

## Calendar No. 564

116TH CONGRESS  
2D SESSION**S. 4775**

To provide continued emergency assistance, educational support, and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2020

Mr. McCONNELL introduced the following bill; which was read the first time

OCTOBER 1, 2020

Read the second time and placed on the calendar

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**A BILL**

To provide continued emergency assistance, educational support, and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

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”.

# 1 **SEC. 2. TABLE OF CONTENTS.**

## 2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
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Sec. 10001. Mineral security.

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## 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

1 an amount equal to the difference between  
2 \$454,000,000,000 and the aggregate amount of loans,  
3 loan guarantees, and other investments that the Secretary  
4 has made or committed to make under section 4003(b)(4)  
5 as of such date.”.

6 **SEC. 1003. TERMINATION OF AUTHORITY.**

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

9 “(c) FEDERAL RESERVE PROGRAMS OR FACILI-  
10 TIES.—

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

1 the terms and conditions of the program or facility  
2 as in effect on the date the complete application was  
3 submitted.

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

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

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

23 “(C) the modification or restructuring is  
24 necessary to minimize costs to taxpayers that  
25 could arise from a default on the loan, obliga-

tion, asset, security, or other interest, or extension of credit.”.

**SEC. 1004. RESCISSIONS.**

(a) PPP AND SUBSIDY FOR CERTAIN LOAN PAYMENTS.—Of the unobligated balances in the appropriations account under the heading “Small Business Administration—Business Loans Program Account, CARES Act” as of the day before the date of enactment of this Act, effective on the date of enactment of this Act \$146,000,000,000 shall be rescinded and deposited into the general fund of the Treasury.

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

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

(2) in subsection (b)(4), in the matter preceding subparagraph (A), by striking “\$454,000,000,000” and inserting “\$250,000,000,000”.

**TITLE II—CORONAVIRUS  
LIABILITY RELIEF**

**SEC. 2001. SHORT TITLE.**

This title may be cited as the “Safeguarding America’s Frontline Employees To Offer Work Opportunities

1 Required to Kickstart the Economy Act” or the “SAFE  
2 TO WORK Act”.

3 **SEC. 2002. FINDINGS AND PURPOSES.**

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

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

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

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

22 (4) To halt the spread of the disease, State and  
23 local governments took drastic measures. They shut  
24 down small and large businesses, schools, colleges  
25 and universities, religious, philanthropic and other



1        nonprofit institutions, and local government agen-  
2        cies. They ordered people to remain in their homes.

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

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

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

1 Constitution of the United States to direct trillions  
2 of taxpayer dollars toward efforts to aid workers,  
3 businesses, State and local governments, health care  
4 workers, and patients.

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

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

1 work), colleges and universities (which are substan-  
2 tial employers and supply the interstate market for  
3 higher-education services), religious, philanthropic  
4 and other nonprofit institutions (which are substan-  
5 tial employers and provide necessary services to their  
6 communities), and local government agencies.

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

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

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

1       them of exposing employees, customers, students,  
2       and worshipers to coronavirus. Health care workers  
3       face the threat of lawsuits arising from their efforts  
4       to fight the virus.

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

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

1       they have made under trying and uncertain cir-  
2       cumstances.

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

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

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

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

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

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

24 (20) Such a diversion would substantially affect  
25 interstate commerce by degrading the national ca-

1       pacity for combating the virus and saving patients,  
2       thereby substantially elongating the period before  
3       interstate commerce could fully re-engage.

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

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

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

24          (24) Because Congress must safeguard the in-  
25      vestment of taxpayer dollars it made in the CARES

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

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

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

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

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

23 (4) ensure that the Nation's recovery from the  
24 coronavirus economic crisis is not burdened or  
25 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 accommodations 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-

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

(5) CORONAVIRUS-RELATED ACTION.—The term “coronavirus-related action” means a coronavirus exposure action or a coronavirus-related medical liability action.

23 (A) the diagnosis, prevention, or treatment  
24 of coronavirus;

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-



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

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

(A) a legal duty;

(B) the consequences to another party; and

(C) applicable government standards and guidance.

(11) HARM.—The term “harm” includes—

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

(B) economic and noneconomic losses.

(12) HEALTH CARE PROVIDER.—

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

(i) required by Federal or State law to be licensed, registered, or certified to provide health care and is so licensed, registered, or certified (or is exempt from any such requirement);

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

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

(iii) considered under applicable Federal or State law to be a health care provider, health care professional, health care institution, or health care facility.

(B) INCLUSION OF ADMINISTRATORS, SUPERVISORS, ETC.—The term “health care provider” includes a health care facility administrator, executive, supervisor, board member or trustee, or another individual responsible for directing, supervising, or monitoring the provision of coronavirus-related health care services in a comparable role.

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

(i) The volunteer is a health care professional providing coronavirus-related health care services.

(ii) The act or omission by the volunteer 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

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

(B) includes any agency or instrumentality of 2 or more of the entities described in subparagraph (A).

(18) TRIBAL GOVERNMENT.—

(A) IN GENERAL.—The term “Tribal government” means the recognized governing body of any Indian tribe included on the list published by the Secretary of the Interior pursuant to section 104(a) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131(a)).

(B) INCLUSION.—The term “Tribal government” includes any subdivision (regardless of the laws and regulations of the jurisdiction in which the subdivision is organized or incorporated) of a governing body described in subparagraph (A) that—

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

(ii) has been delegated the right to exercise 1 or more substantial governmental 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

standards and guidance, and the applicable government standards and guidance issued by 1 or more of the governments conflicts with the applicable government standards and guidance issued by 1 or more of the other governments, the individual or entity shall be considered to have made reasonable efforts in light of all the circumstances to comply with the applicable government standards and guidance for purposes of subsection (a)(1) unless the plaintiff establishes by clear and convincing evidence that the individual or entity was not making reasonable efforts in light of all the circumstances to comply with any of the conflicting applicable government standards and guidance issued by any government to whose jurisdiction the individual or entity is subject.

(B) EXCEPTION.—If mandatory standards and regulations constituting applicable government standards and guidance issued by any government with jurisdiction over the individual or entity conflict with applicable government standards and guidance that are not mandatory and are issued by any other government with 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-

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

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

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

(a) IN GENERAL.—

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

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

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

(C) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

(D) The Worker Adjustment and Retraining 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)”;

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-

tures, payments on covered property damage costs, payments on covered supplier costs, payments on covered worker protection expenditures,” after “lease obligations,”; and

(ii) in paragraph (3)(B), by inserting “make payments on covered operations expenditures, make payments on covered property damage costs, make payments on covered supplier costs, make payments on covered worker protection expenditures,” after “rent obligation,”.

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

“(h) HOLD HARMLESS.—

“(1) IN GENERAL.—A lender may rely on any certification or documentation submitted by an applicant for a covered loan or an eligible recipient of a covered loan that—

“(A) is submitted pursuant to any statutory requirement relating to covered loans or any rule or guidance issued to carry out any action 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-

1                                   dent of the People’s Repub-  
2                                   lic of China;

3                           “(vi) the terms ‘exchange’, ‘issuer’,  
4                           and ‘security’ have the meanings given  
5                           those terms in section 3(a) of the Securi-  
6                           ties Exchange Act of 1934 (15 U.S.C.  
7                           78c(a)); and

8                           “(vii) the term ‘Tribal business con-  
9                           cern’ means a Tribal business concern de-  
10                          scribed in section 31(b)(2)(C).

11                       “(B) LOANS.—Except as otherwise pro-  
12                       vided in this paragraph, the Administrator may  
13                       guarantee covered loans to eligible entities  
14                       under the same terms, conditions, and processes  
15                       as a loan made under paragraph (36).

16                       “(C) MAXIMUM LOAN AMOUNT.—

17                       “(i) IN GENERAL.—Except as other-  
18                       wise provided in this subparagraph, the  
19                       maximum amount of a covered loan made  
20                       to an eligible entity is the lesser of—

21                               “(I) the product obtained by mul-  
22                               tiplying—

23                                       “(aa) at the election of the  
24                                       eligible entity, the average total  
25                                       monthly payment for payroll

costs incurred or paid by the eligible entity during—

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

“(BB) calendar year 2019; by

“(bb) 2.5; or

“(II) \$2,000,000.

“(ii) SEASONAL EMPLOYERS.—The maximum amount of a covered loan made to an eligible entity that is a seasonal employer is the lesser of—

“(I) the product obtained by multiplying—

“(aa) at the election of the eligible entity, the average total monthly payments for payroll costs incurred or paid by the eligible entity—

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

imum extent practicable, allow a lender approved to make covered loans to use existing program guidance and standard operating procedures for loans made under this subsection.

“(O) PROHIBITION ON USE OF PROCEEDS FOR LOBBYING ACTIVITIES.—None of the proceeds of a covered loan may be used for—

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

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

“(iii) expenditures designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before Congress or any State government, State legislature, or local legislature or legislative body.”.

(j) CONTINUED ACCESS TO THE PAYCHECK PROTECTION PROGRAM.—

(1) IN GENERAL.—Section 7(a)(36)(E)(ii) of the Small Business Act (15 U.S.C. 636(a)(36)(E)(ii)) is amended by striking “\$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),



1                   that is not more than  
2                   \$100,000, divided by 12;  
3                   and

4                   “(BB) 2.5; and

5                   “(bb) the outstanding  
6                   amount of a loan under sub-  
7                   section (b)(2) that was made  
8                   during the period beginning on  
9                   January 31, 2020 and ending on  
10                  April 3, 2020 that the borrower  
11                  intends to refinance under the  
12                  covered loan, not including any  
13                  amount of any advance under the  
14                  loan that is not required to be re-  
15                  paid; or

16                  “(II) \$2,000,000.

17                  “(iii) WITH EMPLOYEES.—With re-  
18                  spect to a covered recipient with employ-  
19                  ees, the maximum covered loan amount  
20                  shall be calculated using the formula de-  
21                  scribed in subparagraph (E), except that  
22                  the gross income of the covered recipient  
23                  described in clause (ii)(I)(aa)(AA) of this  
24                  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 Agricultural Mortgage Corporation.

2  
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 equivalent  
12 to requirements referenced in section  
13 3(a)(iii)(II) of the interim final rule of the Administration  
14 entitled “Business Loan Program  
15 Temporary Changes; Paycheck Protection Program”  
16 (85 Fed. Reg. 20811 (April 15, 2020))  
17 or any similar requirement referenced in that  
18 interim final rule in implementing such paragraph  
19 (37).

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

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)).”.

3       (o) ELIGIBILITY OF 501(C)(6) ORGANIZATIONS FOR  
4       LOANS UNDER THE PAYCHECK PROTECTION PRO-  
5       GRAM.—Section 7(a)(36)(D) of the Small Business Act  
6       (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.—

16                               “(I)   IN   GENERAL.—Except as  
17                               provided in subclause (II), any organi-  
18                               zation that is described in section  
19                               501(c)(6) of the Internal Revenue  
20                               Code and that is exempt from tax-  
21                               ation under section 501(a) of such  
22                               Code (excluding professional sports  
23                               leagues and organizations with the  
24                               purpose of promoting or participating  
25                               in a political campaign or other activ-



1           ity) shall be eligible to receive a cov-  
2           ered loan if—

3                   “(aa) the organization does  
4                   not receive more than 10 percent  
5                   of its receipts from lobbying ac-  
6                   tivities;

7                   “(bb) the lobbying activities  
8                   of the organization do not com-  
9                   prise more than 10 percent of the  
10                  total activities of the organiza-  
11                  tion; and

12                  “(cc) the organization em-  
13                  ploys not more than 150 employ-  
14                  ees.

15                  “(II) DESTINATION MARKETING  
16                  ORGANIZATIONS.—Notwithstanding  
17                  subclause (I), during the covered pe-  
18                  riod, any destination marketing orga-  
19                  nization shall be eligible to receive a  
20                  covered loan if—

21                   “(aa) the destination mar-  
22                   keting organization does not re-  
23                   ceive more than 10 percent of its  
24                   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

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

(B) shall not apply with respect to—

(i) any transaction described in subparagraph (A) that was made before the date of enactment of this Act; or

(ii) forgiveness under section 1106 of the CARES Act (15 U.S.C. 9005) or any other provision of law of any loan associated with any transaction described in subparagraph (A) that was made before the date of enactment of this Act.

(u) COMMITMENT AUTHORITY AND APPROPRIATIONS.—

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

(A) in paragraph (1)—

(i) in the paragraph heading, by inserting “AND SECOND DRAW” after “PPP”;

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

(iii) by striking “paragraph (36)” and 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.

(B) AVAILABILITY OF AMOUNTS APPROPRIATED FOR THE OFFICE OF INSPECTOR GENERAL.—Section 1107(a)(3) of the CARES Act (15 U.S.C. 9006(a)(3)) is amended by striking “September 20, 2024” and inserting “expended”.

## TITLE V—POSTAL SERVICE ASSISTANCE

### SEC. 5001. COVID-19 FUNDING FOR THE UNITED STATES POSTAL SERVICE.

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

(1) in the section heading, by striking “**BORROWING AUTHORITY**” and inserting “**FUNDING**”;

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (b) the following:

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

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

17                       (ii) provides qualifying scholarships to  
18       individual elementary and secondary stu-  
19       dents who—

20                       (I) reside in the State in which  
21       the eligible scholarship-granting orga-  
22       nization is recognized; or

23                       (II) in the case of funds provided  
24       to the Secretary of the Interior, at-  
25       tending 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—

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-

dinary circumstances described in subsection (f)(1)(D).

(D) SUBGRANT DISBURSEMENT.—In providing funds through a subgrant under this paragraph—

(i) the lead agency shall—

(I) disburse such subgrant funds to a qualified child care provider in installments made not less than once monthly;

(II) disburse a subgrant installment for a month after the qualified child care provider has provided, before that month, the enrollment, attendance, and revenue data required under subparagraph (C)(ii)(I) and, if applicable, current operating capacity data required under subparagraph (C)(i)(II); and

(III) make subgrant installments to any qualified child care provider for a period of not more than 9 months; and

(ii) the lead agency may, notwithstanding 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



60 business days to comply with information requests for the disclosure of information under section 552 of title 5, United States Code, related to the activities under this section (unless such activities are otherwise exempt under subparagraph (A)).”; and  
(5) in subsection (f)—

(A) in paragraph (1), by striking “Not later than 180 days after the date of enactment of this subsection” and inserting “Not later than 180 days after the date of enactment of the Delivering Immediate Relief to America’s Families, Schools and Small Businesses Act”; and

(B) in paragraph (2), by striking “Not later than 1 year after the date of enactment of this subsection” and inserting “Not later than 1 year after the date of enactment of the Delivering Immediate Relief to America’s Families, Schools and Small Businesses Act”.

(b) MEDICAL COUNTERMEASURE INNOVATION PARTNER.—The restrictions under section 202 of division A of the Further Consolidated Appropriations Act, 2020 (Public Law 116–94), or any other provision of law imposing 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-

stances, and materials qualify as critical minerals;

(B) the final list of critical minerals; and

(C) the final list of critical minerals recovered as byproducts.

(4) DESIGNATIONS.—

(A) IN GENERAL.—For purposes of carrying out this subsection, the Secretary shall maintain a list of minerals, elements, substances, and materials designated as critical, pursuant to the final methodology published under paragraph (3), that the Secretary determines—

(i) are essential to the economic or national security of the United States;

(ii) the supply chain of which is vulnerable to disruption (including restrictions associated with foreign political risk, abrupt demand growth, military conflict, violent unrest, anti-competitive or protectionist behaviors, and other risks throughout the supply chain); and

(iii) serve an essential function in the manufacturing of a product (including energy 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

every 3 years, or more frequently as the Secretary considers to be appropriate.

(B) REVISIONS.—Subject to paragraph (4)(A), the Secretary may—

(i) revise the methodology described in this subsection;

(ii) determine that minerals, elements, substances, and materials previously determined to be critical minerals are no longer critical minerals; and

(iii) designate additional minerals, elements, substances, or materials as critical minerals.

(6) NOTICE.—On finalization of the methodology and the list under paragraph (3), or any revision to the methodology or list under paragraph (5), the Secretary shall submit to Congress written notice of the action.

(d) RESOURCE ASSESSMENT.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, in consultation with applicable State (including geological surveys), local, academic, industry, and other entities, the Secretary (acting through the Director of the United 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           appropriate) 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-

view of critical mineral production, consumption, and recycling patterns, including—

(i) the quantity of each critical mineral domestically produced during the preceding year;

(ii) the quantity of each critical mineral domestically consumed during the preceding year;

(iii) market price data or other price data for each critical mineral;

(iv) an assessment of—

(I) critical mineral requirements to meet the national security, energy, economic, industrial, technological, and other needs of the United States during the preceding year;

(II) the reliance of the United States on foreign sources to meet those needs during the preceding year; and

(III) the implications of any supply shortages, restrictions, or disruptions 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.

(2) CURRICULUM STUDY.—

(A) IN GENERAL.—The Secretary and the Secretary of Labor shall jointly enter into an arrangement with the National Academy of Sciences and the National Academy of Engineering under which the Academies shall coordinate with the National Science Foundation on conducting a study—

(i) to design an interdisciplinary program on critical minerals that will support the critical mineral supply chain and improve the ability of the United States to increase domestic, critical mineral exploration, development, production, manufacturing, research, including fundamental research into alternatives, and recycling;

(ii) to address undergraduate and graduate education, especially to assist in the development of graduate level programs of research and instruction that lead to advanced degrees with an emphasis on the critical mineral supply chain or other positions that will increase domestic, critical mineral exploration, development, production, manufacturing, research, in-

cluding fundamental research into alternatives, and recycling;

(iii) to develop guidelines for proposals from institutions of higher education with substantial capabilities in the required disciplines for activities to improve the critical mineral supply chain and advance the capacity of the United States to increase domestic, critical mineral exploration, research, development, production, manufacturing, and recycling; and

(iv) to outline criteria for evaluating performance and recommendations for the amount of funding that will be necessary to establish and carry out the program described in paragraph (3).

(B) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a description of the results of the study required under subparagraph (A).

(3) PROGRAM.—

(A) ESTABLISHMENT.—The Secretary and the Secretary of Labor shall jointly conduct a competitive grant program under which institu-

tions of higher education may apply for and receive 4-year grants for—

(i) startup costs for newly designated faculty positions in integrated critical mineral education, research, innovation, training, and workforce development programs consistent with paragraph (2);

(ii) internships, scholarships, and fellowships for students enrolled in programs related to critical minerals;

(iii) equipment necessary for integrated critical mineral innovation, training, and workforce development programs; and

(iv) research of critical minerals and their applications, particularly concerning the manufacture of critical components vital to national security.

(B) RENEWAL.—A grant under this paragraph shall be renewable for up to 2 additional 3-year terms based on performance criteria outlined under paragraph (2)(A)(iv).

(j) NATIONAL GEOLOGICAL AND GEOPHYSICAL DATA PRESERVATION PROGRAM.—Section 351(k) of the Energy Policy Act of 2005 (42 U.S.C. 15908(k)) is amended by 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 (l) 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

5 The following sums are hereby are appropriated, out  
6 of any money in the Treasury not otherwise appropriated,  
7 for the fiscal year ending September 30, 2020, and for  
8 other purposes, namely:

9 **TITLE I**  
10 **DEPARTMENT OF HEALTH AND HUMAN**  
11 **SERVICES**  
12 **PAYMENTS TO STATES FOR THE CHILD CARE AND**  
13 **DEVELOPMENT BLOCK GRANT**

14 For an additional amount for “Payments to States  
15 for the Child Care and Development Block Grant”,  
16 \$5,000,000,000, to remain available through September  
17 30, 2021, to prevent, prepare for, and respond to  
18 coronavirus, domestically or internationally, including for  
19 Federal administrative expenses, which shall be used to  
20 supplement, not supplant State, Territory, and Tribal gen-  
21 eral revenue funds for child care assistance for low-income  
22 families within the United States (including territories)  
23 without regard to requirements in sections  
24 658E(c)(3)(D)–(E) or 658G of the Child Care and Devel-  
25 opment Block Grant Act: *Provided*, That funds provided

1 under this heading in this Act may be used to provide con-  
2 tinued payments and assistance to child care providers in  
3 the case of decreased enrollment or closures related to  
4 coronavirus, and to assure they are able to remain open  
5 or reopen as appropriate and applicable: *Provided further*,  
6 That States, Territories, and Tribes are encouraged to  
7 place conditions on payments to child care providers that  
8 ensure that child care providers use a portion of funds  
9 received to continue to pay the salaries and wages of staff:  
10 *Provided further*, That the Secretary shall remind States  
11 that CCDBG State plans do not need to be amended prior  
12 to utilizing existing authorities in the CCDBG Act for the  
13 purposes provided herein: *Provided further*, That States,  
14 Territories, and Tribes are authorized to use funds appro-  
15 priated under this heading in this Act to provide child care  
16 assistance to health care sector employees, emergency re-  
17 sponders, sanitation workers, and other workers deemed  
18 essential during the response to coronavirus by public offi-  
19 cials, without regard to the income eligibility requirements  
20 of section 658P(4) of such Act: *Provided further*, That  
21 funds appropriated under this heading in this Act shall  
22 be available to eligible child care providers under section  
23 658P(6) of the CCDBG Act, even if such providers were  
24 not receiving CCDBG assistance prior to the public health  
25 emergency as a result of the coronavirus and any renewal

1 of such declaration pursuant to such section 319, for the  
2 purposes of cleaning and sanitation, and other activities  
3 necessary to maintain or resume the operation of pro-  
4 grams: *Provided further*, That payments made under this  
5 heading in this Act may be obligated in this fiscal year  
6 or the succeeding two fiscal years: *Provided further*, That  
7 funds appropriated under this heading in this Act may be  
8 made available to restore amounts, either directly or  
9 through reimbursement, for obligations incurred to pre-  
10 vent, prepare for, and respond to coronavirus, domestically  
11 or internationally, prior to the date of enactment of this  
12 Act: *Provided further*, That such amount is designated by  
13 the Congress as being for an emergency requirement pur-  
14 suant to section 251(b)(2)(A)(i) of the Balanced Budget  
15 and Emergency Deficit Control Act of 1985.

16 BACK TO WORK CHILD CARE GRANTS

17 For an additional amount for “Back to Work Child  
18 Care Grants”, \$10,000,000,000, to remain available  
19 through September 30, 2021, to prevent, prepare for, and  
20 respond to coronavirus, domestically or internationally,  
21 which shall be for activities to carry out Back to Work  
22 Child Care Grants as authorized by section 6101 of divi-  
23 sion A of this Act: *Provided*, That such amount is des-  
24 ignated by the Congress as being for an emergency re-

1 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
 2 anced Budget and Emergency Deficit Control Act of 1985.

3 OFFICE OF THE SECRETARY

4 PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY

5 FUND

6 (INCLUDING TRANSFER OF FUNDS)

7 For an additional amount for “Public Health and So-  
 8 cial Services Emergency Fund”, \$31,000,000,000, to re-  
 9 main available until September 30, 2024, to prevent, pre-  
 10 pare for, and respond to coronavirus, domestically or  
 11 internationally, including the development of necessary  
 12 countermeasures and vaccines, prioritizing platform-based  
 13 technologies with U.S.-based manufacturing capabilities,  
 14 the purchase of vaccines, therapeutics, diagnostics, nec-  
 15 essary medical supplies, as well as medical surge capacity,  
 16 addressing blood supply chain, workforce modernization,  
 17 telehealth access and infrastructure, initial advanced man-  
 18 ufacturing, novel dispensing, enhancements to the U.S.  
 19 Commissioned Corps, and other preparedness and re-  
 20 sponse activities: *Provided*, That funds appropriated under  
 21 this paragraph in this Act may be used to develop and  
 22 demonstrate innovations and enhancements to manufac-  
 23 turing platforms to support such capabilities: *Provided*  
 24 *further*, That the Secretary of Health and Human Services  
 25 shall purchase vaccines developed using funds made avail-

1 able under this paragraph in this Act to respond to an  
2 outbreak or pandemic related to coronavirus in quantities  
3 determined by the Secretary to be adequate to address the  
4 public health need: *Provided further*, That products pur-  
5 chased by the Federal government with funds made avail-  
6 able under this paragraph in this Act, including vaccines,  
7 therapeutics, and diagnostics, shall be purchased in ac-  
8 cordance with Federal Acquisition Regulation guidance on  
9 fair and reasonable pricing: *Provided further*, That the  
10 Secretary may take such measures authorized under cur-  
11 rent law to ensure that vaccines, therapeutics, and  
12 diagnostics developed from funds provided in this Act will  
13 be affordable in the commercial market: *Provided further*,  
14 That in carrying out the previous proviso, the Secretary  
15 shall not take actions that delay the development of such  
16 products: *Provided further*, That the Secretary shall en-  
17 sure that protections remain for individuals enrolled in  
18 group or individual health care coverage with pre-existing  
19 conditions, including those linked to coronavirus: *Provided*  
20 *further*, That products purchased with funds appropriated  
21 under this paragraph in this Act may, at the discretion  
22 of the Secretary of Health and Human Services, be depos-  
23 ited in the Strategic National Stockpile under section  
24 319F–2 of the Public Health Service Act: *Provided fur-*  
25 *ther*, That of the amount appropriated under this para-



1 graph in this Act, not more than \$2,000,000,000 shall be  
2 for the Strategic National Stockpile under section 319F–  
3 2(a) of such Act: *Provided further*, That funds appro-  
4 priated under this paragraph in this Act may be trans-  
5 ferred to, and merged with, the fund authorized by section  
6 319F–4, the Covered Counter measure Process Fund, of  
7 the Public Health Service Act: *Provided further*, That of  
8 the amount appropriated under this paragraph in this Act,  
9 not more than \$2,000,000,000, to remain available until  
10 September 30, 2022, shall be for activities to improve and  
11 sustain State medical stockpiles, as described in the  
12 amendments made by section 7002 of division A of this  
13 Act: *Provided further*, That of the amount appropriated  
14 under this paragraph in this Act, \$20,000,000,000 shall  
15 be available to the Biomedical Advanced Research and De-  
16 velopment Authority for necessary expenses of manufac-  
17 turing, production, and purchase, at the discretion of the  
18 Secretary, of vaccines, therapeutics, diagnostics, and small  
19 molecule active pharmaceutical ingredients, including the  
20 development, translation, and demonstration at scale of  
21 innovations in manufacturing platforms: *Provided further*,  
22 That funds in the previous proviso may be used for the  
23 construction or renovation of U.S.-based next generation  
24 manufacturing facilities, other than facilities owned by the  
25 United States Government: *Provided further*, That

1 amounts provided in the eleventh proviso may be for nec-  
2 essary expenses related to the sustained on-shore manu-  
3 facturing capacity for public health emergencies, as de-  
4 scribed in the amendments made by section 7001 of divi-  
5 sion A of this Act: *Provided further*, That of the amount  
6 appropriated under this paragraph in this Act,  
7 \$6,000,000,000 shall be for activities to plan, prepare for,  
8 promote, distribute, administer, monitor, and track  
9 coronavirus vaccines to ensure broad-based distribution,  
10 access, and vaccine coverage: *Provided further*, That the  
11 Secretary shall coordinate funding and activities outlined  
12 in the previous proviso through the Director of CDC: *Pro-*  
13 *vided further*, That the Secretary, through the Director of  
14 CDC, shall report to the Committees on Appropriations  
15 of the House of Representatives and the Senate within 60  
16 days of enactment of this Act on a comprehensive  
17 coronavirus vaccine distribution strategy and spend plan  
18 that includes how existing infrastructure will be leveraged,  
19 enhancements or new infrastructure that may be built,  
20 considerations for moving and storing vaccines, guidance  
21 for how States and health care providers should prepare  
22 for, store, and administer vaccines, nationwide vaccination  
23 targets, funding that will be distributed to States, how an  
24 informational campaign to both the public and health care  
25 providers will be executed, and how the vaccine distribu-

1 tion plan will focus efforts on high risk, underserved, and  
2 minority populations: *Provided further*, That such plan  
3 shall be updated and provided to the Committees on Ap-  
4 propriations of the House of Representatives and the Sen-  
5 ate 90 days after submission of the first plan: *Provided*  
6 *further*, That the Secretary shall notify the Committees  
7 on Appropriations of the House of Representatives and the  
8 Senate 2 days in advance of any obligation in excess of  
9 \$50,000,000, including but not limited to contracts and  
10 interagency agreements, from funds provided in this para-  
11 graph in this Act: *Provided further*, That funds appro-  
12 priated under this paragraph in this Act may be used for  
13 the construction, alteration, or renovation of non-federally  
14 owned facilities for the production of vaccines, thera-  
15 peutics, diagnostics, and medical supplies where the Sec-  
16 retary determines that such a contract is necessary to se-  
17 cure sufficient amounts of such supplies: *Provided further*,  
18 That the not later than 30 days after enactment of this  
19 Act, and every 30 days thereafter until funds are ex-  
20 pended, the Secretary shall report to the Committees on  
21 Appropriations of the House of Representatives and the  
22 Senate on uses of funding for Operation Warp Speed, de-  
23 tailing current obligations by Department or Agency, or  
24 component thereof broken out by the coronavirus supple-  
25 mental appropriations Act that provided the source of

1 funds: *Provided further*, That the plan outlined in the pre-  
2 vious proviso shall include funding by contract, grant, or  
3 other transaction in excess of \$20,000,000 with a notation  
4 of which Department or Agency, and component thereof  
5 is managing the contract: *Provided further*, That such  
6 amount is designated by the Congress as being for an  
7 emergency requirement pursuant to section  
8 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
9 Deficit Control Act of 1985.

10 For an additional amount for “Public Health and So-  
11 cial Services Emergency Fund”, \$16,000,000,000, to re-  
12 main available until September 30, 2022, to prevent, pre-  
13 pare for, and respond to coronavirus, domestically or  
14 internationally, which shall be for necessary expenses for  
15 testing, contact tracing, surveillance, containment, and  
16 mitigation to monitor and suppress COVID–19, including  
17 tests for both active infection and prior exposure, includ-  
18 ing molecular, antigen, and serological tests, the manufac-  
19 turing, procurement and distribution of tests, testing  
20 equipment and testing supplies, including personal protec-  
21 tive equipment needed for administering tests, the devel-  
22 opment and validation of rapid, molecular point-of-care  
23 tests, and other tests, support for workforce, epidemiology,  
24 to scale up academic, commercial, public health, and hos-  
25 pital laboratories, to conduct surveillance and contact

1 tracing, support development of COVID–19 testing plans,  
2 and other related activities related to COVID–19 testing:  
3 *Provided*, That of the amount appropriated under this  
4 paragraph in this Act, not less than \$15,000,000,000 shall  
5 be for States, localities, territories, tribes, tribal organiza-  
6 tions, urban Indian health organizations, or health service  
7 providers to tribes for necessary expenses for testing, con-  
8 tact tracing, surveillance, containment, and mitigation, in-  
9 cluding support for workforce, epidemiology, use by em-  
10 ployers, elementary and secondary schools, child care fa-  
11 cilities, institutions of higher education, long-term care fa-  
12 cilities, or in other settings, scale up of testing by public  
13 health, academic, commercial, and hospital laboratories,  
14 and community-based testing sites, health care facilities,  
15 and other entities engaged in COVID–19 testing, and  
16 other related activities related to COVID–19 testing, con-  
17 tact tracing, surveillance, containment, and mitigation:  
18 *Provided further*, That the amount provided in the pre-  
19 ceding proviso under this paragraph in this Act shall be  
20 made available within 30 days of the date of enactment  
21 of this Act: *Provided further*, That the amount identified  
22 in the first proviso under this paragraph in this Act shall  
23 be allocated to States, localities, and territories according  
24 to the formula that applied to the Public Health Emer-  
25 gency Preparedness cooperative agreement in fiscal year

1 2019: *Provided further*, That not less than \$500,000,000  
2 shall be allocated in coordination with the Director of the  
3 Indian Health Service, to tribes, tribal organizations,  
4 urban Indian health organizations, or health service pro-  
5 viders to tribes: *Provided further*, That the Secretary of  
6 Health and Human Services (referred to in this paragraph  
7 as the “Secretary”) may satisfy the funding thresholds  
8 outlined in the first and fourth provisos under this para-  
9 graph in this Act by making awards through other grant  
10 or cooperative agreement mechanisms: *Provided further*,  
11 That the Governor or designee of each State, locality, ter-  
12 ritory, tribe, or tribal organization receiving funds pursu-  
13 ant to this Act shall update their plans, as applicable, for  
14 COVID–19 testing and contact tracing submitted to the  
15 Secretary pursuant to the Paycheck Protection Program  
16 and Health Care Enhancement Act (Public Law 116–139)  
17 and submit such updates to the Secretary not later than  
18 60 days after funds appropriated in this paragraph in this  
19 Act have been awarded to such recipient: *Provided further*,  
20 That not later than 60 days after enactment, and every  
21 quarter thereafter until funds are expended, the Governor  
22 or designee of each State, locality, territory, tribe, or tribal  
23 organization receiving funds shall report to the Secretary  
24 on uses of funding, detailing current commitments and ob-  
25 ligations broken out by the coronavirus supplemental ap-

1 appropriations Act that provided the source of funds: *Pro-*  
 2 *vided further*, That not later than 15 days after receipt  
 3 of such reports, the Secretary shall summarize and report  
 4 to the Committees on Appropriations of the House of Rep-  
 5 resentatives and the Senate on States' commitments and  
 6 obligations of funding: *Provided further*, That funds an en-  
 7 tity receives from amounts described in the first proviso  
 8 in this paragraph may also be used for the rent, lease,  
 9 purchase, acquisition, construction, alteration, renovation,  
 10 or equipping of non-federally owned facilities to improve  
 11 coronavirus preparedness and response capability at the  
 12 State and local level: *Provided further*, That such amount  
 13 is designated by the Congress as being for an emergency  
 14 requirement pursuant to section 251(b)(2)(A)(i) of the  
 15 Balanced Budget and Emergency Deficit Control Act of  
 16 1985.

## 17 DEPARTMENT OF EDUCATION

### 18 EDUCATION STABILIZATION FUND

19 For an additional amount for “Education Stabiliza-  
 20 tion Fund”, \$105,000,000,000, to remain available  
 21 through September 30, 2021, to prevent, prepare for, and  
 22 respond to coronavirus, domestically or internationally:  
 23 *Provided*, That such amount is designated by the Congress  
 24 as being for an emergency requirement pursuant to sec-

tion 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

### GENERAL PROVISIONS

#### EDUCATION STABILIZATION FUND

SEC. 101. (a) ALLOCATIONS.—From the amount made available under this heading in this Act to carry out the Education Stabilization Fund, the Secretary shall first allocate—

(1) not more than one half of 1 percent to the outlying areas on the basis of the terms and conditions for funding provided under this heading in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116–136); and

(2) one-half of 1 percent for the Secretary of the Interior for programs operated or funded by the Bureau of Indian Education, under the terms and conditions established for funding provided under this heading in the CARES Act (Public Law 116–136).

(b) RESERVATIONS.—After carrying out subsection (a), the Secretary shall reserve the remaining funds made available as follows:

(1) 5 percent to carry out section 102 of this title.



1           (2) 67 percent to carry out section 103 of this  
2       title.

3           (3) 28 percent to carry out section 104 of this  
4       title.

5       GOVERNOR’S EMERGENCY EDUCATION RELIEF FUND

6       SEC. 102. (a) GRANTS.—From funds reserved under  
7       section 101(b)(1) of this title, the Secretary shall make  
8       supplemental Emergency Education Relief grants to the  
9       Governor of each State with an approved application  
10      under section 18002 of division B of the CARES Act  
11      (Public Law 116–136). The Secretary shall award funds  
12      under this section to the Governor of each State with an  
13      approved application within 30 calendar days of enact-  
14      ment of this Act.

15      (b) ALLOCATIONS.—The amount of each grant under  
16      subsection (a) shall be allocated by the Secretary to each  
17      State as follows:

18           (1) 60 percent on the basis of their relative  
19      population of individuals aged 5 through 24.

20           (2) 40 percent on the basis of their relative  
21      number of children counted under section 1124(c) of  
22      the Elementary and Secondary Education Act of  
23      1965 (referred to under this heading as “ESEA”).

24      (c) USES OF FUNDS.—Grant funds awarded under  
25      subsection (b) may be used to—

1           (1) provide emergency support through grants  
2           to local educational agencies that the State edu-  
3           cational agency deems have been most significantly  
4           impacted by coronavirus to support the ability of  
5           such local educational agencies to continue to pro-  
6           vide educational services to their students and to  
7           support the on-going functionality of the local edu-  
8           cational agency;

9           (2) provide emergency support through grants  
10          to institutions of higher education serving students  
11          within the State that the Governor determines have  
12          been most significantly impacted by coronavirus to  
13          support the ability of such institutions to continue to  
14          provide educational services and support the on-  
15          going functionality of the institution; and

16          (3) provide support to any other institution of  
17          higher education, local educational agency, or edu-  
18          cation related entity within the State that the Gov-  
19          ernor deems essential for carrying out emergency  
20          educational services to students for authorized ac-  
21          tivities described in section 103(e) of this title, the  
22          ESEA of 1965, the Higher Education Act of 1965,  
23          the provision of child care and early childhood edu-  
24          cation, social and emotional support, career and

1 technical education, adult education, and the protec-  
2 tion of education-related jobs.

3 (d) REALLOCATION.—Each Governor shall return to  
4 the Secretary any funds received under this section that  
5 the Governor does not award within 6 months of receiving  
6 such funds and the Secretary shall reallocate such funds  
7 to the remaining States in accordance with subsection (b).

8 (e) REPORT.—A Governor receiving funds under this  
9 section shall submit a report to the Secretary, not later  
10 than 6 months after receiving funding provided in this  
11 Act, in such manner and with such subsequent frequency  
12 as the Secretary may require, that provides a detailed ac-  
13 counting of the use of funds provided under this section.

14 ELEMENTARY AND SECONDARY SCHOOL EMERGENCY

15 RELIEF FUND

16 SEC. 103. (a) GRANTS.—From funds reserved under  
17 section 101(b)(2) of this title, the Secretary shall make  
18 supplemental elementary and secondary school emergency  
19 relief grants to each State educational agency with an ap-  
20 proved application under section 18003 of division B of  
21 the CARES Act (Public Law 116–136). The Secretary  
22 shall award funds under this section to each State edu-  
23 cational agency with an approved application within 15  
24 calendar days of enactment of this Act.

1       (b) ALLOCATIONS TO STATES.—The amount of each  
2 grant under subsection (a) shall be allocated by the Sec-  
3 retary to each State in the same proportion as each State  
4 received under part A of title I of the ESEA of 1965 in  
5 the most recent fiscal year.

6       (c) SUBGRANTS.—From the payment provided by the  
7 Secretary under subsection (b), the State educational  
8 agency may provide services and assistance to local edu-  
9 cational agencies and non-public schools, consistent with  
10 the provisions of this title. After carrying out the reserva-  
11 tion of funds in section 105 of this title, each State shall  
12 allocate not less than 90 percent of the remaining grant  
13 funds awarded to the State under this section as sub-  
14 grants to local educational agencies (including charter  
15 schools that are local educational agencies) in the State  
16 in proportion to the amount of funds such local edu-  
17 cational agencies and charter schools that are local edu-  
18 cational agencies received under part A of title I of the  
19 ESEA of 1965 in the most recent fiscal year. The State  
20 educational agency shall make such subgrants to local  
21 educational agencies as follows—

22           (1) one-third of funds shall be awarded not less  
23 than 15 calendar days after receiving an award from  
24 the Secretary under this section; and

1           (2) the remaining two-thirds of funds shall be  
2           awarded only after the local educational agency sub-  
3           mits to the Governor and the Governor approves a  
4           comprehensive school reopening plan for the 2020–  
5           2021 school-year, based on criteria determined by  
6           the Governor in consultation with the State edu-  
7           cational agency (including criteria for the Governor  
8           to carry out subparagraph (A) through (C)), that  
9           describes how the local educational agency will safely  
10          reopen schools with the physical presence of stu-  
11          dents, consistent with maintaining safe and contin-  
12          uous operations aligned with challenging state aca-  
13          demic standards. The Governor shall approve such  
14          plans within 30 days after the plan is submitted,  
15          subject to the requirements in subparagraphs (A)  
16          through (C).

17                (A) A local educational agency that pro-  
18                vides in-person instruction for at least 50 per-  
19                cent of its students where the students phys-  
20                ically attend school no less than 50 percent of  
21                each school-week, as it was defined by the local  
22                educational agency prior to the coronavirus  
23                emergency, shall have its plan automatically ap-  
24                proved.

1 (B) A local educational agency that does  
2 not provide in-person instruction to any stu-  
3 dents where the students physically attend  
4 school in-person shall not be eligible to receive  
5 a subgrant under paragraph (2).

6 (C) A local educational agency that pro-  
7 vides in-person instruction to at least some stu-  
8 dents where the students physically attend  
9 school in-person but does not satisfy the re-  
10 quirements in subparagraph (A) shall have its  
11 allocation reduced on a pro rata basis as deter-  
12 mined by the Governor.

13 (d) PLAN CONTENTS.—A school reopening plan sub-  
14 mitted to a Governor under subsection (c)(2) shall include,  
15 in addition to any other information necessary to meet the  
16 criteria determined by the Governor—

17 (1) A detailed timeline for when the local edu-  
18 cational agency will provide in-person instruction, in-  
19 cluding the goals and criteria used for providing full-  
20 time in-person instruction to all students;

21 (2) A description of how many days of in-per-  
22 son instruction per calendar week the local edu-  
23 cational agency plans to offer to students during the  
24 2020–2021 school year; and

1           (3) An assurance that the local educational  
2           agency will offer students as much in-person instruc-  
3           tion as is safe and practicable, consistent with main-  
4           taining safe and continuous operations aligned with  
5           challenging state academic standards.

6           (e) USES OF FUNDS.—

7           (1) A local educational agency or non-public  
8           school that receives funds under subsection (c)(1) or  
9           section 105 may use funds for any of the following:

10           (A) Activities to support returning to in-  
11           person instruction, including purchasing per-  
12           sonal protective equipment, implementing flexi-  
13           ble schedules to keep children in isolated  
14           groups, purchasing box lunches so that children  
15           can eat in their classroom, purchasing physical  
16           barriers, providing additional transportation  
17           services, repurposing existing school rooms and  
18           space, and improving ventilation systems.

19           (B) Developing and implementing proce-  
20           dures and systems to improve the preparedness  
21           and response efforts of local educational agen-  
22           cies or non-public schools including coordination  
23           with State, local, Tribal, and territorial public  
24           health departments, and other relevant agen-  
25           cies, to improve coordinated responses among

1           such entities to prevent, prepare for, and re-  
2           spond to coronavirus.

3           (C) Providing principals and other school  
4           leaders with the resources necessary to address  
5           the needs of their individual schools directly re-  
6           lated to coronavirus.

7           (D) Providing additional services to ad-  
8           dress the unique needs of low-income children  
9           or students, children with disabilities, English  
10          learners, racial and ethnic minorities, students  
11          experiencing homelessness, and foster care  
12          youth, including how outreach and service deliv-  
13          ery will meet the needs of each population.

14          (E) Training and professional development  
15          for staff of the local educational agency or non-  
16          public school on sanitation and minimizing the  
17          spread of infectious diseases.

18          (F) Purchasing supplies to sanitize, clean,  
19          and disinfect the facilities of a local educational  
20          agency or non-public school, including buildings  
21          operated by such agency.

22          (G) Planning for and coordinating during  
23          long-term closures, including for how to provide  
24          meals to eligible students, how to provide tech-  
25          nology for online learning to all students, how



1 to provide guidance for carrying out require-  
2 ments under the Individuals with Disabilities  
3 Education Act (20 U.S.C. 1401 et seq.) and  
4 how to ensure other educational services can  
5 continue to be provided consistent with all Fed-  
6 eral, State, and local requirements.

7 (H) Purchasing educational technology (in-  
8 cluding hardware, software, and connectivity)  
9 for students who are served by the local edu-  
10 cational agency or non-public school that aids  
11 in regular and substantive educational inter-  
12 action between students and their classroom in-  
13 structors, including low-income students and  
14 students with disabilities, which may include as-  
15 sistive technology or adaptive equipment.

16 (I) Expanding healthcare and other health  
17 services (including mental health services and  
18 supports), including for children at risk of  
19 abuse or neglect.

20 (J) Planning and implementing activities  
21 related to summer learning and supplemental  
22 afterschool programs, including providing class-  
23 room instruction or online learning during the  
24 summer months and addressing the needs of  
25 low-income students, students with disabilities,

1 English learners, migrant students, students ex-  
2 periencing homelessness, and children in foster  
3 care.

4 (2) A local educational agency that receives  
5 funds under subsection (c)(2) may use the funds for  
6 activities to carry out a comprehensive school re-  
7 opening plan as described in this section, including:

8 (A) Purchasing personal protective equip-  
9 ment, implementing flexible schedules to keep  
10 children in isolated groups, purchasing box  
11 lunches so that children can eat in their class-  
12 room, purchasing physical barriers, providing  
13 additional transportation services, repurposing  
14 existing school rooms and space, and improving  
15 ventilation systems.

16 (B) Developing and implementation of pro-  
17 cedures and systems to improve the prepared-  
18 ness and response efforts of local educational  
19 agencies or non-public schools, including coordi-  
20 nation with State, local, Tribal, and territorial  
21 public health departments, and other relevant  
22 agencies, to improve coordinated responses  
23 among such entities to prevent, prepare for,  
24 and respond to coronavirus.

1           (C) Providing principals and others school  
2 leaders with the resources necessary to address  
3 the needs of their individual schools.

4           (D) Providing additional services to ad-  
5 dress the unique needs of low-income children  
6 or students, children with disabilities, English  
7 learners, racial and ethnic minorities, students  
8 experiencing homelessness, and foster care  
9 youth, including how outreach and service deliv-  
10 ery will meet the needs of each population.

11          (E) Training and professional development  
12 for staff of the local educational agency or non-  
13 public school on sanitation and minimizing the  
14 spread of infectious diseases.

15          (F) Purchasing supplies to sanitize, clean,  
16 and disinfect the facilities of a local educational  
17 agency or non-public school, including buildings  
18 operated by such agency.

19          (G) Purchasing educational technology (in-  
20 cluding hardware, software, and connectivity)  
21 for students who are served by the local edu-  
22 cational agency or non-public school that aids  
23 in regular and substantive educational inter-  
24 action between students and their classroom in-  
25 structors, including low-income students and

1 students with disabilities, which may include as-  
2 sistive technology or adaptive equipment.

3 (H) Expanding healthcare and other  
4 health services (including mental health services  
5 and supports), including for children at risk of  
6 abuse or neglect.

7 (I) Planning and implementing activities  
8 related to summer learning and supplemental  
9 afterschool programs, including providing class-  
10 room instruction during the summer months  
11 and addressing the needs of low-income stu-  
12 dents, students with disabilities, English learn-  
13 ers, migrant students, students experiencing  
14 homelessness, and children in foster care.

15 (f) STATE FUNDING.—With funds not otherwise allo-  
16 cated or reserved under this section, a State may reserve  
17 not more than 1/2 of 1 percent of its grant under this  
18 section for administrative costs and the remainder for  
19 emergency needs as determined by the State educational  
20 agency to address issues responding to coronavirus, which  
21 may be addressed through the use of grants or contracts.

22 (g) ASSURANCES.—A State, State educational agen-  
23 cy, or local educational agency receiving funding under  
24 this section shall provide assurances, as applicable, that:

1           (1) A State, State educational agency, or local  
2           educational agency will maintain and expand access  
3           to high-quality schools, including high-quality public  
4           charter schools, and will not—

5                   (A) enact policies to close or prevent the  
6                   expansion of such schools to address revenue  
7                   shortfalls that result in the disproportionate  
8                   closure or denial of expansion of public charter  
9                   schools that are otherwise meeting the terms of  
10                  their charter for academic achievement; or

11                   (B) disproportionately reduce funding to  
12                   charter schools or otherwise increase funding  
13                   gaps between charter schools and other public  
14                   schools in the local educational agency.

15           (2) Allocations of funding and services provided  
16           from funds provided in this section to public charter  
17           schools are made on the same basis as is used for  
18           all public schools, consistent with state law and in  
19           consultation with charter school leaders.

20           (h) REPORT.—A State receiving funds under this sec-  
21           tion shall submit a report to the Secretary, not later than  
22           6 months after receiving funding provided in this Act, in  
23           such manner and with such subsequent frequency as the  
24           Secretary may require, that provides a detailed accounting  
25           of the use of funds provided under this section.

1       (i) REALLOCATION.—A State shall return to the Sec-  
2       retary any funds received under this section that the State  
3       does not award within 4 months of receiving such funds  
4       and the Secretary shall deposit such funds into the general  
5       fund of the Treasury.

6       (j) RULE OF CONSTRUCTION.—

7           (1) The receipt of any funds authorized or ap-  
8       propriated under this section, including pursuant to  
9       section 105 of this Act, by a nonprofit entity, or by  
10      any individual who has been admitted or applied for  
11      admission to such entity (or any parent or guardian  
12      of such individual), shall not be construed to render  
13      such entity or person a recipient of Federal financial  
14      assistance for any purpose, nor shall any such per-  
15      son or entity be required to make any alteration to  
16      its existing programs, facilities, or employment prac-  
17      tices except as required under this section.

18          (2) No State participating in any program  
19      under this section, including pursuant to section 105  
20      of this Act, shall impose any penalty or additional  
21      requirement upon, or otherwise disadvantage, such  
22      entity or person as a consequence or condition of its  
23      receipt of such funds.

24          (3) No State participating in any program  
25      under this section shall authorize any person or enti-

1       ty to use any funds authorized or appropriated  
2       under this section, including pursuant to section 105  
3       of this Act, except as provided by subsection (e), nor  
4       shall any such State impose any limits upon the use  
5       of any such funds except as provided by subsection  
6       (e).

7       HIGHER EDUCATION EMERGENCY RELIEF FUND

8       SEC. 104. (a) IN GENERAL.—From funds reserved  
9       under section 101(b)(3) of this title the Secretary shall  
10      allocate amounts as follows:

11           (1) 85 percent to each institution of higher edu-  
12           cation described in section 101 or section 102(c) of  
13           the Higher Education Act of 1965 to prevent, pre-  
14           pare for, and respond to coronavirus, by appor-  
15           tioning it—

16                   (A) 90 percent according to the relative  
17                   share of full-time equivalent enrollment of Fed-  
18                   eral Pell Grant recipients who were not exclu-  
19                   sively enrolled in distance education courses  
20                   prior to the coronavirus emergency; and

21                   (B) 10 percent according to the relative  
22                   share of full-time equivalent enrollment of stu-  
23                   dents who were not Federal Pell Grant recipi-  
24                   ents who were not exclusively enrolled in dis-

1           tance education courses prior to the coronavirus  
2           emergency.

3           (2) 10 percent for additional awards under  
4           parts A and B of title III, parts A and B of title  
5           V, and subpart 4 of part A of title VII of the Higher  
6           Education Act to address needs directly related to  
7           coronavirus, that shall be in addition to awards  
8           made in section 104(a)(1) of this title, and allocated  
9           by the Secretary proportionally to such programs  
10          based on the relative share of funding appropriated  
11          to such programs in the Further Consolidated Ap-  
12          propriations Act, 2020 (Public Law 116–94) and  
13          distributed to eligible institutions of higher edu-  
14          cation, except as otherwise provided in subpara-  
15          graphs (A)–(D), on the basis of the formula de-  
16          scribed in section 104(a)(1) of this title:

17                (A) Except as otherwise provided in sub-  
18                paragraph (B), for eligible institutions under  
19                part B of title III and subpart 4 of part A of  
20                title VII of the Higher Education Act, the Sec-  
21                retary shall allot to each eligible institution an  
22                amount using the following formula:

23                       (i) 70 percent according to a ratio  
24                       equivalent to the number of Pell Grant re-  
25                       cipients in attendance at such institution



1 at the end of the school year preceding the  
2 beginning of the most recent fiscal year  
3 and the total number of Pell Grant recipi-  
4 ents at all such institutions;

5 (ii) 20 percent according to a ratio  
6 equivalent to the total number of students  
7 enrolled at such institution at the end of  
8 the school year preceding the beginning of  
9 that fiscal year and the number of stu-  
10 dents enrolled at all such institutions; and

11 (iii) 10 percent according to a ratio  
12 equivalent to the total endowment size at  
13 all eligible institutions at the end of the  
14 school year preceding the beginning of that  
15 fiscal year and the total endowment size at  
16 such institutions;

17 (B) For eligible institutions under section  
18 326 of the Higher Education Act, the Secretary  
19 shall allot to each eligible institution an amount  
20 in proportion to the award received from fund-  
21 ing for such institutions in the Further Consoli-  
22 dated Appropriations Act, 2020 (Public Law  
23 116–94);

24 (C) For eligible institutions under section  
25 316 of the Higher Education Act, the Secretary

1 shall allot funding according to the formula in  
2 section 316(d)(3) of the Higher Education Act;  
3 and

4 (D) Notwithstanding section 318(f) of the  
5 Higher Education Act, for eligible institutions  
6 under section 318 of the Higher Education Act,  
7 the Secretary shall allot funding according to  
8 the formula in section 318(e) of the Higher  
9 Education Act.

10 (3) 5 percent for grants to institutions of high-  
11 er education that the Secretary determines, through  
12 an application process and after allocating funds  
13 under paragraphs 104(a)(1) and (2) of this Act,  
14 have the greatest unmet needs related to  
15 coronavirus. In awarding funds to institutions of  
16 higher education under this paragraph the Secretary  
17 shall prioritize institutions of higher education—

18 (A) described under title I of the Higher  
19 Education Act of 1965 that were not eligible to  
20 receive an award under section 104(a)(1) of  
21 this title, including institutions described in sec-  
22 tion 102(b) of the Higher Education Act of  
23 1965; and

24 (B) that otherwise demonstrate significant  
25 needs related to coronavirus that were not ad-

1           dressed by funding allocated under subsections  
2           (a)(1) or (a)(2) of this section.

3           (b) DISTRIBUTION.—The funds made available to  
4 each institution under subsection (a)(1) shall be distrib-  
5 uted by the Secretary using the same systems as the Sec-  
6 retary otherwise distributes funding to each institution  
7 under title IV of the Higher Education Act of 1965 (20  
8 U.S.C. 1001 et seq.).

9           (c) USES OF FUNDS.—An institution of higher edu-  
10 cation receiving funds under this section may use the  
11 funds received to:

12           (1) defray expenses associated with coronavirus  
13 (including lost revenue, reimbursement for expenses  
14 already incurred, technology costs associated with a  
15 transition to distance education, faculty and staff  
16 trainings, and payroll); and

17           (2) provide financial aid grants to students (in-  
18 cluding students exclusively enrolled in distance edu-  
19 cation), which may be used for any component of the  
20 student's cost of attendance or for emergency costs  
21 that arise due to coronavirus.

22           (d) SPECIAL PROVISIONS.—

23           (1) A Historically Black College and University  
24 or a Minority Serving Institution may use prior  
25 awards provided under titles III, V, and VII of the

1 Higher Education Act to prevent, prepare for, and  
2 respond to coronavirus.

3 (2) An institution of higher education receiving  
4 funds under section 18004 of division B of the  
5 CARES Act (Public Law 116–136) may use those  
6 funds under the terms and conditions of section  
7 104(c) of this Act. Amounts repurposed pursuant to  
8 this paragraph that were previously designated by  
9 the Congress as an emergency requirement pursuant  
10 to the Balanced Budget and Emergency Deficit Con-  
11 trol Act of 1985 are designated by the Congress as  
12 an emergency requirement pursuant to section  
13 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
14 gency Deficit Control Act of 1985.

15 (3) No funds received by an institution of high-  
16 er education under this section shall be used to fund  
17 contractors for the provision of pre-enrollment re-  
18 cruitment activities; endowments; or capital outlays  
19 associated with facilities related to athletics, sec-  
20 tarian instruction, or religious worship.

21 (4) An institution of higher education that was  
22 required to remit payment to the Internal Revenue  
23 Service for the excise tax based on investment in-  
24 come of private colleges and universities under sec-  
25 tion 4968 of the Internal Revenue Code of 1986 for

1 tax year 2019 shall have their allocation under this  
2 section reduced by 50 percent and may only use  
3 funds for activities described in paragraph (c)(2).

4 This paragraph shall not apply to an institution of  
5 higher education designated by the Secretary as an  
6 eligible institution under section 448 of the Higher  
7 Education Act of 1965.

8 (e) REPORT.—An institution receiving funds under  
9 this section shall submit a report to the Secretary, not  
10 later than 6 months after receiving funding provided in  
11 this Act, in such manner and with such subsequent fre-  
12 quency as the Secretary may require, that provides a de-  
13 tailed accounting of the use of funds provided under this  
14 section.

15 (f) REALLOCATION.—Any funds allocated to an insti-  
16 tution of higher education under this section on the basis  
17 of a formula described in subsection (a)(1) or (a)(2) but  
18 for which an institution does not apply for funding within  
19 60 days of the publication of the notice inviting applica-  
20 tions, shall be reallocated to eligible institutions that had  
21 submitted an application by such date.

22 ASSISTANCE TO NON-PUBLIC SCHOOLS

23 SEC. 105. (a) FUNDS AVAILABILITY.—From the pay-  
24 ment provided by the Secretary under section 103 of this  
25 title to a State educational agency, the State educational

1 agency shall reserve an amount of funds equal to the per-  
2 centage of students enrolled in non-public elementary and  
3 secondary schools in the State prior to the coronavirus  
4 emergency. Upon reserving funds under this section, the  
5 Governor of the State may award subgrants—

6           (1) to eligible scholarship-granting organiza-  
7           tions for carrying out section 6001 of division A of  
8           this Act; and

9           (2) to non-public schools accredited or other-  
10          wise located in and licensed to operate in the State  
11          based on the number of students enrolled in the non-  
12          public school prior to the coronavirus emergency,  
13          subject to the requirements in subsection (b).

14          (b)(1) A non-public school that provides in-person in-  
15          struction for at least 50 percent of its students where the  
16          students physically attend school no less than 50 percent  
17          of each school-week, as determined by the non-public  
18          school prior to the coronavirus emergency, shall be eligible  
19          for the full amount of assistance per student as prescribed  
20          under this section.

21          (2) A non-public school that does not provide in-per-  
22          son instruction to any students where the students phys-  
23          ically attend school in-person shall only be eligible for one-  
24          third of the amount of assistance per student as prescribed  
25          under this section.

1       (3) A non-public school that provides in-person in-  
2       struction to at least some students where the students  
3       physically attend school in-person but does not satisfy the  
4       requirements in paragraph (1) shall have its amount of  
5       assistance as prescribed under this section reduced on a  
6       pro rata basis, which shall be calculated using the same  
7       methodology as is used under section 103(c)(2)(C) of this  
8       title.

9       (c) A Governor shall allocate not less than 50 percent  
10      of the funds reserved in this section to non-public schools  
11      or eligible scholarship-granting organizations within 30  
12      days of receiving an award from the Secretary and the  
13      remaining 50 percent not less than 4 months after receiv-  
14      ing an award from the Secretary.

15                   CONTINUED PAYMENT TO EMPLOYEES

16      SEC. 106. A local educational agency, State, institu-  
17      tion of higher education, or other entity that receives  
18      funds under “Education Stabilization Fund”, shall to the  
19      greatest extent practicable, continue to pay its employees  
20      and contractors during the period of any disruptions or  
21      closures related to coronavirus.

22                   DEFINITIONS

23      SEC. 107. Except as otherwise provided in sections  
24      101–106 of this title, as used in such sections—

1           (1) the terms “elementary education” and “sec-  
2       ondary education” have the meaning given such  
3       terms under State law;

4           (2) the term “institution of higher education”  
5       has the meaning given such term in title I of the  
6       Higher Education Act of 1965 (20 U.S.C. 1001 et  
7       seq.);

8           (3) the term “Secretary” means the Secretary  
9       of Education;

10          (4) the term “State” means each of the 50  
11       States, the District of Columbia, and the Common-  
12       wealth of Puerto Rico;

13          (5) the term “cost of attendance” has the  
14       meaning given such term in section 472 of the High-  
15       er Education Act of 1965.

16          (6) the term “Non-public school” means a non-  
17       public elementary and secondary school that (A) is  
18       accredited, licensed, or otherwise operates in accord-  
19       ance with State law; and (B) was in existence prior  
20       to the date of the qualifying emergency for which  
21       grants are awarded under this section;

22          (7) the term “public school” means a public ele-  
23       mentary or secondary school; and

24          (8) any other term used that is defined in sec-  
25       tion 8101 of the Elementary and Secondary Edu-



1 cation Act of 1965 (20 U.S.C. 7801) shall have the  
2 meaning given the term in such section.

3 GENERAL PROVISION—THIS TITLE

4 SEC. 108. Not later than 30 days after the date of  
5 enactment of this Act, the Secretaries of Health and  
6 Human Services and Education shall provide a detailed  
7 spend plan of anticipated uses of funds made available in  
8 this title, including estimated personnel and administra-  
9 tive costs, to the Committees on Appropriations of the  
10 House of Representatives and the Senate: *Provided*, That  
11 such plans shall be updated and submitted to such Com-  
12 mittees every 60 days until September 30, 2024: *Provided*  
13 *further*, That the spend plans shall be accompanied by a  
14 listing of each contract obligation incurred that exceeds  
15 \$5,000,000 which has not previously been reported, in-  
16 cluding the amount of each such obligation.

17 TITLE II

18 DEPARTMENT OF AGRICULTURE

19 AGRICULTURAL PROGRAMS

20 OFFICE OF THE SECRETARY

21 For an additional amount for the “Office of the Sec-  
22 retary”, \$20,000,000,000, to remain available until ex-  
23 pended, to prevent, prepare for, and respond to  
24 coronavirus by providing support for agricultural pro-  
25 ducers, growers, and processors impacted by coronavirus,

1 including producers, growers, and processors of specialty  
 2 crops, non-specialty crops, dairy, livestock and poultry, in-  
 3 cluding livestock and poultry depopulated due to insuffi-  
 4 cient processing access and growers who produce livestock  
 5 or poultry under a contract for another entity: *Provided*,  
 6 That such amount is designated by the Congress as being  
 7 for an emergency requirement pursuant to section  
 8 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
 9 Deficit Control Act of 1985.

### 10 TITLE III

#### 11 DEPARTMENT OF COMMERCE

##### 12 FISHERIES DISASTER ASSISTANCE

13 For an additional amount for “Fisheries Disaster As-  
 14 sistance”, \$500,000,000, to remain available until Sep-  
 15 tember 30, 2021, to prevent, prepare for, and respond to  
 16 coronavirus, domestically or internationally, which shall be  
 17 for activities authorized under section 12005 of the  
 18 Coronavirus Aid, Relief, and Economic Security Act (Pub-  
 19 lic Law 116–136): *Provided*, That the formula prescribed  
 20 by the Secretary of Commerce to allocate the amount pro-  
 21 vided under this heading in this Act shall be divided pro-  
 22 portionally to States, Tribes, and territories and shall be  
 23 the same as the formula used for funds appropriated  
 24 under section 12005 of Public Law 116–136, but shall be  
 25 calculated to also evenly weight the 5-year total annual

1 average domestic landings for each State, Tribe, and terri-  
2 tory: *Provided further*, That the amount provided under  
3 this heading in this Act shall only be allocated to States  
4 of the United States in, or bordering on, the Atlantic, Pa-  
5 cific, or Arctic Ocean, or the Gulf of Mexico, as well as  
6 to Puerto Rico, the Virgin Islands, Guam, the Common-  
7 wealth of the Northern Mariana Islands, American  
8 Samoa, Federally Recognized Tribes on the West Coast,  
9 and Federally Recognized Tribes in Alaska: *Provided fur-*  
10 *ther*, That no State, Tribe, or territory shall receive a total  
11 amount in a fiscal year that is from amounts provided  
12 under either section 12005 of Public Law 116–136 or  
13 amounts provided under this heading in this Act that ex-  
14 ceeds that State, Tribe, or territory’s total annual average  
15 revenue from commercial fishing operations, aquaculture  
16 firms, the seafood supply chain, and charter fishing busi-  
17 nesses: *Provided further*, That such amount is designated  
18 by the Congress as being for an emergency requirement  
19 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
20 et and Emergency Deficit Control Act of 1985.

#### 21 TITLE IV

#### 22 GENERAL PROVISIONS—THIS ACT

23 SEC. 401. Each amount appropriated or made avail-  
24 able by this Act is in addition to amounts otherwise appro-  
25 priated for the fiscal year involved.

1       SEC. 402. No part of any appropriation contained in  
2 this Act shall remain available for obligation beyond the  
3 current fiscal year unless expressly so provided herein.

4       SEC. 403. Unless otherwise provided for by this Act,  
5 the additional amounts appropriated by this Act to appro-  
6 priations accounts shall be available under the authorities  
7 and conditions applicable to such appropriations accounts  
8 for fiscal year 2020.

9       SEC. 404. In this Act, the term “coronavirus” means  
10 SARS-CoV-2 or another coronavirus with pandemic po-  
11 tential.

12       SEC. 405. Each amount designated in this Act by the  
13 Congress as being for an emergency requirement pursuant  
14 to section 251(b)(2)(A)(i) of the Balanced Budget and  
15 Emergency Deficit Control Act of 1985 shall be available  
16 (or rescinded or transferred, if applicable) only if the  
17 President subsequently so designates all such amounts  
18 and transmits such designations to the Congress.

19       SEC. 406. Any amount appropriated by this Act, des-  
20 ignated by the Congress as an emergency requirement  
21 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
22 et and Emergency Deficit Control Act of 1985 and subse-  
23 quently so designated by the President, and transferred  
24 pursuant to transfer authorities provided by this Act shall  
25 retain such designation.

## 1 BUDGETARY EFFECTS

2 SEC. 407. (a) STATUTORY PAYGO SCORECARDS.—

3 The budgetary effects of this division shall not be entered  
4 on either PAYGO scorecard maintained pursuant to sec-  
5 tion 4(d) of the Statutory Pay As-You-Go Act of 2010.

6 (b) SENATE PAYGO SCORECARDS.—The budgetary  
7 effects of this division shall not be entered on any PAYGO  
8 scorecard maintained for purposes of section 4106 of H.  
9 Con. Res. 71 (115th Congress).

10 (c) CLASSIFICATION OF BUDGETARY EFFECTS.—  
11 Notwithstanding Rule 3 of the Budget Scorekeeping  
12 Guidelines set forth in the joint explanatory statement of  
13 the committee of conference accompanying Conference Re-  
14 port 105–217 and section 250(c)(7) and (c)(8) of the Bal-  
15 anced Budget and Emergency Deficit Control Act of 1985,  
16 the budgetary effects of this division shall be estimated  
17 for purposes of section 251 of such Act.

18 (d) ENSURING NO WITHIN-SESSION SEQUESTRA-  
19 TION.—Solely for the purpose of calculating a breach with-  
20 in a category for fiscal year 2020 pursuant to section  
21 251(a)(6) or section 254(g) of the Balanced Budget and  
22 Emergency Deficit Control Act of 1985, and notwith-  
23 standing any other provision of this division, the budg-  
24 etary effects from this division shall be counted as

1 amounts designated as being for an emergency require-  
2 ment pursuant to section 251(b)(2)(A) of such Act.

3       This division may be cited as the “Coronavirus Re-  
4 sponse Additional Supplemental Appropriations Act,  
5 2020”.



Calendar No. 564

116TH CONGRESS  
2D Session  
**S. 4775**

**A BILL**

To provide continued emergency assistance, educational support, and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic.

OCTOBER 1, 2020

Read the second time and placed on the calendar