

Federal, State and Intergovernmental Relations (FSIR) Meeting

August 28, 2020

1:00 PM

WebEx Meeting

Access information provide to Internal Staff

Public Participation Dialing Instructions

Dial Access Number: 1-877-820-7831

Enter Participant Code: 254610#

Council Member Angela Lawson, Chair

Council Member Allison Hiltz, Vice Chair

Council Member Crystal Murillo, Member

Serve as leaders and partner with other governments and jurisdictions

1. Consent Items (None)
2. Approval of Minutes Lawson
3. Federal Legislative Update Hettinger
4. State Legislative Update O'Keefe/Palmisano
5. Miscellaneous Matters for Consideration

Next meeting – September 25, 2020

Federal, State and Intergovernmental Relations (FSIR) Meeting
Video Conference Call Meeting
July 31, 2020

Members Present: Council Member Angela Lawson, Chair; Council Member Allison Hiltz, Vice-Chair; Council Member Crystal Murillo, Member

Others Present: Luke Palmisano, Nancy Rodgers, Kathy Kitzmann, Peggi O'Keefe, Totsy Rees, Lauri Hettinger, Council Member Curtis Gardner, Natasha Campbell

1. **APPROVAL OF MINUTES:** JUNE 26, 2020 minutes were approved as written.
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2. **CONSENT ITEMS:** None.
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3. **WELCOME AND INTRODUCTIONS:**

Summary of Issue and Discussion: Chair CM Angela Lawson welcomed the committee to the video conference call and introductions were made.

Outcome: Information only.

Follow-up Action: None.

4. **FEDERAL LEGISLATIVE UPDATE:** Lauri Hettinger, federal lobbyist, gave an update on current federal legislation. The Senate has just released its latest COVID response bill called the HEALS Act. As part of the back-up documentation is a comparison to the House's HEROS Act. Congress is scheduled to go on recess on August 7, but it looks like they will not have time to pass COVID legislation before then, so the recess may be delayed.
- The House bill has \$500 billion for State government and \$375 billion for local government. The Senate's bill does not provide additional money for municipalities but extends the timeline for cities like Aurora to spend their CARES Act money by 90 days beyond the fiscal year. They also allow municipalities to use these funds to cover revenue shortfalls. L. Hettinger said she is fairly sure there will be money in the next bill for state and local governments. Unemployment is extended in the House bill as well as another round of stimulus checks. There is no money for transportation or water. But there is \$2 billion for airports. The Senate bill also extends the PPP and gives additional funding for that program. Unlike the House bill the Senate bill has a liability protection component for businesses, schools, and charitable organizations from COVID related lawsuits. There is some funding for K-12 schools. There is \$3 billion for rental assistance. The Senate bill does not extend the moratorium on evictions or foreclosures.
- L. Hettinger is working on getting phone calls set up with staff representatives with Senator Gardner, Senator Bennett and Congressman Crow with CM Lawson and CM Gruber. She is also working to set up a call with Senator Gardner and the Mayor.
- CM Lawson asked if on these calls can we advocate for funding for transportation and infrastructure? L. Hettinger said that since these bills are in their first draft and there will still be a

lot of negotiations so there is time to advocate for the city's needs. L. Palmisano said that staff is working on a council study session presentation on a lobbying strategy for RTD. L. Hettinger suggested council members who sit on different transportation related boards or commissions to tell them to step up their lobbying efforts for funding and that Senator Gardner would be a good person to talk to. The other concern is that there is no money in either bill for water. Aurora Water are working on some letters to send out regarding adding funding for water utilities.

The transportation bill passed the House as part of a larger infrastructure bill. Congress has to pass legislation authorizing all department of transportation funding programs every 5 years. The current FAST Act expires on September 30th. The House bill has passed but they did not identify any way of funding it. They are going to extend the current transportation bill until next year. L. Hettinger said she feels confident that with all the potential changes in the administration and legislators, transportation and infrastructure will be a priority next year.

L. Hettinger said there is nothing new regarding a police reform bill. And it does not look like they will get anything passed this year. The House has been working on its appropriations bills. One of these bills provides funding for the department of justice and there was a lot of money for police reform in that bill, over \$4 million for grants for state and local governments as well as other organizations. The Senate has not yet started working on its appropriations bills but it looks like in the end there will be some money for police reform.

CM Lawson asked if L. Hettinger had any updates on Senate Bill 4034 Safer Detention Act. She said CM Gardner had some comments on the bill and she would like to committee to decide if they should take a position on this bill and forward it to a study session for all of Council to review. L. Hettinger said there are no updates on this bill. There has been no movement on it and she does not see anything moving forward on it this year. CM Lawson asked if this bill could be added to the 2020 Council Priorities list. L. Palmisano said this is not a controversial bill and does not look like it is going anywhere this year. FSIR can take a position in support of the bill without forwarding it to the full council at this time. If council wants to add it to the priorities list, he would recommend doing so in January or February during the regular priorities process. CM Gardner said some of the changes to this bill are actual changes to the CARES Act and hopes some of the bill will get looped in with the next COVID bill. S. 4034 is requesting early release to home detention for the elderly jail population because of possible COVID exposure. This would reduce the jail population and allow for better social distancing. CM Gardner said this topic is important to him and that is why he has asked the committee to move it forward to the whole council. L. Hettinger said she does not see this moving forward this year nor are these provisions included in either of the new COVID bills but all bills will need to be reintroduced next year so Council can add its support to this issue now or wait until next year. CM Lawson asked if the committee members would like to take a position on this issue now or wait until January. CM Murillo said she is fine with waiting until January to take a position. CM Hiltz said she is fine with taking a position now but will defer to the majority of the committee. She noted that, because it is unlikely there will be any movement on the bill between now and January, waiting simply delays the same action that could be taken now. L. Palmisano suggested the committee take a position of support for the bill and if there is no movement on it, we can add it to Council's priorities in January. The committee unanimously agreed to taking a position of support on S. 4034 Safer Detention Act and if nothing happens with the bill the committee will move it to all of council to add to Council's priorities for 2021.

Summary of Issue and Discussion: The committee unanimously agreed to taking a position of support on S. 4034 Safer Detention Act and if nothing happens with the bill the committee will move it to all of council to add to Council's priorities for 2021.

Outcome: Committee unanimously agreed to taking a position of support on S. 4034 Safer Detention Act.

Follow-up Action: None at this time.

5. STATE LEGISLATIVE UPDATE

Summary of Issue and Discussion:

Totsy Rees and Peggi O'Keefe, state lobbyist, gave an update on the state legislation. T. Rees said a letter went out from Republican representatives to the Governor for a special session for education purposes. The Governor's staff was opposed to this because it was their feeling that it was to implement a voucher system for the upcoming school year. The special session will not be called and the Governor said that he will not be taking money away from public education at this time. P. O'Keefe said she is working with L. Palmisano to put together meetings with our representatives and talk to them about Aurora's priorities for next session. The plan is to set up another call with our representatives and council some time after Labor Day. L. Palmisano said since some of the representatives may be campaigning the meeting may have to wait until after the elections. CM Lawson said since it is an election year it might be best to wait until after the elections so we can meet with new members too. L. Palmisano agreed.

Outcome: Information only.

Follow-up Action: None.

6. WATER

Summary of Issue and Discussion: Kathy Kitzmann, Water Resources Principal said there are no updates at this time.

Outcome: Information only.

Follow-up Action: None.

7. MISCELLANEOUS MATTERS FOR CONSIDERATION

CM Lawson said she would like to see a policy put in place that would have any Police Chief or Deputy Chief who represents a tax payer funded lobbying organization that the Aurora Police Department is a member of, come to FSIR to give updates on legislative issues. Nancy Rodgers, Deputy City Attorney, said it would be helpful to have a standing agenda item for all FSIR meetings much like Water has. That way when police related legislation comes up there is a time to have a discussion with someone from the police department. CM Lawson said she would like

to see police legislative items as a standing item on the agenda. CM Hiltz clarified that the concern is that these taxpayer funded lobbying organizations that APD is a member of may be advocating for something that is counter to what Council stands for, even if APD is not directly involved and that it is important to have these conversations. This way Council will at least be aware of legislation these organizations might be lobbying for and Council can then act accordingly. CM Murillo said she supports this as a standing item as well. L. Palmisano said he will work on that and Division Chief Darin Parker would be the best person to represent the police department.

CM Murillo said she has been appointed to the RTD Accountability Committee. She is not sure where she will be going to give updates from those meetings, but is she will figure out how to best communicate with everyone. CM Lawson asked since this is a state level board would it come to FSIR? L. Palmisano said it could since it is an intergovernmental group. CM Lawson said she thinks it would under the State Legislative Update agenda item. CM Murillo said she would be ok with updating the FSIR committee under the State Legislative agenda item. And if there are issues important enough, they can be taken to council as a whole.

Outcome: Staff will add Police as a standing item to the FSIR Agenda

Follow-up Action: Add agenda item

8. CONFIRM NEXT MEETING

The next meeting is scheduled for August 28, 2020, 1:00 PM WebEx video conference meeting.

Approved:

Angela Lawson
Committee Chair

Date

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for a complete substitute.

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

S. 178

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by
_____ to the amendment (No. 2499)
proposed by Mr. McCONNELL

Viz:

1 In lieu of the matter proposed to be inserted, insert
2 the following:

3 **SECTION 1. SHORT TITLE.**

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

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

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

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. References.

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

TITLE I—CORONAVIRUS LIABILITY RELIEF

Sec. 1001. Short title.

Sec. 1002. Findings and purposes.

Sec. 1003. Definitions.

Subtitle A—Liability Relief

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

Sec. 1121. Application of part.

Sec. 1122. Liability; safe harbor.

PART II—LIABILITY LIMITATIONS FOR HEALTH CARE PROVIDERS

Sec. 1141. Application of part.

Sec. 1142. Liability for health care professionals and health care facilities dur-
ing coronavirus public health emergency.

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

Sec. 1161. Jurisdiction.

Sec. 1162. Limitations on suits.

Sec. 1163. Procedures for suit in district courts of the United States.

Sec. 1164. Demand letters; cause of action.

PART IV—RELATION TO LABOR AND EMPLOYMENT LAWS

Sec. 1181. Limitation on violations under specific laws.

Sec. 1182. Liability for conducting testing at workplace.

Sec. 1183. Joint employment and independent contracting.

Sec. 1184. Exclusion of certain notification requirements as a result of the
COVID-19 public health emergency.

Subtitle B—Products

Sec. 1201. Applicability of the targeted liability protections for pandemic and
epidemic products and security countermeasures with respect
to COVID-19.

Subtitle C—General Provisions

Sec. 1301. Severability.

TITLE II—ASSISTANCE FOR AMERICAN FAMILIES

Sec. 2001. Short title.

Sec. 2002. Extension of the Federal Pandemic Unemployment Compensation
program.

TITLE III—SMALL BUSINESS PROGRAMS

Sec. 3001. Small business recovery.

TITLE IV—POSTAL SERVICE ASSISTANCE

Sec. 4001. COVID-19 funding for the United States Postal Service.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 5001. Emergency designation.

DIVISION B—ADDITIONAL EMERGENCY APPROPRIATIONS FOR
CORONAVIRUS HEALTH RESPONSE

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—CORONAVIRUS**
13 **LIABILITY RELIEF**

14 **SEC. 1001. SHORT TITLE.**

15 This title may be cited as the “Safeguarding Amer-
16 ica’s Frontline Employees To Offer Work Opportunities
17 Required to Kickstart the Economy Act” or the “SAFE
18 TO WORK Act”.

19 **SEC. 1002. FINDINGS AND PURPOSES.**

20 (a) **FINDINGS.**—Congress finds the following:

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

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

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

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

24 (5) This standstill was needed to slow the
25 spread of the virus. But it devastated the economy

1 of the United States. The sum of hundreds of local-
2 level and State-level decisions to close nearly every
3 space in which people might gather brought inter-
4 state commerce nearly to a halt.

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

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

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

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

1 tial employers and provide necessary services to their
2 communities), and local government agencies.

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

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

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

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

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

23 (15) These lawsuits also risk diverting taxpayer
24 money provided under the CARES Act and other

1 coronavirus legislation from its intended purposes to
2 the pockets of opportunistic trial lawyers.

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

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

1 of goods and services across State lines. Such eco-
2 nomic activity that, individually and in the aggre-
3 gate, substantially affects interstate commerce is
4 precisely the sort of conduct that should be subject
5 to congressional regulation.

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

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

20 (20) Such a diversion would substantially affect
21 interstate commerce by degrading the national ca-
22 pacity for combating the virus and saving patients,
23 thereby substantially elongating the period before
24 interstate commerce could fully re-engage.

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

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

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

21 (24) Because Congress must safeguard the in-
22 vestment of taxpayer dollars it made in the CARES
23 Act and other coronavirus legislation, and ensure
24 that they are used for their intended purposes and
25 not diverted for other purposes, establishing tem-

1 porary rules governing liability for certain
2 coronavirus-related tort claims is a necessary and
3 proper means of carrying into execution Congress's
4 power to provide for the general welfare of the
5 United States.

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

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

13 (2) prevent the overburdening of the court sys-
14 tems with undue litigation;

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

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

23 (5) prevent litigation brought to extract settle-
24 ments and enrich trial lawyers rather than vindicate
25 meritorious claims;

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

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

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

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

14 **SEC. 1003. DEFINITIONS.**

15 In this title:

16 (1) **APPLICABLE GOVERNMENT STANDARDS**
17 **AND GUIDANCE.**—The term “applicable government
18 standards and guidance” means—

19 (A) any mandatory standards or regula-
20 tions specifically concerning the prevention or
21 mitigation of the transmission of coronavirus
22 issued by the Federal Government, or a State
23 or local government with jurisdiction over an in-
24 dividual or entity, whether provided by execu-
25 tive, judicial, or legislative order; and

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

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

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

5 (4) CORONAVIRUS EXPOSURE ACTION.—

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

8 (i) brought by a person who suffered
9 personal injury or is at risk of suffering
10 personal injury, or a representative of a
11 person who suffered personal injury or is
12 at risk of suffering personal injury;

13 (ii) brought against an individual or
14 entity engaged in businesses, services, ac-
15 tivities, or accommodations; and

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

20 (I) occurred in the course of the
21 businesses, services, activities, or ac-
22 commodations of the individual or en-
23 tity; and

24 (II) occurred—

16

1 (aa) on or after December 1,
2 2019; and
3 (bb) before the later of—
4 (AA) October 1, 2024;
5 or
6 (BB) the date on which
7 there is no declaration by
8 the Secretary of Health and
9 Human Services under sec-
10 tion 319F-3(b) of the Pub-
11 lic Health Service Act (42
12 U.S.C. 247d-6d(b)) (relat-
13 ing to medical counter-
14 measures) that is in effect
15 with respect to coronavirus,
16 including the Declaration
17 Under the Public Readiness
18 and Emergency Prepared-
19 ness Act for Medical Coun-
20 termeasures Against
21 COVID-19 (85 Fed. Reg.
22 15198) issued by the Sec-
23 retary of Health and Human
24 Services on March 17, 2020.

1 (B) EXCLUSIONS.—The term “coronavirus
2 exposure action” does not include—

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

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

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

16 (6) CORONAVIRUS-RELATED HEALTH CARE
17 SERVICES.—The term “coronavirus-related health
18 care services” means services provided by a health
19 care provider, regardless of the location where the
20 services are provided, that relate to—

21 (A) the diagnosis, prevention, or treatment
22 of coronavirus;

23 (B) the assessment or care of an individual
24 with a confirmed or suspected case of
25 coronavirus; or

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

9 (7) CORONAVIRUS-RELATED MEDICAL LIABIL-
10 ITY ACTION.—

11 (A) IN GENERAL.—The term “coronavirus-
12 related medical liability action” means a civil
13 action—

14 (i) brought by a person who suffered
15 personal injury, or a representative of a
16 person who suffered personal injury;

17 (ii) brought against a health care pro-
18 vider; and

19 (iii) alleging any harm, damage,
20 breach, or tort resulting in the personal in-
21 jury alleged to have been caused by, be
22 arising out of, or be related to a health
23 care provider's act or omission in the
24 course of arranging for or providing

1 coronavirus-related health care services
2 that occurred—

3 (I) on or after December 1,
4 2019; and

5 (II) before the later of—

6 (aa) October 1, 2024; or

7 (bb) the date on which there

8 is no declaration by the Secretary

9 of Health and Human Services

10 under section 319F-3(b) of the

11 Public Health Service Act (42

12 U.S.C. 247d-6d(b)) (relating to

13 covered countermeasures) that is

14 in effect with respect to

15 coronavirus, including the Dec-

16 laration Under the Public Read-

17 iness and Emergency Prepared-

18 ness Act for Medical Counter-

19 measures Against COVID-19 (85

20 Fed. Reg. 15198) issued by the

21 Secretary of Health and Human

22 Services on March 17, 2020.

23 (B) EXCLUSIONS.—The term

24 “coronavirus-related medical liability action”

25 does not include—

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

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

10 (8) EMPLOYER.—The term “employer”—

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

14 (B) includes a public agency; and

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

19 (9) GOVERNMENT.—The term “government”
20 means an agency, instrumentality, or other entity of
21 the Federal Government, a State government (in-
22 cluding multijurisdictional agencies, instrumental-
23 ities, and entities), a local government, or a Tribal
24 government.

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

4 (A) a legal duty;

5 (B) the consequences to another party; and

6 (C) applicable government standards and
7 guidance.

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

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

11 (B) economic and noneconomic losses.

12 (12) HEALTH CARE PROVIDER.—

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

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

22 (ii) otherwise authorized by Federal or
23 State law to provide care (including serv-
24 ices and supports furnished in a home or
25 community-based residential setting under

1 the State Medicaid program or a waiver of
2 that program); or

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

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

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

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

21 (ii) The act or omission by the volun-
22 teer occurs—

23 (I) in the course of providing
24 health care services;

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

3 (III) in the course of providing
4 health care services that—

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

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

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

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

21 (A) any natural person, corporation, com-
22 pany, trade, business, firm, partnership, joint
23 stock company, vessel in rem, educational insti-
24 tution, labor organization, or similar organiza-
25 tion or group of organizations;

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

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

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

8 (A) county;

9 (B) borough;

10 (C) municipality;

11 (D) city;

12 (E) town;

13 (F) township;

14 (G) parish;

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

18 (I) special district;

19 (J) school district;

20 (K) intrastate district;

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

24 (M) agency or instrumentality of—

1 (i) multiple units of local government
2 (including units of local government lo-
3 cated in different States); or

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

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

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

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

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

19 (17) STATE.—The term “State”—

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

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

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

6 (18) TRIBAL GOVERNMENT.—

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

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

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

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

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

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

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

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

11 **Subtitle A—Liability Relief**

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

16 **SEC. 1121. APPLICATION OF PART.**

17 (a) CAUSE OF ACTION; TRIBAL SOVEREIGN IMMUN-
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. 1122. LIABILITY; SAFE HARBOR.**

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

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

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

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

21 (b) **REASONABLE EFFORTS TO COMPLY.**—

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

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

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

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

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

13 (2) WRITTEN OR PUBLISHED POLICY.—

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

1 pliable 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. 114I. 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-6c).

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. 1142. 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. 1161. 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. 1162. 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 RESPONSIBI-**
16 **BILITY.—**In any coronavirus-related action, the
17 court shall instruct the jury to answer special
18 interrogatories, or, if there is no jury, the court
19 shall make findings with respect to each defend-
20 ant, including defendants who have entered into
21 settlements with the plaintiff or plaintiffs, con-
22 cerning the percentage of responsibility, if any,
23 of each defendant, measured as a percentage of
24 the total fault of all individuals or entities who
25 caused or contributed to the loss incurred by
26 the plaintiff.

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. 1163. 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. 1164. DEMAND LETTERS; CAUSE OF ACTION.**

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

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

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

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

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

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

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

6 (e) ENFORCEMENT BY THE ATTORNEY GENERAL.—

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

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

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

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

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

9 **SEC. 1181. LIMITATION ON VIOLATIONS UNDER SPECIFIC**
10 **LAWS.**

11 (a) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (b) PUBLIC ACCOMMODATION LAWS.—

11 (1) DEFINITIONS.—In this subsection—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 **SEC. 1182. 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. 1183. 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 181(a)), the Labor Management Re-
10 lations 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. 1184. 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

1
2 **SEC. 1201. APPLICABILITY OF THE TARGETED LIABILITY**
3 **PROTECTIONS FOR PANDEMIC AND EPI-**
4 **DEMIC PRODUCTS AND SECURITY COUNTER-**
5 **MEASURES WITH RESPECT TO COVID-19.**

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

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

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

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

14 “(E) a drug (as such term is defined in
15 section 201(g)(1) of the Federal Food, Drug,
16 and Cosmetic Act), biological product (including
17 a vaccine) (as such term is defined in section
18 351(i)), or device (as such term is defined in
19 section 201(h) of the Federal Food, Drug, and
20 Cosmetic Act) that—

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

25 “(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 (e) 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. 1301. 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 II—ASSISTANCE FOR**
2 **AMERICAN FAMILIES**

3 **SEC. 2001. SHORT TITLE.**

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

6 **SEC. 2002. EXTENSION OF THE FEDERAL PANDEMIC UNEM-**
7 **PLOYMENT COMPENSATION PROGRAM.**

8 (a) **EXTENSION.**—Section 2104(e)(2) of the Relief
9 for Workers Affected by Coronavirus Act (contained in
10 subtitle A of title II of division A of the CARES Act (Pub-
11 lic Law 116–136)) is amended by striking “July 31,
12 2020” and inserting “December 27, 2020”.

13 (b) **AMOUNT.**—

14 (1) **IN GENERAL.**—Section 2104(b) of the Re-
15 lief for Workers Affected by Coronavirus Act (con-
16 tained in subtitle A of title II of division A of the
17 CARES Act (Public Law 116–136)) is amended—

18 (A) in paragraph (1)(B), by striking “of
19 \$600” and inserting “equal to the amount spec-
20 ified in paragraph (3)”; and

21 (B) by adding at the end the following new
22 paragraph:

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

1 “(A) For weeks of unemployment begin-
2 ning after the date on which an agreement is
3 entered into under this section and ending on
4 or before July 31, 2020, \$600.

5 “(B) For weeks of unemployment begin-
6 ning after the last week under subparagraph
7 (A) and ending on or before December 27,
8 2020, \$300.”.

9 (2) TECHNICAL AMENDMENT REGARDING AP-
10 PLICATION TO SHORT-TIME COMPENSATION PRO-
11 GRAMS AND AGREEMENTS.—Section 2104(i)(2) of
12 the Relief for Workers Affected by Coronavirus Act
13 (contained in subtitle A of title II of division A of
14 the CARES Act (Public Law 116–136)) is amend-
15 ed—

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

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

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

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

23 (c) EFFECTIVE DATE.—The amendments made by
24 subsections (a) and (b) shall take effect as if included in
25 the enactment of the Relief for Workers Affected by

1 Coronavirus Act (contained in subtitle A of title II of divi-
2 sion A of the CARES Act (Public Law 116-136)).

3 **TITLE III—SMALL BUSINESS**
4 **PROGRAMS**

5 **SEC. 3001. SMALL BUSINESS RECOVERY.**

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

8 (b) **DEFINITIONS.**—In this section:

9 (1) **ADMINISTRATION; ADMINISTRATOR.**—The
10 terms “Administration” and “Administrator” mean
11 the Small Business Administration and the Adminis-
12 trator thereof, respectively.

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

17 (c) **EMERGENCY RULEMAKING AUTHORITY.**— Not
18 later than 30 days after the date of enactment of this Act,
19 the Administrator shall issue regulations to carry out this
20 section and the amendments made by this section without
21 regard to the notice requirements under section 553(b) of
22 title 5, United States Code.

23 (d) **ADDITIONAL ELIGIBLE EXPENSES.**—

1 (1) ALLOWABLE USE OF PPP LOAN.—Section
2 7(a)(36)(F)(i) of the Small Business Act (15 U.S.C.
3 636(a)(36)(F)(i)) is amended—

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

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

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

9 “(VIII) covered operations ex-
10 penditures, as defined in section
11 1106(a) of the CARES Act (15
12 U.S.C. 9005(a));

13 “(IX) covered property damage
14 costs, as defined in such section
15 1106(a);

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

18 “(XI) covered worker protection
19 expenditures, as defined in such sec-
20 tion 1106(a).”.

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

23 (A) in subsection (a)—

1 (i) by redesignating paragraphs (6),
2 (7), and (8) as paragraphs (10), (11), and
3 (12), respectively;

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

6 (iii) by redesignating paragraph (4) as
7 paragraph (6);

8 (iv) by redesignating paragraph (3) as
9 paragraph (4);

10 (v) by inserting after paragraph (2)

11 the following:

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

20 (vi) by inserting after paragraph (4),

21 as so redesignated, the following:

22 “(5) the term ‘covered property damage cost’
23 means a cost related to property damage and van-
24 dalism or looting due to public disturbances that oc-

1 curred during 2020 that was not covered by insur-
2 ance or other compensation;”;

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

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

11 (viii) by inserting after paragraph (8),
12 as so redesignated, the following:

13 “(9) the term ‘covered worker protection ex-
14 penditure’—

15 “(A) means an operating or a capital ex-
16 penditure that is required to facilitate the adap-
17 tation of the business activities of an entity to
18 comply with requirements established or guid-
19 ance issued by the Department of Health and
20 Human Services, the Centers for Disease Con-
21 trol, or the Occupational Safety and Health Ad-
22 ministration during the period beginning on
23 March 1, 2020 and ending December 31, 2020
24 related to the maintenance of standards for
25 sanitation, social distancing, or any other work-

1 er or customer safety requirement related to
2 COVID-19;

3 “(B) may include—

4 “(i) the purchase, maintenance, or
5 renovation of assets that create or ex-
6 pand—

7 “(I) a drive-through window fa-
8 cility;

9 “(II) an indoor, outdoor, or com-
10 bined air or air pressure ventilation or
11 filtration system;

12 “(III) a physical barrier such as
13 a sneeze guard;

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

16 “(V) an onsite or offsite health
17 screening capability; or

18 “(VI) other assets relating to the
19 compliance with the requirements or
20 guidance described in subparagraph
21 (A), as determined by the Adminis-
22 trator in consultation with the Sec-
23 retary of Health and Human Services
24 and the Secretary of Labor; and

25 “(ii) the purchase of—

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

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

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

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

19 (ix) in paragraph (11), as so redesign-
20 nated—

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

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

1 (III) by adding at the end the
2 following:

3 “(E) covered operations expenditures;

4 “(F) covered property damage costs;

5 “(G) covered supplier costs; and

6 “(H) covered worker protection expendi-
7 tures; and”;

8 (B) in subsection (b), by adding at the end
9 the following:

10 “(5) Any covered operations expenditure.

11 “(6) Any covered property damage cost.

12 “(7) Any covered supplier cost.

13 “(8) Any covered worker protection expendi-
14 ture.”;

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

21 (D) in subsection (e)—

22 (i) in paragraph (2), by inserting
23 “payments on covered operations expendi-
24 tures, payments on covered property dam-
25 age costs, payments on covered supplier

1 costs, payments on covered worker protec-
2 tion expenditures,” after “lease obliga-
3 tions,”; and

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

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

14 “(h) HOLD HARMLESS.—

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

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

23 “(B) attests that the applicant or eligible
24 recipient, as applicable, has accurately verified

1 any certification or documentation provided to
2 the lender.

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

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

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

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

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

20 “(4) the term ‘covered period’ means the pe-
21 riod—

22 “(A) beginning on the date of the origina-
23 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)”;

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
4 an attestation that the eligible recipient
5 made a good faith effort to comply with
6 the requirements under section 7(a)(36) of
7 the Small Business Act (15 U.S.C.
8 636(a)(36)); and

9 “(ii) for the 1-year period following
10 submission of the attestation under clause
11 (i), retains records relevant to the attesta-
12 tion that prove compliance with those re-
13 quirements.

14 “(B) DEMOGRAPHIC INFORMATION.—An
15 eligible recipient of a covered loan described in
16 subparagraph (A) may complete and submit
17 any form related to borrower demographic in-
18 formation.

19 “(C) AUDIT.—The Administrator may—

20 “(i) review and audit covered loans
21 described in subparagraph (A); and

22 “(ii) in the case of fraud, ineligibility,
23 or other material noncompliance with ap-
24 plicable loan or loan forgiveness require-
25 ments, modify—

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

3 “(II) the loan forgiveness amount
4 with respect to a covered loan de-
5 scribed in subparagraph (A).

6 “(2) COVERED LOANS BETWEEN \$150,000 AND
7 \$2,000,000.—

8 “(A) IN GENERAL.—Notwithstanding sub-
9 section (e), with respect to a covered loan made
10 to an eligible recipient that is more than
11 \$150,000 and not more than \$2,000,000—

12 “(i) the eligible recipient seeking loan
13 forgiveness under this section—

14 “(I) is not required to submit the
15 supporting documentation described
16 in paragraph (1) or (2) of subsection
17 (e) or the certification described in
18 subsection (e)(3)(A);

19 “(II) shall retain all relevant
20 schedules, worksheets, and supporting
21 documentation for the 3-year period
22 following submission of the applica-
23 tion for loan forgiveness; and

1 “(III) may complete and submit
2 any form related to borrower demo-
3 graphic information;

4 “(ii) review by the lender of an appli-
5 cation submitted by the eligible recipient
6 for loan forgiveness under this section shall
7 be limited to whether the lender received a
8 complete application, with all fields com-
9 pleted, initialed, or signed, as applicable;

10 and

11 “(iii) the lender shall—

12 “(I) accept the application sub-
13 mitted by the eligible recipient for
14 loan forgiveness under this section;
15 and

16 “(II) submit the application to
17 the Administrator.

18 “(B) AUDIT.—The Administrator may—

19 “(i) review and audit covered loans
20 described in subparagraph (A); and

21 “(ii) in the case of fraud, ineligibility,
22 or other material noncompliance with ap-
23 plicable loan or loan forgiveness require-
24 ments, modify—

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

3 “(II) the loan forgiveness amount
4 with respect to a covered loan de-
5 scribed in subparagraph (A).

6 “(3) AUDIT PLAN.—

7 “(A) IN GENERAL.—Not later than 30
8 days after the date of enactment of the Con-
9 tinuing the Paycheck Protection Program Act,
10 the Administrator shall submit to the Com-
11 mittee on Small Business and Entrepreneurship
12 of the Senate and the Committee on Small
13 Business of the House of Representatives an
14 audit plan that details—

15 “(i) the policies and procedures of the
16 Administrator for conducting reviews and
17 audits of covered loans; and

18 “(ii) the metrics that the Adminis-
19 trator shall use to determine which covered
20 loans will be audited for each category of
21 covered loans described in paragraphs (1)
22 and (2).

23 “(B) REPORTS.—Not later than 30 days
24 after the date on which the Administrator sub-
25 mits the audit plan required under subpara-

1 graph (A), and each month thereafter, the Ad-
2 ministrator shall submit to the Committee on
3 Small Business and Entrepreneurship of the
4 Senate and the Committee on Small Business
5 of the House of Representatives a report on the
6 review and audit activities of the Administrator
7 under this subsection, which shall include—

8 “(i) the number of active reviews and
9 audits;

10 “(ii) the number of reviews and audits
11 that have been ongoing for more than 60
12 days; and

13 “(iii) any substantial changes made to
14 the audit plan submitted under subpara-
15 graph (A).”.

16 (h) GROUP INSURANCE PAYMENTS AS PAYROLL
17 COSTS.—Section 7(a)(36)(A)(viii)(I)(aa)(EE) of the
18 Small Business Act (15 U.S.C.
19 636(a)(36)(A)(viii)(I)(aa)(EE)) is amended by inserting
20 “and other group insurance” before “benefits”.

21 (i) PAYCHECK PROTECTION PROGRAM SECOND
22 DRAW LOANS.—Section 7(a) of the Small Business Act
23 (15 U.S.C. 636(a)) is amended by adding at the end the
24 following:

1 “(37) PAYCHECK PROTECTION PROGRAM SEC-
2 OND DRAW LOANS.—

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

4 “(i) the terms ‘community financial
5 institutions’, ‘credit union’, ‘eligible self-
6 employed individual’, ‘insured depository
7 institution’, ‘nonprofit organization’, ‘pay-
8 roll costs’, ‘seasonal employer’, and ‘vet-
9 erans organization’ have the meanings
10 given those terms in paragraph (36), ex-
11 cept that ‘eligible entity’ shall be sub-
12 stituted for ‘eligible recipient’ each place it
13 appears in the definitions of those terms;

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

16 “(iii) the terms ‘covered mortgage ob-
17 ligation’, ‘covered operating expenditure’,
18 ‘covered property damage cost’, ‘covered
19 rent obligation’, ‘covered supplier cost’,
20 ‘covered utility payment’, and ‘covered
21 worker protection expenditure’ have the
22 meanings given those terms in section
23 1106(a) of the CARES Act (15 U.S.C.
24 9005(a));

1 “(iv) the term ‘covered period’ means
2 the period beginning on the date of the
3 origination of a covered loan and ending on
4 December 31, 2020;

5 “(v) the term ‘eligible entity’—
6 “(I) means any business concern,
7 nonprofit organization, veterans orga-
8 nization, Tribal business concern, eli-
9 gible self-employed individual, sole
10 proprietor, independent contractor, or
11 small agricultural cooperative that—

12 “(aa)(AA) with respect to a
13 business concern, would qualify
14 as a small business concern by
15 the annual receipts size standard
16 (if applicable) established by sec-
17 tion 121.201 of title 13, Code of
18 Federal Regulations, or any suc-
19 cessor regulation; or

20 “(BB) if the entity does not
21 qualify as a small business con-
22 cern, meets the alternative size
23 standard established under sec-
24 tion 3(a)(5);

1 “(bb) employs not more
2 than 300 employees; and

3 “(cc)(AA) except as provided
4 in subitems (BB), (CC), and
5 (DD), had gross receipts during
6 the first or second quarter in
7 2020 that are not less than 35
8 percent less than the gross re-
9 ceipts of the entity during the
10 same quarter in 2019;

11 “(BB) if the entity was not
12 in business during the first or
13 second quarter of 2019, but was
14 in business during the third and
15 fourth quarter of 2019, had gross
16 receipts during the first or sec-
17 ond quarter of 2020 that are less
18 than 35 percent of the amount of
19 the gross receipts of the entity
20 during the third or fourth quar-
21 ter of 2019;

22 “(CC) if the entity was not
23 in business during the first, sec-
24 ond, or third quarter of 2019,
25 but was in business during the

1 fourth quarter of 2019, had gross
2 receipts during the first or sec-
3 ond quarter of 2020 that are less
4 than 35 percent of the amount of
5 the gross receipts of the entity
6 during the fourth quarter of
7 2019; or

8 “(DD) if the entity was not
9 in business during 2019, but was
10 in operation on February 15,
11 2020, had gross receipts during
12 the second quarter of 2020 that
13 are less than 35 percent of the
14 amount of the gross receipts of
15 the entity during the first quar-
16 ter of 2020;

17 “(II) includes an organization de-
18 scribed in subparagraph (D)(vii) of
19 paragraph (36) that is eligible to re-
20 ceive a loan under that paragraph and
21 that meets the requirements described
22 in items (aa) and (cc) of subclause
23 (I); and

24 “(III) does not include—

1 “(aa) an issuer, the securi-
2 ties of which are listed on an ex-
3 change registered a national se-
4 curities exchange under section 6
5 of the Securities Exchange Act of
6 1934 (15 U.S.C. 78f);

7 “(bb) any entity that—

8 “(AA) is a type of busi-
9 ness concern described in
10 subsection (b), (c), (d), (e),
11 (f), (h), (l) (m), (p), (q), (r),
12 or (s) of section 120.110 of
13 title 13, Code of Federal
14 Regulations, or any suc-
15 cessor regulation;

16 “(BB) is a type of busi-
17 ness concern described in
18 section 120.110(g) of title
19 13, Code of Federal Regula-
20 tions, or any successor regu-
21 lation, except as otherwise
22 provided in the interim final
23 rule of the Administration
24 entitled ‘Business Loan Pro-
25 gram Temporary Changes;

1 Paycheck Protection Pro-
2 gram—Additional Eligibility
3 Criteria and Requirements
4 for Certain Pledges of
5 Loans’ (85 Fed. Reg. 21747
6 (April 20, 2020));

7 “(CC) is a type of busi-
8 ness concern described in
9 section 120.110(i) of title
10 13, Code of Federal Regula-
11 tions, or any successor regu-
12 lation, except if the business
13 concern is an organization
14 described in paragraph
15 (36)(D)(vii);

16 “(DD) is a type of
17 business concern described
18 in section 120.110(j) of title
19 13, Code of Federal Regula-
20 tions, or any successor regu-
21 lation, except as otherwise
22 provided in the interim final
23 rules of the Administration
24 entitled ‘Business Loan Pro-
25 gram Temporary Changes;

1 Paycheck Protection Pro-
2 gram—Eligibility of Certain
3 Electric Cooperatives’ (85
4 Fed. Reg. 29847 (May 19,
5 2020)) and ‘Business Loan
6 Program Temporary
7 Changes; Paycheck Protec-
8 tion Program—Eligibility of
9 Certain Telephone Coopera-
10 tives’ (85 Fed. Reg. 35550
11 (June 11, 2020)) or any
12 other guidance or rule
13 issued or that may be issued
14 by the Administrator;

15 “(EE) is a type of busi-
16 ness concern described in
17 section 120.110(n) of title
18 13, Code of Federal Regula-
19 tions, or any successor regu-
20 lation, except as otherwise
21 provided in the interim final
22 rule of the Administration
23 entitled ‘Business Loan Pro-
24 gram Temporary Changes;
25 Paycheck Protection Pro-

1 gram—Additional Eligibility
2 Revisions to First Interim
3 Final Rule’ (85 Fed. Reg.
4 38301 (June 26, 2020)) or
5 any other guidance or rule
6 issued or that may be issued
7 by the Administrator;

8 “(FF) is a type of busi-
9 ness concern described in
10 section 120.110(o) of title
11 13, Code of Federal Regula-
12 tions, or any successor regu-
13 lation, except as otherwise
14 provided in any guidance or
15 rule issued or that may be
16 issued by the Administrator;
17 or

18 “(GG) is an entity that
19 is organized for research or
20 for engaging in advocacy in
21 areas such as public policy
22 or political strategy or other-
23 wise describes itself as a
24 think tank in any public
25 documents;

1 “(III) is an entity that
2 would be described in the
3 subsections listed in
4 subitems (AA) through (GG)
5 if the entity were a business
6 concern; or

7 “(II) is assigned, or
8 was approved for a loan
9 under paragraph (36) with,
10 a North American Industry
11 Classification System code
12 beginning with 52;

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

23 “(dd) any business concern
24 or entity—

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

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

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

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

14 “(C) MAXIMUM LOAN AMOUNT.—

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

19 “(I) the product obtained by mul-
20 tiplying—

21 “(aa) at the election of the
22 eligible entity, the average total
23 monthly payment for payroll
24 costs incurred or paid by the eli-
25 gible entity during—

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

4 “(BB) calendar year
5 2019; by

6 “(bb) 2.5; or

7 “(II) \$2,000,000.

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

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

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

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

24 “(BB) for a consecutive
25 12-week period between May

1 1, 2019 and September 15,
2 2019; by
3 “(bb) 2.5; or
4 “(II) \$2,000,000.
5 “(iii) NEW ENTITIES.—The maximum
6 amount of a covered loan made to an eligi-
7 ble entity that did not exist during the 1-
8 year period preceding February 15, 2020
9 is the lesser of—
10 “(I) the product obtained by mul-
11 tiplying—
12 “(aa) the quotient obtained
13 by dividing—
14 “(AA) the sum of the
15 total monthly payments by
16 the eligible entity for payroll
17 costs paid or incurred by the
18 eligible entity as of the date
19 on which the eligible entity
20 applies for the covered loan;
21 by
22 “(BB) the number of
23 months in which those pay-
24 roll costs were paid or in-
25 curred; by

1 “(bb) 2.5; or

2 “(II) \$2,000,000.

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

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

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

20 “(D) EXCEPTION FROM CERTAIN CERTIFI-
21 CATION REQUIREMENTS.—An eligible entity ap-
22 plying for a covered loan shall not be required
23 to make the certification described in subclaus
24 (III) or (IV) of paragraph (36)(G)(i).

1 “(E) FEE WAIVER.—With respect to a cov-
2 ered loan—

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

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

9 “(F) ELIGIBLE CHURCHES AND RELIGIOUS
10 ORGANIZATIONS.—

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

20 “(ii) APPLICABILITY OF PROHIBI-
21 TION.—The prohibition on eligibility estab-
22 lished by section 120.110(k) of title 13,
23 Code of Federal Regulations, or any suc-
24 cessor regulation, shall not apply to a cov-
25 ered loan.

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

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

12 “(ii) shall not include—

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

17 “(II) revenues from a supporting
18 organization;

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

23 “(IV) any contribution of prop-
24 erty other than money, stocks, bonds,
25 and other securities, provided that the

1 non-cash contribution is not sold by
2 the organization in a transaction un-
3 related to the tax-exempt purpose of
4 the organization.

5 “(II) LOAN FORGIVENESS.—

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

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

20 “(I) Payroll costs.

21 “(II) Any payment of interest on
22 any covered mortgage obligation
23 (which shall not include any prepay-
24 ment of or payment of principal on a
25 covered mortgage obligation).

1 “(III) Any covered operations ex-
2 penditure.

3 “(IV) Any covered property dam-
4 age cost.

5 “(V) Any payment on any cov-
6 ered rent obligation.

7 “(VI) Any covered utility pay-
8 ment.

9 “(VII) Any covered supplier cost.

10 “(VIII) Any covered worker pro-
11 tection expenditure.

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

16 “(I) the amount described in
17 clause (ii); and

18 “(II) the amount equal to the
19 quotient obtained by dividing—

20 “(aa) the amount of the cov-
21 ered loan used for payroll costs
22 during the covered period; and

23 “(bb) 0.60.

24 “(I) LENDER ELIGIBILITY.—Except as
25 otherwise provided in this paragraph, a lender

1 approved to make loans under paragraph (36)
2 may make covered loans under the same terms
3 and conditions as in paragraph (36).

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

8 “(i) 3 percent of the principal amount
9 of the financing of the covered loan up to
10 \$350,000; and

11 “(ii) 1 percent of the principal
12 amount of the financing of the covered
13 loan above \$350,000, if applicable.

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

20 “(L) SET ASIDE FOR COMMUNITY FINAN-
21 CIAL INSTITUTIONS, SMALL INSURED DEPOSI-
22 TORY INSTITUTIONS, CREDIT UNIONS, AND
23 FARM CREDIT SYSTEM INSTITUTIONS.—Not less
24 than \$10,000,000,000 of the total amount of

1 covered loans guaranteed by the Administrator
2 shall be made by—

3 “(i) community financial institutions;

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

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

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

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

22 “(N) STANDARD OPERATING PROCEDURE.—The Administrator shall, to the max-
23 imum extent practicable, allow a lender ap-
24 proved to make covered loans to use existing
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1 program guidance and standard operating pro-
2 cedures for loans made under this subsection.

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

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

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

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

18 (j) CONTINUED ACCESS TO THE PAYCHECK PROTEC-
19 TION PROGRAM.—

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

24 (2) APPLICABILITY OF MAXIMUM LOAN AMOUNT
25 CALCULATION.—

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

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

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

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

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

1 mit a request for an increase in the covered loan
2 amount even if—

3 (A) the initial covered loan amount has
4 been fully disbursed; or

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

8 (I) CALCULATION OF MAXIMUM LOAN AMOUNT FOR
9 FARMERS AND RANCHIERS UNDER THE PAYCHECK PRO-
10 TECTION PROGRAM.—

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

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

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

20 “(T) CALCULATION OF MAXIMUM LOAN
21 AMOUNT FOR FARMERS AND RANCHIERS.—

22 “(i) DEFINITION.—In this subpara-
23 graph, the term ‘covered recipient’ means
24 an eligible recipient that—

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

5 “(II) reports farm income or ex-
6 penses on a Schedule F (or any equiv-
7 alent successor schedule); and

8 “(III) was in business during the
9 period beginning on February 15,
10 2019 and ending on June 30, 2019.

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

15 “(I) the sum of—

16 “(aa) the product obtained
17 by multiplying—

18 “(AA) the gross income
19 of the covered recipient in
20 2019, as reported on a
21 Schedule F (or any equiva-
22 lent successor schedule),
23 that is not more than
24 \$100,000, divided by 12;
25 and

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“(BB) 2.5; and

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

“(II) \$2,000,000.

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

“(iv) RECALCULATION.—A lender that made a covered loan to a covered recipient

1 before the date of enactment of this sub-
2 paragraph may, at the request of the cov-
3 ered recipient—

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

10 “(II) provide the covered recipi-
11 ent with additional covered loan
12 amounts based on that recalcula-
13 tion.”.

14 (m) FARM CREDIT SYSTEM INSTITUTIONS.—

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

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

21 (B) does not include the Federal Agricul-
22 tural Mortgage Corporation.

23 (2) FACILITATION OF PARTICIPATION IN PPP
24 AND SECOND DRAW LOANS.—

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

16 (B) APPLICABILITY OF CERTAIN LOAN RE-
17 QUIREMENTS.—For purposes of making loans
18 under paragraph (36) or (37) of section 7(a) of
19 the Small Business Act (15 U.S.C. 636(a)) or
20 forgiving those loans in accordance with section
21 1106 of the CARES Act (15 U.S.C. 9005) and
22 subparagraph (II) of such paragraph (37), sec-
23 tions 4.13, 4.14, and 4.14A of the Farm Credit
24 Act of 1971 (12 U.S.C. 2199, 2202, 2202a)

1 (including regulations issued under those sec-
2 tions) shall not apply.

3 (C) RISK WEIGHT.—

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

8 (I) shall receive a risk weight of
9 zero percent; and

10 (II) shall not be included in the
11 calculation of any applicable leverage
12 ratio or other applicable capital ratio
13 or calculation.

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

16 (I) a loan made by a Farm Cred-
17 it Bank described in section 1.2(a) of
18 the Farm Credit Act of 1971 (12
19 U.S.C. 2002(a)) to a Federal Land
20 Bank Association, a Production Credit
21 Association, or an agricultural credit
22 association described in that section
23 to make loans under paragraph (36)
24 or (37) of section 7(a) of the Small
25 Business Act (15 U.S.C. 636(a)) or

1 forgive those loans in accordance with
2 section 1106 of the CARES Act (15
3 U.S.C. 9005) and subparagraph (II)
4 of such paragraph (37); or

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

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

19 (i) in clause (i)—

20 (I) in subclause (I), by striking
21 “and” at the end;

22 (II) in subclause (II), by striking
23 the period at the end and inserting “;
24 and”; and

1 (III) by adding at the end the
2 following:

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

9 (ii) in clause (ii)—

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

12 (II) in subclause (III), by strik-
13 ing the period at the end and insert-
14 ing “; and”; and

15 (III) by adding at the end the
16 following:

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

22 (n) DEFINITION OF SEASONAL EMPLOYER.—

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

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

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

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

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

8 “(I) does not operate for more
9 than 7 months in any calendar year;

10 or

11 “(II) during the preceding cal-
12 endar year, had gross receipts for any
13 6 months of that year that were not
14 more than 33.33 percent of the gross
15 receipts of the employer for the other
16 6 months of that year.”.

17 (2) LOAN FORGIVENESS.—Paragraph (12) of
18 section 1106(a) of the CARES Act (15 U.S.C.
19 9005(a)), as so redesignated by subsection (d)(2) of
20 this section, is amended to read as follows:

21 “(12) the terms ‘payroll costs’ and ‘seasonal
22 employer’ have the meanings given those terms in
23 section 7(a)(36) of the Small Business Act (15
24 U.S.C. 636(a)(36)).”.

1 (o) ELIGIBILITY OF 501(C)(6) ORGANIZATIONS FOR
2 LOANS UNDER THE PAYCHECK PROTECTION PRO-
3 GRAM.—Section 7(a)(36)(D) of the Small Business Act
4 (15 U.S.C. 636(a)(36)(D)) is amended—

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

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

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

12 “(vii) ELIGIBILITY FOR CERTAIN
13 501(C)(6) ORGANIZATIONS.—

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

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

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

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

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

19 “(aa) the destination mar-
20 keting organization does not re-
21 ceive more than 10 percent of its
22 receipts from lobbying activities;

23 “(bb) the lobbying activities
24 of the destination marketing or-
25 ganization do not comprise more

1 than 10 percent of the total ac-
2 tivities of the organization;

3 “(cc) the destination mar-
4 keting organization employs not
5 more than 150 employees; and

6 “(dd) the destination mar-
7 keting organization—

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

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

20 (p) PROHIBITION ON USE OF LOAN PROCEEDS FOR
21 LOBBYING ACTIVITIES.—Section 7(a)(36)(F) of the Small
22 Business Act (15 U.S.C. 636(a)(36)(F)) is amended by
23 adding at the end the following:

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

1 “(I) lobbying activities, as de-
2 fined in section 3 of the Lobbying
3 Disclosure Act of 1995 (2 U.S.C.
4 1602);

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

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

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

22 (r) BANKRUPTCY PROVISIONS.—

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

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

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

19 “(3) The court shall hold a hearing within 7 days
20 after the filing and service of the motion to obtain a loan
21 described in paragraph (1).”

22 (2) ALLOWANCE OF ADMINISTRATIVE EX-
23 PENSES.—Section 503(b) of title 11, United States
24 Code, is amended—

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

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

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

6 “(10) any debt incurred under section
7 364(g)(1) of this title.”.

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

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

19 (4) CONFIRMATION OF PLAN FOR FAMILY
20 FARMERS AND FISHERMEN.—Section 1225 of title
21 11, United States Code, is amended by adding at
22 the end the following:

23 “(d) Notwithstanding section 1222(a)(2) of this title
24 and subsection (b)(1) of this section, a plan that provides
25 for payment of a claim of a kind specified in section

1 503(b)(10) of this title may be confirmed if the plan pro-
2 poses to make payments on account of such claim when
3 due under the terms of the loan giving rise to such
4 claim.”.

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

9 “(d) Notwithstanding section 1322(a)(2) of this title
10 and subsection (b)(1) of this section, a plan that provides
11 for payment of a claim of a kind specified in section
12 503(b)(10) of this title may be confirmed if the plan pro-
13 poses to make payments on account of such claim when
14 due under the terms of the loan giving rise to such
15 claim.”.

16 (6) EFFECTIVE DATE; SUNSET.—

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

19 (i) take effect on the date on which
20 the Administrator submits to the Director
21 of the Executive Office for United States
22 Trustees a written determination that, sub-
23 ject to satisfying any other eligibility re-
24 quirements, any debtor in possession or
25 trustee that is authorized to operate the

1 business of the debtor under section 1183,
2 1184, 1203, 1204, or 1304 of title 11,
3 United States Code, would be eligible for a
4 loan under paragraphs (36) and (37) of
5 section 7(a) of the Small Business Act (15
6 U.S.C. 636(a)); and

7 (ii) apply to any case pending on or
8 commenced on or after the date described
9 in clause (i).

10 (B) SUNSET.—

11 (i) IN GENERAL.—If the amendments
12 made by this subsection take effect under
13 subparagraph (A), effective on the date
14 that is 2 years after the date of enactment
15 of this Act—

16 (I) section 364 of title 11, United
17 States Code, is amended by striking
18 subsection (g);

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

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

23 (bb) in paragraph (9), by
24 striking “; and” at the end and
25 inserting a period; and

1 (cc) by striking paragraph
2 (10);

3 (III) section 1191 of title 11,
4 United States Code, is amended by
5 striking subsection (f);

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

9 (V) section 1325 of title 11,
10 United States Code, is amended by
11 striking subsection (d).

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

22 (s) OVERSIGHT.—

23 (1) COMPLIANCE WITH OVERSIGHT REQUIRE-
24 MENTS.—

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

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

21 (2) TESTIMONY.—Not later than the date that
22 is 30 days after the date of enactment of this Act,
23 and every quarter thereafter until the date that is 2
24 years after the date of enactment of this Act, the
25 Administrator and the Secretary of the Treasury

1 shall testify before the Committee on Small Business
2 and Entrepreneurship of the Senate and the Com-
3 mittee on Small Business of the House of Rep-
4 resentatives regarding implementation of this section
5 and the amendments made by this section.

6 (t) CONFLICTS OF INTEREST.—

7 (1) DEFINITIONS.—In this subsection:

8 (A) CONTROLLING INTEREST.—The term
9 “controlling interest” means owning, control-
10 ling, or holding not less than 20 percent, by
11 vote or value, of the outstanding amount of any
12 class of equity interest in an entity.

13 (B) COVERED ENTITY.—

14 (i) DEFINITION.—The term “covered
15 entity” means an entity in which a covered
16 individual directly or indirectly holds a
17 controlling interest.

18 (ii) TREATMENT OF SECURITIES.—

19 For the purpose of determining whether an
20 entity is a covered entity, the securities
21 owned, controlled, or held by 2 or more in-
22 dividuals who are related as described in
23 subparagraph (C)(ii) shall be aggregated.

24 (C) COVERED INDIVIDUAL.—The term
25 “covered individual” means—

1 (i) the President, the Vice President,
2 the head of an Executive department, or a
3 Member of Congress; and

4 (ii) the spouse, child, son-in-law, or
5 daughter-in-law, as determined under ap-
6 plicable common law, of an individual de-
7 scribed in clause (i).

8 (D) EXECUTIVE DEPARTMENT.—The term
9 “Executive department” has the meaning given
10 the term in section 101 of title 5, United States
11 Code.

12 (E) MEMBER OF CONGRESS.—The term
13 “Member of Congress” means a Member of the
14 Senate or House of Representatives, a Delegate
15 to the House of Representatives, and the Resi-
16 dent Commissioner from Puerto Rico.

17 (F) EQUITY INTEREST.—The term “equity
18 interest” means—

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

21 (I) transferable; or

22 (II) classified as stock or any-
23 thing similar;

24 (ii) a capital or profit interest in a
25 limited liability company or partnership; or

1 (iii) a warrant or right, other than a
2 right to convert, to purchase, sell, or sub-
3 scribe to a share or interest described in
4 clause (i) or (ii), respectively.

5 (2) REQUIREMENT.—The principal executive of-
6 ficer and the principal financial officer, or individ-
7 uals performing similar functions, of an entity seek-
8 ing to enter a transaction made under paragraph
9 (36) or (37) of section 7(a) of the Small Business
10 Act (15 U.S.C. 636(a)), as added and amended by
11 this section, shall, before that transaction is ap-
12 proved, disclose to the Administrator whether the
13 entity is a covered entity.

14 (3) APPLICABILITY.—The requirement under
15 paragraph (2)—

16 (A) shall apply with respect to any trans-
17 action made under paragraph (36) or (37) of
18 section 7(a) of the Small Business Act (15
19 U.S.C. 636(a)), as added and amended by this
20 section, on or after the date of enactment of
21 this Act; and

22 (B) shall not apply with respect to—

23 (i) any transaction described in sub-
24 paragraph (A) that was made before the
25 date of enactment of this Act; or

1 (ii) forgiveness under section 1106 of
2 the CARES Act (15 U.S.C. 9005) or any
3 other provision of law of any loan associ-
4 ated with any transaction described in sub-
5 paragraph (A) that was made before the
6 date of enactment of this Act.

7 (u) COMMITMENT AUTHORITY AND APPROPRIA-
8 TIONS.—

9 (1) COMMITMENT AUTHORITY.—Section
10 1102(b) of the CARES Act (Public Law 116–136)
11 is amended—

12 (A) in paragraph (1)—

13 (i) in the paragraph heading, by in-
14 serting “AND SECOND DRAW” after
15 “PPP”;

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

18 (iii) by striking “paragraph (36)” and
19 inserting “paragraphs (36) and (37)”; and

20 (iv) by striking “\$659,000,000,000”
21 and inserting “\$816,690,000,000”; and

22 (B) by amending paragraph (2) to read as
23 follows:

24 “(2) OTHER 7(A) LOANS.—During fiscal year
25 2020, the amount authorized for commitments for

1 section 7(a) of the Small Business Act (15 U.S.C.
2 636(a)) under the heading ‘Small Business Adminis-
3 tration—Business Loans Program Account’ in the
4 Financial Services and General Government Approp-
5 riations Act, 2020 (division C of Public Law 116-
6 193) shall apply with respect to any commitments
7 under such section 7(a) other than under para-
8 graphs (36) and (37) of such section 7(a).”

9 (2) DIRECT APPROPRIATIONS.—

10 (A) RESCISSION.—With respect to unobli-
11 gated balances under the heading “‘Small Busi-
12 ness Administration—Business Loans Program
13 Account, CARES Act” as of the day before the
14 date of enactment of this Act,
15 \$100,000,000,000 shall be rescinded and depos-
16 ited into the general fund of the Treasury.

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

20 (i) PPP AND SECOND DRAW LOANS.—

21 There is appropriated, out of amounts in
22 the Treasury not otherwise appropriated,
23 for the fiscal year ending September 30,
24 2020, to remain available until September
25 30, 2021, for additional amounts—

1 (I) \$257,690,000,000 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; and

10 (II) \$10,000,000 under the head-
11 ing under the heading “Department
12 of Commerce—Minority Business De-
13 velopment Agency” for minority busi-
14 ness centers of the Minority Business
15 Development Agency to provide tech-
16 nical assistance to small business con-
17 cerns.

18 (C) AVAILABILITY OF AMOUNTS APPRO-
19 PRIATED FOR THE OFFICE OF INSPECTOR GEN-
20 ERAL.—Section 1107(a)(3) of the CARES Act
21 (15 U.S.C. 9006(a)(3)) is amended by striking
22 “September 20, 2024” and inserting “ex-
23 pended”.

1 **TITLE IV—POSTAL SERVICE**
2 **ASSISTANCE**

3 **SEC. 4001. COVID-19 FUNDING FOR THE UNITED STATES**
4 **POSTAL SERVICE.**

5 Section 6001 of the CARES Act (Public Law 116–
6 136; 134 Stat. 281) is amended—

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

9 (2) by redesignating subsection (c) as sub-
10 section (e); and

11 (3) by inserting after subsection (b) the fol-
12 lowing:

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

18 “(1) may only use amounts borrowed under
19 that subsection if the Postal Service has less than
20 \$8,000,000,000 in cash on hand; and

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

23 “(d) **CERTIFICATIONS.**—

24 “(1) **POSTAL REGULATORY COMMISSION.**—The
25 Postal Service shall certify in its quarterly and au-

1 dited annual reports to the Postal Regulatory Com-
2 mission under section 3654 of title 39, United
3 States Code, and in conformity with the require-
4 ments of section 13 or 15(d) of the Securities Ex-
5 change Act of 1934 (15 U.S.C. 78m, 78o(d)), any
6 expenditures made using amounts borrowed under
7 subsection (b) of this section.

8 “(2) CONGRESS.—Not later than 15 days after
9 filing a report described in paragraph (1) with the
10 Postal Regulatory Commission, the Postal Service
11 shall submit a copy of the information required to
12 be certified under that paragraph to the Committee
13 on Homeland Security and Governmental Affairs of
14 the Senate and the Committee on Oversight and Re-
15 form of the House of Representatives.”.

16 **TITLE V—MISCELLANEOUS**
17 **PROVISIONS**

18 **SEC. 5001. EMERGENCY DESIGNATION.**

19 (a) IN GENERAL.—The amounts provided by this Act
20 and the amendments made by this Act are designated as
21 an emergency requirement pursuant to section 4(g) of the
22 Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)).

23 (b) DESIGNATION IN SENATE.—In the Senate, this
24 Act and the amendments made by this Act are designated
25 as an emergency requirement pursuant to section 4112(a)

1 of H. Con. Res. 71 (115th Congress), the concurrent reso-
2 lution on the budget for fiscal year 2018.

3 **DIVISION B—ADDITIONAL EMERGENCY**
4 **APPROPRIATIONS FOR CORONAVIRUS**
5 **HEALTH RESPONSE**

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

10 TITLE I

11 DEPARTMENT OF HEALTH AND HUMAN
12 SERVICES

13 OFFICE OF THE SECRETARY

14 PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY

15 FUND

16 (INCLUDING TRANSFER OF FUNDS)

17 For an additional amount for “Public Health and So-
18 cial Services Emergency Fund”, \$29,000,000,000, to re-
19 main available until September 30, 2024, to prevent, pre-
20 pare for, and respond to coronavirus, domestically or
21 internationally, including the development of necessary
22 countermeasures and vaccines, prioritizing platform-based
23 technologies with U.S.-based manufacturing capabilities,
24 the purchase of vaccines, therapeutics, diagnostics, nec-
25 essary medical supplies, as well as medical surge capacity,

1 addressing blood supply chain, workforce modernization,
2 telehealth access and infrastructure, initial advanced man-
3 ufacturing, novel dispensing, enhancements to the U.S.
4 Commissioned Corps, and other preparedness and re-
5 sponse activities: *Provided*, That funds appropriated under
6 this paragraph in this Act may be used to develop and
7 demonstrate innovations and enhancements to manufac-
8 turing platforms to support such capabilities: *Provided*
9 *further*, That the Secretary of Health and Human Services
10 shall purchase vaccines developed using funds made avail-
11 able under this paragraph in this Act to respond to an
12 outbreak or pandemic related to coronavirus in quantities
13 determined by the Secretary to be adequate to address the
14 public health need: *Provided further*, That products pur-
15 chased by the Federal government with funds made avail-
16 able under this paragraph in this Act, including vaccines,
17 therapeutics, and diagnostics, shall be purchased in ac-
18 cordance with Federal Acquisition Regulation guidance on
19 fair and reasonable pricing: *Provided further*, That the
20 Secretary may take such measures authorized under cur-
21 rent law to ensure that vaccines, therapeutics, and
22 diagnostics developed from funds provided in this Act will
23 be affordable in the commercial market: *Provided further*,
24 That in carrying out the previous proviso, the Secretary
25 shall not take actions that delay the development of such

1 products: *Provided further*, That the Secretary shall en-
2 sure that protections remain for individuals enrolled in
3 group or individual health care coverage with pre-existing
4 conditions, including those linked to coronavirus: *Provided*
5 *further*, That products purchased with funds appropriated
6 under this paragraph in this Act may, at the discretion
7 of the Secretary of Health and Human Services, be depos-
8 ited in the Strategic National Stockpile under section
9 319F-2 of the Public Health Service Act: *Provided fur-*
10 *ther*, That of the amount appropriated under this para-
11 graph in this Act, not more than \$2,000,000,000 shall be
12 for the Strategic National Stockpile under section 319F-
13 2(a) of such Act: *Provided further*, That funds appro-
14 priated under this paragraph in this Act may be trans-
15 ferred to, and merged with, the fund authorized by section
16 319F-4, the Covered Counter measure Process Fund, of
17 the Public Health Service Act: *Provided further*, That of
18 the amount appropriated under this paragraph in this Act,
19 \$20,000,000,000 shall be available to the Biomedical Ad-
20 vanced Research and Development Authority for necessary
21 expenses of manufacturing, production, and purchase, at
22 the discretion of the Secretary, of vaccines, therapeutics,
23 diagnostics, and small molecule active pharmaceutical in-
24 gredients, including the development, translation, and
25 demonstration at scale of innovations in manufacturing

1 platforms: *Provided further*, That funds in the previous
2 proviso may be used for the construction or renovation of
3 U.S.-based next generation manufacturing facilities, other
4 than facilities owned by the United States Government:
5 *Provided further*, That of the amount provided under this
6 heading in this Act, \$6,000,000,000 shall be for activities
7 to plan, prepare for, promote, distribute, administer, mon-
8 itor, and track coronavirus vaccines to ensure broad-based
9 distribution, access, and vaccine coverage: *Provided fur-*
10 *ther*, That the Secretary shall coordinate funding and ae-
11 tivities outlined in the previous proviso through the Direc-
12 tor of CDC: *Provided further*, That the Secretary, through
13 the Director of CDC, shall report to the Committees on
14 Appropriations of the House of Representatives and the
15 Senate within 60 days of enactment of this Act on a com-
16 prehensive coronavirus vaccine distribution strategy and
17 spend plan that includes how existing infrastructure will
18 be leveraged, enhancements or new infrastructure that
19 may be built, considerations for moving and storing vac-
20 cines, guidance for how States and health care providers
21 should prepare for, store, and administer vaccines, nation-
22 wide vaccination targets, funding that will be distributed
23 to States, how an informational campaign to both the pub-
24 lic and health care providers will be executed, and how
25 the vaccine distribution plan will focus efforts on high risk,

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

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

9 For an additional amount for “Public Health and So-
10 cial Services Emergency Fund”, \$16,000,000,000, to re-
11 main available until expended, to prevent, prepare for, and
12 respond to coronavirus, domestically or internationally,
13 which shall be for necessary expenses for testing, contact
14 tracing, surveillance, containment, and mitigation to mon-
15 itor and suppress COVID–19, including tests for both ac-
16 tive infection and prior exposure, including molecular,
17 antigen, and serological tests, the manufacturing, procure-
18 ment and distribution of tests, testing equipment and test-
19 ing supplies, including personal protective equipment
20 needed for administering tests, the development and vali-
21 dation of rapid, molecular point-of-care tests, and other
22 tests, support for workforce, epidemiology, to scale up aca-
23 demic, commercial, public health, and hospital labora-
24 tories, to conduct surveillance and contact tracing, support
25 development of COVID–19 testing plans, and other re-

1 lated activities related to COVID-19 testing: *Provided,*
2 That of the amount appropriated under this paragraph in
3 this Act, not less than \$15,000,000,000 shall be for
4 States, localities, territories, tribes, tribal organizations,
5 urban Indian health organizations, or health service pro-
6 viders to tribes for necessary expenses for testing, contact
7 tracing, surveillance, containment, and mitigation, includ-
8 ing support for workforce, epidemiology, use by employers,
9 elementary and secondary schools, child care facilities, in-
10 stitutions of higher education, long-term care facilities, or
11 in other settings, scale up of testing by public health, aca-
12 demic, commercial, and hospital laboratories, and commu-
13 nity-based testing sites, health care facilities, and other
14 entities engaged in COVID-19 testing, and other related
15 activities related to COVID-19 testing, contact tracing,
16 surveillance, containment, and mitigation: *Provided fur-*
17 *ther,* That the amount identified in the preceding proviso
18 shall be allocated to States, localities, and territories ac-
19 cording to the formula that applied to the Public Health
20 Emergency Preparedness cooperative agreement in fiscal
21 year 2019: *Provided further,* That not less than
22 \$500,000,000 shall be allocated in coordination with the
23 Director of the Indian Health Service, to tribes, tribal or-
24 ganizations, urban Indian health organizations, or health
25 service providers to tribes: *Provided further,* That the Sec-

1 retary of Health and Human Services (referred to in this
2 paragraph as the “Secretary”) may satisfy the funding
3 thresholds outlined in the first and third provisos under
4 this paragraph in this Act by making awards through
5 other grant or cooperative agreement mechanisms: *Pro-*
6 *vided further*, That the Governor or designee of each State,
7 locality, territory, tribe, or tribal organization receiving
8 funds pursuant to this Act shall update their plans, as
9 applicable, for COVID–19 testing and contact tracing sub-
10 mitted to the Secretary pursuant to the Paycheck Protec-
11 tion Program and Health Care Enhancement Act (Public
12 Law 116–139) and submit such updates to the Secretary
13 not later than 60 days after funds appropriated in this
14 paragraph in this Act have been awarded to such recipient:
15 *Provided further*, That funds an entity receives from
16 amounts described in the first proviso in this paragraph
17 may also be used for the rent, lease, purchase, acquisition,
18 construction, alteration, renovation, or equipping of non-
19 federally owned facilities to improve coronavirus prepared-
20 ness and response capability at the State and local level:
21 *Provided further*, That such amount is designated by the
22 Congress as being for an emergency requirement pursuant
23 to section 251(b)(2)(A)(i) of the Balanced Budget and
24 Emergency Deficit Control Act of 1985.

1 DEPARTMENT OF EDUCATION

2 EDUCATION STABILIZATION FUND

3 For an additional amount for “Education Stabiliza-
4 tion Fund”, \$105,000,000,000, to remain available
5 through September 30, 2021, to prevent, prepare for, and
6 respond to coronavirus, domestically or internationally:
7 *Provided*, That such amount is designated by the Congress
8 as being for an emergency requirement pursuant to sec-
9 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-
10 gency Deficit Control Act of 1985.

11 GENERAL PROVISIONS

12 EDUCATION STABILIZATION FUND

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

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

22 (2) one-half of 1 percent for the Secretary of
23 the Interior for programs operated or funded by the
24 Bureau of Indian Education, under the terms and
25 conditions established for funding provided under

1 this heading in the CARES Act (Public Law 116–
2 136).

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

6 (1) 5 percent to carry out section 102 of this
7 title.

8 (2) 67 percent to carry out section 103 of this
9 title.

10 (3) 28 percent to carry out section 104 of this
11 title.

12 GOVERNOR'S EMERGENCY EDUCATION RELIEF FUND

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

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

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

3 (2) 40 percent on the basis of their relative
4 number of children counted under section 1124(c) of
5 the Elementary and Secondary Education Act of
6 1965 (referred to under this heading as “ESEA”).

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

9 (1) provide emergency support through grants
10 to local educational agencies that the State edu-
11 cational agency deems have been most significantly
12 impacted by coronavirus to support the ability of
13 such local educational agencies to continue to pro-
14 vide educational services to their students and to
15 support the on-going functionality of the local edu-
16 cational agency;

17 (2) provide emergency support through grants
18 to institutions of higher education serving students
19 within the State that the Governor determines have
20 been most significantly impacted by coronavirus to
21 support the ability of such institutions to continue to
22 provide educational services and support the on-
23 going functionality of the institution; and

24 (3) provide support to any other institution of
25 higher education, local educational agency, or edu-

1 relief grants to each State educational agency with an ap-
2 proved application under section 18003 of division B of
3 the CARES Act (Public Law 116–136). The Secretary
4 shall award funds under this section to each State edu-
5 cational agency with an approved application within 15
6 calendar days of enactment of this Act.

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

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

1 educational agency shall make such subgrants to local
2 educational agencies as follows—

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

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

22 (A) A local educational agency that pro-
23 vides in-person instruction for at least 50 per-
24 cent of its students where the students phys-
25 ically attend school no less than 50 percent of

1 each school-week, as it was defined by the local
2 educational agency prior to the coronavirus
3 emergency, shall have its plan automatically ap-
4 proved.

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

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

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

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

1 (2) A description of how many days of in-per-
2 son instruction per calendar week the local edu-
3 cational agency plans to offer to students during the
4 2020–2021 school year; and

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

10 (c) USES OF FUNDS.—

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

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

23 (B) Developing and implementing proce-
24 dures and systems to improve the preparedness
25 and response efforts of local educational agen-

1 cies or non-public schools including coordination
2 with State, local, Tribal, and territorial public
3 health departments, and other relevant agen-
4 cies, to improve coordinated responses among
5 such entities to prevent, prepare for, and re-
6 spond to coronavirus.

7 (C) Providing principals and other school
8 leaders with the resources necessary to address
9 the needs of their individual schools directly re-
10 lated to coronavirus.

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

18 (E) Training and professional development
19 for staff of the local educational agency or non-
20 public school on sanitation and minimizing the
21 spread of infectious diseases.

22 (F) Purchasing supplies to sanitize, clean,
23 and disinfect the facilities of a local educational
24 agency or non-public school, including buildings
25 operated by such agency.

1 (G) Planning for and coordinating during
2 long-term closures, including for how to provide
3 meals to eligible students, how to provide tech-
4 nology for online learning to all students, how
5 to provide guidance for carrying out require-
6 ments under the Individuals with Disabilities
7 Education Act (20 U.S.C. 1401 et seq.) and
8 how to ensure other educational services can
9 continue to be provided consistent with all Fed-
10 eral, State, and local requirements.

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

20 (I) Expanding healthcare and other health
21 services (including mental health services and
22 supports), including for children at risk of
23 abuse or neglect.

24 (J) Planning and implementing activities
25 related to summer learning and supplemental

1 afterschool programs, including providing class-
2 room instruction or online learning during the
3 summer months and addressing the needs of
4 low-income students, students with disabilities,
5 English learners, migrant students, students ex-
6 periencing homelessness, and children in foster
7 care.

8 (2) A local educational agency that receives
9 funds under subsection (e)(2) may use the funds for
10 activities to carry out a comprehensive school re-
11 opening plan as described in this section, including:

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

20 (B) Developing and implementation of pro-
21 cedures and systems to improve the prepared-
22 ness and response efforts of local educational
23 agencies or non-public schools, including coordi-
24 nation with State, local, Tribal, and territorial
25 public health departments, and other relevant

1 agencies, to improve coordinated responses
2 among such entities to prevent, prepare for,
3 and respond to coronavirus.

4 (C) Providing principals and others school
5 leaders with the resources necessary to address
6 the needs of their individual schools.

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) Purchasing educational technology (in-
23 cluding hardware, software, and connectivity)
24 for students who are served by the local edu-
25 cational agency or non-public school that aids

1 in regular and substantive educational inter-
2 action between students and their classroom in-
3 structors, including low-income students and
4 students with disabilities, which may include as-
5 sistive technology or adaptive equipment.

6 (II) Expanding healthcare and other
7 health services (including mental health services
8 and supports), including for children at risk of
9 abuse or neglect.

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

18 (f) STATE FUNDING.—A State may reserve not more
19 than 5 percent of the funds not otherwise allocated under
20 subsection (e) and section 105 for administrative costs and
21 the remainder for emergency needs as determined by the
22 state educational agency to address issues responding to
23 coronavirus, which may be addressed through the use of
24 grants or contracts.

1 (g) ASSURANCES.—A State, state educational agency,
2 or local educational agency receiving funding under this
3 section shall provide assurances, as applicable, that:

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

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

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

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

23 (h) REPORT.—A State receiving funds under this sec-
24 tion shall submit a report to the Secretary, not later than
25 6 months after receiving funding provided in this Act, in

1 such manner and with such subsequent frequency as the
2 Secretary may require, that provides a detailed accounting
3 of the use of funds provided under this section.

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

9 (j) RULE OF CONSTRUCTION.—

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

21 (2) No State participating in any program
22 under this section, including pursuant to section 105
23 of this Act, shall impose any penalty or additional
24 requirement upon, or otherwise disadvantage, such

1 entity or person as a consequence or condition of its
2 receipt of such funds.

3 (3) No State participating in any program
4 under this section shall authorize any person or enti-
5 ty to use any funds authorized or appropriated
6 under this section, including pursuant to section 105
7 of this Act, except as provided by subsection (e), nor
8 shall any such State impose any limits upon the use
9 of any such funds except as provided by subsection
10 (e).

11 HIGHER EDUCATION EMERGENCY RELIEF FUND

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

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

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

1 (B) 10 percent according to the relative
2 share of full-time equivalent enrollment of stu-
3 dents who were not Federal Pell Grant recipi-
4 ents who were not exclusively enrolled in dis-
5 tance education courses prior to the coronavirus
6 emergency.

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

21 (A) Except as otherwise provided in sub-
22 paragraph (B), for eligible institutions under
23 part B of title III and subpart 4 of part A of
24 title VII of the Higher Education Act, the Sec-

1 retary shall allot to each eligible institution an
2 amount using the following formula:

3 (i) 70 percent according to a ratio
4 equivalent to the number of Pell Grant re-
5 cipients in attendance at such institution
6 at the end of the school year preceding the
7 beginning of the most recent fiscal year
8 and the total number of Pell Grant recipi-
9 ents at all such institutions;

10 (ii) 20 percent according to a ratio
11 equivalent to the total number of students
12 enrolled at such institution at the end of
13 the school year preceding the beginning of
14 that fiscal year and the number of stu-
15 dents enrolled at all such institutions; and

16 (iii) 10 percent according to a ratio
17 equivalent to the total endowment size at
18 all eligible institutions at the end of the
19 school year preceding the beginning of that
20 fiscal year and the total endowment size at
21 such institutions;

22 (B) For eligible institutions under section
23 326 of the Higher Education Act, the Secretary
24 shall allot to each eligible institution an amount
25 in proportion to the award received from fund-

1 ing for such institutions in the Further Consoli-
2 dated Appropriations Act, 2020 (Public Law
3 116–94);

4 (C) For eligible institutions under section
5 316 of the Higher Education Act, the Secretary
6 shall allot funding according to the formula in
7 section 316(d)(3) of the Higher Education Act;
8 and

9 (D) Notwithstanding section 318(f) of the
10 Higher Education Act, for eligible institutions
11 under section 318 of the Higher Education Act,
12 the Secretary shall allot funding according to
13 the formula in section 318(e) of the Higher
14 Education Act.

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

23 (A) described under title I of the Higher
24 Education Act of 1965 that were not eligible to
25 receive an award under section 104(a)(1) of

1 this title, including institutions described in sec-
2 tion 102(b) of the Higher Education Act of
3 1965; and

4 (B) that otherwise demonstrate significant
5 needs related to coronavirus that were not ad-
6 dressed by funding allocated under subsections
7 (a)(1) or (a)(2) of this section.

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

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

17 (1) defray expenses associated with coronavirus
18 (including lost revenue, reimbursement for expenses
19 already incurred, technology costs associated with a
20 transition to distance education, faculty and staff
21 trainings, and payroll); and

22 (2) provide financial aid grants to students (in-
23 cluding students exclusively enrolled in distance edu-
24 cation), which may be used for any component of the

1 student's cost of attendance or for emergency costs
2 that arise due to coronavirus.

3 (d) SPECIAL PROVISIONS.—

4 (1) A Historically Black College and University
5 or a Minority Serving Institution may use prior
6 awards provided under titles III, V, and VII of the
7 Higher Education Act to prevent, prepare for, and
8 respond to coronavirus.

9 (2) An institution of higher education receiving
10 funds under section 18004 of division B of the
11 CARES Act (Public Law 116–136) may use those
12 funds under the terms and conditions of section
13 104(e) of this act. Amounts repurposed pursuant to
14 this paragraph that were previously designated by
15 the Congress as an emergency requirement pursuant
16 to the Balanced Budget and Emergency Deficit Con-
17 trol Act of 1985 are designated by the Congress as
18 an emergency requirement pursuant to section
19 251(b)(2)(A)(i) of the Balanced Budget and Emer-
20 gency Deficit Control Act of 1985.

21 (3) No funds received by an institution of high-
22 er education under this section shall be used to fund
23 contractors for the provision of pre-enrollment re-
24 cruitment activities; endowments; or capital outlays

1 associated with facilities related to athletics, sec-
2 tarian instruction, or religious worship.

3 (4) An institution of higher education that was
4 required to remit payment to the Internal Revenue
5 Service for the excise tax based on investment in-
6 come of private colleges and universities under sec-
7 tion 4968 of the Internal Revenue Code of 1986 for
8 tax year 2019 shall have their allocation under this
9 section reduced by 50 percent and may only use
10 funds for activities described in paragraph (c)(2).
11 This paragraph shall not apply to an institution of
12 higher education designated by the Secretary as an
13 eligible institution under section 448 of the Higher
14 Education Act of 1965.

15 (e) REPORT.—An institution receiving funds under
16 this section shall submit a report to the Secretary, not
17 later than 6 months after receiving funding provided in
18 this Act, in such manner and with such subsequent fre-
19 quency as the Secretary may require, that provides a de-
20 tailed accounting of the use of funds provided under this
21 section.

22 (f) REALLOCATION.—Any funds allocated to an insti-
23 tution of higher education under this section on the basis
24 of a formula described in subsection (a)(1) or (a)(2) but
25 for which an institution does not apply for funding within

1 60 days of the publication of the notice inviting applica-
2 tions, shall be reallocated to eligible institutions that had
3 submitted an application by such date.

4 ASSISTANCE TO NON-PUBLIC SCHOOLS

5 SEC. 105. (a) FUNDS AVAILABILITY.—From the pay-
6 ment provided by the Secretary under section 103 of this
7 title to a State educational agency, the State educational
8 agency shall reserve an amount of funds equal to the per-
9 centage of students enrolled in non-public elementary and
10 secondary schools in the State prior to the coronavirus
11 emergency. Upon reserving funds under this section, the
12 Governor of the State shall award such funds equally to
13 each non-public school accredited or otherwise located in
14 and licensed to operate in the State based on the number
15 of low-income students enrolled in the non-public school
16 as a share of all low-income students enrolled in non-pub-
17 lic elementary and secondary schools in the State prior
18 to the coronavirus emergency, subject to the requirements
19 in subsection (b).

20 (b)(1) A non-public school that provides in-person in-
21 struction for at least 50 percent of its students where the
22 students physically attend school no less than 50 percent
23 of each school-week, as determined by the non-public
24 school prior to the coronavirus emergency, shall be eligible

1 for the full amount of assistance per student as prescribed
2 under this section.

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

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

16 (4) A Governor shall allocate not less than 50 percent
17 of the funds reserved in this section to non-public schools
18 within 30 days of receiving an award from the Secretary
19 and the remaining 50 percent not less than 4 months after
20 receiving an award from the Secretary.

21 CONTINUED PAYMENT TO EMPLOYEES

22 SEC. 106. A local educational agency, State, institu-
23 tion of higher education, or other entity that receives
24 funds under "Education Stabilization Fund", shall to the
25 greatest extent practicable, continue to pay its employees

1 and contractors during the period of any disruptions or
2 closures related to coronavirus.

3 DEFINITIONS

4 SEC. 107. Except as otherwise provided in sections
5 101–106 of this title, as used in such sections—

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

9 (2) the term “institution of higher education”
10 has the meaning given such term in title I of the
11 Higher Education Act of 1965 (20 U.S.C. 1001 et
12 seq.);

13 (3) the term “Secretary” means the Secretary
14 of Education;

15 (4) the term “State” means each of the 50
16 States, the District of Columbia, and the Common-
17 wealth of Puerto Rico;

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

21 (6) the term “Non-public school” means a non-
22 public elementary and secondary school that (A) is
23 accredited, licensed, or otherwise operates in accord-
24 ance with State law; and (B) was in existence prior

1 to the date of the qualifying emergency for which
2 grants are awarded under this section;

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

5 (8) any other term used that is defined in sec-
6 tion 8101 of the Elementary and Secondary Edu-
7 cation Act of 1965 (20 U.S.C. 7801) shall have the
8 meaning given the term in such section.

9 MAINTENANCE OF EFFORT

10 SEC. 108. A State’s application for funds to carry
11 out sections 102 or 103 of this title shall include assur-
12 ances that the State will maintain support for elementary
13 and secondary education, and State support for higher
14 education (which shall include State funding to institu-
15 tions of higher education and state need-based financial
16 aid, and shall not include support for capital projects or
17 for research and development or tuition and fees paid by
18 students) in fiscal years 2020 and 2021 at least at the
19 proportional levels of such State’s support for elementary
20 and secondary education and for higher education relative
21 to such States overall spending in fiscal year 2019.

22 GENERAL PROVISION—THIS TITLE

23 SEC. 109. Not later than 30 days after the date of
24 enactment of this Act, the Secretaries of Health and
25 Human Services and Education shall provide a detailed

1 spend plan of anticipated uses of funds made available in
2 this Act, including estimated personnel and administrative
3 costs, to the Committees on Appropriations of the House
4 of Representatives and the Senate: *Provided*, That such
5 plans shall be updated and submitted to such Committees
6 every 60 days until September 30, 2024: *Provided further*,
7 That the spend plans shall be accompanied by a listing
8 of each contract obligation incurred that exceeds
9 \$5,000,000 which has not previously been reported, in-
10 cluding the amount of each such obligation.

11 TITLE II

12 GENERAL PROVISIONS—THIS ACT

13 SEC. 201. Each amount appropriated or made avail-
14 able by this Act is in addition to amounts otherwise appro-
15 priated for the fiscal year involved.

16 SEC. 202. No part of any appropriation contained in
17 this Act shall remain available for obligation beyond the
18 current fiscal year unless expressly so provided herein.

19 SEC. 203. Unless otherwise provided for by this Act,
20 the additional amounts appropriated by this Act to appro-
21 priations accounts shall be available under the authorities
22 and conditions applicable to such appropriations accounts
23 for fiscal year 2020.

1 SEC. 204. In this Act, the term “coronavirus” means
2 SARS-CoV-2 or another coronavirus with pandemic po-
3 tential.

4 SEC. 205. Each amount designated in this Act by the
5 Congress as being for an emergency requirement pursuant
6 to section 251(b)(2)(A)(i) of the Balanced Budget and
7 Emergency Deficit Control Act of 1985 shall be available
8 (or rescinded or transferred, if applicable) only if the
9 President subsequently so designates all such amounts
10 and transmits such designations to the Congress.

11 SEC. 206. Any amount appropriated by this Act, des-
12 igned by the Congress as an emergency requirement
13 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-
14 et and Emergency Deficit Control Act of 1985 and subse-
15 quently so designated by the President, and transferred
16 pursuant to transfer authorities provided by this Act shall
17 retain such designation.

18 BUDGETARY EFFECTS

19 SEC. 207. (a) STATUTORY PAYGO SCORECARDS.—
20 The budgetary effects of this division shall not be entered
21 on either PAYGO scorecard maintained pursuant to sec-
22 tion 4(d) of the Statutory Pay As-You-Go Act of 2010.

23 (b) SENATE PAYGO SCORECARDS.—The budgetary
24 effects of this division shall not be entered on any PAYGO

1 scorecard maintained for purposes of section 4106 of H.
2 Con. Res. 71 (115th Congress).

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

11 (d) ENSURING NO WITHIN-SESSION SEQUESTRA-
12 TION.—Solely for the purpose of calculating a breach with-
13 in a category for fiscal year 2020 pursuant to section
14 251(a)(6) or section 254(g) of the Balanced Budget and
15 Emergency Deficit Control Act of 1985, and notwith-
16 standing any other provision of this division, the budg-
17 etary effects from this division shall be counted as
18 amounts designated as being for an emergency require-
19 ment pursuant to section 251(b)(2)(A) of such Act.

20 This division may be cited as the “Coronavirus Re-
21 sponse Additional Supplemental Appropriations Act,
22 2020”.