discretion of the
16 Secretary, of vaccines, therapeutics, diagnostics, and small
17 molecule active pharmaceutical ingredients, including the
18 development, translation, and demonstration at scale of
19 innovations in manufacturing platforms: *Provided further*,
20 That funds in the previous proviso may be used for the
21 construction or renovation of U.S.-based next generation
22 manufacturing facilities, other than facilities owned by the
23 United States Government: *Provided further*, That
24 amounts provided in the eleventh proviso may be for nec-
25 essary expenses related to the sustained on-shore manu-

1 facturing capacity for public health emergencies, as de-
2 scribed in the amendments made by section 7001 of divi-
3 sion A of this Act: *Provided further*, That of the amount
4 appropriated under this paragraph in this Act,
5 \$6,000,000,000 shall be for activities to plan, prepare for,
6 promote, distribute, administer, monitor, and track
7 coronavirus vaccines to ensure broad-based distribution,
8 access, and vaccine coverage: *Provided further*, That the
9 Secretary shall coordinate funding and activities outlined
10 in the previous proviso through the Director of CDC: *Pro-*
11 *vided further*, That the Secretary, through the Director of
12 CDC, shall report to the Committees on Appropriations
13 of the House of Representatives and the Senate within 60
14 days of enactment of this Act on a comprehensive
15 coronavirus vaccine distribution strategy and spend plan
16 that includes how existing infrastructure will be leveraged,
17 enhancements or new infrastructure that may be built,
18 considerations for moving and storing vaccines, guidance
19 for how States and health care providers should prepare
20 for, store, and administer vaccines, nationwide vaccination
21 targets, funding that will be distributed to States, how an
22 informational campaign to both the public and health care
23 providers will be executed, and how the vaccine distribu-
24 tion plan will focus efforts on high risk, underserved, and
25 minority populations: *Provided further*, That such plan

1 shall be updated and provided to the Committees on Ap-
2 propriations of the House of Representatives and the Sen-
3 ate 90 days after submission of the first plan: *Provided*
4 *further*, That the Secretary shall notify the Committees
5 on Appropriations of the House of Representatives and the
6 Senate 2 days in advance of any obligation in excess of
7 \$50,000,000, including but not limited to contracts and
8 interagency agreements, from funds provided in this para-
9 graph in this Act: *Provided further*, That funds appro-
10 priated under this paragraph in this Act may be used for
11 the construction, alteration, or renovation of non-federally
12 owned facilities for the production of vaccines, thera-
13 peutics, diagnostics, and medical supplies where the Sec-
14 retary determines that such a contract is necessary to se-
15 cure sufficient amounts of such supplies: *Provided further*,
16 That the not later than 30 days after enactment of this
17 Act, and every 30 days thereafter until funds are ex-
18 pended, the Secretary shall report to the Committees on
19 Appropriations of the House of Representatives and the
20 Senate on uses of funding for Operation Warp Speed, de-
21 tailing current obligations by Department or Agency, or
22 component thereof broken out by the coronavirus supple-
23 mental appropriations Act that provided the source of
24 funds: *Provided further*, That the plan outlined in the pre-
25 vious proviso shall include funding by contract, grant, or

1 other transaction in excess of \$20,000,000 with a notation
2 of which Department or Agency, and component thereof
3 is managing the contract: *Provided further*, That such
4 amount is designated by the Congress as being for an
5 emergency requirement pursuant to section
6 251(b)(2)(A)(i) of the Balanced Budget and Emergency
7 Deficit Control Act of 1985.

8 For an additional amount for “Public Health and So-
9 cial Services Emergency Fund”, \$16,000,000,000, to re-
10 main available until September 30, 2022, to prevent, pre-
11 pare for, and respond to coronavirus, domestically or
12 internationally, which shall be for necessary expenses for
13 testing, contact tracing, surveillance, containment, and
14 mitigation to monitor and suppress COVID–19, including
15 tests for both active infection and prior exposure, includ-
16 ing molecular, antigen, and serological tests, the manufac-
17 turing, procurement and distribution of tests, testing
18 equipment and testing supplies, including personal protec-
19 tive equipment needed for administering tests, the devel-
20 opment and validation of rapid, molecular point-of-care
21 tests, and other tests, support for workforce, epidemiology,
22 to scale up academic, commercial, public health, and hos-
23 pital laboratories, to conduct surveillance and contact
24 tracing, support development of COVID–19 testing plans,
25 and other related activities related to COVID–19 testing:

1 *Provided*, That of the amount appropriated under this
2 paragraph in this Act, not less than \$15,000,000,000 shall
3 be for States, localities, territories, tribes, tribal organiza-
4 tions, urban Indian health organizations, or health service
5 providers to tribes for necessary expenses for testing, con-
6 tact tracing, surveillance, containment, and mitigation, in-
7 cluding support for workforce, epidemiology, use by em-
8 ployers, elementary and secondary schools, child care fa-
9 cilities, institutions of higher education, long-term care fa-
10 cilities, or in other settings, scale up of testing by public
11 health, academic, commercial, and hospital laboratories,
12 and community-based testing sites, health care facilities,
13 and other entities engaged in COVID–19 testing, and
14 other related activities related to COVID–19 testing, con-
15 tact tracing, surveillance, containment, and mitigation:
16 *Provided further*, That the amount provided in the pre-
17 ceding proviso under this paragraph in this Act shall be
18 made available within 30 days of the date of enactment
19 of this Act: *Provided further*, That the amount identified
20 in the first proviso under this paragraph in this Act shall
21 be allocated to States, localities, and territories according
22 to the formula that applied to the Public Health Emer-
23 gency Preparedness cooperative agreement in fiscal year
24 2019: *Provided further*, That not less than \$500,000,000
25 shall be allocated in coordination with the Director of the

1 Indian Health Service, to tribes, tribal organizations,
2 urban Indian health organizations, or health service pro-
3 viders to tribes: *Provided further*, That the Secretary of
4 Health and Human Services (referred to in this paragraph
5 as the “Secretary”) may satisfy the funding thresholds
6 outlined in the first and fourth provisos under this para-
7 graph in this Act by making awards through other grant
8 or cooperative agreement mechanisms: *Provided further*,
9 That the Governor or designee of each State, locality, ter-
10 ritory, tribe, or tribal organization receiving funds pursu-
11 ant to this Act shall update their plans, as applicable, for
12 COVID–19 testing and contact tracing submitted to the
13 Secretary pursuant to the Paycheck Protection Program
14 and Health Care Enhancement Act (Public Law 116–139)
15 and submit such updates to the Secretary not later than
16 60 days after funds appropriated in this paragraph in this
17 Act have been awarded to such recipient: *Provided further*,
18 That not later than 60 days after enactment, and every
19 quarter thereafter until funds are expended, the Governor
20 or designee of each State, locality, territory, tribe, or tribal
21 organization receiving funds shall report to the Secretary
22 on uses of funding, detailing current commitments and ob-
23 ligations broken out by the coronavirus supplemental ap-
24 propriations Act that provided the source of funds: *Pro-*
25 *vided further*, That not later than 15 days after receipt

1 of such reports, the Secretary shall summarize and report
2 to the Committees on Appropriations of the House of Rep-
3 resentatives and the Senate on States' commitments and
4 obligations of funding: *Provided further*, That funds an en-
5 tity receives from amounts described in the first proviso
6 in this paragraph may also be used for the rent, lease,
7 purchase, acquisition, construction, alteration, renovation,
8 or equipping of non-federally owned facilities to improve
9 coronavirus preparedness and response capability at the
10 State and local level: *Provided further*, That such amount
11 is designated by the Congress as being for an emergency
12 requirement pursuant to section 251(b)(2)(A)(i) of the
13 Balanced Budget and Emergency Deficit Control Act of
14 1985.

15 DEPARTMENT OF EDUCATION

16 EDUCATION STABILIZATION FUND

17 For an additional amount for "Education Stabiliza-
18 tion Fund", \$105,000,000,000, to remain available
19 through September 30, 2021, to prevent, prepare for, and
20 respond to coronavirus, domestically or internationally:
21 *Provided*, That such amount is designated by the Congress
22 as being for an emergency requirement pursuant to sec-
23 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-
24 gency Deficit Control Act of 1985.

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1 GENERAL PROVISIONS

2 EDUCATION STABILIZATION FUND

3 SEC. 101. (a) ALLOCATIONS.—From the amount
4 made available under this heading in this Act to carry out
5 the Education Stabilization Fund, the Secretary shall first
6 allocate—

7 (1) not more than one half of 1 percent to the
8 outlying areas on the basis of the terms and condi-
9 tions for funding provided under this heading in the
10 Coronavirus Aid, Relief, and Economic Security
11 (CARES) Act (Public Law 116–136); and

12 (2) one-half of 1 percent for the Secretary of
13 the Interior for programs operated or funded by the
14 Bureau of Indian Education, under the terms and
15 conditions established for funding provided under
16 this heading in the CARES Act (Public Law 116–
17 136).

18 (b) RESERVATIONS.—After carrying out subsection
19 (a), the Secretary shall reserve the remaining funds made
20 available as follows:

21 (1) 5 percent to carry out section 102 of this
22 title.

23 (2) 67 percent to carry out section 103 of this
24 title.

1 (3) 28 percent to carry out section 104 of this
2 title.

3 GOVERNOR’S EMERGENCY EDUCATION RELIEF FUND

4 SEC. 102. (a) GRANTS.—From funds reserved under
5 section 101(b)(1) of this title, the Secretary shall make
6 supplemental Emergency Education Relief grants to the
7 Governor of each State with an approved application
8 under section 18002 of division B of the CARES Act
9 (Public Law 116–136). The Secretary shall award funds
10 under this section to the Governor of each State with an
11 approved application within 30 calendar days of enact-
12 ment of this Act.

13 (b) ALLOCATIONS.—The amount of each grant under
14 subsection (a) shall be allocated by the Secretary to each
15 State as follows:

16 (1) 60 percent on the basis of their relative
17 population of individuals aged 5 through 24.

18 (2) 40 percent on the basis of their relative
19 number of children counted under section 1124(c) of
20 the Elementary and Secondary Education Act of
21 1965 (referred to under this heading as “ESEA”).

22 (c) USES OF FUNDS.—Grant funds awarded under
23 subsection (b) may be used to—

24 (1) provide emergency support through grants
25 to local educational agencies that the State edu-

1 cational agency deems have been most significantly
2 impacted by coronavirus to support the ability of
3 such local educational agencies to continue to pro-
4 vide educational services to their students and to
5 support the on-going functionality of the local edu-
6 cational agency;

7 (2) provide emergency support through grants
8 to institutions of higher education serving students
9 within the State that the Governor determines have
10 been most significantly impacted by coronavirus to
11 support the ability of such institutions to continue to
12 provide educational services and support the on-
13 going functionality of the institution; and

14 (3) provide support to any other institution of
15 higher education, local educational agency, or edu-
16 cation related entity within the State that the Gov-
17 ernor deems essential for carrying out emergency
18 educational services to students for authorized ac-
19 tivities described in section 103(e) of this title, the
20 ESEA of 1965, the Higher Education Act of 1965,
21 the provision of child care and early childhood edu-
22 cation, social and emotional support, career and
23 technical education, adult education, and the protec-
24 tion of education-related jobs.

1 (d) REALLOCATION.—Each Governor shall return to
2 the Secretary any funds received under this section that
3 the Governor does not award within 6 months of receiving
4 such funds and the Secretary shall reallocate such funds
5 to the remaining States in accordance with subsection (b).

6 (e) REPORT.—A Governor receiving funds under this
7 section shall submit a report to the Secretary, not later
8 than 6 months after receiving funding provided in this
9 Act, in such manner and with such subsequent frequency
10 as the Secretary may require, that provides a detailed ac-
11 counting of the use of funds provided under this section.

12 ELEMENTARY AND SECONDARY SCHOOL EMERGENCY

13 RELIEF FUND

14 SEC. 103. (a) GRANTS.—From funds reserved under
15 section 101(b)(2) of this title, the Secretary shall make
16 supplemental elementary and secondary school emergency
17 relief grants to each State educational agency with an ap-
18 proved application under section 18003 of division B of
19 the CARES Act (Public Law 116–136). The Secretary
20 shall award funds under this section to each State edu-
21 cational agency with an approved application within 15
22 calendar days of enactment of this Act.

23 (b) ALLOCATIONS TO STATES.—The amount of each
24 grant under subsection (a) shall be allocated by the Sec-
25 retary to each State in the same proportion as each State

1 received under part A of title I of the ESEA of 1965 in
2 the most recent fiscal year.

3 (c) SUBGRANTS.—From the payment provided by the
4 Secretary under subsection (b), the State educational
5 agency may provide services and assistance to local edu-
6 cational agencies and non-public schools, consistent with
7 the provisions of this title. After carrying out the reserva-
8 tion of funds in section 105 of this title, each State shall
9 allocate not less than 90 percent of the remaining grant
10 funds awarded to the State under this section as sub-
11 grants to local educational agencies (including charter
12 schools that are local educational agencies) in the State
13 in proportion to the amount of funds such local edu-
14 cational agencies and charter schools that are local edu-
15 cational agencies received under part A of title I of the
16 ESEA of 1965 in the most recent fiscal year. The State
17 educational agency shall make such subgrants to local
18 educational agencies as follows—

19 (1) one-third of funds shall be awarded not less
20 than 15 calendar days after receiving an award from
21 the Secretary under this section; and

22 (2) the remaining two-thirds of funds shall be
23 awarded only after the local educational agency sub-
24 mits to the Governor and the Governor approves a
25 comprehensive school reopening plan for the 2020–

1 2021 school-year, based on criteria determined by
2 the Governor in consultation with the State edu-
3 cational agency (including criteria for the Governor
4 to carry out subparagraph (A) through (C)), that
5 describes how the local educational agency will safely
6 reopen schools with the physical presence of stu-
7 dents, consistent with maintaining safe and contin-
8 uous operations aligned with challenging state aca-
9 demic standards. The Governor shall approve such
10 plans within 30 days after the plan is submitted,
11 subject to the requirements in subparagraphs (A)
12 through (C).

13 (A) A local educational agency that pro-
14 vides in-person instruction for at least 50 per-
15 cent of its students where the students phys-
16 ically attend school no less than 50 percent of
17 each school-week, as it was defined by the local
18 educational agency prior to the coronavirus
19 emergency, shall have its plan automatically ap-
20 proved.

21 (B) A local educational agency that does
22 not provide in-person instruction to any stu-
23 dents where the students physically attend
24 school in-person shall not be eligible to receive
25 a subgrant under paragraph (2).

1 (C) A local educational agency that pro-
2 vides in-person instruction to at least some stu-
3 dents where the students physically attend
4 school in-person but does not satisfy the re-
5 quirements in subparagraph (A) shall have its
6 allocation reduced on a pro rata basis as deter-
7 mined by the Governor.

8 (d) PLAN CONTENTS.—A school reopening plan sub-
9 mitted to a Governor under subsection (c)(2) shall include,
10 in addition to any other information necessary to meet the
11 criteria determined by the Governor—

12 (1) A detailed timeline for when the local edu-
13 cational agency will provide in-person instruction, in-
14 cluding the goals and criteria used for providing full-
15 time in-person instruction to all students;

16 (2) A description of how many days of in-per-
17 son instruction per calendar week the local edu-
18 cational agency plans to offer to students during the
19 2020–2021 school year; and

20 (3) An assurance that the local educational
21 agency will offer students as much in-person instruc-
22 tion as is safe and practicable, consistent with main-
23 taining safe and continuous operations aligned with
24 challenging state academic standards.

25 (e) USES OF FUNDS.—

1 (1) A local educational agency or non-public
2 school that receives funds under subsection (c)(1) or
3 section 105 may use funds for any of the following:

4 (A) Activities to support returning to in-
5 person instruction, including purchasing per-
6 sonal protective equipment, implementing flexi-
7 ble schedules to keep children in isolated
8 groups, purchasing box lunches so that children
9 can eat in their classroom, purchasing physical
10 barriers, providing additional transportation
11 services, repurposing existing school rooms and
12 space, and improving ventilation systems.

13 (B) Developing and implementing proce-
14 dures and systems to improve the preparedness
15 and response efforts of local educational agen-
16 cies or non-public schools including coordination
17 with State, local, Tribal, and territorial public
18 health departments, and other relevant agen-
19 cies, to improve coordinated responses among
20 such entities to prevent, prepare for, and re-
21 spond to coronavirus.

22 (C) Providing principals and other school
23 leaders with the resources necessary to address
24 the needs of their individual schools directly re-
25 lated to coronavirus.

1 (D) Providing additional services to ad-
2 dress the unique needs of low-income children
3 or students, children with disabilities, English
4 learners, racial and ethnic minorities, students
5 experiencing homelessness, and foster care
6 youth, including how outreach and service deliv-
7 ery will meet the needs of each population.

8 (E) Training and professional development
9 for staff of the local educational agency or non-
10 public school on sanitation and minimizing the
11 spread of infectious diseases.

12 (F) Purchasing supplies to sanitize, clean,
13 and disinfect the facilities of a local educational
14 agency or non-public school, including buildings
15 operated by such agency.

16 (G) Planning for and coordinating during
17 long-term closures, including for how to provide
18 meals to eligible students, how to provide tech-
19 nology for online learning to all students, how
20 to provide guidance for carrying out require-
21 ments under the Individuals with Disabilities
22 Education Act (20 U.S.C. 1401 et seq.) and
23 how to ensure other educational services can
24 continue to be provided consistent with all Fed-
25 eral, State, and local requirements.

1 (H) Purchasing educational technology (in-
2 cluding hardware, software, and connectivity)
3 for students who are served by the local edu-
4 cational agency or non-public school that aids
5 in regular and substantive educational inter-
6 action between students and their classroom in-
7 structors, including low-income students and
8 students with disabilities, which may include as-
9 sistive technology or adaptive equipment.

10 (I) Expanding healthcare and other health
11 services (including mental health services and
12 supports), including for children at risk of
13 abuse or neglect.

14 (J) Planning and implementing activities
15 related to summer learning and supplemental
16 afterschool programs, including providing class-
17 room instruction or online learning during the
18 summer months and addressing the needs of
19 low-income students, students with disabilities,
20 English learners, migrant students, students ex-
21 periencing homelessness, and children in foster
22 care.

23 (2) A local educational agency that receives
24 funds under subsection (c)(2) may use the funds for

1 activities to carry out a comprehensive school re-
2 opening plan as described in this section, including:

3 (A) Purchasing personal protective equip-
4 ment, implementing flexible schedules to keep
5 children in isolated groups, purchasing box
6 lunches so that children can eat in their class-
7 room, purchasing physical barriers, providing
8 additional transportation services, repurposing
9 existing school rooms and space, and improving
10 ventilation systems.

11 (B) Developing and implementation of pro-
12 cedures and systems to improve the prepared-
13 ness and response efforts of local educational
14 agencies or non-public schools, including coordi-
15 nation with State, local, Tribal, and territorial
16 public health departments, and other relevant
17 agencies, to improve coordinated responses
18 among such entities to prevent, prepare for,
19 and respond to coronavirus.

20 (C) Providing principals and others school
21 leaders with the resources necessary to address
22 the needs of their individual schools.

23 (D) Providing additional services to ad-
24 dress the unique needs of low-income children
25 or students, children with disabilities, English

1 learners, racial and ethnic minorities, students
2 experiencing homelessness, and foster care
3 youth, including how outreach and service deliv-
4 ery will meet the needs of each population.

5 (E) Training and professional development
6 for staff of the local educational agency or non-
7 public school on sanitation and minimizing the
8 spread of infectious diseases.

9 (F) Purchasing supplies to sanitize, clean,
10 and disinfect the facilities of a local educational
11 agency or non-public school, including buildings
12 operated by such agency.

13 (G) Purchasing educational technology (in-
14 cluding hardware, software, and connectivity)
15 for students who are served by the local edu-
16 cational agency or non-public school that aids
17 in regular and substantive educational inter-
18 action between students and their classroom in-
19 structors, including low-income students and
20 students with disabilities, which may include as-
21 sistive technology or adaptive equipment.

22 (H) Expanding healthcare and other
23 health services (including mental health services
24 and supports), including for children at risk of
25 abuse or neglect.

1 (I) Planning and implementing activities
2 related to summer learning and supplemental
3 afterschool programs, including providing class-
4 room instruction during the summer months
5 and addressing the needs of low-income stu-
6 dents, students with disabilities, English learn-
7 ers, migrant students, students experiencing
8 homelessness, and children in foster care.

9 (f) STATE FUNDING.—With funds not otherwise allo-
10 cated or reserved under this section, a State may reserve
11 not more than 1/2 of 1 percent of its grant under this
12 section for administrative costs and the remainder for
13 emergency needs as determined by the State educational
14 agency to address issues responding to coronavirus, which
15 may be addressed through the use of grants or contracts.

16 (g) ASSURANCES.—A State, State educational agen-
17 cy, or local educational agency receiving funding under
18 this section shall provide assurances, as applicable, that:

19 (1) A State, State educational agency, or local
20 educational agency will maintain and expand access
21 to high-quality schools, including high-quality public
22 charter schools, and will not—

23 (A) enact policies to close or prevent the
24 expansion of such schools to address revenue
25 shortfalls that result in the disproportionate

1 closure or denial of expansion of public charter
2 schools that are otherwise meeting the terms of
3 their charter for academic achievement; or

4 (B) disproportionately reduce funding to
5 charter schools or otherwise increase funding
6 gaps between charter schools and other public
7 schools in the local educational agency.

8 (2) Allocations of funding and services provided
9 from funds provided in this section to public charter
10 schools are made on the same basis as is used for
11 all public schools, consistent with state law and in
12 consultation with charter school leaders.

13 (h) REPORT.—A State receiving funds under this sec-
14 tion shall submit a report to the Secretary, not later than
15 6 months after receiving funding provided in this Act, in
16 such manner and with such subsequent frequency as the
17 Secretary may require, that provides a detailed accounting
18 of the use of funds provided under this section.

19 (i) REALLOCATION.—A State shall return to the Sec-
20 retary any funds received under this section that the State
21 does not award within 4 months of receiving such funds
22 and the Secretary shall deposit such funds into the general
23 fund of the Treasury.

24 (j) RULE OF CONSTRUCTION.—

1 (1) The receipt of any funds authorized or ap-
2 propriated under this section, including pursuant to
3 section 105 of this Act, by a nonprofit entity, or by
4 any individual who has been admitted or applied for
5 admission to such entity (or any parent or guardian
6 of such individual), shall not be construed to render
7 such entity or person a recipient of Federal financial
8 assistance for any purpose, nor shall any such per-
9 son or entity be required to make any alteration to
10 its existing programs, facilities, or employment prac-
11 tices except as required under this section.

12 (2) No State participating in any program
13 under this section, including pursuant to section 105
14 of this Act, shall impose any penalty or additional
15 requirement upon, or otherwise disadvantage, such
16 entity or person as a consequence or condition of its
17 receipt of such funds.

18 (3) No State participating in any program
19 under this section shall authorize any person or enti-
20 ty to use any funds authorized or appropriated
21 under this section, including pursuant to section 105
22 of this Act, except as provided by subsection (e), nor
23 shall any such State impose any limits upon the use
24 of any such funds except as provided by subsection
25 (e).

1 HIGHER EDUCATION EMERGENCY RELIEF FUND

2 SEC. 104. (a) IN GENERAL.—From funds reserved
3 under section 101(b)(3) of this title the Secretary shall
4 allocate amounts as follows:

5 (1) 85 percent to each institution of higher edu-
6 cation described in section 101 or section 102(c) of
7 the Higher Education Act of 1965 to prevent, pre-
8 pare for, and respond to coronavirus, by appor-
9 tioning it—

10 (A) 90 percent according to the relative
11 share of full-time equivalent enrollment of Fed-
12 eral Pell Grant recipients who were not exclu-
13 sively enrolled in distance education courses
14 prior to the coronavirus emergency; and

15 (B) 10 percent according to the relative
16 share of full-time equivalent enrollment of stu-
17 dents who were not Federal Pell Grant recipi-
18 ents who were not exclusively enrolled in dis-
19 tance education courses prior to the coronavirus
20 emergency.

21 (2) 10 percent for additional awards under
22 parts A and B of title III, parts A and B of title
23 V, and subpart 4 of part A of title VII of the Higher
24 Education Act to address needs directly related to
25 coronavirus, that shall be in addition to awards

1 made in section 104(a)(1) of this title, and allocated
2 by the Secretary proportionally to such programs
3 based on the relative share of funding appropriated
4 to such programs in the Further Consolidated Ap-
5 propriations Act, 2020 (Public Law 116–94) and
6 distributed to eligible institutions of higher edu-
7 cation, except as otherwise provided in subpara-
8 graphs (A)–(D), on the basis of the formula de-
9 scribed in section 104(a)(1) of this title:

10 (A) Except as otherwise provided in sub-
11 paragraph (B), for eligible institutions under
12 part B of title III and subpart 4 of part A of
13 title VII of the Higher Education Act, the Sec-
14 retary shall allot to each eligible institution an
15 amount using the following formula:

16 (i) 70 percent according to a ratio
17 equivalent to the number of Pell Grant re-
18 cipients in attendance at such institution
19 at the end of the school year preceding the
20 beginning of the most recent fiscal year
21 and the total number of Pell Grant recipi-
22 ents at all such institutions;

23 (ii) 20 percent according to a ratio
24 equivalent to the total number of students
25 enrolled at such institution at the end of

1 the school year preceding the beginning of
2 that fiscal year and the number of stu-
3 dents enrolled at all such institutions; and
4 (iii) 10 percent according to a ratio
5 equivalent to the total endowment size at
6 all eligible institutions at the end of the
7 school year preceding the beginning of that
8 fiscal year and the total endowment size at
9 such institutions;

10 (B) For eligible institutions under section
11 326 of the Higher Education Act, the Secretary
12 shall allot to each eligible institution an amount
13 in proportion to the award received from fund-
14 ing for such institutions in the Further Consoli-
15 dated Appropriations Act, 2020 (Public Law
16 116–94);

17 (C) For eligible institutions under section
18 316 of the Higher Education Act, the Secretary
19 shall allot funding according to the formula in
20 section 316(d)(3) of the Higher Education Act;
21 and

22 (D) Notwithstanding section 318(f) of the
23 Higher Education Act, for eligible institutions
24 under section 318 of the Higher Education Act,
25 the Secretary shall allot funding according to

1 the formula in section 318(e) of the Higher
2 Education Act.

3 (3) 5 percent for grants to institutions of high-
4 er education that the Secretary determines, through
5 an application process and after allocating funds
6 under paragraphs 104(a)(1) and (2) of this Act,
7 have the greatest unmet needs related to
8 coronavirus. In awarding funds to institutions of
9 higher education under this paragraph the Secretary
10 shall prioritize institutions of higher education—

11 (A) described under title I of the Higher
12 Education Act of 1965 that were not eligible to
13 receive an award under section 104(a)(1) of
14 this title, including institutions described in sec-
15 tion 102(b) of the Higher Education Act of
16 1965; and

17 (B) that otherwise demonstrate significant
18 needs related to coronavirus that were not ad-
19 dressed by funding allocated under subsections
20 (a)(1) or (a)(2) of this section.

21 (b) DISTRIBUTION.—The funds made available to
22 each institution under subsection (a)(1) shall be distrib-
23 uted by the Secretary using the same systems as the Sec-
24 retary otherwise distributes funding to each institution

1 under title IV of the Higher Education Act of 1965 (20
2 U.S.C. 1001 et seq.).

3 (c) USES OF FUNDS.—An institution of higher edu-
4 cation receiving funds under this section may use the
5 funds received to:

6 (1) defray expenses associated with coronavirus
7 (including lost revenue, reimbursement for expenses
8 already incurred, technology costs associated with a
9 transition to distance education, faculty and staff
10 trainings, and payroll); and

11 (2) provide financial aid grants to students (in-
12 cluding students exclusively enrolled in distance edu-
13 cation), which may be used for any component of the
14 student's cost of attendance or for emergency costs
15 that arise due to coronavirus.

16 (d) SPECIAL PROVISIONS.—

17 (1) A Historically Black College and University
18 or a Minority Serving Institution may use prior
19 awards provided under titles III, V, and VII of the
20 Higher Education Act to prevent, prepare for, and
21 respond to coronavirus.

22 (2) An institution of higher education receiving
23 funds under section 18004 of division B of the
24 CARES Act (Public Law 116–136) may use those
25 funds under the terms and conditions of section

1 104(c) of this Act. Amounts repurposed pursuant to
2 this paragraph that were previously designated by
3 the Congress as an emergency requirement pursuant
4 to the Balanced Budget and Emergency Deficit Con-
5 trol Act of 1985 are designated by the Congress as
6 an emergency requirement pursuant to section
7 251(b)(2)(A)(i) of the Balanced Budget and Emer-
8 gency Deficit Control Act of 1985.

9 (3) No funds received by an institution of high-
10 er education under this section shall be used to fund
11 contractors for the provision of pre-enrollment re-
12 cruitment activities; endowments; or capital outlays
13 associated with facilities related to athletics, sec-
14 tarian instruction, or religious worship.

15 (4) An institution of higher education that was
16 required to remit payment to the Internal Revenue
17 Service for the excise tax based on investment in-
18 come of private colleges and universities under sec-
19 tion 4968 of the Internal Revenue Code of 1986 for
20 tax year 2019 shall have their allocation under this
21 section reduced by 50 percent and may only use
22 funds for activities described in paragraph (c)(2).
23 This paragraph shall not apply to an institution of
24 higher education designated by the Secretary as an

1 eligible institution under section 448 of the Higher
2 Education Act of 1965.

3 (e) REPORT.—An institution receiving funds under
4 this section shall submit a report to the Secretary, not
5 later than 6 months after receiving funding provided in
6 this Act, in such manner and with such subsequent fre-
7 quency as the Secretary may require, that provides a de-
8 tailed accounting of the use of funds provided under this
9 section.

10 (f) REALLOCATION.—Any funds allocated to an insti-
11 tution of higher education under this section on the basis
12 of a formula described in subsection (a)(1) or (a)(2) but
13 for which an institution does not apply for funding within
14 60 days of the publication of the notice inviting applica-
15 tions, shall be reallocated to eligible institutions that had
16 submitted an application by such date.

17 ASSISTANCE TO NON-PUBLIC SCHOOLS

18 SEC. 105. (a) FUNDS AVAILABILITY.—From the pay-
19 ment provided by the Secretary under section 103 of this
20 title to a State educational agency, the State educational
21 agency shall reserve an amount of funds equal to the per-
22 centage of students enrolled in non-public elementary and
23 secondary schools in the State prior to the coronavirus
24 emergency. Upon reserving funds under this section, the
25 Governor of the State may award subgrants—

1 (1) to eligible scholarship-granting organiza-
2 tions for carrying out section 6001 of division A of
3 this Act; and

4 (2) to non-public schools accredited or other-
5 wise located in and licensed to operate in the State
6 based on the number of students enrolled in the non-
7 public school prior to the coronavirus emergency,
8 subject to the requirements in subsection (b).

9 (b)(1) A non-public school that provides in-person in-
10 struction for at least 50 percent of its students where the
11 students physically attend school no less than 50 percent
12 of each school-week, as determined by the non-public
13 school prior to the coronavirus emergency, shall be eligible
14 for the full amount of assistance per student as prescribed
15 under this section.

16 (2) A non-public school that does not provide in-per-
17 son instruction to any students where the students phys-
18 ically attend school in-person shall only be eligible for one-
19 third of the amount of assistance per student as prescribed
20 under this section.

21 (3) A non-public school that provides in-person in-
22 struction to at least some students where the students
23 physically attend school in-person but does not satisfy the
24 requirements in paragraph (1) shall have its amount of
25 assistance as prescribed under this section reduced on a

1 pro rata basis, which shall be calculated using the same
2 methodology as is used under section 103(c)(2)(C) of this
3 title.

4 (c) A Governor shall allocate not less than 50 percent
5 of the funds reserved in this section to non-public schools
6 or eligible scholarship-granting organizations within 30
7 days of receiving an award from the Secretary and the
8 remaining 50 percent not less than 4 months after receiv-
9 ing an award from the Secretary.

10 CONTINUED PAYMENT TO EMPLOYEES

11 SEC. 106. A local educational agency, State, institu-
12 tion of higher education, or other entity that receives
13 funds under “Education Stabilization Fund”, shall to the
14 greatest extent practicable, continue to pay its employees
15 and contractors during the period of any disruptions or
16 closures related to coronavirus.

17 DEFINITIONS

18 SEC. 107. Except as otherwise provided in sections
19 101–106 of this title, as used in such sections—

20 (1) the terms “elementary education” and “sec-
21 ondary education” have the meaning given such
22 terms under State law;

23 (2) the term “institution of higher education”
24 has the meaning given such term in title I of the

1 Higher Education Act of 1965 (20 U.S.C. 1001 et
2 seq.);

3 (3) the term “Secretary” means the Secretary
4 of Education;

5 (4) the term “State” means each of the 50
6 States, the District of Columbia, and the Common-
7 wealth of Puerto Rico;

8 (5) the term “cost of attendance” has the
9 meaning given such term in section 472 of the High-
10 er Education Act of 1965.

11 (6) the term “Non-public school” means a non-
12 public elementary and secondary school that (A) is
13 accredited, licensed, or otherwise operates in accord-
14 ance with State law; and (B) was in existence prior
15 to the date of the qualifying emergency for which
16 grants are awarded under this section;

17 (7) the term “public school” means a public ele-
18 mentary or secondary school; and

19 (8) any other term used that is defined in sec-
20 tion 8101 of the Elementary and Secondary Edu-
21 cation Act of 1965 (20 U.S.C. 7801) shall have the
22 meaning given the term in such section.

23 GENERAL PROVISION—THIS TITLE

24 SEC. 108. Not later than 30 days after the date of
25 enactment of this Act, the Secretaries of Health and

1 Human Services and Education shall provide a detailed
2 spend plan of anticipated uses of funds made available in
3 this title, including estimated personnel and administra-
4 tive costs, to the Committees on Appropriations of the
5 House of Representatives and the Senate: *Provided*, That
6 such plans shall be updated and submitted to such Com-
7 mittees every 60 days until September 30, 2024: *Provided*
8 *further*, That the spend plans shall be accompanied by a
9 listing of each contract obligation incurred that exceeds
10 \$5,000,000 which has not previously been reported, in-
11 cluding the amount of each such obligation.

12 TITLE II

13 DEPARTMENT OF AGRICULTURE

14 AGRICULTURAL PROGRAMS

15 OFFICE OF THE SECRETARY

16 For an additional amount for the “Office of the Sec-
17 retary”, \$20,000,000,000, to remain available until ex-
18 pended, to prevent, prepare for, and respond to
19 coronavirus by providing support for agricultural pro-
20 ducers, growers, and processors impacted by coronavirus,
21 including producers, growers, and processors of specialty
22 crops, non-specialty crops, dairy, livestock and poultry, in-
23 cluding livestock and poultry depopulated due to insuffi-
24 cient processing access and growers who produce livestock
25 or poultry under a contract for another entity: *Provided*,

1 That such amount is designated by the Congress as being
2 for an emergency requirement pursuant to section
3 251(b)(2)(A)(i) of the Balanced Budget and Emergency
4 Deficit Control Act of 1985.

5 TITLE III

6 DEPARTMENT OF COMMERCE

7 FISHERIES DISASTER ASSISTANCE

8 For an additional amount for “Fisheries Disaster As-
9 sistance”, \$500,000,000, to remain available until Sep-
10 tember 30, 2021, to prevent, prepare for, and respond to
11 coronavirus, domestically or internationally, which shall be
12 for activities authorized under section 12005 of the
13 Coronavirus Aid, Relief, and Economic Security Act (Pub-
14 lic Law 116–136): *Provided*, That the formula prescribed
15 by the Secretary of Commerce to allocate the amount pro-
16 vided under this heading in this Act shall be divided pro-
17 portionally to States, Tribes, and territories and shall be
18 the same as the formula used for funds appropriated
19 under section 12005 of Public Law 116–136, but shall be
20 calculated to also evenly weight the 5-year total annual
21 average domestic landings for each State, Tribe, and terri-
22 tory: *Provided further*, That the amount provided under
23 this heading in this Act shall only be allocated to States
24 of the United States in, or bordering on, the Atlantic, Pa-
25 cific, or Arctic Ocean, or the Gulf of Mexico, as well as

1 to Puerto Rico, the Virgin Islands, Guam, the Common-
2 wealth of the Northern Mariana Islands, American
3 Samoa, Federally Recognized Tribes on the West Coast,
4 and Federally Recognized Tribes in Alaska: *Provided fur-*
5 *ther*, That no State, Tribe, or territory shall receive a total
6 amount in a fiscal year that is from amounts provided
7 under either section 12005 of Public Law 116–136 or
8 amounts provided under this heading in this Act that ex-
9 ceeds that State, Tribe, or territory’s total annual average
10 revenue from commercial fishing operations, aquaculture
11 firms, the seafood supply chain, and charter fishing busi-
12 nesses: *Provided further*, That such amount is designated
13 by the Congress as being for an emergency requirement
14 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-
15 et and Emergency Deficit Control Act of 1985.

16 TITLE IV

17 GENERAL PROVISIONS—THIS ACT

18 SEC. 401. Each amount appropriated or made avail-
19 able by this Act is in addition to amounts otherwise appro-
20 priated for the fiscal year involved.

21 SEC. 402. No part of any appropriation contained in
22 this Act shall remain available for obligation beyond the
23 current fiscal year unless expressly so provided herein.

24 SEC. 403. Unless otherwise provided for by this Act,
25 the additional amounts appropriated by this Act to appro-

1 priations accounts shall be available under the authorities
2 and conditions applicable to such appropriations accounts
3 for fiscal year 2020.

4 SEC. 404. In this Act, the term “coronavirus” means
5 SARS-CoV-2 or another coronavirus with pandemic po-
6 tential.

7 SEC. 405. Each amount designated in this Act by the
8 Congress as being for an emergency requirement pursuant
9 to section 251(b)(2)(A)(i) of the Balanced Budget and
10 Emergency Deficit Control Act of 1985 shall be available
11 (or rescinded or transferred, if applicable) only if the
12 President subsequently so designates all such amounts
13 and transmits such designations to the Congress.

14 SEC. 406. Any amount appropriated by this Act, des-
15 ignated by the Congress as an emergency requirement
16 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-
17 et and Emergency Deficit Control Act of 1985 and subse-
18 quently so designated by the President, and transferred
19 pursuant to transfer authorities provided by this Act shall
20 retain such designation.

21 BUDGETARY EFFECTS

22 SEC. 407. (a) STATUTORY PAYGO SCORECARDS.—
23 The budgetary effects of this division shall not be entered
24 on either PAYGO scorecard maintained pursuant to sec-
25 tion 4(d) of the Statutory Pay As-You-Go Act of 2010.

1 (b) SENATE PAYGO SCORECARDS.—The budgetary
2 effects of this division shall not be entered on any PAYGO
3 scorecard maintained for purposes of section 4106 of H.
4 Con. Res. 71 (115th Congress).

5 (c) CLASSIFICATION OF BUDGETARY EFFECTS.—
6 Notwithstanding Rule 3 of the Budget Scorekeeping
7 Guidelines set forth in the joint explanatory statement of
8 the committee of conference accompanying Conference Re-
9 port 105–217 and section 250(c)(7) and (c)(8) of the Bal-
10 anced Budget and Emergency Deficit Control Act of 1985,
11 the budgetary effects of this division shall be estimated
12 for purposes of section 251 of such Act.

13 (d) ENSURING NO WITHIN-SESSION SEQUESTRA-
14 TION.—Solely for the purpose of calculating a breach with-
15 in a category for fiscal year 2020 pursuant to section
16 251(a)(6) or section 254(g) of the Balanced Budget and
17 Emergency Deficit Control Act of 1985, and notwith-
18 standing any other provision of this division, the budg-
19 etary effects from this division shall be counted as
20 amounts designated as being for an emergency require-
21 ment pursuant to section 251(b)(2)(A) of such Act.

22 This division may be cited as the “Coronavirus Re-
23 sponse Additional Supplemental Appropriations Act,
24 2020”.