

AMENDMENT NO. _____ Calendar No. _____

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

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

H. R. 748

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

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

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

Viz:

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Coronavirus Aid, Relief, and Economic Security Act” or the “CARES Act”.
5

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

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

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

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

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TITLE I—KEEPING AMERICAN WORKERS PAID AND EMPLOYED
ACT

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

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

Subtitle A—Unemployment Insurance Provisions

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

Subtitle B—Rebates and Other Individual Provisions

- Sec. 2201. 2020 recovery rebates for individuals.
- Sec. 2202. Special rules for use of retirement funds.
- Sec. 2203. Temporary waiver of required minimum distribution rules for certain retirement plans and accounts.
- Sec. 2204. Allowance of partial above the line deduction for charitable contributions.
- Sec. 2205. Modification of limitations on charitable contributions during 2020.

Subtitle C—Business Provisions

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- Sec. 2301. Delay of payment of employer payroll taxes.
- Sec. 2302. Modifications for net operating losses.
- Sec. 2303. Modification of limitation on losses for taxpayers other than corporations.
- Sec. 2304. Modification of credit for prior year minimum tax liability of corporations.
- Sec. 2305. Modifications of limitation on business interest.
- Sec. 2306. Technical amendments regarding qualified improvement property.

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

Subtitle A—Health Provisions

- Sec. 3001. Short title.

PART I—ADDRESSING SUPPLY SHORTAGES

SUBPART A—MEDICAL PRODUCT SUPPLIES

- Sec. 3101. National Academies report on America’s medical product supply chain security.
- Sec. 3102. Requiring the strategic national stockpile to include certain types of medical supplies.
- Sec. 3103. Treatment of respiratory protective devices as covered countermeasures.

SUBPART B—MITIGATING EMERGENCY DRUG SHORTAGES

- Sec. 3111. Prioritize reviews of drug applications; incentives.
- Sec. 3112. Additional manufacturer reporting requirements in response to drug shortages.

SUBPART C—PREVENTING MEDICAL DEVICE SHORTAGES

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

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

SUBPART A—COVERAGE OF TESTING AND PREVENTIVE SERVICES

- Sec. 3201. Coverage of diagnostic testing for COVID-19.
- Sec. 3202. Pricing of diagnostic testing.
- Sec. 3203. Rapid coverage of preventive services and vaccines for coronavirus.

SUBPART B—SUPPORT FOR HEALTH CARE PROVIDERS

- Sec. 3211. Supplemental awards for health centers.
- Sec. 3212. Telehealth network and telehealth resource centers grant programs.
- Sec. 3213. Rural health care services outreach, rural health network development, and small health care provider quality improvement grant programs.
- Sec. 3214. United States Public Health Service Modernization.
- Sec. 3215. Limitation on liability for volunteer health care professionals during COVID-19 emergency response.
- Sec. 3216. Flexibility for members of National Health Service Corps during emergency period.

SUBPART C—MISCELLANEOUS PROVISIONS

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

PART III—INNOVATION

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

PART IV—HEALTH CARE WORKFORCE

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

Subtitle B—Education Provisions

- Sec. 3501. Short title.
- Sec. 3502. Definitions.
- Sec. 3503. Campus-based aid waivers.
- Sec. 3504. Use of supplemental educational opportunity grants for emergency aid.
- Sec. 3505. Federal work-study during a qualifying emergency.
- Sec. 3506. Adjustment of subsidized loan usage limits.
- Sec. 3507. Exclusion from Federal Pell Grant duration limit.
- Sec. 3508. Institutional refunds and Federal student loan flexibility.
- Sec. 3509. Satisfactory academic progress.
- Sec. 3510. Continuing education at affected foreign institutions.
- Sec. 3511. National emergency educational waivers.
- Sec. 3512. HBCU Capital financing.
- Sec. 3513. Temporary relief for federal student loan borrowers.
- Sec. 3514. Provisions related to the Corporation for National and Community Service.
- Sec. 3515. Workforce response activities.
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- Sec. 3517. Waiver authority and reporting requirement for institutional aid.
- Sec. 3518. Authorized uses and other modifications for grants.
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- Sec. 3601. Limitation on paid leave.
- Sec. 3602. Emergency Paid Sick Leave Act Limitation.
- Sec. 3603. Regulatory Authorities under the Emergency Paid Sick Leave Act.
- Sec. 3604. Unemployment insurance.
- Sec. 3605. OMB Waiver of Paid Family and Paid Sick Leave.
- Sec. 3606. Paid leave for rehired employees.
- Sec. 3607. Advance refunding of credits.
- Sec. 3608. Expansion of DOL Authority to postpone certain deadlines.

Subtitle D—Finance Committee

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

Subtitle E—Health and Human Services Extenders

PART I—MEDICARE PROVISIONS

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

PART II—MEDICAID PROVISIONS

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

PART III—HUMAN SERVICES AND OTHER HEALTH PROGRAMS

- Sec. 3821. Extension of sexual risk avoidance education program.
- Sec. 3822. Extension of personal responsibility education program.
- Sec. 3823. Extension of demonstration projects to address health professions workforce needs.

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Sec. 3824. Extension of the temporary assistance for needy families program and related programs.

PART IV—PUBLIC HEALTH PROVISIONS

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

Sec. 3832. Diabetes programs.

PART V—MISCELLANEOUS PROVISIONS

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

Subtitle F—Over-the-Counter Drugs

PART I—OTC DRUG REVIEW

Sec. 3851. Regulation of certain nonprescription drugs that are marketed without an approved drug application.

Sec. 3852. Misbranding.

Sec. 3853. Drugs excluded from the over-the-counter drug review.

Sec. 3854. Treatment of Sunscreen Innovation Act.

Sec. 3855. Annual update to Congress on appropriate pediatric indication for certain OTC cough and cold drugs.

Sec. 3856. Technical corrections.

PART II—USER FEES

Sec. 3861. Finding.

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

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

Sec. 4001. Short title.

Sec. 4002. Definitions.

Sec. 4003. Emergency relief and taxpayer protections.

Sec. 4004. Limitation on certain employee compensation.

Sec. 4005. Continuation of certain air service.

Sec. 4006. Coordination with secretary of transportation.

Sec. 4007. Suspension of certain aviation excise taxes.

Sec. 4008. Transaction account guarantee authority.

Sec. 4009. Temporary Government in the Sunshine Act relief.

Sec. 4010. Temporary hiring flexibility.

Sec. 4011. Temporary lending limit waiver.

Sec. 4012. Temporary relief for community banks.

Sec. 4013. Temporary relief from troubled debt restructurings.

Sec. 4014. Optional temporary relief from current expected credit losses.

Sec. 4015. Non-applicability of restrictions on ESF during national emergency.

Sec. 4016. Temporary credit union provisions.

Sec. 4017. Increasing access to materials necessary for national security and pandemic recovery.

Sec. 4018. Reports.

Sec. 4019. Direct appropriation.

Sec. 4020. Rule of construction.

Sec. 4021. Termination of authority.

TITLE V—BUDGETARY PROVISIONS

Sec. 5001. Emergency designation.

DIVISION B—EMERGENCY APPROPRIATIONS FOR CORONAVIRUS
HEALTH RESPONSE AND AGENCY OPERATIONS**1 SEC. 3. REFERENCES.**

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

**6 DIVISION A—KEEPING WORKERS
7 PAID AND EMPLOYED,
8 HEALTH CARE SYSTEM EN-
9 HANCEMENTS, AND ECO-
10 NOMIC STABILIZATION
11 TITLE I—KEEPING AMERICAN
12 WORKERS PAID AND EM-
13 PLOYED ACT****14 SEC. 1101. DEFINITIONS.**

15 In this title—

16 (1) the terms “Administration” and “Adminis-
17 trator” mean the Small Business Administration
18 and the Administrator thereof, respectively; and

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

1 **SEC. 1102. PAYCHECK PROTECTION PROGRAM.**

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

4 (1) in paragraph (2)—

5 (A) in subparagraph (A), in the matter
6 preceding clause (i), by striking “and (E)” and
7 inserting “(E), and (F)”;

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

9 “(F) PARTICIPATION IN THE PAYCHECK
10 PROTECTION PROGRAM.—In an agreement to
11 participate in a loan on a deferred basis under
12 paragraph (36), the participation by the Admin-
13 istration shall be 100 percent.”;

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

15 “(36) PAYCHECK PROTECTION PROGRAM.—

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

17 “(i) the terms ‘appropriate Federal
18 banking agency’ and ‘insured depository
19 institution’ have the meanings given those
20 terms in section 3 of the Federal Deposit
21 Insurance Act (12 U.S.C. 1813);

22 “(ii) the term ‘covered loan’ means a
23 loan made under this paragraph during the
24 covered period;

1 “(iii) the term ‘covered period’ means
2 the period beginning on February 15, 2020
3 and ending on June 30, 2020;

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

7 “(v) the term ‘eligible self-employed
8 individual’ has the meaning given the term
9 in section 7002(b) of the Families First
10 Coronavirus Response Act (Public Law
11 116–127);

12 “(vi) the term ‘nonprofit organization’
13 means an organization that is described in
14 section 501(c)(3) of the Internal Revenue
15 Code of 1986 and that is exempt from tax-
16 ation under section 501(a) of such Code;

17 “(vii) the term ‘payroll costs’—

18 “(I) means—

19 “(aa) the sum of payments
20 of any compensation with respect
21 to employees that is a—

22 “(AA) salary, wage,
23 commission, or similar com-
24 pensation;

1 “(BB) payment of cash
2 tip or equivalent;

3 “(CC) payment for va-
4 cation, parental, family,
5 medical, or sick leave;

6 “(DD) allowance for
7 dismissal or separation;

8 “(EE) payment re-
9 quired for the provisions of
10 group health care benefits,
11 including insurance pre-
12 miums;

13 “(FF) payment of any
14 retirement benefit; or

15 “(GG) payment of
16 State or local tax assessed
17 on the compensation of em-
18 ployees; and

19 “(bb) the sum of payments
20 of any compensation to a sole
21 proprietor or independent con-
22 tractor that is a wage, commis-
23 sion, or similar compensation and
24 that is in an amount that is not
25 more than \$100,000 in 1 year, as

1 prorated for the covered period;

2 and

3 “(II) shall not include—

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

9 “(bb) taxes imposed or with-
10 held under chapters 21, 22, or 24
11 of the Internal Revenue Code of
12 1986 during the covered period;

13 “(cc) any compensation of
14 an employee whose principal
15 place of residence is outside of
16 the United States;

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

23 “(ee) qualified family leave
24 wages for which a credit is al-
25 lowed under section 7003 of the

1 Families First Coronavirus Re-
2 sponse Act (Public Law 116-
3 127); and

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

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

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

20 “(D) INCREASED ELIGIBILITY FOR CER-
21 TAIN SMALL BUSINESSES AND ORGANIZA-
22 TIONS.—

23 “(i) IN GENERAL.—During the cov-
24 ered period, in addition to small business
25 concerns, any business concern, nonprofit

1 organization, veterans organization, or
2 Tribal business concern described in sec-
3 tion 31(b)(2)(C) shall be eligible to receive
4 a covered loan if the business concern,
5 nonprofit organization, veterans organiza-
6 tion, or Tribal business concern employs
7 not more than the greater of—

8 “(I) 500 employees; or

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

16 “(ii) EXCLUSION OF NONPROFITS RE-
17 CEIVING MEDICAID EXPENDITURES.—
18 Clause (i) shall not apply to a nonprofit
19 entity eligible for payment for items or
20 services furnished under a State plan
21 under title XIX of the Social Security Act
22 (42 U.S.C. 1396 et seq.) or under a waiver
23 of such plan, other than a nonprofit entity
24 for which the primary service provided by

1 the nonprofit entity is substance abuse
2 treatment and counseling.

3 “(iii) INCLUSION OF SOLE PROPRI-
4 ETORS, INDEPENDENT CONTRACTORS, AND
5 ELIGIBLE SELF-EMPLOYED INDIVID-
6 UALS.—

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

13 “(II) DOCUMENTATION.—

14 “(aa) SELF-EMPLOYED.—An
15 eligible self-employed individual
16 seeking a covered loan shall sub-
17 mit payroll tax filings reported to
18 the Internal Revenue Service.

19 “(bb) INDEPENDENT CON-
20 TRACTOR.—An independent con-
21 tractor seeking a covered loan
22 shall submit each Form 1099-
23 MISC that contains reportable
24 compensation.

1 “(cc) SOLE PROPRIETOR-
2 SHIP.—An individual who oper-
3 ates under a sole proprietorship
4 shall submit each schedule filed
5 or to be filed with a tax return
6 that documents any income or
7 expenses for the sole proprietor-
8 ship.

9 “(iv) BUSINESS CONCERNS WITH
10 MORE THAN 1 PHYSICAL LOCATION.—Dur-
11 ing the covered period, any business con-
12 cern that employs not more than 500 em-
13 ployees per physical location of the busi-
14 ness concern and that is assigned a North
15 American Industry Classification System
16 code beginning with 72 at the time of dis-
17 bursal shall be eligible to receive a covered
18 loan, except for a business concern as-
19 signed to such a code that, in 2019, earned
20 in excess of \$500,000,000 in gross annual
21 receipts.

22 “(v) WAIVER OF AFFILIATION
23 RULES.—During the covered period, the
24 provisions applicable to affiliations under
25 section 121.103 of title 13, Code of Fed-

1 eral Regulations, or any successor regula-
2 tion, are waived with respect to eligibility
3 for a covered loan for—

4 “(I) any business concern with
5 not more than 500 employees that, as
6 of the date on which the covered loan
7 is disbursed, is assigned a North
8 American Industry Classification Sys-
9 tem code beginning with 72;

10 “(II) any business concern oper-
11 ating as a franchise that is assigned a
12 franchise identifier code by the Ad-
13 ministration; and

14 “(III) any business concern that
15 receives financial assistance from a
16 company licensed under section 301 of
17 the Small Business Investment Act of
18 1958 (15 U.S.C. 681).

19 “(vi) EMPLOYEE.—For purposes of
20 determining whether a business concern,
21 nonprofit organization, veterans organiza-
22 tion, or Tribal business concern described
23 in section 31(b)(2)(C) employs not more
24 than 500 employees under clause (i)(I), the
25 term ‘employee’ includes individuals em-

1 15, 2019 and ending on June 30, 2019,
2 the product obtained by multiplying—

3 “(aa) the average total monthly
4 payments by the applicant for payroll
5 costs incurred during the period be-
6 ginning on January 1, 2020 and end-
7 ing on February 29, 2020; by

8 “(bb) 2.5; or

9 “(ii) \$10,000,000.

10 “(F) ALLOWABLE USES OF COVERED
11 LOANS.—

12 “(i) IN GENERAL.—During the cov-
13 ered period, an eligible recipient may, in
14 addition to the allowable uses of a loan
15 made under this subsection, use the pro-
16 ceeds of the covered loan for—

17 “(I) payroll costs;

18 “(II) costs related to the continu-
19 ation of group health care benefits
20 during periods of paid sick, medical,
21 or family leave, and insurance pre-
22 miums;

23 “(III) employee salaries, commis-
24 sions, or similar compensations;

1 “(IV) payments of interest on
2 any mortgage obligation (which shall
3 not include any prepayment of or pay-
4 ment of principal on a mortgage obli-
5 gation);

6 “(V) rent (including rent under a
7 lease agreement);

8 “(VI) utilities; and

9 “(VII) interest on any other debt
10 obligations that were incurred before
11 the covered period.

12 “(ii) DELEGATED AUTHORITY.—

13 “(I) IN GENERAL.—For purposes
14 of making covered loans for the pur-
15 poses described in clause (i), a lender
16 approved under this paragraph shall
17 be considered to have delegated au-
18 thority to make and approve covered
19 loans, subject to the provisions of this
20 paragraph.

21 “(II) CONSIDERATIONS.—In eval-
22 uating the eligibility of a borrower for
23 a covered loan with the terms de-
24 scribed in this paragraph, a lender
25 shall consider whether the borrower—

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

3 “(bb)(AA) had employees
4 for whom the borrower paid sala-
5 ries and payroll taxes; or

6 “(BB) paid independent
7 contractors, as reported on a
8 Form 1099–MISC.

9 “(iii) ADDITIONAL LENDERS.—The
10 authority to make loans under this para-
11 graph shall be extended to additional lend-
12 ers determined by the Administrator and
13 the Secretary of the Treasury to have the
14 necessary qualifications to process, close,
15 disburse and service loans made with the
16 guarantee of the Administration.

17 “(iv) LIMITATION.—An eligible recipi-
18 ent of a covered loan for purposes of pay-
19 ing payroll costs and other obligations de-
20 scribed in this subparagraph shall not be
21 eligible to receive an economic injury dis-
22 aster loan under subsection (b)(2) for the
23 same purpose.

24 “(v) NONRECOURSE.—Notwith-
25 standing the waiver of the personal guar-

1 for a loan under paragraph (34) for
2 the same purpose and duplicative of
3 amounts applied for or received under
4 a covered loan; and

5 “(IV) during the period begin-
6 ning on February 15, 2020 and end-
7 ing on December 31, 2020, that the
8 eligible recipient has not received
9 amounts under paragraph (34) for the
10 same purpose and duplicative of
11 amounts applied for or received under
12 a covered loan.

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

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

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

21 “(I) CREDIT ELSEWHERE.—During the
22 covered period, the requirement that a small
23 business concern is unable to obtain credit else-
24 where, as defined in section 3(h), shall not
25 apply to a covered loan.

1 “(J) WAIVER OF PERSONAL GUARANTEE
2 REQUIREMENT.—During the covered period,
3 with respect to a covered loan, no personal
4 guarantee shall be required for the covered
5 loan.

6 “(K) MATURITY FOR LOANS WITH RE-
7 MAINING BALANCE AFTER APPLICATION OF
8 FORGIVENESS.—With respect to a covered loan
9 that has a remaining balance after reduction
10 based on the loan forgiveness amount under
11 section 1105 of the CARES Act—

12 “(i) the remaining balance shall con-
13 tinue to be guaranteed by the Administra-
14 tion under this subsection; and

15 “(ii) the covered loan shall have a
16 maximum maturity of 10 years from the
17 date on which the borrower applies for
18 loan forgiveness under that section.

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

22 “(M) LOAN DEFERMENT.—

23 “(i) DEFINITION OF IMPACTED BOR-
24 ROWER.—

1 “(I) IN GENERAL.—In this sub-
2 paragraph, the term ‘impacted bor-
3 rower’ means an eligible recipient
4 that—

5 “(aa) is in operation on
6 February 15, 2020; and

7 “(bb) has an application for
8 a covered loan that is approved
9 or pending approval on or after
10 the date of enactment of this
11 paragraph.

12 “(II) PRESUMPTION.—For pur-
13 poses of this subparagraph, an im-
14 pacted borrower is presumed to have
15 been adversely impacted by COVID-
16 19.

17 “(ii) DEFERRAL.—During the covered
18 period, the Administrator shall—

19 “(I) consider each eligible recipi-
20 ent that applies for a covered loan to
21 be an impacted borrower; and

22 “(II) require lenders under this
23 subsection to provide complete pay-
24 ment deferment relief for impacted
25 borrowers with covered loans for a pe-

1 riod of not less than 6 months, includ-
2 ing payment of principal, interest, and
3 fees.

4 “(iii) SECONDARY MARKET.—During
5 the covered period, with respect to a cov-
6 ered loan that is sold on the secondary
7 market, if an investor declines to approve
8 a deferral requested by a lender under
9 clause (ii), the Administrator shall exercise
10 the authority to purchase the loan so that
11 the impacted borrower may receive a defer-
12 ral for a period of not less than 6 months
13 beginning on the date on which the loan is
14 disbursed and ending on the date that is
15 not later than 1 year after the disburse-
16 ment.

17 “(iv) GUIDANCE.—Not later than 30
18 days after the date of enactment of this
19 paragraph, the Administrator shall provide
20 guidance to lenders under this paragraph
21 on the deferment process described in this
22 subparagraph.

23 “(N) SECONDARY MARKET SALES.—A cov-
24 ered loan shall not be eligible to be sold in the
25 secondary market until the covered recipient of

1 the covered loan has requested the loan forgive-
2 ness authorized under section 1105 of the
3 CARES Act and the Administrator has finally
4 determined the amount of any forgiveness to
5 which the eligible recipient is entitled and has
6 made payment to the lender. Any remaining
7 balance on the loan after the application of that
8 payment may be sold in the secondary market.

9 “(O) REGULATORY CAPITAL REQUIRE-
10 MENTS.—

11 “(i) RISK WEIGHT.—With respect to
12 the appropriate Federal banking agencies
13 applying capital requirements under their
14 respective risk-based capital requirements,
15 a covered loan shall receive a risk weight
16 of zero percent.

17 “(ii) TEMPORARY RELIEF FROM TDR
18 DISCLOSURES.—Notwithstanding any other
19 provision of law, an insured depository in-
20 stitution that modifies a covered loan in re-
21 lation to COVID–19-related difficulties in
22 a troubled debt restructuring on or after
23 March 13, 2020, shall not be required to
24 comply with the Financial Accounting
25 Standards Board Accounting Standards

1 Codification Subtopic 310-40 ('Receivables
2 – Troubled Debt Restructurings by Credi-
3 tors') for purposes of compliance with the
4 requirements of the Federal Deposit Insur-
5 ance Act (12 U.S.C. 1811 et seq.), until
6 such time and under such circumstances as
7 the appropriate Federal banking agency
8 determines appropriate.

9 “(P) REIMBURSEMENT FOR PROC-
10 ESSING.—

11 “(i) IN GENERAL.—The Administrator
12 shall reimburse a lender authorized to
13 make a covered loan at a rate of 5 percent
14 of the balance of the financing outstanding
15 at the time of disbursement of the covered
16 loan.

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

21 “(Q) DUPLICATION.—Nothing in this
22 paragraph shall prohibit a recipient of an eco-
23 nomic injury disaster loan made under sub-
24 section (b)(2) during the period beginning on
25 February 15, 2020 and ending on March 31,

1 2020 from receiving assistance under this para-
2 graph.

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

7 (b) COMMITMENTS FOR 7(A) LOANS.—During the pe-
8 riod beginning on February 15, 2020 and ending on June
9 30, 2020—

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

16 (2) the amount authorized for commitments for
17 such loans under the heading “BUSINESS LOANS
18 PROGRAM ACCOUNT” under the heading “SMALL
19 BUSINESS ADMINISTRATION” under title V of the
20 Consolidated Appropriations Act, 2020 (Public Law
21 116–93; 133 Stat. 2475) shall not apply.

22 (c) EXPRESS LOANS.—

23 (1) IN GENERAL.—Section 7(a)(31)(D) of the
24 Small Business Act (15 U.S.C. 636(a)(31)(D)) is

1 amended by striking “\$350,000” and inserting
2 “\$1,000,000”.

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

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

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

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

12 (e) INTERIM RULE.—On and after the date of enact-
13 ment of this Act, the interim final rule published by the
14 Administrator entitled “Express Loan Programs: Affili-
15 ation Standards” (85 Fed. Reg. 7622 (February 10,
16 2020)) is permanently rescinded and shall have no force
17 or effect.

18 **SEC. 1103. ENTREPRENEURIAL DEVELOPMENT.**

19 (a) DEFINITIONS.—In this section—

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

23 (A) supply chain disruptions, including
24 changes in—

1 (i) quantity and lead time, including
2 the number of shipments of components
3 and delays in shipments;

4 (ii) quality, including shortages in
5 supply for quality control reasons; and

6 (iii) technology, including a com-
7 promised payment network;

8 (B) staffing challenges;

9 (C) a decrease in gross receipts or cus-
10 tomers; or

11 (D) a closure;

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

13 (A) a small business development center;

14 and

15 (B) a women’s business center;

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

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

22 (b) EDUCATION, TRAINING, AND ADVISING
23 GRANTS.—

24 (1) IN GENERAL.—The Administration may
25 provide financial assistance in the form of grants to

1 resource partners to provide education, training, and
2 advising to covered small business concerns.

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

7 (A) accessing and applying for resources
8 provided by the Administration and other Fed-
9 eral resources relating to access to capital and
10 business resiliency;

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

14 (C) the potential effects of COVID–19 on
15 the supply chains, distribution, and sale of
16 products of covered small business concerns and
17 the mitigation of those effects;

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

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

1 (F) the risks of and mitigation of cyber
2 threats in remote customer service or telework
3 practices;

4 (G) the mitigation of the effects of reduced
5 travel or outside activities on covered small
6 business concerns during COVID–19 or similar
7 occurrences; and

8 (H) any other relevant business practices
9 necessary to mitigate the economic effects of
10 COVID–19 or similar occurrences.

11 (3) GRANT DETERMINATION.—

12 (A) SMALL BUSINESS DEVELOPMENT CEN-
13 TERS.—The Administration shall award 80 per-
14 cent of funds authorized to carry out this sub-
15 section to small business development centers,
16 which shall be awarded pursuant to a formula
17 jointly developed, negotiated, and agreed upon,
18 with full participation of both parties, between
19 the association formed under section
20 21(a)(3)(A) of the Small Business Act (15
21 U.S.C. 648(a)(3)(A)) and the Administration.

22 (B) WOMEN’S BUSINESS CENTERS.—The
23 Administration shall award 20 percent of funds
24 authorized to carry out this subsection to wom-
25 en’s business centers, which shall be awarded

1 pursuant to a process established by the Ad-
2 ministration in consultation with recipients of
3 assistance.

4 (C) NO MATCHING FUNDS REQUIRED.—
5 Matching funds shall not be required for any
6 grant under this subsection.

7 (4) GOALS AND METRICS.—

8 (A) IN GENERAL.—Goals and metrics for
9 the funds made available under this subsection
10 shall be jointly developed, negotiated, and
11 agreed upon, with full participation of both par-
12 ties, between the resource partners and the Ad-
13 ministrator, which shall—

14 (i) take into consideration the extent
15 of the circumstances relating to the spread
16 of COVID–19, or similar occurrences, that
17 affect covered small business concerns lo-
18 cated in the areas covered by the resource
19 partner, particularly in rural areas or eco-
20 nomically distressed areas;

21 (ii) generally follow the use of funds
22 outlined in paragraph (2), but shall not re-
23 strict the activities of resource partners in
24 responding to unique situations; and

1 (iii) encourage resource partners to
2 develop and provide services to covered
3 small business concerns.

4 (B) PUBLIC AVAILABILITY.—The Adminis-
5 trator shall make publicly available the method-
6 ology by which the Administrator and resource
7 partners jointly develop the metrics and goals
8 described in subparagraph (A).

9 (c) RESOURCE PARTNER ASSOCIATION GRANTS.—

10 (1) IN GENERAL.—The Administrator may pro-
11 vide grants to an association or associations rep-
12 resenting resource partners under which the associa-
13 tion or associations shall establish a single central-
14 ized hub for COVID–19 information, which shall in-
15 clude—

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

20 (B) a training program to educate resource
21 partner counselors, members of the Service
22 Corps of Retired Executives established under
23 section 8(b)(1)(B) of the Small Business Act
24 (15 U.S.C. 637(b)(1)(B)), and counselors at
25 veterans business outreach centers described in

1 section 32 of the Small Business Act (15
2 U.S.C. 657b) on the resources and information
3 described in subparagraph (A).

4 (2) GOALS AND METRICS.—Goals and metrics
5 for the funds made available under this subsection
6 shall be jointly developed, negotiated, and agreed
7 upon, with full participation of both parties, between
8 the association or associations receiving a grant
9 under this subsection and the Administrator.

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

16 (1) with respect to the initial year covered by
17 the report—

18 (A) the programs and services developed
19 and provided by the Administration and re-
20 source partners under subsection (b);

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

23 (C) the online platform and training devel-
24 oped and provided by the Administration and

1 the association or associations under subsection
2 (c); and

3 (2) with respect to the subsequent years covered
4 by the report—

5 (A) with respect to the grant program
6 under subsection (b)—

7 (i) the efforts of the Administrator
8 and resource partners to develop services
9 to assist covered small business concerns;

10 (ii) the challenges faced by owners of
11 covered small business concerns in access-
12 ing services provided by the Administration
13 and resource partners;

14 (iii) the number of unique covered
15 small business concerns that were served
16 by the Administration and resource part-
17 ners; and

18 (iv) other relevant outcome perform-
19 ance data with respect to covered small
20 business concerns, including the number of
21 employees affected, the effect on sales, the
22 disruptions of supply chains, and the ef-
23 forts made by the Administration and re-
24 source partners to mitigate these effects;
25 and

1 (B) with respect to the grant program
2 under subsection (c)—

3 (i) the efforts of the Administrator
4 and the association or associations to de-
5 velop and evolve an online resource for
6 small business concerns; and

7 (ii) the efforts of the Administrator
8 and the association or associations to de-
9 velop a training program for resource part-
10 ner counselors, including the number of
11 counselors trained.

12 **SEC. 1104. WAIVER OF MATCHING FUNDS REQUIREMENT**
13 **UNDER THE WOMEN'S BUSINESS CENTER**
14 **PROGRAM.**

15 During the 3-month period beginning on the date of
16 enactment of this Act, the requirement relating to obtain-
17 ing cash contributions from non-Federal sources under
18 section 29(c)(1) of the Small Business Act (15 U.S.C.
19 656(c)(1)) is waived for any recipient of assistance under
20 such section 29.

21 **SEC. 1105. LOAN FORGIVENESS.**

22 (a) DEFINITIONS.—In this section—

23 (1) the term “covered loan” means a loan guar-
24 anteed under paragraph (36) of section 7(a) of the

1 Small Business Act (15 U.S.C. 636(a)), as added by
2 section 1102;

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

6 (A) is a liability of the borrower;

7 (B) is a mortgage on real or personal
8 property; and

9 (C) was incurred before February 15,
10 2020;

11 (3) the term “covered period” means the 8-
12 week period beginning on date of the origination of
13 a covered loan;

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

17 (5) the term “covered utility payment” means
18 payment for a service for the distribution of elec-
19 tricity, gas, water, transportation, telephone, or
20 internet access for which service began before Feb-
21 ruary 15, 2020;

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

24 (7) the term “expected forgiveness amount”
25 means the amount of principal that a lender reason-

1 ably expects a borrower to expend during the cov-
2 ered period on the sum of any—

3 (A) payroll costs;

4 (B) payments of interest on any covered
5 mortgage obligation (which shall not include
6 any prepayment of or payment of principal on
7 a covered mortgage obligation);

8 (C) payments on any covered rent obliga-
9 tion; and

10 (D) covered utility payments; and

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

15 (b) FORGIVENESS.—An eligible recipient shall be eli-
16 gible for forgiveness of indebtedness on a covered loan in
17 an amount equal to the sum of the following costs incurred
18 and payments made during the covered period:

19 (1) Payroll costs.

20 (2) Any payment of interest on any covered
21 mortgage obligation (which shall not include any
22 prepayment of or payment of principal on a covered
23 mortgage obligation).

24 (3) Any payment on any covered rent obliga-
25 tion.

1 (4) Any covered utility payment.

2 (c) TREATMENT OF AMOUNTS FORGIVEN.—

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

8 (2) PURCHASE OF GUARANTEES.—For purposes
9 of the purchase of the guarantee for a covered loan
10 by the Administrator, amounts which are forgiven
11 under this section shall be treated in accordance
12 with the procedures that are otherwise applicable to
13 a loan guaranteed under section 7(a) of the Small
14 Business Act (15 U.S.C. 636(a)).

15 (3) REMITTANCE.—Not later than 90 days
16 after the date on which the amount of forgiveness
17 under this section is determined, the Administrator
18 shall remit to the lender an amount equal to the
19 amount of forgiveness, plus any interest accrued
20 through the date of payment.

21 (4) ADVANCE PURCHASE OF COVERED LOAN.—

22 (A) REPORT.—A lender authorized under
23 section 7(a) of the Small Business Act (15
24 U.S.C. 636(a)) may report to the Administrator
25 an expected forgiveness amount on a covered

1 loan or on a pool of covered loans of up to 100
2 percent of the principal on the covered loan or
3 pool of covered loans, respectively.

4 (B) PURCHASE.—The Administrator shall
5 purchase the expected forgiveness amount de-
6 scribed in subparagraph (A) as if the amount
7 were the principal amount of a loan guaranteed
8 under section 7(a) of the Small Business Act
9 636(a).

10 (C) TIMING.—Not later than 5 days after
11 the date on which the Administrator receives a
12 report under subparagraph (A), the Adminis-
13 trator shall purchase the expected forgiveness
14 amount under subparagraph (B) with respect to
15 each covered loan to which the report relates.

16 (d) LIMITS ON AMOUNT OF FORGIVENESS.—

17 (1) AMOUNT MAY NOT EXCEED PRINCIPAL.—
18 The amount of loan forgiveness under this section
19 shall not exceed the principal amount of the financ-
20 ing made available under the applicable covered
21 loan.

22 (2) REDUCTION BASED ON REDUCTION IN NUM-
23 BER OF EMPLOYEES.—

24 (A) IN GENERAL.—The amount of loan
25 forgiveness under this section shall be reduced,

1 but not increased, by multiplying the amount
2 described in subsection (b) by the quotient ob-
3 tained by dividing—

4 (i) the average number of full-time
5 equivalent employees per month employed
6 by the eligible recipient during the covered
7 period; by

8 (ii)(I) at the election of the bor-
9 rower—

10 (aa) the average number of full-
11 time equivalent employees per month
12 employed by the eligible recipient dur-
13 ing the period beginning on February
14 15, 2019 and ending on June 30,
15 2019; or

16 (bb) the average number of full-
17 time equivalent employees per month
18 employed by the eligible recipient dur-
19 ing the period beginning on January
20 1, 2020 and ending on February 29,
21 2020; or

22 (II) in the case of an eligible recipient
23 that is seasonal employer, as determined
24 by the Administrator, the average number
25 of full-time equivalent employees per

1 month employed by the eligible recipient
2 during the period beginning on February
3 15, 2019 and ending on June 30, 2019.

4 (B) EXEMPTIONS.—The Administrator
5 and the Secretary of the Treasury may pre-
6 scribe regulations granting de minimis exemp-
7 tions from the requirements under this para-
8 graph.

9 (C) CALCULATION OF AVERAGE NUMBER
10 OF EMPLOYEES.—For purposes of subpara-
11 graph (A), the average number of full-time
12 equivalent employees shall be determined by
13 calculating the average number of full-time
14 equivalent employees for each pay period falling
15 within a month.

16 (3) REDUCTION RELATING TO SALARY AND
17 WAGES.—

18 (A) IN GENERAL.—The amount of loan
19 forgiveness under this section shall be reduced
20 by the amount of any reduction in total salary
21 or wages of any employee described in subpara-
22 graph (B) during the covered period that is in
23 excess of 25 percent of the total salary or wages
24 of the employee during the most recent full

1 quarter during which the employee was em-
2 ployed before the covered period.

3 (B) EMPLOYEES DESCRIBED.—An em-
4 ployee described in this subparagraph is any
5 employee who did not receive, during any single
6 pay period during 2019, wages or salary at an
7 annualized rate of pay in an amount more than
8 \$100,000.

9 (4) TIPPED WORKERS.—An eligible recipient
10 with tipped employees described in section
11 3(m)(2)(A) of the Fair Labor Standards Act of
12 1938 (29 U.S.C. 203(m)(2)(A)) may receive forgive-
13 ness for additional wages paid to those employees.

14 (5) EXEMPTION FOR RE-HIRES.—

15 (A) IN GENERAL.—In a circumstance de-
16 scribed in subparagraph (B), the amount of
17 loan forgiveness under this section shall be de-
18 termined without regard to a reduction in the
19 number of full-time equivalent employees of an
20 eligible recipient or a reduction in the salary of
21 1 or more employees of the eligible recipient, as
22 applicable, during the period beginning on Feb-
23 ruary 15, 2020 and ending on the date that is
24 30 days after the date of enactment of this Act.

1 (B) CIRCUMSTANCES.—A circumstance de-
2 scribed in this subparagraph is a cir-
3 cumstance—

4 (i) in which—

5 (I) during the period beginning
6 on February 15, 2020 and ending on
7 the date that is 30 days after the date
8 of enactment of this Act, there is a re-
9 duction, as compared to February 15,
10 2020, in the number of full-time
11 equivalent employees of an eligible re-
12 cipient; and

13 (II) not later than June 30,
14 2020, the eligible employer has elimi-
15 nated the reduction in the number of
16 full-time equivalent employees;

17 (ii) in which—

18 (I) during the period beginning
19 on February 15, 2020 and ending on
20 the date that is 30 days after the date
21 of enactment of this Act, there is a re-
22 duction, as compared to February 15,
23 2020, in the salary or wages of 1 or
24 more employees of the eligible recipi-
25 ent; and

1 (II) not later than June 30,
2 2020, the eligible employer has elimi-
3 nated the reduction in the salary or
4 wages of such employees; or
5 (iii) in which the events described in
6 clause (i) and (ii) occur.

7 (e) APPLICATION.—An eligible recipient seeking loan
8 forgiveness under this section shall submit to the lender
9 that originated the covered loan an application, which
10 shall include—

11 (1) documentation verifying the number of full-
12 time equivalent employees on payroll and pay rates
13 for the periods described in subsection (d), includ-
14 ing—

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

17 (B) State income, payroll, and unemploy-
18 ment insurance filings;

19 (2) documentation, including cancelled checks,
20 payment receipts, transcripts of accounts, or other
21 documents verifying payments on covered mortgage
22 obligations, payments on covered lease obligations,
23 and covered utility payments;

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

4 (A) the documentation presented is true
5 and correct; and

6 (B) the amount for which forgiveness is re-
7 quested was used to retain employees, make in-
8 terest payments on a covered mortgage obliga-
9 tion, make payments on a covered rent obliga-
10 tion, or make covered utility payments; and

11 (4) any other documentation the Administrator
12 determines necessary.

13 (f) PROHIBITION ON FORGIVENESS WITHOUT DOCU-
14 MENTATION.—No eligible recipient shall receive forgive-
15 ness under this section without submitting to the lender
16 that originated the covered loan the documentation re-
17 quired under subsection (e).

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

22 (h) HOLD HARMLESS.—If a lender has received the
23 documentation required under this section and determines
24 that an eligible recipient has accurately verified the pay-
25 ments for payroll costs, payments on covered mortgage ob-

1 ligations, payments on covered lease obligations, or cov-
2 ered utility payments during covered period—

3 (1) an enforcement action may not be taken
4 against the lender under section 47(e) of the Small
5 Business Act (15 U.S.C. 657t(e)) relating to loan
6 forgiveness for the payments for payroll costs, pay-
7 ments on covered mortgage obligations, payments on
8 covered lease obligations, or covered utility pay-
9 ments, as the case may be; and

10 (2) the lender shall not be subject to any pen-
11 alties by the Administrator relating to loan forgive-
12 ness for the payments for payroll costs, payments on
13 covered mortgage obligations, payments on covered
14 lease obligations, or covered utility payments, as the
15 case may be.

16 (i) TAXABILITY.—Canceled indebtedness under this
17 section shall be excluded from gross income for purposes
18 of the Internal Revenue Code of 1986.

19 (j) RULE OF CONSTRUCTION.—The cancellation of
20 indebtedness on a covered loan under this section shall not
21 otherwise modify the terms and conditions of the covered
22 loan.

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

1 **SEC. 1106. DIRECT APPROPRIATIONS.**

2 (a) IN GENERAL.—There is appropriated, out of
3 amounts in the Treasury not otherwise appropriated, for
4 the fiscal year ending September 30, 2020, to remain
5 available until September 30, 2021, for additional
6 amounts—

7 (1) \$349,000,000,000 under the heading
8 “Small Business Administration—Business Loans
9 Program Account, CARES Act” for the cost of
10 guaranteed loans as authorized under paragraph
11 (36) of section 7(a) of the Small Business Act (15
12 U.S.C. 636(a)), as added by section 1102(a) of this
13 Act;

14 (2) \$675,000,000 under the heading “Small
15 Business Administration—Salaries and Expenses”
16 for salaries and expenses of the Administration;

17 (3) \$25,000,000 under the heading “Small
18 Business Administration—Office of Inspector Gen-
19 eral”, to remain available until September 30, 2024,
20 for necessary expenses of the Office of Inspector
21 General of the Administration in carrying out the
22 provisions of the Inspector General Act of 1978 (5
23 U.S.C. App.);

24 (4) \$265,000,000 under the heading “Small
25 Business Administration—Entrepreneurial Develop-
26 ment Programs”, of which—

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

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

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

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

14 (7) \$17,000,000,000 under the heading “Small
15 Business Administration—Business Loans Program
16 Account, CARES Act” shall be for carrying out sec-
17 tion 1112 of this Act; and

18 (8) \$25,000,000 under the heading “Depart-
19 ment of the Treasury—Departmental Offices—Sala-
20 ries and Expenses” shall be for carrying out section
21 1109 of this Act.

22 (b) SECONDARY MARKET.—During the period begin-
23 ning on the date of enactment of this Act and ending on
24 September 30, 2021, guarantees of trust certificates au-
25 thorized by section 5(g) of the Small Business Act (15

1 U.S.C. 635(g)) shall not exceed a principal amount of
2 \$100,000,000,000.

3 (c) REPORTS.—Not later than 180 days after the
4 date of enactment of this Act, the Administrator shall sub-
5 mit to the Committee on Appropriations of the Senate and
6 the Committee on Appropriations of the House of Rep-
7 resentatives a detailed expenditure plan for using the
8 amounts appropriated to the Administration under sub-
9 section (a).

10 **SEC. 1107. MINORITY BUSINESS DEVELOPMENT AGENCY.**

11 (a) DEFINITIONS.—In this section—

12 (1) the term “Agency” means the Minority
13 Business Development Agency of the Department of
14 Commerce;

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

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

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

22 (B) the management and daily business
23 operations of which are controlled by 1 or more
24 socially disadvantaged individuals, as deter-
25 mined by the Agency; and

1 (4) the term “minority chamber of commerce”
2 means a chamber of commerce developed specifically
3 to support minority business enterprises.

4 (b) EDUCATION, TRAINING, AND ADVISING
5 GRANTS.—

6 (1) IN GENERAL.—The Agency may provide fi-
7 nancial assistance in the form of grants to minority
8 business centers and minority chambers of commerce
9 to provide education, training, and advising to mi-
10 nority business enterprises.

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

15 (A) accessing and applying for resources
16 provided by the Agency and other Federal re-
17 sources relating to access to capital and busi-
18 ness resiliency;

19 (B) the hazards and prevention of the
20 transmission and communication of COVID–19
21 and other communicable diseases;

22 (C) the potential effects of COVID–19 on
23 the supply chains, distribution, and sale of
24 products of minority business enterprises and
25 the mitigation of those effects;

1 (D) the management and practice of
2 telework to reduce possible transmission of
3 COVID-19;

4 (E) the management and practice of re-
5 mote customer service by electronic or other
6 means;

7 (F) the risks of and mitigation of cyber
8 threats in remote customer service or telework
9 practices;

10 (G) the mitigation of the effects of reduced
11 travel or outside activities on minority business
12 enterprises during COVID-19 or similar occur-
13 rences; and

14 (H) any other relevant business practices
15 necessary to mitigate the economic effects of
16 COVID-19 or similar occurrences.

17 (3) NO MATCHING FUNDS REQUIRED.—Match-
18 ing funds shall not be required for any grant under
19 this section.

20 (4) GOALS AND METRICS.—

21 (A) IN GENERAL.—Goals and metrics for
22 the funds made available under this section
23 shall be jointly developed, negotiated, and
24 agreed upon, with full participation of both par-
25 ties, between the minority business centers, mi-

1 nority chambers of commerce, and the Agency,
2 which shall—

3 (i) take into consideration the extent
4 of the circumstances relating to the spread
5 of COVID–19, or similar occurrences, that
6 affect minority business enterprises located
7 in the areas covered by minority business
8 centers and minority chambers of com-
9 merce, particularly in rural areas or eco-
10 nomically distressed areas;

11 (ii) generally follow the use of funds
12 outlined in paragraph (2), but shall not re-
13 strict the activities of minority business
14 centers and minority chambers of com-
15 merce in responding to unique situations;
16 and

17 (iii) encourage minority business cen-
18 ters and minority chambers of commerce
19 to develop and provide services to minority
20 business enterprises.

21 (B) PUBLIC AVAILABILITY.—The Agency
22 shall make publicly available the methodology
23 by which the Agency, minority business centers,
24 and minority chambers of commerce jointly de-

1 velop the metrics and goals described in sub-
2 paragraph (A).

3 (c) WAIVERS.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of law or regulation, the Agency may, dur-
6 ing the 3-month period that begins on the date of
7 enactment of this Act, waive any matching require-
8 ment imposed on a minority business center or a
9 specialty center of the Agency under a cooperative
10 agreement between such a center and the Agency if
11 the applicable center is unable to raise funds, or has
12 suffered a loss of revenue, because of the effects of
13 COVID–19.

14 (2) REMAINING COMPLIANT.—Notwithstanding
15 any provision of a cooperative agreement between
16 the Agency and a minority business center, if, dur-
17 ing the period beginning on the date of enactment
18 of this Act and ending on September 30, 2021, such
19 a center decides not to collect fees because of the
20 economic consequences of COVID–19, the center
21 shall be considered to be in compliance with that
22 agreement if—

23 (A) the center notifies the Agency with re-
24 spect to that decision, which the center may
25 provide through electronic mail; and

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

4 (i) confirms receipt of the notification
5 under subparagraph (A); and

6 (ii) accepts the decision of the center.

7 (d) REPORT.—Not later than 6 months after the date
8 of enactment of this Act, and annually thereafter, the
9 Agency shall submit to the Committee on Small Business
10 and Entrepreneurship and the Committee on Commerce,
11 Science, and Transportation of the Senate and the Com-
12 mittee on Small Business and the Committee on Energy
13 and Commerce of the House of Representatives a report
14 that describes—

15 (1) with respect to the period covered by the
16 initial report—

17 (A) the programs and services developed
18 and provided by the Agency, minority business
19 centers, and minority chambers of commerce
20 under subsection (b); and

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

23 (2) with respect to subsequent years covered by
24 the report—

1 (A) with respect to the grant program
2 under subsection (b)—

3 (i) the efforts of the Agency, minority
4 business centers, and minority chambers of
5 commerce to develop services to assist mi-
6 nority business enterprises;

7 (ii) the challenges faced by owners of
8 minority business enterprises in accessing
9 services provided by the Agency, minority
10 business centers, and minority chambers of
11 commerce;

12 (iii) the number of unique minority
13 business enterprises that were served by
14 the Agency, minority business centers, or
15 minority chambers of commerce; and

16 (iv) other relevant outcome perform-
17 ance data with respect to minority business
18 enterprises, including the number of em-
19 ployees affected, the effect on sales, the
20 disruptions of supply chains, and the ef-
21 forts made by the Agency, minority busi-
22 ness centers, and minority chambers of
23 commerce to mitigate these effects .

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

4 **SEC. 1108. CONTRACTING.**

5 (a) DEFINITION.—In this section, the term “covered
6 entity” means a small business concern or nonprofit orga-
7 nization—

8 (1) that is a party to a contract with a Federal
9 agency; and

10 (2) for which the contractor performance is ad-
11 versely impacted as a result of COVID–19.

12 (b) PROMOTION OF SMALL BUSINESS CON-
13 TRACTING.—

14 (1) SMALL BUSINESS CONTRACTING RELIEF.—

15 (A) IN GENERAL.—Notwithstanding any
16 other provision of law or regulation, and except
17 as provided in subparagraph (B), during the pe-
18 riod beginning on the date of enactment of this
19 Act and ending on September 30, 2021, the
20 head of the Federal agency with which a cov-
21 ered entity has a contract shall provide the cov-
22 ered entity with the greater of—

23 (i) 30 additional days to carry out the
24 responsibilities of the covered entity under
25 the contract; or

1 (ii) an additional amount of time to
2 carry out the responsibilities of the covered
3 entity under the contract that the head of
4 the Federal agency determines to be ap-
5 propriate after taking into consideration
6 the severity of the adverse impact experi-
7 enced by the covered entity.

8 (B) EXCLUSION OF MISSION-CRITICAL
9 CONTRACTS.—Subparagraph (A) shall not apply
10 to any contract that the head of the Federal
11 agency that is a party to the contract deter-
12 mines is critical to carrying out the mission of
13 the Federal agency.

14 (2) PAYMENT CONTINUATION.—If the perform-
15 ance of all or any part of the work of a Federal
16 goods or services contract with a contractor that is
17 a small business concern or a nonprofit organization
18 in force and effect during the period beginning on
19 the date of enactment of this Act and ending on
20 September 30, 2021 is unavoidably delayed or inter-
21 rupted by the inability of the employees of the small
22 business concern or nonprofit organization, as appli-
23 cable, to access Government facilities, systems, or
24 other Government-provided resources due to restric-
25 tions related to COVID–19 that have been imposed

1 by any authority or due to orders or instructions
2 issued by the contracting agency in response to
3 COVID19—

4 (A) the Government shall pay the small
5 business concern or nonprofit organization, as
6 applicable, upon the submission of the docu-
7 mentation required by the contract and accord-
8 ing to the terms specified in the contract, the
9 prices stipulated in the contract for goods or
10 services as if the small business concern or non-
11 profit organization, as applicable, had rendered
12 and the Government accepted the goods or serv-
13 ices; and

14 (B) contractor delivery schedules shall be
15 revised and the small business concern or non-
16 profit organization, as applicable, shall be eligi-
17 ble for equitable adjustments based on the re-
18 vised schedules.

19 (3) PROMPT PAYMENTS.—Notwithstanding any
20 other provision of law or regulation, during any pe-
21 riod in which the President invokes the authorities
22 of the Defense Production Act of 1950 (50 U.S.C.
23 4501 et seq.), for any payment due by the head of
24 a Federal agency on a contract for an item of prop-
25 erty or service provided—

1 (A) with respect to a prime contractor (as
2 defined in section 8701 of title 41, United
3 States Code) that is a small business concern or
4 nonprofit organization, the head of the Federal
5 agency shall, to the fullest extent permitted by
6 law and to the maximum extent practicable, es-
7 tablish an accelerated payment date of 15 days
8 after a proper invoice for the amount due is re-
9 ceived; and

10 (B) with respect to a prime contractor (as
11 defined in section 8701 of title 41, United
12 States Code) that subcontracts with a small
13 business concern or nonprofit organization, the
14 head of the Federal agency shall, to fullest ex-
15 tent permitted by law and to the maximum ex-
16 tent practicable, establish an accelerated pay-
17 ment date of 15 days after receipt of a proper
18 invoice for the amount due if the prime con-
19 tractor agrees to make payments to the subcon-
20 tractor in accordance with the accelerated pay-
21 ment date, to the maximum extent practicable,
22 without any further consideration from or fees
23 charged to the subcontractor.

24 (4) BAR ON MULTIPLE FORMS OF CONTRACT
25 RELIEF.—A small business concern or nonprofit or-

1 organization may not receive a modification of terms
2 or assistance under more than 1 paragraph of this
3 subsection with respect to any single contract.

4 (c) RESOLICITATION OF CONTRACTS WITH SMALL
5 BUSINESS CONCERNS.—During fiscal years 2021 and
6 2022, a Federal agency shall not cancel a contract in
7 which the prime contractor (as defined in section 8701
8 of title 41, United States Code) is a small business con-
9 cern that defaulted on the terms of the contract directly
10 or indirectly due to the COVID–19 unless the Director
11 of Small and Disadvantaged Business Utilization of the
12 Federal agency certifies that—

13 (1) the contract is mission-critical;

14 (2) resolicitation of the contract would allow a
15 faster delivery than the small business concern could
16 provide; and

17 (3) the resolicitation of the contract is, to the
18 greatest extent possible, awarded to another small
19 business concern.

20 **SEC. 1109. UNITED STATES TREASURY PROGRAM MANAGE-**
21 **MENT AUTHORITY.**

22 (a) DEFINITIONS.—In this section—

23 (1) the terms “appropriate Federal banking
24 agency” and “insured depository institution” have

1 the meanings given those terms in section 3 of the
2 Federal Deposit Insurance Act (12 U.S.C. 1813);

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

6 (3) the term “Secretary” means the Secretary
7 of the Treasury.

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

22 (c) **SAFETY AND SOUNDNESS.**—An insured depository
23 institution, insured credit union, institution of the
24 Farm Credit System chartered under the Farm Credit Act
25 of 1971 (12 U.S.C. 2001 et seq.), or other lender may

1 only participate in the program established under this sec-
2 tion if participation does not affect the safety and sound-
3 ness of the institution or lender, as determined by the Sec-
4 retary in consultation with the appropriate Federal bank-
5 ing agencies.

6 (d) REGULATIONS FOR LENDERS AND LOANS.—

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

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

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

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

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

1 (B) Terms and conditions that, to the
2 maximum extent practicable, are consistent
3 with the terms and conditions required under
4 the following provisions of paragraph (36) of
5 section 7(a) of the Small Business Act (15
6 U.S.C. 636(a)), as added by section 1102 of
7 this Act:

8 (i) Subparagraph (D), pertaining to
9 borrower eligibility.

10 (ii) Subparagraph (E), pertaining to
11 the maximum loan amount.

12 (iii) Subparagraph (F)(i), pertaining
13 to allowable uses of program loans.

14 (iv) Subparagraph (H), pertaining to
15 fee waivers.

16 (v) Subparagraph (M), pertaining to
17 loan deferment.

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

24 (D) Loan forgiveness under terms and con-
25 ditions that, to the maximum extent prac-

1 ticable, are consistent with the terms and condi-
2 tions for loan forgiveness under section 1105 of
3 this Act.

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

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

14 (1) does not have an application pending for a
15 loan under section 7(a) of the Small Business Act
16 (15 U.S.C. 636(a)) for the same purpose; and

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

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

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

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

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

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

16 (a) DEFINITIONS.—In this section—

17 (1) the term “additional covered entity”
18 means—

19 (A) any individual who operates under a
20 sole proprietorship, with or without employees,
21 or as an independent contractor, on January
22 31, 2020;

23 (B) a cooperative in operation on January
24 31, 2020; or

1 (C) an ESOP (as defined in section 3 of
2 the Small Business Act (15 U.S.C. 632)) in op-
3 eration on January 31, 2020; and

4 (2) the term “covered period” means the period
5 beginning on January 31, 2020 and ending on De-
6 cember 31, 2020.

7 (b) ELIGIBLE ENTITIES.—During the covered period,
8 in addition to small business concerns, private nonprofit
9 organizations, and small agricultural cooperatives, an ad-
10 ditional covered entity shall be eligible for a loan made
11 under section 7(b)(2) of the Small Business Act (15
12 U.S.C. 636(b)(2)) if the additional covered entity is con-
13 sidered small for the industry in which it operates.

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

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

21 (2) the requirement that an applicant needs to
22 be in business for the 1-year period before the dis-
23 aster; and

24 (3) the requirement in the flush matter fol-
25 lowing subparagraph (E) of section 7(b)(2) of the

1 Small Business Act (15 U.S.C. 636(b)(2)), as so re-
2 designated by subsection (f) of this section, that an
3 applicant be unable to obtain credit elsewhere.

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

9 (1) approve an applicant based solely on the
10 credit score of the applicant and shall not require an
11 applicant to submit a tax return or a tax return
12 transcript for such approval; or

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

15 (e) EMERGENCY GRANT.—

16 (1) IN GENERAL.—During the covered period,
17 an eligible entity that applies for a loan under sec-
18 tion 7(b)(2) of the Small Business Act (15 U.S.C.
19 636(b)(2)) in response to COVID–19 may request
20 that the Administrator provide an advance in the
21 amount requested by such applicant (not to exceed
22 \$10,000) to such applicant within 3 days after the
23 Administrator receives an application from such ap-
24 plicant.

1 (2) VERIFICATION.—Before disbursing amounts
2 under this subsection, the Administrator shall verify
3 that the applicant is an eligible entity.

4 (3) USE OF FUNDS.—An advance provided
5 under this subsection may be used to address any al-
6 lowable purpose for a loan made under section
7 7(b)(2) of the Small Business Act (15 U.S.C.
8 636(b)(2)), including—

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

12 (B) maintaining payroll to retain employ-
13 ees during business disruptions or substantial
14 slowdowns;

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

18 (D) making rent or mortgage payments;
19 and

20 (E) repaying obligations that cannot be
21 met due to revenue losses.

22 (4) REPAYMENT.—An applicant shall not be re-
23 quired to repay any amounts of an advance provided
24 under this subsection, even if subsequently denied a

1 loan under section 7(b)(2) of the Small Business Act
2 (15 U.S.C. 636(b)(2)).

3 (5) UNEMPLOYMENT GRANT.—If an applicant
4 that receives an advance under this subsection trans-
5 fers into the loan program under section 7(a) of the
6 Small Business Act (15 U.S.C. 636(a)), the advance
7 amount shall be considered when determining loan
8 forgiveness for a loan for payroll costs made under
9 such section 7(a).

10 (6) AUTHORIZATION OF APPROPRIATIONS.—
11 There is authorized to be appropriated to the Ad-
12 ministration \$10,000,000,000 to carry out this sub-
13 section.

14 (7) TERMINATION.—The authority to carry out
15 grants under this subsection shall terminate on De-
16 cember 30, 2020.

17 (f) EMERGENCIES INVOLVING FEDERAL PRIMARY
18 RESPONSIBILITY QUALIFYING FOR SBA ASSISTANCE.—
19 Section 7(b)(2) of the Small Business Act (15 U.S.C.
20 636(b)(2)) is amended—

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

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

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

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

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

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

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

13 (A) by striking “or (C)” and inserting
14 “(C), or (D)”;

15 (B) by striking “disaster declaration” each
16 place it appears and inserting “disaster or
17 emergency declaration”;

18 (C) by striking “disaster has occurred”
19 and inserting “disaster or emergency has oc-
20 curred”;

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

23 (E) by striking “disaster stricken” and in-
24 serting “disaster- or emergency-stricken”; and

1 (7) in the flush matter following subparagraph
 2 (E), as so redesignated, by striking the period at the
 3 end and inserting the following: “: *Provided further,*
 4 That for purposes of subparagraph (D), the Admin-
 5 istrator shall deem that such an emergency affects
 6 each State or subdivision thereof (including coun-
 7 ties), and that each State or subdivision has suffi-
 8 cient economic damage to small business concerns to
 9 qualify for assistance under this paragraph and the
 10 Administrator shall accept applications for such as-
 11 sistance immediately.”.

12 **SEC. 1111. RESOURCES AND SERVICES IN LANGUAGES**
 13 **OTHER THAN ENGLISH.**

14 (a) IN GENERAL.—The Administrator shall provide
 15 the resources and services made available by the Adminis-
 16 tration to small business concerns in the 10 most com-
 17 monly spoken languages, other than English, in the
 18 United States, which shall include Mandarin, Cantonese,
 19 Japanese, and Korean.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
 21 authorized to be appropriated to the Administrator
 22 \$25,000,000 to carry out this section.

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

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

1 (1) guaranteed by the Administration under—

2 (A) section 7(a) of the Small Business Act

3 (15 U.S.C. 636(a)), including a loan made

4 under the Community Advantage Pilot Program

5 of the Administration; or

6 (B) title V of the Small Business Invest-

7 ment Act of 1958 (15 U.S.C. 695 et seq.); or

8 (2) made by an intermediary to a small busi-

9 ness concern using loans or grants received under

10 section 7(m) of the Small Business Act (15 U.S.C.

11 636(m)).

12 (b) SENSE OF CONGRESS.—It is the sense of Con-

13 gress that—

14 (1) all borrowers are adversely affected by

15 COVID-19;

16 (2) relief payments by the Administration are

17 appropriate for all borrowers; and

18 (3) in addition to the relief provided under this

19 Act, the Administration should encourage lenders to

20 provide payment deferments, when appropriate, and

21 to extend the maturity of covered loans, so as to

22 avoid balloon payments or any requirement for in-

23 creases in debt payments resulting from deferments

24 provided by lenders during the period of the national

25 emergency declared by the President under the Na-

1 tional Emergencies Act (50 U.S.C. 1601 et seq.)
2 with respect to the Coronavirus Disease 2019
3 (COVID-19).

4 (c) PRINCIPAL AND INTEREST PAYMENTS.—

5 (1) IN GENERAL.—The Administrator shall pay
6 the principal, interest, and any associated fees that
7 are owed on a covered loan in a regular servicing
8 status—

9 (A) with respect to a covered loan made
10 before the date of enactment of this Act and
11 not on deferment, for the 6-month period begin-
12 ning with the next payment due on the covered
13 loan;

14 (B) with respect to a covered loan made
15 before the date of enactment of this Act and on
16 deferment, for the 6-month period beginning
17 with the next payment due on the covered loan
18 after the deferment period; and

19 (C) with respect to a covered loan made
20 during the period beginning on the date of en-
21 actment of this Act and ending on the date that
22 is 6 months after such date of enactment, for
23 the 6-month period beginning with the first
24 payment due on the covered loan.

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

5 (3) APPLICATION OF PAYMENT.—Any payment
6 made by the Administrator under paragraph (1)
7 shall be applied to the covered loan such that the
8 borrower is relieved of the obligation to pay that
9 amount.

10 (d) OTHER REQUIREMENTS.—The Administrator
11 shall—

12 (1) communicate and coordinate with the Fed-
13 eral Deposit Insurance Corporation, the Office of the
14 Comptroller of the Currency, and State bank regu-
15 lators to encourage those entities to not require
16 lenders to increase their reserves on account of re-
17 ceiving payments made by the Administrator under
18 subsection (c);

19 (2) waive statutory limits on maximum loan
20 maturities for any covered loan durations where the
21 lender provides a deferral and extends the maturity
22 of covered loans during the 1-year period following
23 the date of enactment of this Act; and

24 (3) when necessary to provide more time be-
25 cause of the potential of higher volumes, travel re-

1 strictions, and the inability to access some properties
2 during the COVID–19 pandemic, extend lender site
3 visit requirements to—

4 (A) not more than 60 days (which may be
5 extended at the discretion of the Administra-
6 tion) after the occurrence of an adverse event,
7 other than a payment default, causing a loan to
8 be classified as in liquidation; and

9 (B) not more than 90 days after a pay-
10 ment default.

11 (e) **RULE OF CONSTRUCTION.**—Nothing in this sec-
12 tion may be construed to limit the authority of the Admin-
13 istrator to make payments pursuant to subsection (c) with
14 respect to a covered loan solely because the covered loan
15 has been sold in the secondary market.

16 (f) **AUTHORIZATION OF APPROPRIATIONS.**—There is
17 authorized to be appropriated to the Administrator
18 \$16,800,000,000 to carry out this section.

19 **SEC. 1113. BANKRUPTCY.**

20 (a) **SMALL BUSINESS DEBTOR REORGANIZATION.**—

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

23 “(1) **DEBTOR.**—The term ‘debtor’—

24 “(A) subject to subparagraph (B), means a
25 person engaged in commercial or business ac-

1 activities (including any affiliate of such person
2 that is also a debtor under this title and exclud-
3 ing a person whose primary activity is the busi-
4 ness of owning single asset real estate) that has
5 aggregate noncontingent liquidated secured and
6 unsecured debts as of the date of the filing of
7 the petition or the date of the order for relief
8 in an amount not more than \$7,500,000 (ex-
9 cluding debts owed to 1 or more affiliates or in-
10 siders) not less than 50 percent of which arose
11 from the commercial or business activities of
12 the debtor; and

13 “(B) does not include—

14 “(i) any member of a group of affili-
15 ated debtors that has aggregate noncontin-
16 gent liquidated secured and unsecured
17 debts in an amount greater than
18 \$7,500,000 (excluding debt owed to 1 or
19 more affiliates or insiders);

20 “(ii) any debtor that is a corporation
21 subject to the reporting requirements
22 under section 13 or 15(d) of the Securities
23 Exchange Act of 1934 (15 U.S.C. 78m,
24 78o(d)); or

1 “(iii) any debtor that is an affiliate of
2 an issuer, as defined in section 3 of the Se-
3 curities Exchange Act of 1934 (15 U.S.C.
4 78c).”.

5 (2) APPLICABILITY OF CHAPTERS.—Section
6 103(i) of title 11, United States Code, is amended
7 by striking “small business debtor” and inserting
8 “debtor (as defined in section 1182)”.

9 (3) APPLICATION OF AMENDMENT.—The
10 amendment made by paragraph (1) shall apply only
11 with respect to cases commenced under title 11,
12 United States Code, on or after the date of enact-
13 ment of this Act.

14 (4) TECHNICAL CORRECTIONS.—

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

19 “(iii) any debtor that is an affiliate of
20 an issuer (as defined in section 3 of the
21 Securities Exchange Act of 1934 (15
22 U.S.C. 78c)).”.

23 (B) UNCLAIMED PROPERTY.—Section
24 347(b) of title 11, United States Code, is

1 amended by striking “1194” and inserting
2 “1191”.

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

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

9 (b) BANKRUPTCY RELIEF.—

10 (1) IN GENERAL.—

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

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

16 (ii) in subclause (IV), by striking the
17 period at the end and inserting “; and”;
18 and

19 (iii) by adding at the end the fol-
20 lowing:

21 “(V) Payments made under Fed-
22 eral law relating to the national emer-
23 gency declared by the President under
24 the National Emergencies Act (50
25 U.S.C. 1601 et seq.) with respect to

1 the coronavirus disease 2019
2 (COVID-19).”.

3 (B) CONFIRMATION OF PLAN.—Section
4 1325(b)(2) of title 11, United States Code, is
5 amended by inserting “payments made under
6 Federal law relating to the national emergency
7 declared by the President under the National
8 Emergencies Act (50 U.S.C. 1601 et seq.) with
9 respect to the coronavirus disease 2019
10 (COVID-19),” after “other than”.

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

15 “(d)(1) Subject to paragraph (3), for a plan con-
16 firmed prior to the date of enactment of this subsection,
17 the plan may be modified upon the request of the debtor
18 if—

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

23 “(B) the modification is approved after notice
24 and a hearing.

1 “(2) A plan modified under paragraph (1) may not
2 provide for payments over a period that expires more than
3 7 years after the time that the first payment under the
4 original confirmed plan was due.

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

8 (D) APPLICABILITY.—

9 (i) The amendments made by sub-
10 paragraphs (A) and (B) shall apply to any
11 case commenced before, on, or after the
12 date of enactment of this Act.

13 (ii) The amendment made by subpara-
14 graph (C) shall apply to any case for which
15 a plan has been confirmed under section
16 1325 of title 11, United States Code, be-
17 fore the date of enactment of this Act.

18 (2) SUNSET.—

19 (A) IN GENERAL.—

20 (i) EXCLUSION FROM CURRENT
21 MONTHLY INCOME.—Section
22 101(10A)(B)(ii) of title 11, United States
23 Code, is amended—

1 (I) in subclause (III), by striking
2 the semicolon at the end and inserting
3 “; and”;

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

6 (III) by striking subclause (V).

7 (ii) CONFIRMATION OF PLAN.—Sec-
8 tion 1325(b)(2) of title 11, United States
9 Code, is amended by striking “payments
10 made under Federal law relating to the na-
11 tional emergency declared by the President
12 under the National Emergencies Act (50
13 U.S.C. 1601 et seq.) with respect to the
14 coronavirus disease 2019 (COVID-19),”.

15 (iii) MODIFICATION OF PLAN AFTER
16 CONFIRMATION.—Section 1329 of title 11,
17 United States Code, is amended by strik-
18 ing subsection (d).

19 (B) EFFECTIVE DATE.—The amendments
20 made by subparagraph (A) shall take effect on
21 the date that is 1 year after the date of enact-
22 ment of this Act.

23 **SEC. 1114. EMERGENCY RULEMAKING AUTHORITY.**

24 Not later than 15 days after the date of enactment
25 of this Act, the Administrator shall issue regulations to

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

4 **TITLE II—ASSISTANCE FOR**
5 **AMERICAN WORKERS, FAMI-**
6 **LIES, AND BUSINESSES**

7 **Subtitle A—Unemployment**
8 **Insurance Provisions**

9 **SEC. 2101. SHORT TITLE.**

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

12 **SEC. 2102. PANDEMIC UNEMPLOYMENT ASSISTANCE.**

13 (a) DEFINITIONS.—In this section:

14 (1) COVID-19.—The term “COVID-19” means
15 the 2019 Novel Coronavirus or 2019-nCoV.

16 (2) COVID-19 PUBLIC HEALTH EMERGENCY.—
17 The term “COVID-19 public health emergency”
18 means the public health emergency declared by the
19 Secretary of Health and Human Services on Janu-
20 ary 27, 2020, with respect to the 2019 Novel
21 Coronavirus.

22 (3) COVERED INDIVIDUAL.—The term “covered
23 individual”—

24 (A) means an individual who—

1 (i) is not eligible for regular com-
2 pensation or extended benefits under State
3 or Federal law, including an individual who
4 has exhausted all rights to regular unem-
5 ployment or extended benefits under State
6 or Federal law; and

7 (ii) provides self-certification that the
8 individual—

9 (I) is otherwise able to work and
10 available for work within the meaning
11 of applicable State law, except the in-
12 dividual is unemployed, partially un-
13 employed, or unable or unavailable to
14 work because—

15 (aa) the individual has been
16 diagnosed with COVID-19 or is
17 experiencing symptoms of
18 COVID-19 and seeking a medical
19 diagnosis;

20 (bb) a member of the indi-
21 vidual's household has been diag-
22 nosed with COVID-19;

23 (cc) the individual is pro-
24 viding care for a family member
25 or a member of the individual's

1 household who has been diag-
2 nosed with COVID-19;

3 (dd) a child or other person
4 in the household for which the in-
5 dividual has primary caregiving
6 responsibility is unable to attend
7 school or another facility that is
8 closed as a direct result of the
9 COVID-19 public health emer-
10 gency and such school or facility
11 care is required for the individual
12 to work;

13 (ee) the individual is unable
14 to reach the place of employment
15 because of a quarantine imposed
16 as a direct result of a COVID-19
17 outbreak;

18 (ff) the individual is unable
19 to reach the place of employment
20 because the individual has been
21 advised by a health care provider
22 to self-quarantine due to con-
23 cerns related to COVID-19;

24 (gg) the individual was
25 scheduled to commence employ-

1 ment and does not have a job or
2 is unable to reach the job as a di-
3 rect result of a COVID-19 out-
4 break;

5 (hh) the individual has be-
6 come the breadwinner or major
7 support for a household because
8 the head of the household has
9 died as a direct result of COVID-
10 19;

11 (ii) the individual has to quit
12 his or her job as a direct result
13 of COVID-19;

14 (jj) the individual's place of
15 employment is closed as a direct
16 result of the COVID-19 public
17 health emergency;

18 (kk) the individual meets
19 any additional criteria established
20 by the Secretary for unemploy-
21 ment assistance under this sec-
22 tion; or

23 (II) is self-employed, is seeking
24 part-time employment (if the State al-
25 lows an individual to receive regular

1 unemployment compensation if the in-
2 dividual is seeking part-time employ-
3 ment), does not have sufficient work
4 history, or otherwise would not qualify
5 for regular unemployment under State
6 or Federal law and becomes unem-
7 ployed or cannot find work; and

8 (B) does not include—

9 (i) an individual who has the ability to
10 telework with pay; or

11 (ii) an individual who is receiving paid
12 sick leave or other paid leave benefits, re-
13 gardless of whether the individual meets a
14 qualification described in items (aa)
15 through (jj) of subparagraph (A)(i)(I).

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

18 (5) STATE.—The term “State” includes the
19 District of Columbia, the Commonwealth of Puerto
20 Rico, the Virgin Islands, Guam, American Samoa,
21 the Commonwealth of the Northern Mariana Is-
22 lands, Federated States of Micronesia, Republic of
23 the Marshall Islands, and the Trust Territory of the
24 Pacific Islands.

1 (b) ASSISTANCE FOR UNEMPLOYMENT AS A RESULT
2 OF COVID-19.—Subject to subsection (c), the Secretary
3 shall provide to any covered individual unemployment ben-
4 efit assistance while such individual is unemployed, par-
5 tially unemployed, or unable to work for the weeks of such
6 unemployment with respect to which the individual is not
7 entitled to any other unemployment compensation (as that
8 term is defined in section 85(b) of title 26, United States
9 Code) or waiting period credit.

10 (c) APPLICABILITY.—

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

15 (A) for weeks of unemployment, partial un-
16 employment, or inability to work caused by
17 COVID-19—

18 (i) beginning on or after January 27,
19 2020; and

20 (ii) ending on or before December 31,
21 2020; and

22 (B) subject to subparagraph (A)(ii), as
23 long as the covered individual's unemployment,
24 partial unemployment, or inability to work
25 caused by COVID-19 continues.

1 (2) LIMITATION ON DURATION OF ASSIST-
2 ANCE.—The total number of weeks for which a cov-
3 ered individual may receive assistance under this
4 section shall not exceed 39 weeks and such total
5 shall include any week for which the covered indi-
6 vidual received regular compensation or extended
7 benefits under any Federal or State law, except that
8 if after the date of enactment of this Act, the dura-
9 tion of extended benefits is extended, the 39-week
10 period described in this paragraph shall be extended
11 by the number of weeks that is equal to the number
12 of weeks by which the extended benefits were ex-
13 tended.

14 (3) ASSISTANCE FOR UNEMPLOYMENT BEFORE
15 DATE OF ENACTMENT.—The Secretary shall estab-
16 lish a process for making assistance under this sec-
17 tion available for weeks beginning on or after Janu-
18 ary 27, 2020, and before the date of enactment of
19 this Act.

20 (d) AMOUNT OF ASSISTANCE.—

21 (1) IN GENERAL.—The assistance authorized
22 under subsection (b) for a week of unemployment,
23 partial unemployment, or inability to work shall—

24 (A) be equal to the sum of —

1 (i) the weekly benefit amount author-
2 ized under the unemployment compensa-
3 tion law of the State where the covered in-
4 dividual was employed, except that the
5 amount may not be less than the minimum
6 weekly benefit amount described in section
7 625.6 of title 20, Code of Federal Regula-
8 tions, or any successor thereto, and

9 (ii) the amount of Federal Pandemic
10 Unemployment Compensation under sec-
11 tion 2104; and

12 (B) in the case of an increase of the week-
13 ly benefit amount after the date of enactment
14 of this Act, be increased in an amount equal to
15 such increase.

16 (2) CALCULATIONS OF AMOUNTS FOR CERTAIN
17 COVERED INDIVIDUALS.—In the case of a covered
18 individual who is self-employed, who lives in a terri-
19 tory described in subsection (c) or (d) of section
20 625.6 of title 20, Code of Federal Regulations, or
21 who would not otherwise qualify for unemployment
22 compensation under State law, the assistance au-
23 thorized under subsection (b) for a week of unem-
24 ployment shall be calculated in accordance with sec-
25 tion 625.6 of title 20, Code of Federal Regulations,

1 or any successor thereto, and shall be increased by
2 the amount of Federal Pandemic Unemployment
3 Compensation under section 2104.

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

9 (f) AGREEMENTS WITH STATES.—

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

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

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

22 (B) any additional administrative expenses
23 incurred by the State by reason of such agree-
24 ment (as determined by the Secretary), includ-
25 ing any administrative expenses necessary to fa-

1 facilitate processing of applications for assistance
2 under this section online or by telephone rather
3 than in-person.

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

19 (g) FUNDING.—

20 (1) ASSISTANCE.—

21 (A) IN GENERAL.—Funds in the extended
22 unemployment compensation account (as estab-
23 lished by section 905(a) of the Social Security
24 Act (42 U.S.C. 1105(a)) of the Unemployment
25 Trust Fund (as established by section 904(a) of

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

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

17 (2) ADMINISTRATIVE EXPENSES.—

18 (A) IN GENERAL.—Funds in the employ-
19 ment security administration account (as estab-
20 lished by section 901(a) of the Social Security
21 Act (42 U.S.C. 1105(a)) of the Unemployment
22 Trust Fund (as established by section 904(a) of
23 such Act (42 U.S.C. 1104(a)) shall be used to
24 make payments to States pursuant to sub-
25 section (f)(2)(B).

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

14 (3) CERTIFICATIONS.—The Secretary of Labor
15 shall from time to time certify to the Secretary of
16 the Treasury for payment to each State the sums
17 payable to such State under paragraphs (1) and (2).

18 (h) NON-APPLICATION OF THE PAPERWORK REDUC-
19 TION ACT.—Chapter 35 of title 44, United States Code
20 (commonly referred to as the “Paperwork Reduction Act
21 of 1995”), shall not apply to this section.

1 **SEC. 2103. EMERGENCY UNEMPLOYMENT RELIEF FOR GOV-**
2 **ERNMENTAL ENTITIES AND NONPROFIT OR-**
3 **GANIZATIONS.**

4 (a) FLEXIBILITY IN PAYING REIMBURSEMENT.—The
5 Secretary of Labor may issue clarifying guidance to allow
6 States to interpret their State unemployment compensa-
7 tion laws in a manner that would provide maximum flexi-
8 bility to reimbursing employers as it relates to timely pay-
9 ment and assessment of penalties and interest pursuant
10 to such State laws.

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

14 “Transfers for Federal Reimbursement of State
15 Unemployment Funds

16 “(i)(1)(A) In addition to any other amounts, the Sec-
17 retary of Labor shall provide for the transfer of funds dur-
18 ing the applicable period to the accounts of the States in
19 the Unemployment Trust Fund, by transfer from amounts
20 reserved for that purpose in the Federal unemployment
21 account, in accordance with the succeeding provisions of
22 this subsection.

23 “(B) The amount of funds transferred to the account
24 of a State under subparagraph (A) during the applicable
25 period shall, as determined by the Secretary of Labor, be
26 equal to one half of the amounts of compensation (as de-

1 fined in section 3306(h) of the Internal Revenue Code of
2 1986) attributable under the State law to service to which
3 section 3309(a)(1) of such Code applies that were paid
4 by the State for weeks of unemployment beginning and
5 ending during such period. Such transfers shall be made
6 at such times as the Secretary of Labor considers appro-
7 priate.

8 “(C) Notwithstanding any other law, funds trans-
9 ferred to the account of a State under subparagraph (A)
10 shall be used exclusively to reimburse governmental enti-
11 ties and other organizations described in section
12 3309(a)(2) of such Code for amounts paid (in lieu of con-
13 tributions) into the State unemployment fund pursuant to
14 such section.

15 “(D) For purposes of this paragraph, the term ‘appli-
16 cable period’ means the period beginning on March 13,
17 2020, and ending on December 31, 2020.

18 “(2)(A) Notwithstanding any other provision of law,
19 the Secretary of the Treasury shall transfer from the gen-
20 eral fund of the Treasury (from funds not otherwise ap-
21 propriated) to the Federal unemployment account such
22 sums as the Secretary of Labor estimates to be necessary
23 for purposes of making the transfers described in para-
24 graph (1).

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

5 (c) OPERATING INSTRUCTIONS OR OTHER GUID-
6 ANCE.—The Secretary of Labor may issue any operating
7 instructions or other guidance necessary to carry out the
8 amendments made by this section.

9 **SEC. 2104. EMERGENCY INCREASE IN UNEMPLOYMENT**
10 **COMPENSATION BENEFITS.**

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

18 (b) PROVISIONS OF AGREEMENT.—

19 (1) FEDERAL PANDEMIC UNEMPLOYMENT COM-
20 PENSATION.—Any agreement under this section
21 shall provide that the State agency of the State will
22 make payments of regular compensation to individ-
23 uals in amounts and to the extent that they would
24 be determined if the State law of the State were ap-
25 plied, with respect to any week for which the indi-

1 vidual is (disregarding this section) otherwise enti-
2 tled under the State law to receive regular com-
3 pensation, as if such State law had been modified in
4 a manner such that the amount of regular com-
5 pensation (including dependents' allowances) payable
6 for any week shall be equal to—

7 (A) the amount determined under the
8 State law (before the application of this para-
9 graph), plus

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

13 (2) ALLOWABLE METHODS OF PAYMENT.—Any
14 Federal Pandemic Unemployment Compensation
15 provided for in accordance with paragraph (1) shall
16 be payable either—

17 (A) as an amount which is paid at the
18 same time and in the same manner as any reg-
19 ular compensation otherwise payable for the
20 week involved; or

21 (B) at the option of the State, by pay-
22 ments which are made separately from, but on
23 the same weekly basis as, any regular com-
24 pensation otherwise payable.

25 (c) NONREDUCTION RULE.—

1 (1) IN GENERAL.—An agreement under this
2 section shall not apply (or shall cease to apply) with
3 respect to a State upon a determination by the Sec-
4 retary that the method governing the computation of
5 regular compensation under the State law of that
6 State has been modified in a manner such that the
7 number of weeks (the maximum benefit entitlement),
8 and the average weekly benefit amount, of regular
9 compensation which will be payable during the pe-
10 riod of the agreement (determined disregarding any
11 Federal Pandemic Unemployment Compensation)
12 will be less than the number of weeks, and the aver-
13 age weekly benefit amount, of the average weekly
14 benefit amount of regular compensation which would
15 otherwise have been payable during such period
16 under the State law, as in effect on January 1,
17 2020.

18 (2) MAXIMUM BENEFIT ENTITLEMENT.—In
19 paragraph (1), the term “maximum benefit entitle-
20 ment” means the amount of regular unemployment
21 compensation payable to an individual with respect
22 to the individual’s benefit year.

23 (d) PAYMENTS TO STATES.—

24 (1) IN GENERAL.—

1 (A) FULL REIMBURSEMENT.—There shall
2 be paid to each State which has entered into an
3 agreement under this section an amount equal
4 to 100 percent of—

5 (i) the total amount of Federal Pan-
6 demic Unemployment Compensation paid
7 to individuals by the State pursuant to
8 such agreement; and

9 (ii) any additional administrative ex-
10 penses incurred by the State by reason of
11 such agreement (as determined by the Sec-
12 retary).

13 (B) TERMS OF PAYMENTS.—Sums payable
14 to any State by reason of such State's having
15 an agreement under this section shall be pay-
16 able, either in advance or by way of reimburse-
17 ment (as determined by the Secretary), in such
18 amounts as the Secretary estimates the State
19 will be entitled to receive under this section for
20 each calendar month, reduced or increased, as
21 the case may be, by any amount by which the
22 Secretary finds that his estimates for any prior
23 calendar month were greater or less than the
24 amounts which should have been paid to the
25 State. Such estimates may be made on the

1 basis of such statistical, sampling, or other
2 method as may be agreed upon by the Secretary
3 and the State agency of the State involved.

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

8 (3) APPROPRIATION.—There are appropriated
9 from the general fund of the Treasury, without fiscal
10 year limitation, such sums as may be necessary for
11 purposes of this subsection.

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

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

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

17 (f) FRAUD AND OVERPAYMENTS.—

18 (1) IN GENERAL.—If an individual knowingly
19 has made, or caused to be made by another, a false
20 statement or representation of a material fact, or
21 knowingly has failed, or caused another to fail, to
22 disclose a material fact, and as a result of such false
23 statement or representation or of such nondisclosure
24 such individual has received an amount of Federal

1 Pandemic Unemployment Compensation to which
2 such individual was not entitled, such individual—

3 (A) shall be ineligible for further Federal
4 Pandemic Unemployment Compensation in ac-
5 cordance with the provisions of the applicable
6 State unemployment compensation law relating
7 to fraud in connection with a claim for unem-
8 ployment compensation; and

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

11 (2) REPAYMENT.—In the case of individuals
12 who have received amounts of Federal Pandemic
13 Unemployment Compensation to which they were
14 not entitled, the State shall require such individuals
15 to repay the amounts of such Federal Pandemic Un-
16 employment Compensation to the State agency, ex-
17 cept that the State agency may waive such repay-
18 ment if it determines that—

19 (A) the payment of such Federal Pandemic
20 Unemployment Compensation was without fault
21 on the part of any such individual; and

22 (B) such repayment would be contrary to
23 equity and good conscience.

24 (3) RECOVERY BY STATE AGENCY.—

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

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

1 (4) REVIEW.—Any determination by a State
2 agency under this section shall be subject to review
3 in the same manner and to the same extent as deter-
4 minations under the State unemployment compensa-
5 tion law, and only in that manner and to that ex-
6 tent.

7 (g) APPLICATION TO OTHER UNEMPLOYMENT BENE-
8 FITS.—Each agreement under this section shall include
9 provisions to provide that the purposes of the preceding
10 provisions of this section shall be applied with respect to
11 unemployment benefits described in subsection (i)(2) to
12 the same extent and in the same manner as if those bene-
13 fits were regular compensation.

14 (h) DISREGARD OF ADDITIONAL COMPENSATION FOR
15 PURPOSES OF MEDICAID AND CHIP.—The monthly
16 equivalent of any Federal pandemic unemployment com-
17 pensation paid under this section shall be disregarded in
18 considering the amount of income of an individual for any
19 purposes under title XIX and title XXI of the Social Secu-
20 rity Act.

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

22 (1) the terms “compensation”, “regular com-
23 pensation”, “benefit year”, “State”, “State agency”,
24 “State law”, and “week” have the respective mean-
25 ings given such terms under section 205 of the Fed-

1 eral-State Extended Unemployment Compensation
2 Act of 1970 (26 U.S.C. 3304 note); and

3 (2) any reference to unemployment benefits de-
4 scribed in this paragraph shall be considered to refer
5 to—

6 (A) extended compensation (as defined by
7 section 205 of the Federal-State Extended Un-
8 employment Compensation Act of 1970);

9 (B) regular compensation (as defined by
10 section 85(b) of the Internal Revenue Code of
11 1986) provided under any program adminis-
12 tered by a State under an agreement with the
13 Secretary; and

14 (C) pandemic unemployment assistance
15 under section 2102.

16 (j) NON-APPLICATION OF THE PAPERWORK REDUC-
17 TION ACT.—Chapter 35 of title 44, United States Code
18 (commonly referred to as the “Paperwork Reduction Act
19 of 1995”), shall not apply to this section.

20 **SEC. 2105. TEMPORARY FULL FEDERAL FUNDING OF THE**
21 **FIRST WEEK OF COMPENSABLE REGULAR**
22 **UNEMPLOYMENT FOR STATES WITH NO WAIT-**
23 **ING WEEK.**

24 (a) FEDERAL-STATE AGREEMENTS.—Any State
25 which desires to do so may enter into and participate in

1 an agreement under this section with the Secretary of
2 Labor (in this section referred to as the “Secretary”). Any
3 State which is a party to an agreement under this section
4 may, upon providing 30 days’ written notice to the Sec-
5 retary, terminate such agreement.

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

16 (c) PAYMENTS TO STATES.—

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

21 (A) the total amount of regular compensa-
22 tion paid to individuals by the State for their
23 first week of regular unemployment; and

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

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

19 (d) FUNDING.—

20 (1) COMPENSATION.—

21 (A) IN GENERAL.—Funds in the Federal
22 unemployment account (as established by sec-
23 tion 905(g)) of the Unemployment Trust Fund
24 (as established by section 904(a)) shall be used
25 to make payments under subsection (c)(1)(A).

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

13 (2) ADMINISTRATIVE EXPENSES.—

14 (A) IN GENERAL.—Funds in the employ-
15 ment security administration account (as estab-
16 lished by section 901(a) of the Social Security
17 Act (42 U.S.C. 1105(a)) of the Unemployment
18 Trust Fund (as established by section 904(a) of
19 such Act (42 U.S.C. 1104(a)) shall be used to
20 make payments to States pursuant to sub-
21 section (c)(1)(B).

22 (B) TRANSFER OF FUNDS.—Notwith-
23 standing any other provision of law, the Sec-
24 retary of the Treasury shall transfer from the
25 general fund of the Treasury (from funds not

1 otherwise appropriated) to the employment se-
2 curity administration account such sums as the
3 Secretary of Labor estimates to be necessary to
4 make payments described in subparagraph (A).
5 There are appropriated from the general fund
6 of the Treasury, without fiscal year limitation,
7 the sums referred to in the preceding sentence
8 and such sums shall not be required to be re-
9 paid.

10 (3) CERTIFICATIONS.—The Secretary shall
11 from time to time certify to the Secretary of the
12 Treasury for payment to each State the sums pay-
13 able to such State under this section.

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

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

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

19 (f) FRAUD AND OVERPAYMENTS.—The provisions of
20 section 2107(e) shall apply with respect to compensation
21 paid under an agreement under this section to the same
22 extent and in the same manner as in the case of pandemic
23 emergency unemployment compensation under such sec-
24 tion.

1 (g) DEFINITIONS.—For purposes of this section, the
2 terms “regular compensation”, “State”, “State agency”,
3 “State law”, and “week” have the respective meanings
4 given such terms under section 205 of the Federal-State
5 Extended Unemployment Compensation Act of 1970 (26
6 U.S.C. 3304 note).

7 (h) NON-APPLICATION OF THE PAPERWORK REDUC-
8 TION ACT.—Chapter 35 of title 44, United States Code
9 (commonly referred to as the “Paperwork Reduction Act
10 of 1995”), shall not apply to this section.

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

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

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

20 (2) by adding at the end the following new sen-
21 tence: “The emergency flexibility for personnel
22 standards on a merit basis shall only apply through
23 December 31, 2020, and is limited to engaging of
24 temporary staff, rehiring of retirees or former em-
25 ployees on a non-competitive basis, and other tem-

1 porary actions to quickly process applications and
2 claims.”.

3 **SEC. 2107. PANDEMIC EMERGENCY UNEMPLOYMENT COM-**
4 **PENSATION.**

5 (a) FEDERAL-STATE AGREEMENTS.—

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

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

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

23 (B) have no rights to regular compensation
24 with respect to a week under such law or any

1 other State unemployment compensation law or
2 to compensation under any other Federal law;

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

6 (D) are able to work, available to work,
7 and actively seeking work.

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

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

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

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

24 (A) the amount of pandemic emergency
25 unemployment compensation which shall be

1 payable to any individual for any week of total
2 unemployment shall be equal to the amount of
3 the regular compensation (including depend-
4 ents' allowances) payable to such individual
5 during such individual's benefit year under the
6 State law for a week of total unemployment;

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

19 (C) the maximum amount of pandemic
20 emergency unemployment compensation payable
21 to any individual for whom an pandemic emer-
22 gency unemployment compensation account is
23 established under subsection (b) shall not ex-
24 ceed the amount established in such account for
25 such individual.

1 (5) COORDINATION RULE.—An agreement
2 under this section shall apply with respect to a State
3 only upon a determination by the Secretary that,
4 under the State law or other applicable rules of such
5 State, the payment of extended compensation for
6 which an individual is otherwise eligible must be de-
7 ferred until after the payment of any pandemic
8 emergency unemployment compensation under sub-
9 section (b) for which the individual is concurrently
10 eligible.

11 (6) NONREDUCTION RULE.—

12 (A) IN GENERAL.—An agreement under
13 this section shall not apply (or shall cease to
14 apply) with respect to a State upon a deter-
15 mination by the Secretary that the method gov-
16 erning the computation of regular compensation
17 under the State law of that State has been
18 modified in a manner such that the number of
19 weeks (the maximum benefit entitlement), and
20 the average weekly benefit amount, of regular
21 compensation which will be payable during the
22 period of the agreement will be less than the
23 number of weeks, and the average weekly ben-
24 efit amount, of the average weekly benefit
25 amount of regular compensation which would

1 otherwise have been payable during such period
2 under the State law, as in effect on January 1,
3 2020.

4 (B) MAXIMUM BENEFIT ENTITLEMENT.—
5 In subparagraph (A), the term “maximum ben-
6 efit entitlement” means the amount of regular
7 unemployment compensation payable to an indi-
8 vidual with respect to the individual’s benefit
9 year.

10 (7) ACTIVELY SEEKING WORK.—

11 (A) IN GENERAL.—Subject to subpara-
12 graph (C), for purposes of paragraph (2)(B),
13 the term “actively seeking work” means, with
14 respect to any individual, that such individual—

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

18 (ii) has engaged in an active search
19 for employment that is appropriate in light
20 of the employment available in the labor
21 market, the individual’s skills and capabili-
22 ties, and includes a number of employer
23 contacts that is consistent with the stand-
24 ards communicated to the individual by the
25 State;

1 (iii) has maintained a record of such
2 work search, including employers con-
3 tacted, method of contact, and date con-
4 tacted; and

5 (iv) when requested, has provided
6 such work search record to the State agen-
7 cy.

8 (B) RANDOM AUDITING.—The Secretary
9 shall establish for each State a minimum num-
10 ber of claims for which work search records
11 must be audited on a random basis in any given
12 week.

13 (C) FLEXIBILITY.—Notwithstanding the
14 requirements under subparagraph (A) and
15 paragraph (2)(D), a State shall provide flexi-
16 bility in meeting such requirements in case of
17 individuals unable to search for work because of
18 COVID-19, including because of illness, quar-
19 antine, or movement restriction.

20 (b) PANDEMIC EMERGENCY UNEMPLOYMENT COM-
21 PENSATION ACCOUNT.—

22 (1) IN GENERAL.—Any agreement under this
23 section shall provide that the State will establish, for
24 each eligible individual who files an application for
25 pandemic emergency unemployment compensation,

1 an pandemic emergency unemployment compensa-
2 tion account with respect to such individual's benefit
3 year.

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

8 (3) WEEKLY BENEFIT AMOUNT.—For purposes
9 of this subsection, an individual's weekly benefit
10 amount for any week is the amount of regular com-
11 pensation (including dependents' allowances) under
12 the State law payable to such individual for such
13 week for total unemployment.

14 (c) PAYMENTS TO STATES HAVING AGREEMENTS
15 FOR THE PAYMENT OF PANDEMIC EMERGENCY UNEM-
16 PLOYMENT COMPENSATION.—

17 (1) IN GENERAL.—There shall be paid to each
18 State that has entered into an agreement under this
19 section an amount equal to 100 percent of the pan-
20 demic emergency unemployment compensation paid
21 to individuals by the State pursuant to such agree-
22 ment.

23 (2) TREATMENT OF REIMBURSABLE COMPENSA-
24 TION.—No payment shall be made to any State
25 under this section in respect of any compensation to

1 the extent the State is entitled to reimbursement in
2 respect of such compensation under the provisions of
3 any Federal law other than this section or chapter
4 85 of title 5, United States Code. A State shall not
5 be entitled to any reimbursement under such chapter
6 85 in respect of any compensation to the extent the
7 State is entitled to reimbursement under this section
8 in respect of such compensation.

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

24 (d) FINANCING PROVISIONS.—

25 (1) COMPENSATION.—

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

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

22 (2) ADMINISTRATION.—

23 (A) IN GENERAL.—There are appropriated
24 out of the employment security administration
25 account (as established by section 901(a) of the

1 Social Security Act (42 U.S.C. 1101(a)) of the
2 Unemployment Trust Fund, without fiscal year
3 limitation, such funds as may be necessary for
4 purposes of assisting States (as provided in title
5 III of the Social Security Act (42 U.S.C. 501
6 et seq.)) in meeting the costs of administration
7 of agreements under this section.

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

21 (3) CERTIFICATION.—The Secretary shall from
22 time to time certify to the Secretary of the Treasury
23 for payment to each State the sums payable to such
24 State under this subsection. The Secretary of the
25 Treasury, prior to audit or settlement by the Gov-

1 ernment Accountability Office, shall make payments
2 to the State in accordance with such certification, by
3 transfers from the extended unemployment com-
4 pensation account (as so established) to the account
5 of such State in the Unemployment Trust Fund (as
6 so established).

7 (e) FRAUD AND OVERPAYMENTS.—

8 (1) IN GENERAL.—If an individual knowingly
9 has made, or caused to be made by another, a false
10 statement or representation of a material fact, or
11 knowingly has failed, or caused another to fail, to
12 disclose a material fact, and as a result of such false
13 statement or representation or of such nondisclosure
14 such individual has received an amount of pandemic
15 emergency unemployment compensation under this
16 section to which such individual was not entitled,
17 such individual—

18 (A) shall be ineligible for further pandemic
19 emergency unemployment compensation under
20 this section in accordance with the provisions of
21 the applicable State unemployment compensa-
22 tion law relating to fraud in connection with a
23 claim for unemployment compensation; and

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

1 (2) REPAYMENT.—In the case of individuals
2 who have received amounts of pandemic emergency
3 unemployment compensation under this section to
4 which they were not entitled, the State shall require
5 such individuals to repay the amounts of such pan-
6 demic emergency unemployment compensation to the
7 State agency, except that the State agency may
8 waive such repayment if it determines that—

9 (A) the payment of such pandemic emer-
10 gency unemployment compensation was without
11 fault on the part of any such individual; and

12 (B) such repayment would be contrary to
13 equity and good conscience.

14 (3) RECOVERY BY STATE AGENCY.—

15 (A) IN GENERAL.—The State agency shall
16 recover the amount to be repaid, or any part
17 thereof, by deductions from any pandemic
18 emergency unemployment compensation payable
19 to such individual under this section or from
20 any unemployment compensation payable to
21 such individual under any State or Federal un-
22 employment compensation law administered by
23 the State agency or under any other State or
24 Federal law administered by the State agency
25 which provides for the payment of any assist-

1 ance or allowance with respect to any week of
2 unemployment, during the 3-year period after
3 the date such individuals received the payment
4 of the pandemic emergency unemployment com-
5 pensation to which they were not entitled, in ac-
6 cordance with the same procedures as apply to
7 the recovery of overpayments of regular unem-
8 ployment benefits paid by the State.

9 (B) OPPORTUNITY FOR HEARING.—No re-
10 payment shall be required, and no deduction
11 shall be made, until a determination has been
12 made, notice thereof and an opportunity for a
13 fair hearing has been given to the individual,
14 and the determination has become final.

15 (4) REVIEW.—Any determination by a State
16 agency under this section shall be subject to review
17 in the same manner and to the same extent as deter-
18 minations under the State unemployment compensa-
19 tion law, and only in that manner and to that ex-
20 tent.

21 (f) DEFINITIONS.—In this section, the terms “com-
22 pensation”, “regular compensation”, “extended compensa-
23 tion”, “benefit year”, “base period”, “State”, “State
24 agency”, “State law”, and “week” have the respective
25 meanings given such terms under section 205 of the Fed-

1 eral-State Extended Unemployment Compensation Act of
2 1970 (26 U.S.C. 3304 note).

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

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

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

8 **SEC. 2108. TEMPORARY FINANCING OF SHORT-TIME COM-**
9 **PENSATION PAYMENTS IN STATES WITH PRO-**
10 **GRAMS IN LAW.**

11 (a) PAYMENTS TO STATES.—

12 (1) IN GENERAL.—Subject to paragraph (3),
13 there shall be paid to a State an amount equal to
14 100 percent of the amount of short-time compensa-
15 tion paid under a short-time compensation program
16 (as defined in section 3306(v) of the Internal Rev-
17 enue Code of 1986) under the provisions of the
18 State law.

19 (2) TERMS OF PAYMENTS.—Payments made to
20 a State under paragraph (1) shall be payable by way
21 of reimbursement in such amounts as the Secretary
22 estimates the State will be entitled to receive under
23 this section for each calendar month, reduced or in-
24 creased, as the case may be, by any amount by
25 which the Secretary finds that the Secretary's esti-

1 mates for any prior calendar month were greater or
2 less than the amounts which should have been paid
3 to the State. Such estimates may be made on the
4 basis of such statistical, sampling, or other method
5 as may be agreed upon by the Secretary and the
6 State agency of the State involved.

7 (3) LIMITATIONS ON PAYMENTS.—

8 (A) GENERAL PAYMENT LIMITATIONS.—

9 No payments shall be made to a State under
10 this section for short-time compensation paid to
11 an individual by the State during a benefit year
12 in excess of 26 times the amount of regular
13 compensation (including dependents' allow-
14 ances) under the State law payable to such in-
15 dividual for a week of total unemployment.

16 (B) EMPLOYER LIMITATIONS.—No pay-
17 ments shall be made to a State under this sec-
18 tion for benefits paid to an individual by the
19 State under a short-time compensation program
20 if such individual is employed by the partici-
21 pating employer on a seasonal, temporary, or
22 intermittent basis.

23 (b) APPLICABILITY.—Payments to a State under
24 subsection (a) shall be available for weeks of unemploy-
25 ment—

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

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

4 (c) NEW PROGRAMS.—Subject to subsection (b)(2),
5 if at any point after the date of the enactment of this Act
6 the State enacts a State law providing for the payment
7 of short-time compensation under a short-time compensa-
8 tion program that meets the definition of such a program
9 under section 3306(v) of the Internal Revenue Code of
10 1986, the State shall be eligible for payments under this
11 section after the effective date of such enactment.

12 (d) FUNDING AND CERTIFICATIONS.—

13 (1) FUNDING.—There are appropriated, out of
14 moneys in the Treasury not otherwise appropriated,
15 such sums as may be necessary for purposes of car-
16 rying out this section.

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

21 (e) DEFINITIONS.—In this section:

22 (1) SECRETARY.—The term “Secretary” means
23 the Secretary of Labor.

24 (2) STATE; STATE AGENCY; STATE LAW.—The
25 terms “State”, “State agency”, and “State law”

1 have the meanings given those terms in section 205
2 of the Federal-State Extended Unemployment Com-
3 pensation Act of 1970 (26 U.S.C. 3304 note).

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

9 **SEC. 2109. TEMPORARY FINANCING OF SHORT-TIME COM-**
10 **PENSATION AGREEMENTS.**

11 (a) FEDERAL-STATE AGREEMENTS.—

12 (1) IN GENERAL.—Any State which desires to
13 do so may enter into, and participate in, an agree-
14 ment under this section with the Secretary provided
15 that such State’s law does not provide for the pay-
16 ment of short-time compensation under a short-time
17 compensation program (as defined in section
18 3306(v) of the Internal Revenue Code of 1986).

19 (2) ABILITY TO TERMINATE.—Any State which
20 is a party to an agreement under this section may,
21 upon providing 30 days’ written notice to the Sec-
22 retary, terminate such agreement.

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

24 (1) IN GENERAL.—Any agreement under this
25 section shall provide that the State agency of the

1 State will make payments of short-time compensa-
2 tion under a plan approved by the State. Such plan
3 shall provide that payments are made in accordance
4 with the requirements under section 3306(v) of the
5 Internal Revenue Code of 1986.

6 (2) LIMITATIONS ON PLANS.—

7 (A) GENERAL PAYMENT LIMITATIONS.—A
8 short-time compensation plan approved by a
9 State shall not permit the payment of short-
10 time compensation to an individual by the State
11 during a benefit year in excess of 26 times the
12 amount of regular compensation (including de-
13 pendents' allowances) under the State law pay-
14 able to such individual for a week of total un-
15 employment.

16 (B) EMPLOYER LIMITATIONS.—A short-
17 time compensation plan approved by a State
18 shall not provide payments to an individual if
19 such individual is employed by the participating
20 employer on a seasonal, temporary, or intermit-
21 tent basis.

22 (3) EMPLOYER PAYMENT OF COSTS.—Any
23 short-time compensation plan entered into by an em-
24 ployer must provide that the employer will pay the
25 State an amount equal to one-half of the amount of

1 short-time compensation paid under such plan. Such
2 amount shall be deposited in the State's unemploy-
3 ment fund and shall not be used for purposes of cal-
4 culating an employer's contribution rate under sec-
5 tion 3303(a)(1) of the Internal Revenue Code of
6 1986.

7 (c) PAYMENTS TO STATES.—

8 (1) IN GENERAL.—There shall be paid to each
9 State with an agreement under this section an
10 amount equal to—

11 (A) one-half of the amount of short-time
12 compensation paid to individuals by the State
13 pursuant to such agreement; and

14 (B) any additional administrative expenses
15 incurred by the State by reason of such agree-
16 ment (as determined by the Secretary).

17 (2) TERMS OF PAYMENTS.—Payments made to
18 a State under paragraph (1) shall be payable by way
19 of reimbursement in such amounts as the Secretary
20 estimates the State will be entitled to receive under
21 this section for each calendar month, reduced or in-
22 creased, as the case may be, by any amount by
23 which the Secretary finds that the Secretary's esti-
24 mates for any prior calendar month were greater or
25 less than the amounts which should have been paid

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

5 (3) FUNDING.—There are appropriated, out of
6 moneys in the Treasury not otherwise appropriated,
7 such sums as may be necessary for purposes of car-
8 rying out this section.

9 (4) CERTIFICATIONS.—The Secretary shall
10 from time to time certify to the Secretary of the
11 Treasury for payment to each State the sums pay-
12 able to such State under this section.

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

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

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

18 (e) SPECIAL RULE.—If a State has entered into an
19 agreement under this section and subsequently enacts a
20 State law providing for the payment of short-time com-
21 pensation under a short-time compensation program that
22 meets the definition of such a program under section
23 3306(v) of the Internal Revenue Code of 1986, the
24 State—

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

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

7 (f) DEFINITIONS.—In this section:

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

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

15 **SEC. 2110. GRANTS FOR SHORT-TIME COMPENSATION PRO-**
16 **GRAMS.**

17 (a) GRANTS.—

18 (1) FOR IMPLEMENTATION OR IMPROVED AD-
19 MINISTRATION.—The Secretary shall award grants
20 to States that enact short-time compensation pro-
21 grams (as defined in subsection (i)(2)) for the pur-
22 pose of implementation or improved administration
23 of such programs.

24 (2) FOR PROMOTION AND ENROLLMENT.—The
25 Secretary shall award grants to States that are eligi-

1 ble and submit plans for a grant under paragraph
2 (1) for such States to promote and enroll employers
3 in short-time compensation programs (as so de-
4 fined).

5 (3) ELIGIBILITY.—

6 (A) IN GENERAL.—The Secretary shall de-
7 termine eligibility criteria for the grants under
8 paragraphs (1) and (2).

9 (B) CLARIFICATION.—A State admin-
10 istering a short-time compensation program
11 that does not meet the definition of a short-
12 time compensation program under section
13 3306(v) of the Internal Revenue Code of 1986,
14 and a State with an agreement under section
15 2109, shall not be eligible to receive a grant
16 under this section until such time as the State
17 law of the State provides for payments under a
18 short-time compensation program that meets
19 such definition and such law.

20 (b) AMOUNT OF GRANTS.—

21 (1) IN GENERAL.—The maximum amount avail-
22 able for making grants to a State under paragraphs
23 (1) and (2) shall be equal to the amount obtained
24 by multiplying \$100,000,000 (less the amount used
25 by the Secretary under subsection (e)) by the same

1 ratio as would apply under subsection (a)(2)(B) of
2 section 903 of the Social Security Act (42 U.S.C.
3 1103) for purposes of determining such State's
4 share of any excess amount (as described in sub-
5 section (a)(1) of such section) that would have been
6 subject to transfer to State accounts, as of October
7 1, 2019, under the provisions of subsection (a) of
8 such section.

9 (2) AMOUNT AVAILABLE FOR DIFFERENT
10 GRANTS.—Of the maximum incentive payment deter-
11 mined under paragraph (1) with respect to a
12 State—

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

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

17 (c) GRANT APPLICATION AND DISBURSAL.—

18 (1) APPLICATION.—Any State seeking a grant
19 under paragraph (1) or (2) of subsection (a) shall
20 submit an application to the Secretary at such time,
21 in such manner, and complete with such information
22 as the Secretary may require. In no case may the
23 Secretary award a grant under this section with re-
24 spect to an application that is submitted after De-
25 cember 31, 2023.

1 (2) NOTICE.—The Secretary shall, within 30
2 days after receiving a complete application, notify
3 the State agency of the State of the Secretary’s find-
4 ings with respect to the requirements for a grant
5 under paragraph (1) or (2) (or both) of subsection
6 (a).

7 (3) CERTIFICATION.—If the Secretary finds
8 that the State law provisions meet the requirements
9 for a grant under subsection (a), the Secretary shall
10 thereupon make a certification to that effect to the
11 Secretary of the Treasury, together with a certifi-
12 cation as to the amount of the grant payment to be
13 transferred to the State account in the Unemploy-
14 ment Trust Fund (as established in section 904(a)
15 of the Social Security Act (42 U.S.C. 1104(a))) pur-
16 suant to that finding. The Secretary of the Treasury
17 shall make the appropriate transfer to the State ac-
18 count within 7 days after receiving such certifi-
19 cation.

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

24 (A) State law is not otherwise eligible for
25 certification under section 303 of the Social Se-

1 security Act (42 U.S.C. 503) or approvable under
2 section 3304 of the Internal Revenue Code of
3 1986; or

4 (B) short-time compensation program is
5 subject to discontinuation or is not scheduled to
6 take effect within 12 months of the certifi-
7 cation.

8 (d) USE OF FUNDS.—The amount of any grant
9 awarded under this section shall be used for the implemen-
10 tation of short-time compensation programs and the over-
11 all administration of such programs and the promotion
12 and enrollment efforts associated with such programs,
13 such as through—

14 (1) the creation or support of rapid response
15 teams to advise employers about alternatives to lay-
16 offs;

17 (2) the provision of education or assistance to
18 employers to enable them to assess the feasibility of
19 participating in short-time compensation programs;
20 and

21 (3) the development or enhancement of systems
22 to automate—

23 (A) the submission and approval of plans;
24 and

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

3 (e) ADMINISTRATION.—The Secretary is authorized
4 to use 0.25 percent of the funds available under subsection
5 (g) to provide for outreach and to share best practices with
6 respect to this section and short-time compensation pro-
7 grams.

8 (f) RECOUPMENT.—The Secretary shall establish a
9 process under which the Secretary shall recoup the
10 amount of any grant awarded under paragraph (1) or (2)
11 of subsection (a) if the Secretary determines that, during
12 the 5-year period beginning on the first date that any such
13 grant is awarded to the State, the State—

14 (1) terminated the State's short-time compensa-
15 tion program; or

16 (2) failed to meet appropriate requirements
17 with respect to such program (as established by the
18 Secretary).

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

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

1 (i) DEFINITIONS.—In this section:

2 (1) SECRETARY.—The term “Secretary” means
3 the Secretary of Labor.

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

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

13 **SEC. 2111. ASSISTANCE AND GUIDANCE IN IMPLEMENTING**
14 **PROGRAMS.**

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

20 (1) develop model legislative language, or dis-
21 seminate existing model legislative language, which
22 may be used by States in developing and enacting
23 such programs and periodically review and revise
24 such model legislative language;

1 (2) provide technical assistance and guidance in
2 developing, enacting, and implementing such pro-
3 grams;

4 (3) establish reporting requirements for States,
5 including reporting on—

6 (A) the number of estimated averted lay-
7 offs;

8 (B) the number of participating employers
9 and workers; and

10 (C) such other items as the Secretary of
11 Labor determines are appropriate.

12 (b) MODEL LANGUAGE AND GUIDANCE.—The model
13 language and guidance developed under subsection (a)
14 shall allow sufficient flexibility by States and participating
15 employers while ensuring accountability and program in-
16 tegrity.

17 (c) CONSULTATION.—In developing the model legisla-
18 tive language and guidance under subsection (a), and in
19 order to meet the requirements of subsection (b), the Sec-
20 retary shall consult with employers, labor organizations,
21 State workforce agencies, and other program experts. Ex-
22 isting model legislative language that has been developed
23 through such a consultative process shall be deemed to
24 meet the consultation requirement of this subsection.

1 (d) REPEAL.—Section 4104 of the Emergency Unem-
2 ployment Stabilization and Access Act of 2020 (contained
3 in division D of the Families First Coronavirus Response
4 Act) is repealed.

5 **SEC. 2112. WAIVER OF THE 7-DAY WAITING PERIOD FOR**
6 **BENEFITS UNDER THE RAILROAD UNEM-**
7 **PLOYMENT INSURANCE ACT.**

8 (a) NO WAITING WEEK.—With respect to any reg-
9 istration period beginning after the date of enactment of
10 this Act and ending on or before December 31, 2020, sub-
11 paragraphs (A)(ii) and (B)(ii) of section 2(a)(1) of the
12 Railroad Unemployment Insurance Act (45 U.S.C.
13 352(a)(1)) shall not apply.

14 (b) REGULATIONS.—The Railroad Retirement Board
15 may prescribe any operating instructions or regulations
16 necessary to carry out this section.

17 (c) FUNDING.—Out of any funds in the Treasury not
18 otherwise appropriated, there are appropriated
19 \$50,000,000 to cover the costs of additional benefits pay-
20 able due to the application of subsection (a). Upon the
21 exhaustion of the funds appropriated under this sub-
22 section, subsection (a) shall no longer apply with respect
23 to any registration period beginning after the date of ex-
24 haustion of funds.

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

5 **SEC. 2113. ENHANCED BENEFITS UNDER THE RAILROAD**
6 **UNEMPLOYMENT INSURANCE ACT.**

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

10 “(5)(A) Notwithstanding paragraph (3), subsection
11 (c)(1)(B), and any other limitation on total benefits in this
12 Act, for registration periods beginning on or after April
13 1, 2020, but on or before July 31, 2020, a recovery benefit
14 in the amount of \$1,200 shall be payable to a qualified
15 employee with respect to any registration period in which
16 the employee received unemployment benefits under para-
17 graph (1)(A), and in any registration period in which the
18 employee did not receive unemployment benefits due to the
19 limitation in subsection (c)(1)(B) or due to reaching the
20 maximum number of days of benefits in the benefit year
21 beginning July 1, 2019, under subsection (c)(1)(A). No
22 recovery benefits shall be payable under this section upon
23 the exhaustion of the funds appropriated under subpara-
24 graph (B) for payment of benefits under this subpara-
25 graph.

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

5 **SEC. 2114. EXTENDED UNEMPLOYMENT BENEFITS UNDER**
6 **THE RAILROAD UNEMPLOYMENT INSURANCE**
7 **ACT.**

8 (a) EXTENSION.—Section 2(c)(2)(D)(iii) of the Rail-
9 road Unemployment Insurance Act (45 U.S.C.
10 352(c)(2)(D)(iii) is amended—

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

13 (2) by striking “June 30, 2013” and
14 inserting “June 30, 2020”; and

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

17 (b) CLARIFICATION ON AUTHORITY TO USE
18 FUNDS.—Funds appropriated under either the first or
19 second sentence of clause (iv) of section 2(c)(2)(D) of the
20 Railroad Unemployment Insurance Act shall be available
21 to cover the cost of additional extended unemployment
22 benefits provided under such section 2(c)(2)(D) by reason
23 of the amendments made by subsection (a) as well as to
24 cover the cost of such benefits provided under such section

1 2(c)(2)(D) as in effect on the day before the date of enact-
2 ment of this Act.

3 **Subtitle B—Rebates and Other**
4 **Individual Provisions**

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

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

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

11 “(a) IN GENERAL.—In the case of an eligible indi-
12 vidual, there shall be allowed as a credit against the tax
13 imposed by subtitle A for the first taxable year beginning
14 in 2020 an amount equal to the sum of—

15 “(1) \$1,200 (\$2,400 in the case of eligible indi-
16 viduals filing a joint return), plus

17 “(2) an amount equal to the product of \$500
18 multiplied by the number of qualifying children
19 (within the meaning of section 24(c)) of the tax-
20 payer.

21 “(b) TREATMENT OF CREDIT.—The credit allowed by
22 subsection (a) shall be treated as allowed by subpart C
23 of part IV of subchapter A of chapter 1.

24 “(c) LIMITATION BASED ON ADJUSTED GROSS IN-
25 COME.—The amount of the credit allowed by subsection

1 (a) (determined without regard to this subsection and sub-
2 section (e)) shall be reduced (but not below zero) by 5
3 percent of so much of the taxpayer's adjusted gross in-
4 come as exceeds—

5 “(1) \$150,000 in the case of a joint return,

6 “(2) \$112,500 in the case of a head of house-
7 hold, and

8 “(3) \$75,000 in the case of a taxpayer not de-
9 scribed in paragraph (1) or (2).

10 “(d) ELIGIBLE INDIVIDUAL.—For purposes of this
11 section, the term ‘eligible individual’ means any individual
12 other than—

13 “(1) any nonresident alien individual,

14 “(2) any individual with respect to whom a de-
15 duction under section 151 is allowable to another
16 taxpayer for a taxable year beginning in the cal-
17 endar year in which the individual's taxable year be-
18 gins, and

19 “(3) an estate or trust.

20 “(e) COORDINATION WITH ADVANCE REFUNDS OF
21 CREDIT.—

22 “(1) IN GENERAL.—The amount of credit
23 which would (but for this paragraph) be allowable
24 under this section shall be reduced (but not below
25 zero) by the aggregate refunds and credits made or

1 allowed to the taxpayer under subsection (f). Any
2 failure to so reduce the credit shall be treated as
3 arising out of a mathematical or clerical error and
4 assessed according to section 6213(b)(1).

5 “(2) JOINT RETURNS.—In the case of a refund
6 or credit made or allowed under subsection (f) with
7 respect to a joint return, half of such refund or cred-
8 it shall be treated as having been made or allowed
9 to each individual filing such return.

10 “(f) ADVANCE REFUNDS AND CREDITS.—

11 “(1) IN GENERAL.—Subject to paragraph (5),
12 each individual who was an eligible individual for
13 such individual’s first taxable year beginning in
14 2019 shall be treated as having made a payment
15 against the tax imposed by chapter 1 for such tax-
16 able year in an amount equal to the advance refund
17 amount for such taxable year.

18 “(2) ADVANCE REFUND AMOUNT.—For pur-
19 poses of paragraph (1), the advance refund amount
20 is the amount that would have been allowed as a
21 credit under this section for such taxable year if this
22 section (other than subsection (e) and this sub-
23 section) had applied to such taxable year.

24 “(3) TIMING OF PAYMENTS.—The Secretary
25 shall, subject to the provisions of this title, refund

1 or credit any overpayment attributable to this sec-
2 tion as rapidly as possible. No refund or credit shall
3 be made or allowed under this subsection after De-
4 cember 31, 2020.

5 “(4) NO INTEREST.—No interest shall be al-
6 lowed on any overpayment attributable to this sec-
7 tion.

8 “(5) ALTERNATE TAXABLE YEAR.—In the case
9 of an individual who, at the time of any determina-
10 tion made pursuant to paragraph (3), has not filed
11 a tax return for the year described in paragraph (1),
12 the Secretary may—

13 “(A) apply such paragraph by substituting
14 ‘2018’ for ‘2019’, and

15 “(B) if the individual has not filed a tax
16 return for such individual’s first taxable year
17 beginning in 2018, use information with respect
18 to such individual for calendar year 2019 pro-
19 vided in—

20 “(i) Form SSA-1099, Social Security
21 Benefit Statement, or

22 “(ii) Form RRB-1099, Social Security
23 Equivalent Benefit Statement.

24 “(6) NOTICE TO TAXPAYER.—Not later than 15
25 days after the date on which the Secretary distrib-

1 uted any payment to an eligible taxpayer pursuant
2 to this subsection, notice shall be sent by mail to
3 such taxpayer's last known address. Such notice
4 shall indicate the method by which such payment
5 was made, the amount of such payment, and a
6 phone number for the appropriate point of contact
7 at the Internal Revenue Service to report any failure
8 to receive such payment.

9 “(g) IDENTIFICATION NUMBER REQUIREMENT.—

10 “(1) IN GENERAL.—No credit shall be allowed
11 under subsection (a) to an eligible individual who
12 does not include on the return of tax for the taxable
13 year—

14 “(A) such individual's valid identification
15 number,

16 “(B) in the case of a joint return, the valid
17 identification number of such individual's
18 spouse, and

19 “(C) in the case of any qualifying child
20 taken into account under subsection (a)(2), the
21 valid identification number of such qualifying
22 child.

23 “(2) VALID IDENTIFICATION NUMBER.—

24 “(A) IN GENERAL.—For purposes of para-
25 graph (1), the term ‘valid identification num-

1 ber’ means a social security number (as such
2 term is defined in section 24(h)(7)).

3 “(B) ADOPTION TAXPAYER IDENTIFICA-
4 TION NUMBER.—For purposes of paragraph
5 (1)(C), in the case of a qualifying child who is
6 adopted or placed for adoption, the term ‘valid
7 identification number’ shall include the adop-
8 tion taxpayer identification number of such
9 child.

10 “(3) SPECIAL RULE FOR MEMBERS OF THE
11 ARMED FORCES.—Paragraph (1)(B) shall not apply
12 in the case where at least 1 spouse was a member
13 of the Armed Forces of the United States at any
14 time during the taxable year and at least 1 spouse
15 satisfies paragraph (1)(A).

16 “(4) MATHEMATICAL OR CLERICAL ERROR AU-
17 THORITY.—Any omission of a correct valid identi-
18 fication number required under this subsection shall
19 be treated as a mathematical or clerical error for
20 purposes of applying section 6213(g)(2) to such
21 omission.

22 “(h) REGULATIONS.—The Secretary shall prescribe
23 such regulations or other guidance as may be necessary
24 to carry out the purposes of this section, including any

1 such measures as are deemed appropriate to avoid allow-
2 ing multiple credits or rebates to a taxpayer.”.

3 (b) ADMINISTRATIVE AMENDMENTS.—

4 (1) DEFINITION OF DEFICIENCY.—Section
5 6211(b)(4)(A) of the Internal Revenue Code of 1986
6 is amended by striking “and 36B, 168(k)(4)” and
7 inserting “36B, and 6428”.

8 (2) MATHEMATICAL OR CLERICAL ERROR AU-
9 THORITY.—Section 6213(g)(2)(L) of such Code is
10 amended by striking “or 32” and inserting “32, or
11 6428”.

12 (c) TREATMENT OF POSSESSIONS.—

13 (1) PAYMENTS TO POSSESSIONS.—

14 (A) MIRROR CODE POSSESSION.—The Sec-
15 retary of the Treasury shall pay to each posses-
16 sion of the United States which has a mirror
17 code tax system amounts equal to the loss (if
18 any) to that possession by reason of the amend-
19 ments made by this section. Such amounts shall
20 be determined by the Secretary of the Treasury
21 based on information provided by the govern-
22 ment of the respective possession.

23 (B) OTHER POSSESSIONS.—The Secretary
24 of the Treasury shall pay to each possession of
25 the United States which does not have a mirror

1 code tax system amounts estimated by the Sec-
2 retary of the Treasury as being equal to the ag-
3 gregate benefits (if any) that would have been
4 provided to residents of such possession by rea-
5 son of the amendments made by this section if
6 a mirror code tax system had been in effect in
7 such possession. The preceding sentence shall
8 not apply unless the respective possession has a
9 plan, which has been approved by the Secretary
10 of the Treasury, under which such possession
11 will promptly distribute such payments to its
12 residents.

13 (2) COORDINATION WITH CREDIT ALLOWED
14 AGAINST UNITED STATES INCOME TAXES.—No cred-
15 it shall be allowed against United States income
16 taxes under section 6428 of the Internal Revenue
17 Code of 1986 (as added by this section) to any per-
18 son—

19 (A) to whom a credit is allowed against
20 taxes imposed by the possession by reason of
21 the amendments made by this section, or

22 (B) who is eligible for a payment under a
23 plan described in paragraph (1)(B).

24 (3) DEFINITIONS AND SPECIAL RULES.—

1 (A) POSSESSION OF THE UNITED
2 STATES.—For purposes of this subsection, the
3 term “possession of the United States” includes
4 the Commonwealth of Puerto Rico and the
5 Commonwealth of the Northern Mariana Is-
6 lands.

7 (B) MIRROR CODE TAX SYSTEM.—For pur-
8 poses of this subsection, the term “mirror code
9 tax system” means, with respect to any posses-
10 sion of the United States, the income tax sys-
11 tem of such possession if the income tax liabil-
12 ity of the residents of such possession under
13 such system is determined by reference to the
14 income tax laws of the United States as if such
15 possession were the United States.

16 (C) TREATMENT OF PAYMENTS.—For pur-
17 poses of section 1324 of title 31, United States
18 Code, the payments under this subsection shall
19 be treated in the same manner as a refund due
20 from a credit provision referred to in subsection
21 (b)(2) of such section.

22 (d) EXCEPTION FROM REDUCTION OR OFFSET.—
23 Any credit or refund allowed or made to any individual
24 by reason of section 6428 of the Internal Revenue Code

1 of 1986 (as added by this section) or by reason of sub-
2 section (c) of this section shall not be—

3 (1) subject to reduction or offset pursuant to
4 section 3716 or 3720A of title 31, United States
5 Code,

6 (2) subject to reduction or offset pursuant to
7 subsection (d), (e), or (f) of section 6402 of the In-
8 ternal Revenue Code of 1986, or

9 (3) reduced or offset by other assessed Federal
10 taxes that would otherwise be subject to levy or col-
11 lection.

12 (e) PUBLIC AWARENESS CAMPAIGN.—The Secretary
13 of the Treasury (or the Secretary's delegate) shall conduct
14 a public awareness campaign, in coordination with the
15 Commissioner of Social Security and the heads of other
16 relevant Federal agencies, to provide information regard-
17 ing the availability of the credit and rebate allowed under
18 section 6428 of the Internal Revenue Code of 1986 (as
19 added by this section), including information with respect
20 to individuals who may not have filed a tax return for tax-
21 able year 2018 or 2019.

22 (f) APPROPRIATIONS TO CARRY OUT REBATES.—

23 (1) IN GENERAL.—Immediately upon the enact-
24 ment of this Act, the following sums are appro-
25 priated, out of any money in the Treasury not other-

1 wise appropriated, for the fiscal year ending Sep-
2 tember 30, 2020:

3 (A) DEPARTMENT OF THE TREASURY.—

4 (i) For an additional amount for “De-
5 partment of the Treasury—Bureau of the
6 Fiscal Service—Salaries and Expenses”,
7 \$78,650,000, to remain available until
8 September 30, 2021.

9 (ii) For an additional amount for
10 “Department of the Treasury—Internal
11 Revenue Service—Taxpayer Services”,
12 \$293,500,000, to remain available until
13 September 30, 2021.

14 (iii) For an additional amount for
15 “Department of the Treasury—Internal
16 Revenue Service—Operations Support”,
17 \$170,000,000, to remain available until
18 September 30, 2021.

19 (iv) For an additional amount for
20 “Department of Treasury—Internal Rev-
21 enue Service—Enforcement”, \$37,200,000,
22 to remain available until September 30,
23 2021.

24 Amounts made available in appropriations
25 under clauses (ii), (iii), and (iv) of this subpara-

1 graph may be transferred between such appro-
2 priations upon the advance notification of the
3 Committees on Appropriations of the House of
4 Representatives and the Senate. Such transfer
5 authority is in addition to any other transfer
6 authority provided by law.

7 (B) SOCIAL SECURITY ADMINISTRATION.—
8 For an additional amount for “Social Security
9 Administration—Limitation on Administrative
10 Expenses”, \$38,000,000, to remain available
11 until September 30, 2021.

12 (2) REPORTS.—No later than 15 days after en-
13 actment of this Act, the Secretary of the Treasury
14 shall submit a plan to the Committees on Appropria-
15 tions of the House of Representatives and the Sen-
16 ate detailing the expected use of the funds provided
17 by paragraph (1)(A). Beginning 90 days after enact-
18 ment of this Act, the Secretary of the Treasury shall
19 submit a quarterly report to the Committees on Ap-
20 propriations of the House of Representatives and the
21 Senate detailing the actual expenditure of funds pro-
22 vided by paragraph (1)(A) and the expected expendi-
23 ture of such funds in the subsequent quarter.

24 (g) CONFORMING AMENDMENTS.—

1 (1) Paragraph (2) of section 1324(b) of title
2 31, United States Code, is amended by inserting
3 “6428,” after “54B(h),”.

4 (2) The table of sections for subchapter B of
5 chapter 65 of subtitle F of the Internal Revenue
6 Code of 1986 is amended by inserting after the item
7 relating to section 6427 the following:

“Sec. 6428. 2020 Recovery Rebates for individuals.”.

8 **SEC. 2202. SPECIAL RULES FOR USE OF RETIREMENT**
9 **FUNDS.**

10 (a) **TAX-FAVORED WITHDRAWALS FROM RETIRE-**
11 **MENT PLANS.—**

12 (1) **IN GENERAL.—**Section 72(t) of the Internal
13 Revenue Code of 1986 shall not apply to any
14 coronavirus-related distribution.

15 (2) **AGGREGATE DOLLAR LIMITATION.—**

16 (A) **IN GENERAL.—**For purposes of this
17 subsection, the aggregate amount of distribu-
18 tions received by an individual which may be
19 treated as coronavirus-related distributions for
20 any taxable year shall not exceed \$100,000.

21 (B) **TREATMENT OF PLAN DISTRIBUTIONS.—**If a distribution to an individual would
22 (without regard to subparagraph (A)) be a
23 coronavirus-related distribution, a plan shall not
24 be treated as violating any requirement of the
25

1 Internal Revenue Code of 1986 merely because
2 the plan treats such distribution as a
3 coronavirus-related distribution, unless the ag-
4 gregate amount of such distributions from all
5 plans maintained by the employer (and any
6 member of any controlled group which includes
7 the employer) to such individual exceeds
8 \$100,000.

9 (C) CONTROLLED GROUP.—For purposes
10 of subparagraph (B), the term “controlled
11 group” means any group treated as a single
12 employer under subsection (b), (c), (m), or (o)
13 of section 414 of the Internal Revenue Code of
14 1986.

15 (3) AMOUNT DISTRIBUTED MAY BE REPAYED.—

16 (A) IN GENERAL.—Any individual who re-
17 ceives a coronavirus-related distribution may, at
18 any time during the 3-year period beginning on
19 the day after the date on which such distribu-
20 tion was received, make 1 or more contributions
21 in an aggregate amount not to exceed the
22 amount of such distribution to an eligible retire-
23 ment plan of which such individual is a bene-
24 ficiary and to which a rollover contribution of
25 such distribution could be made under section

1 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or
2 457(e)(16), of the Internal Revenue Code of
3 1986, as the case may be.

4 (B) TREATMENT OF REPAYMENTS OF DIS-
5 TRIBUTIONS FROM ELIGIBLE RETIREMENT
6 PLANS OTHER THAN IRAS.—For purposes of
7 the Internal Revenue Code of 1986, if a con-
8 tribution is made pursuant to subparagraph (A)
9 with respect to a coronavirus-related distribu-
10 tion from an eligible retirement plan other than
11 an individual retirement plan, then the taxpayer
12 shall, to the extent of the amount of the con-
13 tribution, be treated as having received the
14 coronavirus-related distribution in an eligible
15 rollover distribution (as defined in section
16 402(c)(4) of such Code) and as having trans-
17 ferred the amount to the eligible retirement
18 plan in a direct trustee to trustee transfer with-
19 in 60 days of the distribution.

20 (C) TREATMENT OF REPAYMENTS OF DIS-
21 TRIBUTIONS FROM IRAS.—For purposes of the
22 Internal Revenue Code of 1986, if a contribu-
23 tion is made pursuant to subparagraph (A)
24 with respect to a coronavirus-related distribu-
25 tion from an individual retirement plan (as de-

1 fined by section 7701(a)(37) of such Code),
2 then, to the extent of the amount of the con-
3 tribution, the coronavirus-related distribution
4 shall be treated as a distribution described in
5 section 408(d)(3) of such Code and as having
6 been transferred to the eligible retirement plan
7 in a direct trustee to trustee transfer within 60
8 days of the distribution.

9 (4) DEFINITIONS.—For purposes of this sub-
10 section—

11 (A) CORONAVIRUS-RELATED DISTRIBUTION.—Except as provided in paragraph (2),
12 the term “coronavirus-related distribution”
13 means any distribution from an eligible retire-
14 ment plan made—

15 (i) on or after January 1, 2020, and
16 before December 31, 2020,

17 (ii) to an individual—

18 (I) who is diagnosed with the
19 virus SARS-CoV-2 or with
20 coronavirus disease 2019 (COVID-19)
21 by a test approved by the Centers for
22 Disease Control and Prevention,

23 (II) whose spouse or dependent
24 (as defined in section 152 of the In-
25

1 ternal Revenue Code of 1986) is diag-
2 nosed with such virus or disease by
3 such a test, or

4 (III) who experiences adverse fi-
5 nancial consequences as a result of
6 being quarantined, being furloughed
7 or laid off or having work hours re-
8 duced due to such virus or disease,
9 being unable to work due to lack of
10 child care due to such virus or dis-
11 ease, closing or reducing hours of a
12 business owned or operated by the in-
13 dividual due to such virus or disease,
14 or other factors as determined by the
15 Secretary of the Treasury (or the Sec-
16 retary's delegate).

17 (B) EMPLOYEE CERTIFICATION.—The ad-
18 ministrator of an eligible retirement plan may
19 rely on an employee's certification that the em-
20 ployee satisfies the conditions of subparagraph
21 (A)(ii) in determining whether any distribution
22 is a coronavirus-related distribution.

23 (C) ELIGIBLE RETIREMENT PLAN.—The
24 term “eligible retirement plan” has the meaning

1 given such term by section 402(c)(8)(B) of the
2 Internal Revenue Code of 1986.

3 (5) INCOME INCLUSION SPREAD OVER 3-YEAR
4 PERIOD.—

5 (A) IN GENERAL.—In the case of any
6 coronavirus-related distribution, unless the tax-
7 payer elects not to have this paragraph apply
8 for any taxable year, any amount required to be
9 included in gross income for such taxable year
10 shall be so included ratably over the 3-taxable-
11 year period beginning with such taxable year.

12 (B) SPECIAL RULE.—For purposes of sub-
13 paragraph (A), rules similar to the rules of sub-
14 paragraph (E) of section 408A(d)(3) of the In-
15 ternal Revenue Code of 1986 shall apply.

16 (6) SPECIAL RULES.—

17 (A) EXEMPTION OF DISTRIBUTIONS FROM
18 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
19 HOLDING RULES.—For purposes of sections
20 401(a)(31), 402(f), and 3405 of the Internal
21 Revenue Code of 1986, coronavirus-related dis-
22 tributions shall not be treated as eligible roll-
23 over distributions.

24 (B) CORONAVIRUS-RELATED DISTRIBUTIONS
25 TREATED AS MEETING PLAN DISTRIBUTIONS

1 TION REQUIREMENTS.—For purposes of the In-
2 ternal Revenue Code of 1986, a coronavirus-re-
3 lated distribution shall be treated as meeting
4 the requirements of sections 401(k)(2)(B)(i),
5 403(b)(7)(A)(i), 403(b)(11), and 457(d)(1)(A)
6 of such Code.

7 (b) LOANS FROM QUALIFIED PLANS.—

8 (1) INCREASE IN LIMIT ON LOANS NOT TREAT-
9 ED AS DISTRIBUTIONS.—In the case of any loan
10 from a qualified employer plan (as defined under
11 section 72(p)(4) of the Internal Revenue Code of
12 1986) to a qualified individual made during the 180-
13 day period beginning on the date of the enactment
14 of this Act—

15 (A) clause (i) of section 72(p)(2)(A) of
16 such Code shall be applied by substituting
17 “\$100,000” for “\$50,000”, and

18 (B) clause (ii) of such section shall be ap-
19 plied by substituting “the present value of the
20 nonforfeitable accrued benefit of the employee
21 under the plan” for “one-half of the present
22 value of the nonforfeitable accrued benefit of
23 the employee under the plan”.

24 (2) DELAY OF REPAYMENT.—In the case of a
25 qualified individual with an outstanding loan (on or

1 after the date of the enactment of this Act) from a
2 qualified employer plan (as defined in section
3 72(p)(4) of the Internal Revenue Code of 1986)—

4 (A) if the due date pursuant to subpara-
5 graph (B) or (C) of section 72(p)(2) of such
6 Code for any repayment with respect to such
7 loan occurs during the period beginning on the
8 date of the enactment of this Act and ending on
9 December 31, 2020, such due date shall be de-
10 layed for 1 year,

11 (B) any subsequent repayments with re-
12 spect to any such loan shall be appropriately
13 adjusted to reflect the delay in the due date
14 under subparagraph (A) and any interest accru-
15 ing during such delay, and

16 (C) in determining the 5-year period and
17 the term of a loan under subparagraph (B) or
18 (C) of section 72(p)(2) of such Code, the period
19 described in subparagraph (A) of this para-
20 graph shall be disregarded.

21 (3) QUALIFIED INDIVIDUAL.—For purposes of
22 this subsection, the term “qualified individual”
23 means any individual who is described in subsection
24 (a)(4)(A)(ii).

1 (c) PROVISIONS RELATING TO PLAN AMEND-
2 MENTS.—

3 (1) IN GENERAL.—If this subsection applies to
4 any amendment to any plan or annuity contract,
5 such plan or contract shall be treated as being oper-
6 ated in accordance with the terms of the plan during
7 the period described in paragraph (2)(B)(i).

8 (2) AMENDMENTS TO WHICH SUBSECTION AP-
9 PLIES.—

10 (A) IN GENERAL.—This subsection shall
11 apply to any amendment to any plan or annuity
12 contract which is made—

13 (i) pursuant to any provision of this
14 section, or pursuant to any regulation
15 issued by the Secretary of the Treasury or
16 the Secretary of Labor (or the delegate of
17 either such Secretary) under any provision
18 of this section, and

19 (ii) on or before the last day of the
20 first plan year beginning on or after Janu-
21 ary 1, 2022, or such later date as the Sec-
22 retary of the Treasury (or the Secretary's
23 delegate) may prescribe.

24 In the case of a governmental plan (as defined
25 in section 414(d) of the Internal Revenue Code

1 of 1986), clause (ii) shall be applied by sub-
2 stituting the date which is 2 years after the
3 date otherwise applied under clause (ii).

4 (B) CONDITIONS.—This subsection shall
5 not apply to any amendment unless—

6 (i) during the period—

7 (I) beginning on the date that
8 this section or the regulation de-
9 scribed in subparagraph (A)(i) takes
10 effect (or in the case of a plan or con-
11 tract amendment not required by this
12 section or such regulation, the effec-
13 tive date specified by the plan), and

14 (II) ending on the date described
15 in subparagraph (A)(ii) (or, if earlier,
16 the date the plan or contract amend-
17 ment is adopted),

18 the plan or contract is operated as if such
19 plan or contract amendment were in effect,
20 and

21 (ii) such plan or contract amendment
22 applies retroactively for such period.

1 **SEC. 2203. TEMPORARY WAIVER OF REQUIRED MINIMUM**
2 **DISTRIBUTION RULES FOR CERTAIN RETIRE-**
3 **MENT PLANS AND ACCOUNTS.**

4 (a) IN GENERAL.—Section 401(a)(9) of the Internal
5 Revenue Code of 1986 is amended by adding at the end
6 the following new subparagraph:

7 “(I) TEMPORARY WAIVER OF MINIMUM RE-
8 QUIRED DISTRIBUTION.—

9 “(i) IN GENERAL.—The requirements
10 of this paragraph shall not apply for cal-
11 endar year 2020 to—

12 “(I) a defined contribution plan
13 which is described in this subsection
14 or in section 403(a) or 403(b),

15 “(II) a defined contribution plan
16 which is an eligible deferred com-
17 pensation plan described in section
18 457(b) but only if such plan is main-
19 tained by an employer described in
20 section 457(e)(1)(A), or

21 “(III) an individual retirement
22 plan.

23 “(ii) SPECIAL RULE FOR REQUIRED
24 BEGINNING DATES IN 2020.—Clause (i)
25 shall apply to any distribution which is re-

1 required to be made in calendar year 2020
2 by reason of—

3 “(I) a required beginning date
4 occurring in such calendar year, and

5 “(II) such distribution not having
6 been made before January 1, 2020.

7 “(iii) SPECIAL RULES REGARDING
8 WAIVER PERIOD.—For purposes of this
9 paragraph—

10 “(I) the required beginning date
11 with respect to any individual shall be
12 determined without regard to this
13 subparagraph for purposes of applying
14 this paragraph for calendar years
15 after 2020, and

16 “(II) if clause (ii) of subpara-
17 graph (B) applies, the 5-year period
18 described in such clause shall be de-
19 termined without regard to calendar
20 year 2020.”.

21 (b) ELIGIBLE ROLLOVER DISTRIBUTIONS.—Section
22 402(c)(4) of the Internal Revenue Code of 1986 is amend-
23 ed by striking “2009” each place it appears in the last
24 sentence and inserting “2020”.

25 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply for calendar years beginning
3 after December 31, 2019.

4 (2) PROVISIONS RELATING TO PLAN OR CON-
5 TRACT AMENDMENTS.—

6 (A) IN GENERAL.—If this paragraph ap-
7 plies to any pension plan or contract amend-
8 ment, such pension plan or contract shall not
9 fail to be treated as being operated in accord-
10 ance with the terms of the plan during the pe-
11 riod described in subparagraph (B)(ii) solely be-
12 cause the plan operates in accordance with this
13 section.

14 (B) AMENDMENTS TO WHICH PARAGRAPH
15 APPLIES.—

16 (i) IN GENERAL.—This paragraph
17 shall apply to any amendment to any pen-
18 sion plan or annuity contract which—

19 (I) is made pursuant to the
20 amendments made by this section,
21 and

22 (II) is made on or before the last
23 day of the first plan year beginning
24 on or after January 1, 2022.

1 In the case of a governmental plan, sub-
2 clause (II) shall be applied by substituting
3 “2024” for “2022”.

4 (ii) **CONDITIONS.**—This paragraph
5 shall not apply to any amendment unless
6 during the period beginning on the effec-
7 tive date of the amendment and ending on
8 December 31, 2020, the plan or contract is
9 operated as if such plan or contract
10 amendment were in effect.

11 **SEC. 2204. ALLOWANCE OF PARTIAL ABOVE THE LINE DE-**
12 **DUCTION FOR CHARITABLE CONTRIBUTIONS.**

13 (a) **IN GENERAL.**—Section 62(a) of the Internal Rev-
14 enue Code of 1986 is amended by inserting after para-
15 graph (21) the following new paragraph:

16 “(22) **CHARITABLE CONTRIBUTIONS.**—In the
17 case of taxable years beginning in 2020, the amount
18 (not to exceed \$300) of qualified charitable contribu-
19 tions made by an eligible individual during the tax-
20 able year.”.

21 (b) **DEFINITIONS.**—Section 62 of such Code is
22 amended by adding at the end the following new sub-
23 section:

1 “(f) DEFINITIONS RELATING TO QUALIFIED CHARITABLE CONTRIBUTIONS.—For purposes of subsection
2 TABLE CONTRIBUTIONS.—For purposes of subsection
3 (a)(22)—

4 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
5 individual’ means any individual who does not elect
6 to itemize deductions.

7 “(2) QUALIFIED CHARITABLE CONTRIBUTIONS.—The term ‘qualified charitable contribution’
8 TIONS.—The term ‘qualified charitable contribution’
9 means a charitable contribution (as defined in sec-
10 tion 170(c))—

11 “(A) which is made in cash,

12 “(B) for which a deduction is allowable
13 under section 170 (determined without regard
14 to subsection (b) thereof), and

15 “(C) which is—

16 “(i) made to an organization de-
17 scribed in section 170(b)(1)(A), and

18 “(ii) not—

19 “(I) to an organization described
20 in section 509(a)(3), or

21 “(II) for the establishment of a
22 new, or maintenance of an existing,
23 donor advised fund (as defined in sec-
24 tion 4966(d)(2)).

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1 Such term shall not include any amount
2 which is treated as a charitable contribu-
3 tion made in such taxable year by reason
4 of subsection (b)(1)(G)(ii) or (d)(1) of sec-
5 tion 170.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2019.

9 **SEC. 2205. MODIFICATION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS DURING 2020.**

10 (a) TEMPORARY SUSPENSION OF LIMITATIONS ON
11 CERTAIN CASH CONTRIBUTIONS.—

12 (1) IN GENERAL.—Except as otherwise pro-
13 vided in paragraph (2), qualified contributions shall
14 be disregarded in applying subsections (b) and (d) of
15 section 170 of the Internal Revenue Code of 1986.

16 (2) TREATMENT OF EXCESS CONTRIBUTIONS.—
17 For purposes of section 170 of the Internal Revenue
18 Code of 1986—

19 (A) INDIVIDUALS.—In the case of an indi-
20 vidual—

21 (i) LIMITATION.—Any qualified contribu-
22 tion shall be allowed as a deduction
23 only to the extent that the aggregate of
24 such contributions does not exceed the ex-
25

1 cess of the taxpayer's contribution base (as
2 defined in subparagraph (H) of section
3 170(b)(1) of such Code) over the amount
4 of all other charitable contributions allowed
5 under section 170(b)(1) of such Code.

6 (ii) CARRYOVER.—If the aggregate
7 amount of qualified contributions made in
8 the contribution year (within the meaning
9 of section 170(d)(1) of such Code) exceeds
10 the limitation of clause (i), such excess
11 shall be added to the excess described in
12 section 170(b)(1)(G)(ii).

13 (B) CORPORATIONS.—In the case of a cor-
14 poration—

15 (i) LIMITATION.—Any qualified con-
16 tribution shall be allowed as a deduction
17 only to the extent that the aggregate of
18 such contributions does not exceed the ex-
19 cess of 25 percent of the taxpayer's taxable
20 income (as determined under paragraph
21 (2) of section 170(b) of such Code) over
22 the amount of all other charitable con-
23 tributions allowed under such paragraph.

24 (ii) CARRYOVER.—If the aggregate
25 amount of qualified contributions made in

1 the contribution year (within the meaning
2 of section 170(d)(2) of such Code) exceeds
3 the limitation of clause (i), such excess
4 shall be appropriately taken into account
5 under section 170(d)(2) subject to the limi-
6 tations thereof.

7 (3) QUALIFIED CONTRIBUTIONS.—

8 (A) IN GENERAL.—For purposes of this
9 subsection, the term “qualified contribution”
10 means any charitable contribution (as defined
11 in section 170(c) of the Internal Revenue Code
12 of 1986) if—

13 (i) such contribution is paid in cash
14 during calendar year 2020 to an organiza-
15 tion described in section 170(b)(1)(A) of
16 such Code, and

17 (ii) the taxpayer has elected the appli-
18 cation of this section with respect to such
19 contribution.

20 (B) EXCEPTION.—Such term shall not in-
21 clude a contribution by a donor if the contribu-
22 tion is—

23 (i) to an organization described in sec-
24 tion 509(a)(3) of the Internal Revenue
25 Code of 1986, or

1 (ii) for the establishment of a new, or
2 maintenance of an existing, donor advised
3 fund (as defined in section 4966(d)(2) of
4 such Code).

5 (C) APPLICATION OF ELECTION TO PART-
6 NERSHIPS AND S CORPORATIONS.—In the case
7 of a partnership or S corporation, the election
8 under subparagraph (A)(ii) shall be made sepa-
9 rately by each partner or shareholder.

10 (b) INCREASE IN LIMITS ON CONTRIBUTIONS OF
11 FOOD INVENTORY.—In the case of any charitable con-
12 tribution of food during 2020 to which section
13 170(e)(3)(C) of the Internal Revenue Code of 1986 ap-
14 plies, subclauses (I) and (II) of clause (ii) thereof shall
15 each be applied by substituting “25 percent” for “15 per-
16 cent.”

17 (c) EFFECTIVE DATE.—This section shall apply to
18 taxable years ending after December 31, 2019.

19 **Subtitle C—Business Provisions**

20 **SEC. 2301. DELAY OF PAYMENT OF EMPLOYER PAYROLL** 21 **TAXES.**

22 (a) IN GENERAL.—

23 (1) TAXES.—Notwithstanding any other provi-
24 sion of law, the payment for applicable employment

1 taxes for the payroll tax deferral period shall not be
2 due before the applicable date.

3 (2) DEPOSITS.—Notwithstanding section 6302
4 of the Internal Revenue Code of 1986, an employer
5 shall be treated as having timely made all deposits
6 of applicable employment taxes that are required to
7 be made (without regard to this section) for such
8 taxes during the payroll tax deferral period if all
9 such deposits are made not later than the applicable
10 date.

11 (3) EXCEPTION.—This subsection shall not
12 apply to any taxpayer if such taxpayer has had in-
13 debtedness forgiven under section 1105 of this Act
14 with respect to a loan under paragraph (36) of sec-
15 tion 7(a) of the Small Business Act (15 U.S.C.
16 636(a)), as added by section 1102 of this Act, or in-
17 debtedness forgiven under section 1109 of this Act.

18 (b) SECA.—

19 (1) IN GENERAL.—Notwithstanding any other
20 provision of law, the payment for 50 percent of the
21 taxes imposed under section 1401(a) of the Internal
22 Revenue Code of 1986 for the payroll tax deferral
23 period shall not be due before the applicable date.

24 (2) ESTIMATED TAXES.—For purposes of ap-
25 plying section 6654 of the Internal Revenue Code of

1 1986 to any taxable year which includes any part of
2 the payroll tax deferral period, 50 percent of the
3 taxes imposed under section 1401(a) of such Code
4 for the payroll tax deferral period shall not be treat-
5 ed as taxes to which such section 6654 applies.

6 (c) LIABILITY OF THIRD PARTIES.—

7 (1) ACTS TO BE PERFORMED BY AGENTS.—For
8 purposes of section 3504 of the Internal Revenue
9 Code of 1986, in the case of any person designated
10 pursuant to such section (and any regulations or
11 other guidance issued by the Secretary with respect
12 to such section) to perform acts otherwise required
13 to be performed by an employer under such Code, if
14 such employer directs such person to defer payment
15 of any applicable employment taxes during the pay-
16 roll tax deferral period under this section, such em-
17 ployer shall be solely liable for the payment of such
18 applicable employment taxes before the applicable
19 date for any wages paid by such person on behalf of
20 such employer during such period.

21 (2) CERTIFIED PROFESSIONAL EMPLOYER OR-
22 GANIZATIONS.—For purposes of section 3511, in the
23 case of a certified professional employer organization
24 (as defined in subsection (a) of section 7705 of the
25 Internal Revenue Code of 1986) that has entered

1 into a service contract described in subsection (e)(2)
2 of such section with a customer, if such customer di-
3 rects such organization to defer payment of any ap-
4 plicable employment taxes during the payroll tax de-
5 ferral period under this section, such customer shall,
6 notwithstanding subsections (a) and (c) of section
7 3511, be solely liable for the payment of such appli-
8 cable employment taxes before the applicable date
9 for any wages paid by such organization to any work
10 site employee performing services for such customer
11 during such period.

12 (d) DEFINITIONS.—For purposes of this section—

13 (1) APPLICABLE EMPLOYMENT TAXES.—The
14 term “applicable employment taxes” means the fol-
15 lowing:

16 (A) The taxes imposed under section
17 3111(a) of the Internal Revenue Code of 1986.

18 (B) So much of the taxes imposed under
19 section 3211(a) of such Code as are attrib-
20 utable to the rate in effect under section
21 3111(a) of such Code.

22 (C) So much of the taxes imposed under
23 section 3221(a) of such Code as are attrib-
24 utable to the rate in effect under section
25 3111(a) of such Code.

1 (2) PAYROLL TAX DEFERRAL PERIOD.—The
2 term “payroll tax deferral period” means the period
3 beginning on the date of the enactment of this Act
4 and ending before January 1, 2021.

5 (3) APPLICABLE DATE.—The term “applicable
6 date” means—

7 (A) December 31, 2021, with respect to 50
8 percent of the amounts to which subsection (a)
9 or (b), as the case may be, apply, and

10 (B) December 31, 2022, with respect to
11 the remaining such amounts.

12 (4) SECRETARY.—The term “Secretary” means
13 the Secretary of the Treasury (or the Secretary’s
14 delegate).

15 (e) TRUST FUNDS HELD HARMLESS.—There are
16 hereby appropriated (out of any money in the Treasury
17 not otherwise appropriated) for each fiscal year to the
18 Federal Old-Age and Survivors Insurance Trust Fund and
19 the Federal Disability Insurance Trust Fund established
20 under section 201 of the Social Security Act (42 U.S.C.
21 401) and the Social Security Equivalent Benefit Account
22 established under section 15A(a) of the Railroad Retire-
23 ment Act of 1974 (45 U.S.C. 231n–1(a)) an amount equal
24 to the reduction in the transfers to such fund for such
25 fiscal year by reason of this section. Amounts appropriated

1 by the preceding sentence shall be transferred from the
2 general fund at such times and in such manner as to rep-
3 licate to the extent possible the transfers which would have
4 occurred to such Trust Fund had such amendments not
5 been enacted.

6 (f) REGULATORY AUTHORITY.—The Secretary shall
7 issue such regulations or other guidance as necessary to
8 carry out the purposes of this section, including rules for
9 the administration and enforcement of subsection (c).

10 **SEC. 2302. MODIFICATIONS FOR NET OPERATING LOSSES.**

11 (a) TEMPORARY REPEAL OF TAXABLE INCOME LIM-
12 TATION.—

13 (1) IN GENERAL.—The first sentence of section
14 172(a) of the Internal Revenue Code of 1986 is
15 amended by striking “an amount equal to” and all
16 that follows and inserting “an amount equal to—

17 “(1) in the case of a taxable year beginning be-
18 fore January 1, 2021, the aggregate of the net oper-
19 ating loss carryovers to such year, plus the net oper-
20 ating loss carrybacks to such year, and

21 “(2) in the case of a taxable year beginning
22 after December 31, 2020, the sum of—

23 “(A) the aggregate amount of net oper-
24 ating losses arising in taxable years beginning

1 before January 1, 2018, carried to such taxable
2 year, plus

3 “(B) the lesser of—

4 “(i) the aggregate amount of net op-
5 erating losses arising in taxable years be-
6 ginning after December 31, 2017, carried
7 to such taxable year, or

8 “(ii) 80 percent of the excess (if any)
9 of—

10 “(I) taxable income computed
11 without regard to the deductions
12 under this section and sections 199A
13 and 250, over

14 “(II) the amount determined
15 under subparagraph (A).”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Section 172(b)(2)(C) of such Code is
18 amended to read as follows:

19 “(C) for taxable years beginning after De-
20 cember 31, 2020, be reduced by 20 percent of
21 the excess (if any) described in subsection
22 (a)(2)(B)(ii) for such taxable year.”.

23 (B) Section 172(d)(6)(C) of such Code is
24 amended by striking “subsection (a)(2)” and
25 inserting “subsection (a)(2)(B)(ii)(I)”.

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1 “(I) IN GENERAL.—A net oper-
2 ating loss for a REIT year shall not
3 be a net operating loss carryback to
4 any taxable year preceding the taxable
5 year of such loss.

6 “(II) SPECIAL RULE.—In the
7 case of any net operating loss for a
8 taxable year which is not a REIT
9 year, such loss shall not be carried to
10 any preceding taxable year which is a
11 REIT year.

12 “(III) REIT YEAR.—For pur-
13 poses of this subparagraph, the term
14 ‘REIT year’ means any taxable year
15 for which the provisions of part II of
16 subchapter M (relating to real estate
17 investment trusts) apply to the tax-
18 payer.

19 “(iii) SPECIAL RULE FOR LIFE INSUR-
20 ANCE COMPANIES.— In the case of a life
21 insurance company, if a net operating loss
22 is carried pursuant to clause (i)(I) to a life
23 insurance company taxable year beginning
24 before January 1, 2018, such net oper-
25 ating loss carryback shall be treated in the

1 same manner as an operations loss
2 carryback (within the meaning of section
3 810 as in effect before its repeal) of such
4 company to such taxable year.

5 “(iv) RULE RELATING TO
6 CARRYBACKS TO YEARS TO WHICH SEC-
7 TION 965 APPLIES.—If a net operating loss
8 of a taxpayer is carried pursuant to clause
9 (i)(I) to any taxable year to which section
10 965(a) applies to the taxpayer, the tax-
11 payer shall be treated as having made the
12 election under section 965(n) with respect
13 to each such taxable year.

14 “(v) SPECIAL RULES FOR ELECTIONS
15 UNDER PARAGRAPH (3).—

16 “(I) SPECIAL ELECTION TO EX-
17 CLUDE 965 YEARS.— If the 5-year
18 carryback period under clause (i)(I)
19 with respect to any net operating loss
20 of a taxpayer includes 1 or more tax-
21 able years to which section 965(a) ap-
22 plies to the taxpayer, the taxpayer
23 may, in lieu of the election otherwise
24 available under paragraph (3), elect
25 under such paragraph to exclude all

1 taxable years to which section 965(a)
2 applies from such carryback period.

3 “(II) TIME OF ELECTIONS.—An
4 election under paragraph (3) (includ-
5 ing an election described in subclause
6 (I)) with respect to a net operating
7 loss arising in a taxable year begin-
8 ning in 2018 or 2019 shall be made
9 by the due date (including extensions
10 of time) for filing the taxpayer’s re-
11 turn for the first taxable year ending
12 after the date of the enactment of this
13 subparagraph.”.

14 (2) CONFORMING AMENDMENT.—Section
15 172(b)(1)(A) of such Code, as amended by sub-
16 section (c)(2), is amended by striking “and (C)(i)”
17 and inserting “, (C)(i), and (D)”.

18 (c) TECHNICAL AMENDMENT RELATING TO SECTION
19 13302 OF PUBLIC LAW 115–97.—

20 (1) Section 13302(e) of Public Law 115–97 is
21 amended to read as follows:

22 “(e) EFFECTIVE DATES.—

23 “(1) NET OPERATING LOSS LIMITATION.—The
24 amendments made by subsections (a) and (d)(2)
25 shall apply to—

1 “(A) taxable years beginning after Decem-
2 ber 31, 2017, and

3 “(B) taxable years beginning on or before
4 such date to which net operating losses arising
5 in taxable years beginning after such date are
6 carried.

7 “(2) CARRYOVERS AND CARRYBACKS.—The
8 amendments made by subsections (b), (c), and
9 (d)(1) shall apply to net operating losses arising in
10 taxable years beginning after December 31, 2017.”.

11 (2) Section 172(b)(1)(A) of the Internal Rev-
12 enue Code of 1986 is amended to read as follows:

13 “(A) GENERAL RULE.—A net operating
14 loss for any taxable year—

15 “(i) shall be a net operating loss
16 carryback to the extent provided in sub-
17 paragraphs (B) and (C)(i), and

18 “(ii) except as provided in subpara-
19 graph (C)(ii), shall be a net operating loss
20 carryover—

21 “(I) in the case of a net oper-
22 ating loss arising in a taxable year be-
23 ginning before January 1, 2018, to
24 each of the 20 taxable years following
25 the taxable year of the loss, and

1 “(II) in the case of a net oper-
2 ating loss arising in a taxable year be-
3 ginning after December 31, 2017, to
4 each taxable year following the tax-
5 able year of the loss.”.

6 (d) EFFECTIVE DATES.—

7 (1) NET OPERATING LOSS LIMITATION.—The
8 amendments made by subsection (a) shall apply—

9 (A) to taxable years beginning after De-
10 cember 31, 2017, and

11 (B) to taxable years beginning on or before
12 December 31, 2017, to which net operating
13 losses arising in taxable years beginning after
14 December 31, 2017, are carried.

15 (2) CARRYOVERS AND CARRYBACKS.—The
16 amendment made by subsection (b) shall apply to—

17 (A) net operating losses arising in taxable
18 years beginning after December 31, 2017, and

19 (B) taxable years beginning before, on, or
20 after such date to which such net operating
21 losses are carried.

22 (3) TECHNICAL AMENDMENTS.—The amend-
23 ments made by subsection (c) shall take effect as if
24 included in the provisions of Public Law 115–97 to
25 which they relate.

1 (4) SPECIAL RULE.—In the case of a net oper-
2 ating loss arising in a taxable year beginning before
3 January 1, 2018, and ending after December 31,
4 2017—

5 (A) an application under section 6411(a)
6 of the Internal Revenue Code of 1986 with re-
7 spect to the carryback of such net operating
8 loss shall not fail to be treated as timely filed
9 if filed not later than the date which is 120
10 days after the date of the enactment of this
11 Act, and

12 (B) an election to—

13 (i) forgo any carryback of such net
14 operating loss,

15 (ii) reduce any period to which such
16 net operating loss may be carried back, or

17 (iii) revoke any election made under
18 section 172(b) to forgo any carryback of
19 such net operating loss,

20 shall not fail to be treated as timely made if
21 made not later than the date which is 120 days
22 after the date of the enactment of this Act.

1 **SEC. 2303. MODIFICATION OF LIMITATION ON LOSSES FOR**
2 **TAXPAYERS OTHER THAN CORPORATIONS.**

3 (a) IN GENERAL.—Section 461(l)(1) of the Internal
4 Revenue Code of 1986 is amended to read as follows:

5 “(1) LIMITATION.—In the case of a taxpayer
6 other than a corporation—

7 “(A) for any taxable year beginning after
8 December 31, 2017, and before January 1,
9 2026, subsection (j) (relating to limitation on
10 excess farm losses of certain taxpayers) shall
11 not apply, and

12 “(B) for any taxable year beginning after
13 December 31, 2020, and before January 1,
14 2026, any excess business loss of the taxpayer
15 for the taxable year shall not be allowed.”.

16 (b) TECHNICAL AMENDMENTS RELATING TO SEC-
17 TION 11012 OF PUBLIC LAW 115–97.—

18 (1) Section 461(l)(2) of the Internal Revenue
19 Code of 1986 is amended by striking “a net oper-
20 ating loss carryover to the following taxable year
21 under section 172” and inserting “a net operating
22 loss for the taxable year for purposes of determining
23 any net operating loss carryover under section
24 172(b) for subsequent taxable years”.

25 (2) Section 461(l)(3)(A) of such Code is
26 amended—

1 (A) in clause (i), by inserting “and without
2 regard to any deduction allowable under section
3 172 or 199A” after “under paragraph (1)”,
4 and

5 (B) by adding at the end the following
6 flush sentence:

7 “Such excess shall be determined without regard to
8 any deductions, gross income, or gains attributable
9 to any trade or business of performing services as an
10 employee.”.

11 (3) Section 461(l)(3) of such Code is amended
12 by redesignating subparagraph (B) as subparagraph
13 (C) and by inserting after subparagraph (A) the fol-
14 lowing new subparagraph:

15 “(B) TREATMENT OF CAPITAL GAINS AND
16 LOSSES.—

17 “(i) LOSSES.—Deductions for losses
18 from sales or exchanges of capital assets
19 shall not be taken into account under sub-
20 paragraph (A)(i).

21 “(ii) GAINS.—The amount of gains
22 from sales or exchanges of capital assets
23 taken into account under subparagraph
24 (A)(ii) shall not exceed the lesser of—

1 “(I) the capital gain net income
2 determined by taking into account
3 only gains and losses attributable to a
4 trade or business, or
5 “(II) the capital gain net in-
6 come.”.

7 (c) EFFECTIVE DATES.—

8 (1) IN GENERAL.—The amendments made by
9 subsection (a) shall apply to taxable years beginning
10 after December 31, 2017.

11 (2) TECHNICAL AMENDMENTS.—The amend-
12 ments made by subsection (b) shall take effect as if
13 included in the provisions of Public Law 115–97 to
14 which they relate.

15 **SEC. 2304. MODIFICATION OF CREDIT FOR PRIOR YEAR**
16 **MINIMUM TAX LIABILITY OF CORPORATIONS.**

17 (a) IN GENERAL.—Section 53(e) of the Internal Rev-
18 enue Code of 1986 is amended—

19 (1) by striking “2018, 2019, 2020, or 2021” in
20 paragraph (1) and inserting “2018 or 2019”, and

21 (2) by striking “2021” in paragraph (2) and in-
22 serting “2019”.

23 (b) ELECTION TO TAKE ENTIRE REFUNDABLE
24 CREDIT AMOUNT IN 2018.—

1 (1) IN GENERAL.—Section 53(e) of such Code
2 is amended by adding at the end the following new
3 paragraph:

4 “(5) SPECIAL RULE.—In the case of a corpora-
5 tion making an election under this paragraph—

6 “(A) paragraph (1) shall not apply, and

7 “(B) subsection (e) shall not apply to the
8 first taxable year of such corporation beginning
9 in 2018.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2017.

13 (d) SPECIAL RULE.—

14 (1) IN GENERAL.—For purposes of the Internal
15 Revenue Code of 1986, a credit or refund for which
16 an application described in paragraph (2)(A) is filed
17 shall be treated as made under section 6411 of such
18 Code.

19 (2) TENTATIVE REFUND.—

20 (A) APPLICATION.—A taxpayer may file an
21 application for a tentative refund of any
22 amount for which a refund is due by reason of
23 an election under section 53(e)(5) of the Inter-
24 nal Revenue Code of 1986. Such application
25 shall be in such manner and form as the Sec-

1 retary of the Treasury (or the Secretary's dele-
2 gate) may prescribe and shall—

3 (i) be verified in the same manner as
4 an application under section 6411(a) of
5 such Code,

6 (ii) be filed prior to December 31,
7 2020, and

8 (iii) set forth—

9 (I) the amount of the refundable
10 credit claimed under section 53(e) of
11 such Code for such taxable year,

12 (II) the amount of the refundable
13 credit claimed under such section for
14 any previously filed return for such
15 taxable year, and

16 (III) the amount of the refund
17 claimed.

18 (B) ALLOWANCE OF ADJUSTMENTS.—

19 Within a period of 90 days from the date on
20 which an application is filed under subpara-
21 graph (A), the Secretary of the Treasury (or
22 the Secretary's delegate) shall—

23 (i) review the application,

24 (ii) determine the amount of the over-
25 payment, and

1 (iii) apply, credit, or refund such over-
2 payment,
3 in a manner similar to the manner provided in
4 section 6411(b) of the Internal Revenue Code
5 of 1986.

6 (C) CONSOLIDATED RETURNS.—The provi-
7 sions of section 6411(c) of the Internal Revenue
8 Code of 1986 Code shall apply to an adjust-
9 ment under this paragraph to the same extent
10 and manner as the Secretary of the Treasury
11 (or the Secretary’s delegate) may provide.

12 **SEC. 2305. MODIFICATIONS OF LIMITATION ON BUSINESS**
13 **INTEREST.**

14 (a) IN GENERAL.—Section 163(j) of the Internal
15 Revenue Code of 1986 is amended by redesignating para-
16 graph (10) as paragraph (11) and by inserting after para-
17 graph (9) the following new paragraph:

18 “(10) SPECIAL RULE FOR TAXABLE YEARS BE-
19 GINNING IN 2019 AND 2020.—

20 “(A) IN GENERAL.—

21 “(i) IN GENERAL.—Except as pro-
22 vided in clause (ii) or (iii), in the case of
23 any taxable year beginning in 2019 or
24 2020, paragraph (1)(B) shall be applied by
25 substituting ‘50 percent’ for ‘30 percent’.

1 “(ii) SPECIAL RULE FOR PARTNER-
2 SHIPS.—In the case of a partnership—

3 “(I) clause (i) shall not apply to
4 any taxable year beginning in 2019,
5 but

6 “(II) unless a partner elects not
7 to have this subclause apply, in the
8 case of any excess business interest of
9 the partnership for any taxable year
10 beginning in 2019 which is allocated
11 to the partner under paragraph
12 (4)(B)(i)(II)—

13 “(aa) 50 percent of such ex-
14 cess business interest shall be
15 treated as business interest
16 which, notwithstanding para-
17 graph (4)(B)(ii), is paid or ac-
18 crued by the partner in the part-
19 ner’s first taxable year beginning
20 in 2020 and which is not subject
21 to the limits of paragraph (1),
22 and

23 “(bb) 50 percent of such ex-
24 cess business interest shall be
25 subject to the limitations of para-

1 graph (4)(B)(ii) in the same
2 manner as any other excess busi-
3 ness interest so allocated.

4 “(iii) ELECTION OUT.—A taxpayer
5 may elect, at such time and in such man-
6 ner as the Secretary may prescribe, not to
7 have clause (i) apply to any taxable year.
8 Such an election, once made, may be re-
9 voked only with the consent of the Sec-
10 retary. In the case of a partnership, any
11 such election shall be made by the partner-
12 ship and may be made only for taxable
13 years beginning in 2020.

14 “(B) ELECTION TO USE 2019 ADJUSTED
15 TAXABLE INCOME FOR TAXABLE YEARS BEGIN-
16 NING IN 2020.—

17 “(i) IN GENERAL.—Subject to clause
18 (ii), in the case of any taxable year begin-
19 ning in 2020, the taxpayer may elect to
20 apply this subsection by substituting the
21 adjusted taxable income of the taxpayer for
22 the last taxable year beginning in 2019 for
23 the adjusted taxable income for such tax-
24 able year. In the case of a partnership, any

1 such election shall be made by the partner-
2 ship.

3 “(ii) SPECIAL RULE FOR SHORT TAX-
4 ABLE YEARS.—If an election is made
5 under clause (i) for a taxable year which is
6 a short taxable year, the adjusted taxable
7 income for the taxpayer’s last taxable year
8 beginning in 2019 which is substituted
9 under clause (i) shall be equal to the
10 amount which bears the same ratio to such
11 adjusted taxable income determined with-
12 out regard to this clause as the number of
13 months in the short taxable year bears to
14 12”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2018.

18 **SEC. 2306. TECHNICAL AMENDMENTS REGARDING QUALI-**
19 **FIED IMPROVEMENT PROPERTY.**

20 (a) IN GENERAL.—Section 168 of the Internal Rev-
21 enue Code of 1986 is amended—

22 (1) in subsection (e)—

23 (A) in paragraph (3)(E), by striking “and”
24 at the end of clause (v), by striking the period
25 at the end of clause (vi) and inserting “, and”,

1 and by adding at the end the following new
2 clause:

3 “(vii) any qualified improvement prop-
4 erty.”, and

5 (B) in paragraph (6)(A), by inserting
6 “made by the taxpayer” after “any improve-
7 ment”, and

8 (2) in the table contained in subsection
9 (g)(3)(B)—

10 (A) by striking the item relating to sub-
11 paragraph (D)(v), and

12 (B) by inserting after the item relating to
13 subparagraph (E)(vi) the following new item:
“(E)(vii) 20”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect as if included in section
16 13204 of Public Law 115–97.

17 **TITLE III—SUPPORTING AMER-**
18 **ICA’S HEALTH CARE SYSTEM**
19 **IN THE FIGHT AGAINST THE**
20 **CORONAVIRUS**

21 **Subtitle A—Health Provisions**

22 **SEC. 3001. SHORT TITLE.**

23 This subtitle may be cited as the “Coronavirus Aid,
24 Relief, and Economic Security Act”.

1 **PART I—ADDRESSING SUPPLY SHORTAGES**

2 **Subpart A—Medical Product Supplies**

3 **SEC. 3101. NATIONAL ACADEMIES REPORT ON AMERICA’S**
4 **MEDICAL PRODUCT SUPPLY CHAIN SECU-**
5 **RITY.**

6 (a) **IN GENERAL.**—Not later than 60 days after the
7 date of enactment of this Act, the Secretary of Health and
8 Human Services shall enter into an agreement with the
9 National Academies of Sciences, Engineering, and Medi-
10 cine (referred to in this section as the “National Acad-
11 emies”) to examine, and, in a manner that does not com-
12 promise national security, report on, the security of the
13 United States medical product supply chain.

14 (b) **PURPOSES.**—The report developed under this sec-
15 tion shall—

16 (1) assess and evaluate the dependence of the
17 United States, including the private commercial sec-
18 tor, States, and the Federal Government, on critical
19 drugs and devices that are sourced or manufactured
20 outside of the United States, which may include an
21 analysis of—

22 (A) the supply chain of critical drugs and
23 devices of greatest priority to providing health
24 care;

25 (B) any potential public health security or
26 national security risks associated with reliance

1 on critical drugs and devices sourced or manu-
2 factured outside of the United States, which
3 may include responses to previous or existing
4 shortages or public health emergencies, such as
5 infectious disease outbreaks, bioterror attacks,
6 and other public health threats;

7 (C) any existing supply chain information
8 gaps, as applicable; and

9 (D) potential economic impact of increased
10 domestic manufacturing; and

11 (2) provide recommendations, which may in-
12 clude a plan to improve the resiliency of the supply
13 chain for critical drugs and devices as described in
14 paragraph (1), and to address any supply
15 vulnerabilities or potential disruptions of such prod-
16 ucts that would significantly affect or pose a threat
17 to public health security or national security, as ap-
18 propriate, which may include strategies to—

19 (A) promote supply chain redundancy and
20 contingency planning;

21 (B) encourage domestic manufacturing, in-
22 cluding consideration of economic impacts, if
23 any;

24 (C) improve supply chain information
25 gaps;

1 (D) improve planning considerations for
2 medical product supply chain capacity during
3 public health emergencies; and

4 (E) promote the accessibility of such drugs
5 and devices.

6 (c) INPUT.—In conducting the study and developing
7 the report under subsection (b), the National Academies
8 shall—

9 (1) consider input from the Department of
10 Health and Human Services, the Department of
11 Homeland Security, the Department of Defense, the
12 Department of Commerce, the Department of State,
13 the Department of Veterans Affairs, the Department
14 of Justice, and any other Federal agencies as appro-
15 priate; and

16 (2) consult with relevant stakeholders, which
17 may include conducting public meetings and other
18 forms of engagement, as appropriate, with health
19 care providers, medical professional societies, State-
20 based societies, public health experts, State and local
21 public health departments, State medical boards, pa-
22 tient groups, medical product manufacturers, health
23 care distributors, wholesalers and group purchasing
24 organizations, pharmacists, and other entities with

1 experience in health care and public health, as ap-
2 propriate.

3 (d) DEFINITIONS.—In this section, the terms “de-
4 vice” and “drug” have the meanings given such terms in
5 section 201 of the Federal Food, Drug, and Cosmetic Act
6 (21 U.S.C. 321).

7 **SEC. 3102. REQUIRING THE STRATEGIC NATIONAL STOCK-**
8 **PILE TO INCLUDE CERTAIN TYPES OF MED-**
9 **ICAL SUPPLIES.**

10 Section 319F–2(a)(1) of the Public Health Service
11 Act (42 U.S.C. 247d–6b(a)(1)) is amended by inserting
12 “(including personal protective equipment, ancillary med-
13 ical supplies, and other applicable supplies required for the
14 administration of drugs, vaccines and other biological
15 products, medical devices, and diagnostic tests in the
16 stockpile)” after “other supplies”.

17 **SEC. 3103. TREATMENT OF RESPIRATORY PROTECTIVE DE-**
18 **VICES AS COVERED COUNTERMEASURES.**

19 Section 319F–3(i)(1)(D) of the Public Health Service
20 Act (42 U.S.C. 247d–6d(i)(1)(D)) is amended to read as
21 follows:

22 “(D) a respiratory protective device that is
23 approved by the National Institute for Occupa-
24 tional Safety and Health under part 84 of title
25 42, Code of Federal Regulations (or any suc-

1 cessor regulations), and that the Secretary de-
 2 termines to be a priority for use during a public
 3 health emergency declared under section 319.”.

4 **Subpart B—Mitigating Emergency Drug Shortages**

5 **SEC. 3111. PRIORITIZE REVIEWS OF DRUG APPLICATIONS;**
 6 **INCENTIVES.**

7 Section 506C(g) of the Federal Food, Drug, and Cos-
 8 metic Act (21 U.S.C. 356c(g)) is amended—

9 (1) in paragraph (1), by striking “the Secretary
 10 may” and inserting “the Secretary shall, as appro-
 11 priate”;

12 (2) in paragraph (1), by inserting “prioritize
 13 and” before “expedite the review”; and

14 (3) in paragraph (2), by inserting “prioritize
 15 and” before “expedite an inspection”.

16 **SEC. 3112. ADDITIONAL MANUFACTURER REPORTING RE-**
 17 **QUIREMENTS IN RESPONSE TO DRUG SHORT-**
 18 **AGES.**

19 (a) **EXPANSION TO INCLUDE ACTIVE PHARMA-**
 20 **CEUTICAL INGREDIENTS.**—Subsection (a) of section 506C
 21 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
 22 356c) is amended—

23 (1) in paragraph (1)(C), by inserting “or any
 24 such drug that is critical to the public health during
 25 a public health emergency declared by the Secretary

1 under section 319 of the Public Health Service Act”
2 after “during surgery”; and

3 (2) in the flush text at the end—

4 (A) by inserting “, or a permanent dis-
5 continuance in the manufacture of an active
6 pharmaceutical ingredient or an interruption in
7 the manufacture of the active pharmaceutical
8 ingredient of such drug that is likely to lead to
9 a meaningful disruption in the supply of the ac-
10 tive pharmaceutical ingredient of such drug,”
11 before “and the reasons”; and

12 (B) by adding at the end the following:
13 “Notification under this subsection shall include
14 disclosure of reasons for the discontinuation or
15 interruption, and if applicable, an active phar-
16 maceutical ingredient is a reason for, or risk
17 factor in, such discontinuation or interruption,
18 the source of the active pharmaceutical ingre-
19 dient and any alternative sources for the active
20 pharmaceutical ingredient known by the manu-
21 facturer; whether any associated device used for
22 preparation or administration included in the
23 drug is a reason for, or a risk factor in, such
24 discontinuation or interruption; the expected

1 duration of the interruption; and such other in-
2 formation as the Secretary may require.”.

3 (b) RISK MANAGEMENT.—Section 506C of the Fed-
4 eral Food, Drug, and Cosmetic Act (21 U.S.C. 356c) is
5 amended by adding at the end the following:

6 “(j) RISK MANAGEMENT PLANS.—Each manufac-
7 turer of a drug described in subsection (a) or of any active
8 pharmaceutical ingredient or any associated medical de-
9 vice used for preparation or administration included in the
10 drug, shall develop, maintain, and implement, as appro-
11 priate, a redundancy risk management plan that identifies
12 and evaluates risks to the supply of the drug, as applica-
13 ble, for each establishment in which such drug or active
14 pharmaceutical ingredient of such drug is manufactured.
15 A risk management plan under this section shall be sub-
16 ject to inspection and copying by the Secretary pursuant
17 to an inspection or a request under section 704(a)(4).”.

18 (c) ANNUAL NOTIFICATION.—Section 506E of the
19 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356e)
20 is amended by adding at the end the following:

21 “(d) INTERAGENCY NOTIFICATION.—Not later than
22 180 days after the date of enactment of this subsection,
23 and every 90 days thereafter, the Secretary shall transmit
24 a report regarding the drugs of the current drug shortage

1 list under this section to the Administrator of the Centers
2 for Medicare & Medicaid Services.”.

3 (d) REPORTING AFTER INSPECTIONS.—Section
4 704(b) of the Federal Food, Drug, and Cosmetic Act (21
5 U.S.C. 374(b)) is amended—

6 (1) by redesignating paragraphs (1) and (2)
7 and subparagraphs (A) and (B);

8 (2) by striking “(b) Upon completion” and in-
9 serting “(b)(1) Upon completion”; and

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

11 “(2) In carrying out this subsection with respect to
12 any establishment manufacturing a drug approved under
13 subsection (c) or (j) of section 505 for which a notification
14 has been submitted in accordance with section 506C is,
15 or has been in the last 5 years, listed on the drug shortage
16 list under section 506E, or that is described in section
17 505(j)(11)(A), a copy of the report shall be sent promptly
18 to the appropriate offices of the Food and Drug Adminis-
19 tration with expertise regarding drug shortages.”.

20 (e) REPORTING REQUIREMENT.—Section 510(j) of
21 the Federal Food, Drug, Cosmetic Act (21 U.S.C. 360(j))
22 is amended—

23 (1) by redesignating paragraphs (3) and (4) as
24 paragraphs (4) and (5), respectively; and

1 (2) by inserting after paragraph (2) the fol-
2 lowing:

3 “(3)(A) Each person who registers with the
4 Secretary under this section with regard to a drug
5 shall report annually to the Secretary on the amount
6 of each drug listed under paragraph (1) that was
7 manufactured, prepared, propagated, compounded,
8 or processed by such person for commercial distribu-
9 tion. Such information may be required to be sub-
10 mitted in an electronic format as determined by the
11 Secretary. The Secretary may require that informa-
12 tion required to be reported under this paragraph be
13 submitted at the time a public health emergency is
14 declared by the Secretary under section 319 of the
15 Public Health Service Act.

16 “(B) By order of the Secretary, certain biologi-
17 cal products or categories of biological products reg-
18 ulated under section 351 of the Public Health Serv-
19 ice Act may be exempt from some or all of the re-
20 porting requirements under subparagraph (A), if the
21 Secretary determines that applying such reporting
22 requirements to such biological products or cat-
23 egories of biological products is not necessary to pro-
24 tect the public health.”.

1 (f) CONFIDENTIALITY.—Nothing in the amendments
2 made by this section shall be construed as authorizing the
3 Secretary to disclose any information that is a trade secret
4 or confidential information subject to section 552(b)(4) of
5 title 5, United States Code, or section 1905 of title 18,
6 United States Code.

7 (g) EFFECTIVE DATE.—The amendments made by
8 this section and section 3111 shall take effect on the date
9 that is 180 days after the date of enactment of this Act.

10 **Subpart C—Preventing Medical Device Shortages**

11 **SEC. 3121. DISCONTINUANCE OR INTERRUPTION IN THE**
12 **PRODUCTION OF MEDICAL DEVICES.**

13 Chapter V of the Federal Food, Drug, and Cosmetic
14 Act (21 U.S.C. 351 et seq.) is amended by inserting after
15 section 506I the following:

16 **“SEC. 506J. DISCONTINUANCE OR INTERRUPTION IN THE**
17 **PRODUCTION OF MEDICAL DEVICES.**

18 “(a) IN GENERAL.—A manufacturer of a device
19 that—

20 “(1) is critical to public health during a public
21 health emergency, including devices that are life-sup-
22 porting, life-sustaining, or intended for use in emer-
23 gency medical care or during surgery; or

24 “(2) for which the Secretary determines that in-
25 formation on potential meaningful supply disrup-

1 tions of such device is needed during, or in advance
2 of, a public health emergency;
3 shall, during, or in advance of, a public health emergency
4 declared by the Secretary under section 319 of the Public
5 Health Service Act, notify the Secretary, in accordance
6 with subsection (b), of a permanent discontinuance in the
7 manufacture of the device (except for discontinuances as
8 a result of an approved modification of the device) or an
9 interruption of the manufacture of the device that is likely
10 to lead to a meaningful disruption in the supply of that
11 device in the United States, and the reasons for such dis-
12 continuance or interruption.

13 “(b) TIMING.—A notice required under subsection (a)
14 shall be submitted to the Secretary—

15 “(1) at least 6 months prior to the date of the
16 discontinuance or interruption; or

17 “(2) if compliance with paragraph (1) is not
18 possible, as soon as practicable.

19 “(c) DISTRIBUTION.—

20 “(1) PUBLIC AVAILABILITY.—To the maximum
21 extent practicable, subject to paragraph (2), the Sec-
22 retary shall distribute, through such means as the
23 Secretary determines appropriate, information on
24 the discontinuance or interruption of the manufac-
25 ture of devices reported under subsection (a) to ap-

1 appropriate organizations, including physician, health
2 provider, patient organizations, and supply chain
3 partners, as appropriate and applicable, as described
4 in subsection (g).

5 “(2) PUBLIC HEALTH EXCEPTION.—The Sec-
6 retary may choose not to make information collected
7 under this section publicly available pursuant to this
8 section if the Secretary determines that disclosure of
9 such information would adversely affect the public
10 health, such as by increasing the possibility of un-
11 necessary over purchase of product, component
12 parts, or other disruption of the availability of med-
13 ical products to patients.

14 “(d) CONFIDENTIALITY.—Nothing in this section
15 shall be construed as authorizing the Secretary to disclose
16 any information that is a trade secret or confidential infor-
17 mation subject to section 552(b)(4) of title 5, United
18 States Code, or section 1905 of title 18, United States
19 Code.

20 “(e) FAILURE TO MEET REQUIREMENTS.—If a per-
21 son fails to submit information required under subsection
22 (a) in accordance with subsection (b)—

23 “(1) the Secretary shall issue a letter to such
24 person informing such person of such failure;

1 “(2) not later than 30 calendar days after the
2 issuance of a letter under paragraph (1), the person
3 who receives such letter shall submit to the Sec-
4 retary a written response to such letter setting forth
5 the basis for noncompliance and providing informa-
6 tion required under subsection (a); and

7 “(3) not later than 45 calendar days after the
8 issuance of a letter under paragraph (1), the Sec-
9 retary shall make such letter and any response to
10 such letter under paragraph (2) available to the pub-
11 lic on the internet website of the Food and Drug Ad-
12 ministration, with appropriate redactions made to
13 protect information described in subsection (d), ex-
14 cept that, if the Secretary determines that the letter
15 under paragraph (1) was issued in error or, after re-
16 view of such response, the person had a reasonable
17 basis for not notifying as required under subsection
18 (a), the requirements of this paragraph shall not
19 apply.

20 “(f) EXPEDITED INSPECTIONS AND REVIEWS.—If,
21 based on notifications described in subsection (a) or any
22 other relevant information, the Secretary concludes that
23 there is, or is likely to be, a shortage of an device, the
24 Secretary shall, as appropriate—

1 “(1) prioritize and expedite the review of a sub-
2 mission under section 513(f)(2), 515, review of a no-
3 tification under section 510(k), or 520(m) for a de-
4 vice that could help mitigate or prevent such short-
5 age; or

6 “(2) prioritize and expedite an inspection or re-
7 inspection of an establishment that could help miti-
8 gate or prevent such shortage.

9 “(g) DEVICE SHORTAGE LIST.—

10 “(1) ESTABLISHMENT.—The Secretary shall es-
11 tablish and maintain an up-to-date list of devices
12 that are determined by the Secretary to be in short-
13 age in the United States.

14 “(2) CONTENTS.—For each device included on
15 the list under paragraph (1), the Secretary shall in-
16 clude the following information:

17 “(A) The category or name of the device in
18 shortage.

19 “(B) The name of each manufacturer of
20 such device.

21 “(C) The reason for the shortage, as deter-
22 mined by the Secretary, selecting from the fol-
23 lowing categories:

24 “(i) Requirements related to com-
25 plying with good manufacturing practices.

1 “(ii) Regulatory delay.

2 “(iii) Shortage or discontinuance of a
3 component or part.

4 “(iv) Discontinuance of the manufac-
5 ture of the device.

6 “(v) Delay in shipping of the device.

7 “(vi) Delay in sterilization of the de-
8 vice.

9 “(vii) Demand increase for the device.

10 “(viii) Facility closure.

11 “(D) The estimated duration of the short-
12 age as determined by the Secretary.

13 “(3) PUBLIC AVAILABILITY.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graphs (B) and (C), the Secretary shall make
16 the information in the list under paragraph (1)
17 publicly available.

18 “(B) TRADE SECRETS AND CONFIDENTIAL
19 INFORMATION.—Nothing in this subsection
20 shall be construed to alter or amend section
21 1905 of title 18, United States Code, or section
22 552(b)(4) of title 5 of such Code.

23 “(C) PUBLIC HEALTH EXCEPTION.—The
24 Secretary may elect not to make information
25 collected under this subsection publicly available

1 if the Secretary determines that disclosure of
2 such information would adversely affect the
3 public health (such as by increasing the possi-
4 bility of hoarding or other disruption of the
5 availability of the device to patients).

6 “(h) RULE OF CONSTRUCTION.—Nothing in this sec-
7 tion shall be construed to affect the authority of the Sec-
8 retary on the date of enactment of this section to expedite
9 the review of devices under section 515 of the Federal
10 Food, Drug, and Cosmetic Act, section 515B of such Act
11 relating to the priority review program for devices, and
12 section 564 of such Act relating to the emergency use au-
13 thorization authorities.

14 “(i) DEFINITIONS.—In this section:

15 “(1) MEANINGFUL DISRUPTION.—The term
16 ‘meaningful disruption’—

17 “(A) means a change in production that is
18 reasonably likely to lead to a reduction in the
19 supply of a device by a manufacturer that is
20 more than negligible and affects the ability of
21 the manufacturer to fill orders or meet expected
22 demand for its product;

23 “(B) does not include interruptions in
24 manufacturing due to matters such as routine
25 maintenance or insignificant changes in manu-

1 facturing so long as the manufacturer expects
2 to resume operations in a short period of time,
3 not to exceed 6 months;

4 “(C) does not include interruptions in
5 manufacturing of components or raw materials
6 so long as such interruptions do not result in
7 a shortage of the device and the manufacturer
8 expects to resume operations in a reasonable
9 period of time; and

10 “(D) does not include interruptions in
11 manufacturing that do not lead to a reduction
12 in procedures or diagnostic tests associated with
13 a medical device designed to perform more than
14 one procedure or diagnostic test.

15 “(2) SHORTAGE.—The term ‘shortage’, with re-
16 spect to a device, means a period of time when the
17 demand or projected demand for the device within
18 the United States exceeds the supply of the device.”.

1 **PART II—ACCESS TO HEALTH CARE FOR COVID-**
2 **19 PATIENTS**

3 **Subpart A—Coverage of Testing and Preventive**
4 **Services**

5 **SEC. 3201. COVERAGE OF DIAGNOSTIC TESTING FOR**
6 **COVID-19.**

7 Paragraph (1) of section 6001(a) of division F of the
8 Families First Coronavirus Response Act (Public Law
9 116–127) is amended to read as follows:

10 “(1) An in vitro diagnostic test defined in sec-
11 tion 809.3 of title 21, Code of Federal Regulations
12 (or successor regulations) for the detection of
13 SARS–CoV–2 or the diagnosis of the virus that
14 causes COVID–19, and the administration of such a
15 test, that—

16 “(A) is approved, cleared, or authorized
17 under section 510(k), 513, 515, or 564 of the
18 Federal Food, Drug, and Cosmetic Act (21
19 U.S.C. 360(k), 360c, 360e, 360bbb–3);

20 “(B) the developer has requested, or in-
21 tends to request, emergency use authorization
22 under section 564 of the Federal Food, Drug,
23 and Cosmetic Act (21 U.S.C. 360bbb–3), unless
24 and until the emergency use authorization re-
25 quest under such section 564 has been denied
26 or the developer of such test does not submit a

1 request under such section within a reasonable
2 timeframe;

3 “(C) is developed in and authorized by a
4 State that has notified the Secretary of Health
5 and Human Services of its intention to review
6 tests intended to diagnose COVID-19; or

7 “(D) other test that the Secretary deter-
8 mines appropriate in guidance.”.

9 **SEC. 3202. PRICING OF DIAGNOSTIC TESTING.**

10 (a) REIMBURSEMENT RATES.—A group health plan
11 or a health insurance issuer providing coverage of items
12 and services described in section 6001(a) of division F of
13 the Families First Coronavirus Response Act (Public Law
14 116–127) with respect to an enrollee shall reimburse the
15 provider of the diagnostic testing as follows:

16 (1) If the health plan or issuer has a negotiated
17 rate with such provider in effect before the emer-
18 gency period described in section 6001(a) of division
19 F of the Families First Coronavirus Response Act
20 (Public Law 116–127), such negotiated rate shall
21 apply throughout the period of such declaration,
22 such negotiated rate shall apply.

23 (2) If the health plan or issuer does not have
24 a negotiated rate with such provider, such plan or
25 issuer shall reimburse the provider in an amount

1 that equals the cash price for such service as listed
2 by the provider on a public internet website.

3 (b) REQUIREMENT TO PUBLICIZE CASH PRICE FOR
4 DIAGNOSTIC TESTING FOR COVID-19.—

5 (1) IN GENERAL.—During the emergency pe-
6 riod described in section 6001(a) of division F of the
7 Families First Coronavirus Response Act (Public
8 Law 116–127), each provider of a diagnostic test for
9 COVID-19 shall make public the cash price for such
10 test on a public internet website of such provider.

11 (2) CIVIL MONETARY PENALTIES.—The Sec-
12 retary of Health and Human Services may impose a
13 civil monetary penalty on any provider of a diag-
14 nostic test for COVID-19 that is not in compliance
15 with paragraph (1) and has not completed a correc-
16 tive action plan to comply with the requirements of
17 such paragraph, in an amount not to exceed \$300
18 per day that the violation is ongoing.

19 **SEC. 3203. RAPID COVERAGE OF PREVENTIVE SERVICES**
20 **AND VACCINES FOR CORONAVIRUS.**

21 (a) IN GENERAL.—Notwithstanding 2713(b) of the
22 Public Health Service Act (42 U.S.C. 300gg–13), the Sec-
23 retary of Health and Human Services, the Secretary of
24 Labor, and the Secretary of the Treasury shall require
25 group health plans and health insurance issuers offering

1 group or individual health insurance to cover (without
2 cost-sharing) any qualifying coronavirus preventive serv-
3 ice, pursuant to section 2713(a) of the Public Health Serv-
4 ice Act (42 U.S.C. 300gg-13(a)) (including the regula-
5 tions under sections 2590.715-2713 of title 29, Code of
6 Federal Regulations, section 54.9815-2713 of title 26,
7 Code of Federal Regulations, and section 147.130 of title
8 45, Code of Federal Regulations (or any successor regula-
9 tions)). The requirement described in this subsection shall
10 take effect with respect to a qualifying coronavirus preven-
11 tion service on the specified date described in subsection
12 (b)(2).

13 (b) DEFINITIONS.—For purposes of this section:

14 (1) QUALIFYING CORONAVIRUS PREVENTIVE
15 SERVICE.—The term “qualifying coronavirus preven-
16 tive service” means an item, service, or immuniza-
17 tion that is intended to prevent or mitigate
18 coronavirus disease 2019 and that is—

19 (A) an evidence-based item or service that
20 has in effect a rating of “A” or “B” in the cur-
21 rent recommendations of the United States Pre-
22 ventive Services Task Force; or

23 (B) an immunization that has in effect a
24 recommendation from the Advisory Committee
25 on Immunization Practices of the Centers for

1 Disease Control and Prevention with respect to
2 the individual involved.

3 (2) SPECIFIED DATE.—The term “specified
4 date” means the date that is 15 business days after
5 the date on which a recommendation is made relat-
6 ing to the qualifying coronavirus preventive service
7 as described in such paragraph.

8 (3) ADDITIONAL TERMS.—In this section, the
9 terms “group health plan”, “health insurance
10 issuer”, “group health insurance coverage”, and “in-
11 dividual health insurance coverage” have the mean-
12 ings given such terms in section 2791 of the Public
13 Health Service Act (42 U.S.C. 300gg–91), section
14 733 of the Employee Retirement Income Security
15 Act of 1974 (29 U.S.C. 1191b), and section 9832 of
16 the Internal Revenue Code, as applicable.

17 **Subpart B—Support for Health Care Providers**

18 **SEC. 3211. SUPPLEMENTAL AWARDS FOR HEALTH CEN-**
19 **TERS.**

20 (a) SUPPLEMENTAL AWARDS.—Section 330(r) of the
21 Public Health Service Act (42 U.S.C. 254b(r)) is amended
22 by adding at the end the following:

23 “(6) ADDITIONAL AMOUNTS FOR SUPPLE-
24 MENTAL AWARDS.—In addition to any amounts
25 made available pursuant to this subsection, section

1 402A of this Act, or section 10503 of the Patient
2 Protection and Affordable Care Act, there is author-
3 ized to be appropriated, and there is appropriated,
4 out of any monies in the Treasury not otherwise ap-
5 propriated, \$1,320,000,000 for fiscal year 2020 for
6 supplemental awards under subsection (d) for the
7 detection of SARS-CoV-2 or the prevention, diag-
8 nosis, and treatment of COVID-19.”.

9 (b) APPLICATION OF PROVISIONS.—Amounts appro-
10 priated pursuant to the amendment made by subsection
11 (a) for fiscal year 2020 shall be subject to the require-
12 ments contained in Public Law 116–94 for funds for pro-
13 grams authorized under sections 330 through 340 of the
14 Public Health Service Act (42 U.S.C. 254 through 256).

15 **SEC. 3212. TELEHEALTH NETWORK AND TELEHEALTH RE-**
16 **SOURCE CENTERS GRANT PROGRAMS.**

17 Section 330I of the Public Health Service Act (42
18 U.S.C. 254c–14) is amended—

19 (1) in subsection (d)—

20 (A) in paragraph (1)—

21 (i) in the matter preceding subpara-
22 graph (A), by striking “projects to dem-
23 onstrate how telehealth technologies can be
24 used through telehealth networks” and in-
25 serting “evidence-based projects that uti-

1 lize telehealth technologies through tele-
2 health networks”;

3 (ii) in subparagraph (A)—

4 (I) by striking “the quality of”
5 and inserting “access to, and the
6 quality of,”; and

7 (II) by inserting “and” after the
8 semicolon;

9 (iii) by striking subparagraph (B);

10 (iv) by redesignating subparagraph
11 (C) as subparagraph (B); and

12 (v) in subparagraph (B), as so reded-
13 igned, by striking “and patients and
14 their families, for decisionmaking” and in-
15 sserting “, patients, and their families”;
16 and

17 (B) in paragraph (2)—

18 (i) by striking “demonstrate how tele-
19 health technologies can be used” and in-
20 sserting “support initiatives that utilize
21 telehealth technologies”; and

22 (ii) by striking “, to establish tele-
23 health resource centers”;

24 (2) in subsection (e), by striking “4 years” and
25 inserting “5 years”;

1 (3) in subsection (f)—

2 (A) by striking paragraph (2);

3 (B) in paragraph (1)(B)—

4 (i) by redesignating clauses (i)
5 through (iii) as paragraphs (1) through
6 (3), respectively, and adjusting the mar-
7 gins accordingly;

8 (ii) in paragraph (3), as so redesign-
9 nated by clause (i), by redesignating sub-
10 clauses (I) through (XII) as subparagraphs
11 (A) through (L), respectively, and adjust-
12 ing the margins accordingly; and

13 (iii) by striking “(1) TELEHEALTH
14 NETWORK GRANTS—” and all that follows
15 through “(B) TELEHEALTH NETWORKS—
16 ”; and

17 (C) in paragraph (3)(I), as so redesign-
18 nated, by inserting “and substance use dis-
19 order” after “mental health” each place such
20 term appears;

21 (4) in subsection (g)(2), by striking “or im-
22 prove” and inserting “and improve”;

23 (5) by striking subsection (h);

24 (6) by redesignating subsections (i) through (p)
25 as subsection (h) through (o), respectively;

1 (7) in subsection (h), as so redesignated—

2 (A) in paragraph (1)—

3 (i) in subparagraph (B), by striking
4 “mental health, public health, long-term
5 care, home care, preventive” and inserting
6 “mental health care, public health services,
7 long-term care, home care, preventive
8 care”;

9 (ii) in subparagraph (E), by inserting
10 “and regional” after “local”; and

11 (iii) by striking subparagraph (F);

12 and

13 (B) in paragraph (2)(A), by striking
14 “medically underserved areas or” and inserting
15 “rural areas, medically underserved areas, or”;

16 (8) in paragraph (2) of subsection (i), as so re-
17 designated, by striking “ensure that—” and all that
18 follows through the end of subparagraph (B) and in-
19 serting “ensure that not less than 50 percent of the
20 funds awarded shall be awarded for projects in rural
21 areas.”;

22 (9) in subsection (j), as so redesignated—

23 (A) in paragraph (1)(B), by striking “com-
24 puter hardware and software, audio and video
25 equipment, computer network equipment, inter-

1 active equipment, data terminal equipment, and
2 other”; and

3 (B) in paragraph (2)(F), by striking
4 “health care providers and”;

5 (10) in subsection (k), as so redesignated—

6 (A) in paragraph (2), by striking “40 per-
7 cent” and inserting “20 percent”; and

8 (B) in paragraph (3), by striking “(such as
9 laying cable or telephone lines, or purchasing or
10 installing microwave towers, satellite dishes,
11 amplifiers, or digital switching equipment)”;

12 (11) by striking subsections (q) and (r) and in-
13 serting the following:

14 “(p) REPORT.—Not later than 4 years after the date
15 of enactment of the Coronavirus Aid, Relief, and Eco-
16 nomic Security Act, and every 5 years thereafter, the Sec-
17 retary shall prepare and submit to the Committee on
18 Health, Education, Labor, and Pensions of the Senate and
19 the Committee on Energy and Commerce of the House
20 of Representatives a report on the activities and outcomes
21 of the grant programs under subsection (b).”;

22 (12) by redesignating subsection (s) as sub-
23 section (q); and

24 (13) in subsection (q), as so redesignated, by
25 striking “this section—” and all that follows

1 through the end of paragraph (2) and inserting
2 “this section \$29,000,000 for each of fiscal years
3 2021 through 2025.”.

4 **SEC. 3213. RURAL HEALTH CARE SERVICES OUTREACH,**
5 **RURAL HEALTH NETWORK DEVELOPMENT,**
6 **AND SMALL HEALTH CARE PROVIDER QUAL-**
7 **ITY IMPROVEMENT GRANT PROGRAMS.**

8 Section 330A of the Public Health Service Act (42
9 U.S.C. 254e) is amended—

10 (1) in subsection (d)(2)—

11 (A) in subparagraph (A), by striking “es-
12 sential” and inserting “basic”; and

13 (B) in subparagraph (B)—

14 (i) in the matter preceding clause (i),
15 by inserting “to” after “grants”; and

16 (ii) in clauses (i), (ii), and (iii), by
17 striking “to” each place such term ap-
18 pears;

19 (2) in subsection (e)—

20 (A) in paragraph (1)—

21 (i) by inserting “improving and” after
22 “outreach by”;

23 (ii) by inserting “, through community
24 engagement and evidence-based or innova-

1 tive, evidence-informed models” before the
2 period of the first sentence; and

3 (iii) by striking “3 years” and insert-
4 ing “5 years”;

5 (B) in paragraph (2)—

6 (i) in the matter preceding subpara-
7 graph (A), by inserting “shall” after “enti-
8 ty”;

9 (ii) in subparagraph (A), by striking
10 “shall be a rural public or rural nonprofit
11 private entity” and inserting “be an entity
12 with demonstrated experience serving, or
13 the capacity to serve, rural underserved
14 populations”;

15 (iii) in subparagraphs (B) and (C), by
16 striking “shall” each place such term ap-
17 pears; and

18 (iv) in subparagraph (B)—

19 (I) in the matter preceding clause
20 (i), by inserting “that” after “mem-
21 bers”; and

22 (II) in clauses (i) and (ii), by
23 striking “that” each place such term
24 appears; and

1 (C) in paragraph (3)(C), by striking “the
2 local community or region” and inserting “the
3 rural underserved populations in the local com-
4 munity or region”;

5 (3) in subsection (f)—

6 (A) in paragraph (1)—

7 (i) in subparagraph (A)—

8 (I) in the matter preceding clause
9 (i), by striking “promote, through
10 planning and implementation, the de-
11 velopment of integrated health care
12 networks that have combined the
13 functions of the entities participating
14 in the networks” and inserting “plan,
15 develop, and implement integrated
16 health care networks that collabo-
17 rate”; and

18 (II) in clause (ii), by striking
19 “essential health care services” and
20 inserting “basic health care services
21 and associated health outcomes”; and

22 (ii) by amending subparagraph (B) to
23 read as follows:

1 “(B) GRANT PERIODS.—The Director may
2 award grants under this subsection for periods
3 of not more than 5 years.”;

4 (B) in paragraph (2)—

5 (i) in the matter preceding subpara-
6 graph (A), by inserting “shall” after “enti-
7 ty”;

8 (ii) in subparagraph (A), by striking
9 “shall be a rural public or rural nonprofit
10 private entity” and inserting “be an entity
11 with demonstrated experience serving, or
12 the capacity to serve, rural underserved
13 populations”;

14 (iii) in subparagraph (B)—

15 (I) in the matter preceding clause

16 (i)—

17 (aa) by striking “shall”; and

18 (bb) by inserting “that”

19 after “participants”; and

20 (II) in clauses (i) and (ii), by
21 striking “that” each place such term
22 appears; and

23 (iv) in subparagraph (C), by striking
24 “shall”; and

25 (C) in paragraph (3)—

1 (i) by amending clause (iii) of sub-
2 paragraph (C) to read as follows:

3 “(iii) how the rural underserved popu-
4 lations in the local community or region to
5 be served will benefit from and be involved
6 in the development and ongoing operations
7 of the network;”; and

8 (ii) in subparagraph (D), by striking
9 “the local community or region” and in-
10 sserting “the rural underserved populations
11 in the local community or region”;

12 (4) in subsection (g)—

13 (A) in paragraph (1)—

14 (i) by inserting “, including activities
15 related to increasing care coordination, en-
16 hancing chronic disease management, and
17 improving patient health outcomes” before
18 the period of the first sentence; and

19 (ii) by striking “3 years” and insert-
20 ing “5 years”;

21 (B) in paragraph (2)—

22 (i) in the matter preceding subpara-
23 graph (A), by inserting “shall” after “enti-
24 ty”;

1 (ii) in subparagraphs (A) and (B), by
2 striking “shall” each place such term ap-
3 pears; and

4 (iii) in subparagraph (A)(ii), by in-
5 serting “or regional” after “local”; and

6 (C) in paragraph (3)(D), by striking “the
7 local community or region” and inserting “the
8 rural underserved populations in the local com-
9 munity or region”;

10 (5) in subsection (h)(3), in the matter pre-
11 ceding subparagraph (A), by inserting “, as appro-
12 priate,” after “the Secretary”;

13 (6) by amending subsection (i) to read as fol-
14 lows:

15 “(i) REPORT.—Not later than 4 years after the date
16 of enactment of the Coronavirus Aid, Relief, and Eco-
17 nomic Security Act, and every 5 years thereafter, the Sec-
18 retary shall prepare and submit to the Committee on
19 Health, Education, Labor, and Pensions of the Senate and
20 the Committee on Energy and Commerce of the House
21 of Representatives a report on the activities and outcomes
22 of the grant programs under subsections (e), (f), and (g),
23 including the impact of projects funded under such pro-
24 grams on the health status of rural residents with chronic
25 conditions.”; and

1 (7) in subsection (j), by striking “\$45,000,000
2 for each of fiscal years 2008 through 2012” and in-
3 serting “\$79,500,000 for each of fiscal years 2021
4 through 2025”.

5 **SEC. 3214. UNITED STATES PUBLIC HEALTH SERVICE MOD-**
6 **ERNIZATION.**

7 (a) COMMISSIONED CORPS AND READY RESERVE
8 CORPS.—Section 203 of the Public Health Service Act (42
9 U.S.C. 204) is amended—

10 (1) in subsection (a)(1), by striking “a Ready
11 Reserve Corps for service in time of national emer-
12 gency” and inserting “, for service in time of a pub-
13 lic health or national emergency, a Ready Reserve
14 Corps”; and

15 (2) in subsection (c)—

16 (A) in the heading, by striking “RE-
17 SEARCH” and inserting “RESERVE CORPS”;

18 (B) in paragraph (1), by inserting “during
19 public health or national emergencies” before
20 the period;

21 (C) in paragraph (2)—

22 (i) in the matter preceding subpara-
23 graph (A), by inserting “, consistent with
24 paragraph (1)” after “shall”;

1 (ii) in subparagraph (C), by inserting
2 “during such emergencies” after “mem-
3 bers”; and

4 (iii) in subparagraph (D), by inserting
5 “, consistent with subparagraph (C)” be-
6 fore the period; and

7 (D) by adding at the end the following:

8 “(3) STATUTORY REFERENCES TO RESERVE.—

9 A reference in any Federal statute, except in the
10 case of subsection (b), to the ‘Reserve Corps’ of the
11 Public Health Service or to the ‘reserve’ of the Pub-
12 lic Health Service shall be deemed to be a reference
13 to the Ready Reserve Corps.”.

14 (b) DEPLOYMENT READINESS.—Section
15 203A(a)(1)(B) of the Public Health Service Act (42
16 U.S.C. 204a(a)(1)(B)) is amended by striking “Active Re-
17 serves” and inserting “Ready Reserve Corps”.

18 (c) RETIREMENT OF COMMISSIONED OFFICERS.—
19 Section 211 of the Public Health Service Act (42 U.S.C.
20 212) is amended—

21 (1) by striking “the Service” each place it ap-
22 pears and inserting “the Regular Corps”;

23 (2) in subsection (a)(4), by striking “(in the
24 case of an officer in the Reserve Corps)”;

25 (3) in subsection (c)—

1 (A) in paragraph (1)—

2 (i) by striking “or an officer of the
3 Reserve Corps”; and

4 (ii) by inserting “or under section
5 221(a)(19)” after “subsection (a)”; and

6 (B) in paragraph (2), by striking “Regular
7 or Reserve Corps” and inserting “Regular
8 Corps or Ready Reserve Corps”; and

9 (4) in subsection (f), by striking “the Regular
10 or Reserve Corps of”.

11 (d) RIGHTS, PRIVILEGES, ETC. OF OFFICERS AND
12 SURVIVING BENEFICIARIES.—Section 221 of the Public
13 Health Service Act (42 U.S.C. 213a) is amended—

14 (1) in subsection (a), by adding at the end the
15 following:

16 “(19) Chapter 1223, Retired Pay for Non-Reg-
17 ular Service.

18 “(20) Section 12601, Compensation: Reserve on
19 active duty accepting from any person.

20 “(21) Section 12684, Reserves: separation for
21 absence without authority or sentence to imprison-
22 ment.”; and

23 (2) in subsection (b)—

24 (A) by striking “Secretary of Health, Edu-
25 cation, and Welfare or his designee” and insert-

1 ing “Secretary of Health and Human Services
2 or the designee of such secretary”;

3 (B) by striking “(b) The authority vested”
4 and inserting the following:

5 “(b)(1) The authority vested”;

6 (C) by striking “For purposes of” and in-
7 serting the following:

8 “(2) For purposes of”; and

9 (D) by adding at the end the following:

10 “(3) For purposes of paragraph (19) of subsection
11 (a), the terms ‘Military department’, ‘Secretary con-
12 cerned’, and ‘Armed forces’ in such title 10 shall be
13 deemed to include, respectively, the Department of Health
14 and Human Services, the Secretary of Health and Human
15 Services, and the Commissioned Corps.”.

16 (e) TECHNICAL AMENDMENTS.—Title II of the Pub-
17 lic Health Service Act (42 U.S.C. 202 et seq.) is amend-
18 ed—

19 (1) in sections 204 and 207(c), by striking
20 “Regular or Reserve Corps” each place it appears
21 and inserting “Regular Corps or Ready Reserve
22 Corps”;

23 (2) in section 208(a), by striking “Regular and
24 Reserve Corps” each place it appears and inserting
25 “Regular Corps and Ready Reserve Corps”; and

1 (3) in section 205(c), 206(c), 210, and 219,
2 and in subsections (a), (b), and (d) of section 207,
3 by striking “Reserve Corps” each place it appears
4 and inserting “Ready Reserve Corps”.

5 **SEC. 3215. LIMITATION ON LIABILITY FOR VOLUNTEER**
6 **HEALTH CARE PROFESSIONALS DURING**
7 **COVID-19 EMERGENCY RESPONSE.**

8 (a) **LIMITATION ON LIABILITY.**—Except as provided
9 in subsection (b), a health care professional shall not be
10 liable under Federal or State law for any harm caused
11 by an act or omission of the professional in the provision
12 of health care services during the public health emergency
13 with respect to COVID-19 declared by the Secretary of
14 Health and Human Services (referred to in this section
15 as the “Secretary”) under section 319 of the Public
16 Health Service Act (42 U.S.C. 247d) on January 31,
17 2020, if—

18 (1) the professional is providing health care
19 services in response to such public health emergency,
20 as a volunteer; and

21 (2) the act or omission occurs—

22 (A) in the course of providing health care
23 services;

24 (B) in the health care professional’s capac-
25 ity as a volunteer;

1 (C) in the course of providing health care
2 services that—

3 (i) are within the scope of the license,
4 registration, or certification of the volun-
5 teer, as defined by the State of licensure,
6 registration, or certification; and

7 (ii) do not exceed the scope of license,
8 registration, or certification of a substan-
9 tially similar health professional in the
10 State in which such act or omission occurs;
11 and

12 (D) in a good faith belief that the indi-
13 vidual being treated is in need of health care
14 services.

15 (b) EXCEPTIONS.—Subsection (a) does not apply if—

16 (1) the harm was caused by an act or omission
17 constituting willful or criminal misconduct, gross
18 negligence, reckless misconduct, or a conscious fla-
19 grant indifference to the rights or safety of the indi-
20 vidual harmed by the health care professional; or

21 (2) the health care professional rendered the
22 health care services under the influence (as deter-
23 mined pursuant to applicable State law) of alcohol
24 or an intoxicating drug.

25 (c) PREEMPTION.—

1 (1) IN GENERAL.—This section preempts the
2 laws of a State or any political subdivision of a State
3 to the extent that such laws are inconsistent with
4 this section, unless such laws provide greater protec-
5 tion from liability.

6 (2) VOLUNTEER PROTECTION ACT.—Protec-
7 tions afforded by this section are in addition to those
8 provided by the Volunteer Protection Act of 1997
9 (Public Law 105–19).

10 (d) DEFINITIONS.—In this section—

11 (1) the term “harm” includes physical, non-
12 physical, economic, and noneconomic losses;

13 (2) the term “health care professional” means
14 an individual who is licensed, registered, or certified
15 under Federal or State law to provide health care
16 services;

17 (3) the term “health care services” means any
18 services provided by a health care professional, or by
19 any individual working under the supervision of a
20 health care professional that relate to—

21 (A) the diagnosis, prevention, or treatment
22 of COVID-19; or

23 (B) the assessment or care of the health of
24 a human being related to an actual or sus-
25 pected case of COVID-19; and

1 (4) the term “volunteer” means a health care
2 professional who, with respect to the health care
3 services rendered, does not receive compensation or
4 any other thing of value in lieu of compensation,
5 which compensation—

6 (A) includes a payment under any insur-
7 ance policy or health plan, or under any Fed-
8 eral or State health benefits program; and

9 (B) excludes—

10 (i) receipt of items to be used exclu-
11 sively for rendering health care services in
12 the health care professional’s capacity as a
13 volunteer described in subsection (a)(1);
14 and

15 (ii) any reimbursement for travel to
16 the site where the volunteer services are
17 rendered and any payments in cash or kind
18 to cover room and board, if services are
19 being rendered more than 75 miles from
20 the volunteer’s principal place of residence.

21 (e) EFFECTIVE DATE.—This section shall take effect
22 upon the date of enactment of this Act, and applies to
23 a claim for harm only if the act or omission that caused
24 such harm occurred on or after the date of enactment.

1 (f) SUNSET.—This section shall be in effect only for
2 the length of the public health emergency declared by the
3 Secretary of Health and Human Services (referred to in
4 this section as the “Secretary”) under section 319 of the
5 Public Health Service Act (42 U.S.C. 247d) on January
6 31, 2020 with respect to COVID-19.

7 **SEC. 3216. FLEXIBILITY FOR MEMBERS OF NATIONAL**
8 **HEALTH SERVICE CORPS DURING EMER-**
9 **GENCY PERIOD.**

10 During the public health emergency declared by the
11 Secretary of Health and Human Services under section
12 319 of the Public Health Service Act (42 U.S.C. 247d)
13 on January 31, 2020, with respect to COVID-19, the Sec-
14 retary may, notwithstanding section 333 of the Public
15 Health Service Act (42 U.S.C. 254f), assign members of
16 the National Health Service Corps, with the voluntary
17 agreement of such corps members, to provide such health
18 services at such places, and for such number of hours, as
19 the Secretary determines necessary to respond to such
20 emergency, provided that such places are within a reason-
21 able distance to the site to which such members were origi-
22 nally assigned, and the total number of hours required are
23 the same as were required of such members prior to the
24 date of enactment of this Act.

1 **Subpart C—Miscellaneous Provisions**

2 **SEC. 3221. CONFIDENTIALITY AND DISCLOSURE OF**
3 **RECORDS RELATING TO SUBSTANCE USE DIS-**
4 **ORDER.**

5 (a) CONFORMING CHANGES RELATING TO SUB-
6 STANCE USE DISORDER.—Subsections (a) and (h) of sec-
7 tion 543 of the Public Health Service Act (42 U.S.C.
8 290dd–2) are each amended by striking “substance
9 abuse” and inserting “substance use disorder”.

10 (b) DISCLOSURES TO COVERED ENTITIES CON-
11 SISTENT WITH HIPAA.—Paragraph (1) of section 543(b)
12 of the Public Health Service Act (42 U.S.C. 290dd–2(b))
13 is amended to read as follows:

14 “(1) CONSENT.—The following shall apply with
15 respect to the contents of any record referred to in
16 subsection (a):

17 “(A) Such contents may be used or dis-
18 closed in accordance with the prior written con-
19 sent of the patient with respect to whom such
20 record is maintained.

21 “(B) Once prior written consent of the pa-
22 tient has been obtained, such contents may be
23 used or disclosed by a covered entity, business
24 associate, or a program subject to this section
25 for purposes of treatment, payment, and health
26 care operations as permitted by the HIPAA

1 regulations. Any information so disclosed may
2 then be redisclosed in accordance with the
3 HIPAA regulations. Section 13405(c) of the
4 Health Information Technology and Clinical
5 Health Act (42 U.S.C. 17935(c)) shall apply to
6 all disclosures pursuant to subsection (b)(1) of
7 this section.

8 “(C) It shall be permissible for a patient’s
9 prior written consent to be given once for all
10 such future uses or disclosures for purposes of
11 treatment, payment, and health care operations,
12 until such time as the patient revokes such con-
13 sent in writing.

14 “(D) Section 13405(a) of the Health In-
15 formation Technology and Clinical Health Act
16 (42 U.S.C. 17935(a)) shall apply to all disclo-
17 sures pursuant to subsection (b)(1) of this sec-
18 tion.”.

19 (c) DISCLOSURES OF DE-IDENTIFIED HEALTH IN-
20 FORMATION TO PUBLIC HEALTH AUTHORITIES.—Para-
21 graph (2) of section 543(b) of the Public Health Service
22 Act (42 U.S.C. 290dd–2(b)), is amended by adding at the
23 end the following:

24 “(D) To a public health authority, so long
25 as such content meets the standards established

1 in section 164.514(b) of title 45, Code of Fed-
2 eral Regulations (or successor regulations) for
3 creating de-identified information.”.

4 (d) DEFINITIONS.—Section 543 of the Public Health
5 Service Act (42 U.S.C. 290dd–2) is amended by adding
6 at the end the following:

7 “(k) DEFINITIONS.—For purposes of this section:

8 “(1) BREACH.—The term ‘breach’ has the
9 meaning given such term for purposes of the HIPAA
10 regulations.

11 “(2) BUSINESS ASSOCIATE.—The term ‘busi-
12 ness associate’ has the meaning given such term for
13 purposes of the HIPAA regulations.

14 “(3) COVERED ENTITY.—The term ‘covered en-
15 tity’ has the meaning given such term for purposes
16 of the HIPAA regulations.

17 “(4) HEALTH CARE OPERATIONS.—The term
18 ‘health care operations’ has the meaning given such
19 term for purposes of the HIPAA regulations.

20 “(5) HIPPA REGULATIONS.—The term
21 ‘HIPAA regulations’ has the meaning given such
22 term for purposes of parts 160 and 164 of title 45,
23 Code of Federal Regulations.

1 “(6) PAYMENT.—The term ‘payment’ has the
2 meaning given such term for purposes of the HIPAA
3 regulations.

4 “(7) PUBLIC HEALTH AUTHORITY.—The term
5 ‘public health authority’ has the meaning given such
6 term for purposes of the HIPAA regulations.

7 “(8) TREATMENT.—The term ‘treatment’ has
8 the meaning given such term for purposes of the
9 HIPAA regulations.

10 “(9) UNSECURED PROTECTED HEALTH INFOR-
11 MATION.—The term ‘unprotected health information’
12 has the meaning given such term for purposes of the
13 HIPAA regulations.”.

14 (e) USE OF RECORDS IN CRIMINAL, CIVIL, OR AD-
15 MINISTRATIVE INVESTIGATIONS, ACTIONS, OR PRO-
16 CEEDINGS.—Subsection (c) of section 543 of the Public
17 Health Service Act (42 U.S.C. 290dd–2(c)) is amended
18 to read as follows:

19 “(c) USE OF RECORDS IN CRIMINAL, CIVIL, OR AD-
20 MINISTRATIVE CONTEXTS.—Except as otherwise author-
21 ized by a court order under subsection (b)(2)(C) or by the
22 consent of the patient, a record referred to in subsection
23 (a), or testimony relaying the information contained there-
24 in, may not be disclosed or used in any civil, criminal, ad-
25 ministrative, or legislative proceedings conducted by any

1 Federal, State, or local authority, against a patient, in-
2 cluding with respect to the following activities:

3 “(1) Such record or testimony shall not be en-
4 tered into evidence in any criminal prosecution or
5 civil action before a Federal or State court.

6 “(2) Such record or testimony shall not form
7 part of the record for decision or otherwise be taken
8 into account in any proceeding before a Federal,
9 State, or local agency.

10 “(3) Such record or testimony shall not be used
11 by any Federal, State, or local agency for a law en-
12 forcement purpose or to conduct any law enforce-
13 ment investigation.

14 “(4) Such record or testimony shall not be used
15 in any application for a warrant.”.

16 (f) PENALTIES.—Subsection (f) of section 543 of the
17 Public Health Service Act (42 U.S.C. 290dd–2) is amend-
18 ed to read as follows:

19 “(f) PENALTIES.—The provisions of sections 1176
20 and 1177 of the Social Security Act shall apply to a viola-
21 tion of this section to the extent and in the same manner
22 as such provisions apply to a violation of part C of title
23 XI of such Act. In applying the previous sentence—

24 “(1) the reference to ‘this subsection’ in sub-
25 section (a)(2) of such section 1176 shall be treated

1 as a reference to ‘this subsection (including as ap-
2 plied pursuant to section 543(f) of the Public Health
3 Service Act)’; and

4 “(2) in subsection (b) of such section 1176—

5 “(A) each reference to ‘a penalty imposed
6 under subsection (a)’ shall be treated as a ref-
7 erence to ‘a penalty imposed under subsection
8 (a) (including as applied pursuant to section
9 543(f) of the Public Health Service Act)’; and

10 “(B) each reference to ‘no damages ob-
11 tained under subsection (d)’ shall be treated as
12 a reference to ‘no damages obtained under sub-
13 section (d) (including as applied pursuant to
14 section 543(f) of the Public Health Service
15 Act)’.”.

16 (g) ANTIDISCRIMINATION.—Section 543 of the Public
17 Health Service Act (42 U.S.C. 290dd-2) is amended by
18 inserting after subsection (h) the following:

19 “(i) ANTIDISCRIMINATION.—

20 “(1) IN GENERAL.—No entity shall discrimi-
21 nate against an individual on the basis of informa-
22 tion received by such entity pursuant to an inad-
23 vertent or intentional disclosure of records, or infor-
24 mation contained in records, described in subsection
25 (a) in—

1 “(A) admission, access to, or treatment for
2 health care;

3 “(B) hiring, firing, or terms of employ-
4 ment, or receipt of worker’s compensation;

5 “(C) the sale, rental, or continued rental of
6 housing;

7 “(D) access to Federal, State, or local
8 courts; or

9 “(E) access to, approval of, or mainte-
10 nance of social services and benefits provided or
11 funded by Federal, State, or local governments.

12 “(2) RECIPIENTS OF FEDERAL FUNDS.—No re-
13 cipient of Federal funds shall discriminate against
14 an individual on the basis of information received by
15 such recipient pursuant to an intentional or inad-
16 vertent disclosure of such records or information
17 contained in records described in subsection (a) in
18 affording access to the services provided with such
19 funds.”.

20 (h) NOTIFICATION IN CASE OF BREACH.—Section
21 543 of the Public Health Service Act (42 U.S.C. 290dd–
22 2), as amended by subsection (g), is further amended by
23 inserting after subsection (i) the following:

24 “(j) NOTIFICATION IN CASE OF BREACH.—The pro-
25 visions of section 13402 of the HITECH Act (42 U.S.C.

1 17932) shall apply to a program or activity described in
2 subsection (a), in case of a breach of records described
3 in subsection (a), to the same extent and in the same man-
4 ner as such provisions apply to a covered entity in the
5 case of a breach of unsecured protected health informa-
6 tion.”.

7 (i) REGULATIONS.—

8 (1) IN GENERAL.—The Secretary of Health and
9 Human Services, in consultation with appropriate
10 Federal agencies, shall make such revisions to regu-
11 lations as may be necessary for implementing and
12 enforcing the amendments made by this section,
13 such that such amendments shall apply with respect
14 to uses and disclosures of information occurring on
15 or after the date that is 12 months after the date
16 of enactment of this Act.

17 (2) EASILY UNDERSTANDABLE NOTICE OF PRI-
18 VACY PRACTICES.—Not later than 1 year after the
19 date of enactment of this Act, the Secretary of
20 Health and Human Services, in consultation with
21 appropriate legal, clinical, privacy, and civil rights
22 experts, shall update section 164.520 of title 45,
23 Code of Federal Regulations, so that covered entities
24 and entities creating or maintaining the records de-
25 scribed in subsection (a) provide notice, written in

1 plain language, of privacy practices regarding pa-
2 tient records referred to in section 543(a) of the
3 Public Health Service Act (42 U.S.C. 290dd-2(a)),
4 including—

5 (A) a statement of the patient’s rights, in-
6 cluding self-pay patients, with respect to pro-
7 tected health information and a brief descrip-
8 tion of how the individual may exercise these
9 rights (as required by subsection (b)(1)(iv) of
10 such section 164.520); and

11 (B) a description of each purpose for
12 which the covered entity is permitted or re-
13 quired to use or disclose protected health infor-
14 mation without the patient’s written authoriza-
15 tion (as required by subsection (b)(2) of such
16 section 164.520).

17 (j) RULES OF CONSTRUCTION.—Nothing in this Act
18 or the amendments made by this Act shall be construed
19 to limit—

20 (1) a patient’s right, as described in section
21 164.522 of title 45, Code of Federal Regulations, or
22 any successor regulation, to request a restriction on
23 the use or disclosure of a record referred to in sec-
24 tion 543(a) of the Public Health Service Act (42

1 U.S.C. 290dd–2(a)) for purposes of treatment, pay-
2 ment, or health care operations; or

3 (2) a covered entity’s choice, as described in
4 section 164.506 of title 45, Code of Federal Regula-
5 tions, or any successor regulation, to obtain the con-
6 sent of the individual to use or disclose a record re-
7 ferred to in such section 543(a) to carry out treat-
8 ment, payment, or health care operation.

9 (k) SENSE OF CONGRESS.—It is the sense of the
10 Congress that—

11 (1) any person treating a patient through a
12 program or activity with respect to which the con-
13 fidentiality requirements of section 543 of the Public
14 Health Service Act (42 U.S.C. 290dd–2) apply is en-
15 couraged to access the applicable State-based pre-
16 scription drug monitoring program when clinically
17 appropriate;

18 (2) patients have the right to request a restric-
19 tion on the use or disclosure of a record referred to
20 in section 543(a) of the Public Health Service Act
21 (42 U.S.C. 290dd–2(a)) for treatment, payment, or
22 health care operations;

23 (3) covered entities should make every reason-
24 able effort to the extent feasible to comply with a

1 patient's request for a restriction regarding such use
2 or disclosure;

3 (4) for purposes of applying section 164.501 of
4 title 45, Code of Federal Regulations, the definition
5 of health care operations shall have the meaning
6 given such term in such section, except that clause
7 (v) of paragraph (6) shall not apply; and

8 (5) programs creating records referred to in
9 section 543(a) of the Public Health Service Act (42
10 U.S.C. 290dd-2(a)) should receive positive incen-
11 tives for discussing with their patients the benefits
12 to consenting to share such records.

13 **SEC. 3222. NUTRITION SERVICES.**

14 (a) DEFINITIONS.—In this section, the terms “As-
15 sistant Secretary”, “Secretary”, “State agency”, and
16 “area agency on aging” have the meanings given the
17 terms in section 102 of the Older Americans Act of 1965
18 (42 U.S.C. 3002).

19 (b) NUTRITION SERVICES TRANSFER CRITERIA.—
20 During any portion of the COVID-19 public health emer-
21 gency declared under section 319 of the Public Health
22 Service Act (42 U.S.C. 247d), the Secretary shall allow
23 a State agency or an area agency on aging, without prior
24 approval, to transfer not more than 100 percent of the
25 funds received by the State agency or area agency on

1 aging, respectively, and attributable to funds appropriated
2 under paragraph (1) or (2) of section 303(b) of the Older
3 Americans Act of 1965 (42 U.S.C. 3023(b)), between sub-
4 part 1 and subpart 2 of part C (42 U.S.C. 3030d–2 et
5 seq.) for such use as the State agency or area agency on
6 aging, respectively, considers appropriate to meet the
7 needs of the State or area served.

8 (c) HOME-DELIVERED NUTRITION SERVICES WAIV-
9 ER.—For purposes of State agencies’ determining the de-
10 livery of nutrition services under section 337 of the Older
11 Americans Act of 1965 (42 U.S.C. 3030g), during the pe-
12 riod of the COVID–19 public health emergency declared
13 under section 319 of the Public Health Service Act (42
14 U.S.C. 247d), the same meaning shall be given to an indi-
15 vidual who is unable to obtain nutrition because the indi-
16 vidual is practicing social distancing due to the emergency
17 as is given to an individual who is homebound by reason
18 of illness.

19 (d) DIETARY GUIDELINES WAIVER.—To facilitate
20 implementation of subparts 1 and 2 of part C of title III
21 of the Older Americans Act of 1965 (42 U.S.C. 3030d–
22 2 et seq.) during any portion of the COVID–19 public
23 health emergency declared under section 319 of the Public
24 Health Service Act (42 U.S.C. 247d), the Assistant Sec-
25 retary may waive the requirements for meals provided

1 under those subparts to comply with the requirements of
2 clauses (i) and (ii) of section 339(2)(A) of such Act (42
3 U.S.C. 3030g–21(2)(A)).

4 **SEC. 3223. CONTINUITY OF SERVICE AND OPPORTUNITIES**
5 **FOR PARTICIPANTS IN COMMUNITY SERVICE**
6 **ACTIVITIES UNDER TITLE V OF THE OLDER**
7 **AMERICANS ACT OF 1965.**

8 To ensure continuity of service and opportunities for
9 participants in community service activities under title V
10 of the Older Americans Act of 1965 (42 U.S.C. 3056 et
11 seq.), the Secretary of Labor—

12 (1)(A) may allow individuals participating in
13 projects under such title as of March 1, 2020, to ex-
14 tend their participation for a period that exceeds the
15 period described in section 518(a)(3)(B)(i) of such
16 Act (42 U.S.C. 3056p(a)(3)(B)(i)) if the Secretary
17 determines such extension is appropriate due to the
18 effects of the COVID–19 public health emergency
19 declared under section 319 of the Public Health
20 Service Act (42 U.S.C. 247d); and

21 (B) may increase the average participation cap
22 for eligible individuals applicable to grantees as de-
23 scribed in section 502(b)(1)(C) of the Older Ameri-
24 cans Act of 1965 (42 U.S.C. 3056(b)(1)(C)) to a
25 cap the Secretary determines is appropriate due to

1 the effects of the COVID–19 public health emer-
2 gency declared under section 319 of the Public
3 Health Service Act (42 U.S.C. 247d); and

4 (2) may increase the amount available to pay
5 the authorized administrative costs for a project, de-
6 scribed in section 502(c)(3) of the Older Americans
7 Act of 1965 (42 U.S.C. 3056(c)(3)) to an amount
8 not to exceed 20 percent of the grant amount if the
9 Secretary determines that such increase is necessary
10 to adequately respond to the additional administra-
11 tive needs to respond to the COVID–19 public
12 health emergency declared under section 319 of the
13 Public Health Service Act (42 U.S.C. 247d).

14 **SEC. 3224. GUIDANCE ON PROTECTED HEALTH INFORMA-**
15 **TION.**

16 Not later than 180 days after the date of enactment
17 of this Act, the Secretary of Health and Human Services
18 shall issue guidance on the sharing of patients’ protected
19 health information pursuant to section 160.103 of title 45,
20 Code of Federal Regulations (or any successor regula-
21 tions) during the public health emergency declared by the
22 Secretary of Health and Human Services under section
23 319 of the Public Health Service Act (42 U.S.C. 247d)
24 with respect to COVID-19, during the emergency involv-
25 ing Federal primary responsibility determined to exist by

1 the President under section 501(b) of the Robert T. Staf-
2 ford Disaster Relief and Emergency Assistance Act (42
3 U.S.C. 5191(b)) with respect to COVID-19, and during
4 the national emergency declared by the President under
5 the National Emergencies Act (50 U.S.C. 1601 et seq.)
6 with respect to COVID-19. Such guidance shall include
7 information on compliance with the regulations promul-
8 gated pursuant to section 264(c) of the Health Insurance
9 Portability and Accountability Act of 1996 (42 U.S.C.
10 1320d–2 note) and applicable policies, including such poli-
11 cies that may come into effect during such emergencies.

12 **SEC. 3225. REAUTHORIZATION OF HEALTHY START PRO-**
13 **GRAM.**

14 Section 330H of the Public Health Service Act (42
15 U.S.C. 254c–8) is amended—

16 (1) in subsection (a)—

17 (A) in paragraph (1), by striking “, during
18 fiscal year 2001 and subsequent years,”; and

19 (B) in paragraph (2), by inserting “or in-
20 creasing above the national average” after
21 “areas with high”;

22 (2) in subsection (b)—

23 (A) in paragraph (1), by striking “con-
24 sumers of project services, public health depart-
25 ments, hospitals, health centers under section

1 330” and inserting “participants and former
2 participants of project services, public health
3 departments, hospitals, health centers under
4 section 330, State substance abuse agencies”;
5 and

6 (B) in paragraph (2)—

7 (i) in subparagraph (A), by striking
8 “such as low birthweight” and inserting
9 “including poor birth outcomes (such as
10 low birthweight and preterm birth) and so-
11 cial determinants of health”;

12 (ii) by redesignating subparagraph
13 (B) as subparagraph (C);

14 (iii) by inserting after subparagraph
15 (A), the following:

16 “(B) Communities with—

17 “(i) high rates of infant mortality or
18 poor perinatal outcomes; or

19 “(ii) high rates of infant mortality or
20 poor perinatal outcomes in specific sub-
21 populations within the community.”; and

22 (iv) in subparagraph (C) (as so red-
23 igned)—

1 (I) by redesignating clauses (i)
2 and (ii) as clauses (ii) and (iii), re-
3 spectively;

4 (II) by inserting before clause (ii)
5 (as so redesignated) the following:

6 “(i) collaboration with the local com-
7 munity in the development of the project;”;

8 (III) in clause (ii) (as so redesign-
9 ated), by striking “and” at the end;

10 (IV) in clause (iii) (as so redesign-
11 ated), by striking the period and in-
12 serting “; and”; and

13 (V) by adding at the end the fol-
14 lowing:

15 “(iv) the use and collection of data
16 demonstrating the effectiveness of such
17 program in decreasing infant mortality
18 rates and improving perinatal outcomes, as
19 applicable, or the process by which new ap-
20 plicants plan to collect this data.”;

21 (3) in subsection (c)—

22 (A) by striking “Recipients of grants” and
23 inserting the following:

24 “(1) IN GENERAL.—Recipients of grants”; and

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

1 “(2) OTHER PROGRAMS.—The Secretary shall
2 ensure coordination of the program carried out pur-
3 suant to this section with other programs and activi-
4 ties related to the reduction of the rate of infant
5 mortality and improved perinatal and infant health
6 outcomes supported by the Department.”;

7 (4) in subsection (e)—

8 (A) in paragraph (1), by striking “appro-
9 priated—” and all that follows through the end
10 and inserting “appropriated \$125,500,000 for
11 each of fiscal years 2021 through 2025.”; and

12 (B) in paragraph (2)(B), by adding at the
13 end the following: “Evaluations may also in-
14 clude, to the extent practicable, information re-
15 lated to—

16 “(i) progress toward achieving any
17 grant metrics or outcomes related to re-
18 ducing infant mortality rates, improving
19 perinatal outcomes, or reducing the dis-
20 parity in health status;

21 “(ii) recommendations on potential
22 improvements that may assist with ad-
23 dressing gaps, as applicable and appro-
24 priate; and

1 “(iii) the extent to which the grantee
2 coordinated with the community in which
3 the grantee is located in the development
4 of the project and delivery of services, in-
5 cluding with respect to technical assistance
6 and mentorship programs.”; and

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

8 “(f) GAO REPORT.—

9 “(1) IN GENERAL.—Not later than 4 years
10 after the date of the enactment of this subsection,
11 the Comptroller General of the United States shall
12 conduct an independent evaluation, and submit to
13 the appropriate Committees of Congress a report,
14 concerning the Healthy Start program under this
15 section.

16 “(2) EVALUATION.—In conducting the evalua-
17 tion under paragraph (1), the Comptroller General
18 shall consider, as applicable and appropriate, infor-
19 mation from the evaluations under subsection
20 (e)(2)(B).

21 “(3) REPORT.—The report described in para-
22 graph (1) shall review, assess, and provide rec-
23 ommendations, as appropriate, on the following:

24 “(A) The allocation of Healthy Start pro-
25 gram grants by the Health Resources and Serv-

1 ices Administration, including considerations
2 made by such Administration regarding dispari-
3 ties in infant mortality or perinatal outcomes
4 among urban and rural areas in making such
5 awards.

6 “(B) Trends in the progress made toward
7 meeting the evaluation criteria pursuant to sub-
8 section (e)(2)(B), including programs which de-
9 crease infant mortality rates and improve
10 perinatal outcomes, programs that have not de-
11 creased infant mortality rates or improved
12 perinatal outcomes, and programs that have
13 made an impact on disparities in infant mor-
14 tality or perinatal outcomes.

15 “(C) The ability of grantees to improve
16 health outcomes for project participants, pro-
17 mote the awareness of the Healthy Start pro-
18 gram services, incorporate and promote family
19 participation, facilitate coordination with the
20 community in which the grantee is located, and
21 increase grantee accountability through quality
22 improvement, performance monitoring, evalua-
23 tion, and the effect such metrics may have to-
24 ward decreasing the rate of infant mortality
25 and improving perinatal outcomes.

1 “(D) The extent to which such Federal
2 programs are coordinated across agencies and
3 the identification of opportunities for improved
4 coordination in such Federal programs and ac-
5 tivities.”.

6 **SEC. 3226. IMPORTANCE OF THE BLOOD SUPPLY.**

7 (a) IN GENERAL.—The Secretary of Health and
8 Human Services (referred to in this section as the “Sec-
9 retary”) shall carry out a national campaign to improve
10 awareness of, and support outreach to, the public and
11 health care providers about the importance and safety of
12 blood donation and the need for donations for the blood
13 supply during the public health emergency declared by the
14 Secretary under section 319 of the Public Health Service
15 Act (42 U.S.C. 247d) with respect to COVID-19.

16 (b) AWARENESS CAMPAIGN.—In carrying out sub-
17 section (a), the Secretary may enter into contracts with
18 one or more public or private nonprofit entities, to estab-
19 lish a national blood donation awareness campaign that
20 may include television, radio, internet, and newspaper
21 public service announcements, and other activities to pro-
22 vide for public and professional awareness and education.

23 (c) CONSULTATION.—In carrying out subsection (a),
24 the Secretary shall consult with the Commissioner of Food
25 and Drugs, the Assistant Secretary for Health, the Direc-

1 tor of the Centers for Disease Control and Prevention, the
2 Director of the National Institutes of Health, and the
3 heads of other relevant Federal agencies, and relevant ac-
4 crediting bodies and representative organizations.

5 (d) REPORT TO CONGRESS.—Not later than 2 years
6 after the date of enactment of this Act, the Secretary shall
7 submit to the Committee on Health, Education, Labor,
8 and Pensions of the Senate and the Committee on Energy
9 and Commerce of the House of Representatives, a report
10 that shall include—

11 (1) a description of the activities carried out
12 under subsection (a);

13 (2) a description of trends in blood supply do-
14 nations; and

15 (3) an evaluation of the impact of the public
16 awareness campaign, including any geographic or
17 population variations.

18 **PART III—INNOVATION**

19 **SEC. 3301. REMOVING THE CAP ON OTA DURING PUBLIC**
20 **HEALTH EMERGENCIES.**

21 Section 319L(c)(5)(A) of the Public Health Service
22 Act (42 U.S.C. 247d–7e(c)(5)(A)) is amended—

23 (1) by redesignating clause (iii) as clause (iv);
24 and

25 (2) by inserting after clause (ii) the following:

1 “(ii) AUTHORITY DURING A PUBLIC
2 HEALTH EMERGENCY.—

3 “(I) IN GENERAL.—Notwith-
4 standing clause (ii), the Secretary,
5 shall, to the maximum extent prac-
6 ticable, use competitive procedures
7 when entering into transactions to
8 carry out projects under this sub-
9 section for purposes of a public health
10 emergency declared by the Secretary
11 under section 319. Any such trans-
12 actions entered into during such pub-
13 lic health emergency shall not be ter-
14 minated solely due to the expiration of
15 such public health emergency, if such
16 public health emergency ends before
17 the completion of the terms of such
18 agreement.

19 “(II) REPORT.—After the expira-
20 tion of the public health emergency
21 declared by the Secretary under sec-
22 tion 319, the Secretary shall provide a
23 report to the Committee on Health,
24 Education, Labor, and Pensions of
25 the Senate and the Committee on En-

1 ergy and Commerce of the House of
2 Representatives regarding the use of
3 any funds pursuant to the authority
4 under subclause (I), including any
5 outcomes, benefits, and risks associ-
6 ated with the use of such funds, and
7 a description of the reasons for the
8 use of such authority for the project
9 or projects.”.

10 **SEC. 3302. PRIORITY ZONOTIC ANIMAL DRUGS.**

11 Chapter V of the Federal Food, Drug, and Cosmetic
12 Act (21 U.S.C. 351 et seq.) is amended by inserting after
13 section 512 the following:

14 **“SEC. 512A. PRIORITY ZONOTIC ANIMAL DRUGS.**

15 “(a) IN GENERAL.—The Secretary shall, at the re-
16 quest of the sponsor intending to submit an application
17 for approval of a new animal drug under section 512(b)(1)
18 or an application for conditional approval of a new animal
19 drug under section 571, expedite the development and re-
20 view of such new animal drug if preliminary clinical evi-
21 dence indicates that the new animal drug, alone or in com-
22 bination with 1 or more other animal drugs, has the poten-
23 tial to prevent or treat a zoonotic disease in animals, in-
24 cluding a vector borne-disease, that has the potential to

1 cause serious adverse health consequences for, or serious
2 or life-threatening diseases in, humans.

3 “(b) REQUEST FOR DESIGNATION.—The sponsor of
4 a new animal drug may request the Secretary to designate
5 a new animal drug described in subsection (a) as a priority
6 zoonotic animal drug. A request for the designation may
7 be made concurrently with, or at any time after, the open-
8 ing of an investigational new animal drug file under sec-
9 tion 512(j) or the filing of an application under section
10 512(b)(1) or 571.

11 “(c) DESIGNATION.—

12 “(1) IN GENERAL.—Not later than 60 calendar
13 days after the receipt of a request under subsection
14 (b), the Secretary shall determine whether the new
15 animal drug that is the subject of the request meets
16 the criteria described in subsection (a). If the Sec-
17 retary determines that the new animal drug meets
18 the criteria, the Secretary shall designate the new
19 animal drug as a priority zoonotic animal drug and
20 shall take such actions as are appropriate to expe-
21 dite the development and review of the application
22 for approval or conditional approval of such new ani-
23 mal drug.

1 “(2) ACTIONS.—The actions to expedite the de-
2 velopment and review of an application under para-
3 graph (1) may include, as appropriate—

4 “(A) taking steps to ensure that the design
5 of clinical trials is as efficient as practicable,
6 when scientifically appropriate, such as by uti-
7 lizing novel trial designs or drug development
8 tools (including biomarkers) that may reduce
9 the number of animals needed for studies;

10 “(B) providing timely advice to, and inter-
11 active communication with, the sponsor (which
12 may include meetings with the sponsor and re-
13 view team) regarding the development of the
14 new animal drug to ensure that the develop-
15 ment program to gather the nonclinical and
16 clinical data necessary for approval is as effi-
17 cient as practicable;

18 “(C) involving senior managers and review
19 staff with experience in zoonotic or vector-borne
20 disease to facilitate collaborative, cross-discipli-
21 nary review, including, as appropriate, across
22 agency centers; and

23 “(D) implementing additional administra-
24 tive or process enhancements, as necessary, to

1 facilitate an efficient review and development
2 program.”.

3 **PART IV—HEALTH CARE WORKFORCE**

4 **SEC. 3401. REAUTHORIZATION OF HEALTH PROFESSIONS**
5 **WORKFORCE PROGRAMS.**

6 Title VII of the Public Health Service Act (42 U.S.C.
7 292 et seq.) is amended—

8 (1) in section 736 (42 U.S.C. 293), by striking
9 subsection (i) and inserting the following:

10 “(i) AUTHORIZATION OF APPROPRIATIONS.—To
11 carry out this section, there is authorized to be appro-
12 priated \$23,711,000 for each of fiscal years 2021 through
13 2025.”;

14 (2) in section 740 (42 U.S.C. 293d)—

15 (A) in subsection (a), by striking
16 “\$51,000,000 for fiscal year 2010, and such
17 sums as may be necessary for each of the fiscal
18 years 2011 through 2014” and inserting
19 “\$51,470,000 for each of fiscal years 2021
20 through 2025”;

21 (B) in subsection (b), by striking
22 “\$5,000,000 for each of the fiscal years 2010
23 through 2014” and inserting “\$1,190,000 for
24 each of fiscal years 2021 through 2025”;

1 trains primary care physicians on such
2 models and”; and

3 (ii) by adding at the end the fol-
4 lowing:

5 “(3) PRIORITIES IN MAKING AWARDS.—In
6 awarding grants or contracts under paragraph (1),
7 the Secretary may give priority to qualified appli-
8 cants that train residents in rural areas, including
9 for Tribes or Tribal Organizations in such areas.”;

10 (B) in subsection (b)(3)(E), by striking
11 “substance-related disorders” and inserting
12 “substance use disorders”; and

13 (C) in subsection (c)(1), by striking
14 “\$125,000,000 for fiscal year 2010, and such
15 sums as may be necessary for each of fiscal
16 years 2011 through 2014” and inserting
17 “\$48,924,000 for each of fiscal years 2021
18 through 2025”;

19 (4) in section 748 (42 U.S.C. 293k-2)—

20 (A) in subsection (c)(5), by striking “sub-
21 stance-related disorders” and inserting “sub-
22 stance use disorders”; and

23 (B) in subsection (f), by striking
24 “\$30,000,000 for fiscal year 2010 and such
25 sums as may be necessary for each of fiscal

1 years 2011 through 2015” and inserting
2 “\$28,531,000 for each of fiscal years 2021
3 through 2025”;

4 (5) in section 749(d)(2) (42 U.S.C. 293l(d)(2)),
5 by striking “Committee on Labor and Human Re-
6 sources of the Senate, and the Committee on Com-
7 merce of the House of Representatives” and insert-
8 ing “Committee on Health, Education, Labor, and
9 Pensions of the Senate, and the Committee on En-
10 ergy and Commerce of the House of Representa-
11 tives”;

12 (6) in section 751(j)(1) (42 U.S.C. 294a(j)(1)),
13 by striking “\$125,000,000 for each of the fiscal
14 years 2010 through 2014” and inserting
15 “\$41,250,000 for each of fiscal years 2021 through
16 2025”;

17 (7) in section 754(b)(1)(A) (42 U.S.C.
18 294d(b)(1)(A)), by striking “new and innovative”
19 and inserting “innovative or evidence-based”;

20 (8) in section 755(b)(1)(A) (42 U.S.C.
21 294e(b)(1)(A)), by striking “the elderly” and insert-
22 ing “geriatric populations or for maternal and child
23 health”;

24 (9) in section 761(e) (42 U.S.C. 294n(e))—

1 (A) in paragraph (1)(A), by striking
2 “\$7,500,000 for each of fiscal years 2010
3 through 2014” and inserting “\$5,663,000 for
4 each of fiscal years 2021 through 2025”; and

5 (B) in paragraph (2), by striking “sub-
6 section (a)” and inserting “paragraph (1)”;
7 (10) in section 762 (42 U.S.C. 294o)—

8 (A) in subsection (a)(1), by striking “Com-
9 mittee on Labor and Human Resources” and
10 inserting “Committee on Health, Education,
11 Labor, and Pensions”;

12 (B) in subsection (b)—

13 (i) in paragraph (2), by striking
14 “Health Care Financing Administration”
15 and inserting “Centers for Medicare &
16 Medicaid Services”;

17 (ii) by redesignating paragraphs (4)
18 through (6) as paragraphs (5) through (7),
19 respectively; and

20 (iii) by inserting after paragraph (3),
21 the following:

22 “(4) the Administrator of the Health Resources
23 and Services Administration;”;

24 (C) by striking subsections (i), (j), and (k)
25 and inserting the following:

1 “(i) REPORTS.—Not later than September 30, 2023,
2 and not less than every 5 years thereafter, the Council
3 shall submit to the Secretary, and to the Committee on
4 Health, Education, Labor, and Pensions of the Senate and
5 the Committee on Energy and Commerce of the House
6 of Representatives, a report on the recommendations de-
7 scribed in subsection (a).”; and

8 (D) by redesignating subsection (l) as sub-
9 section (j);

10 (11) in section 766(b)(1) (42 U.S.C.
11 295a(b)(1)), by striking “that plans” and all that
12 follows through the period and inserting “that plans,
13 develops, operates, and evaluates projects to improve
14 preventive medicine, health promotion and disease
15 prevention, or access to and quality of health care
16 services in rural or medically underserved commu-
17 nities.”;

18 (12) in section 770(a) (42 U.S.C. 295e(a)), by
19 striking “\$43,000,000 for fiscal year 2011, and such
20 sums as may be necessary for each of the fiscal
21 years 2012 through 2015” and inserting
22 “\$17,000,000 for each of fiscal years 2021 through
23 2025”; and

24 (13) in section 775(e) (42 U.S.C. 295f(e)), by
25 striking “\$30,000,000” and all that follows through

1 the period and inserting “such sums as may be nec-
2 essary for each of fiscal years 2021 through 2025.”.

3 **SEC. 3402. HEALTH WORKFORCE COORDINATION.**

4 (a) STRATEGIC PLAN.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the date of enactment of this Act, the Secretary of
7 Health and Human Services (referred to in this Act
8 as the “Secretary”), in consultation with the Advi-
9 sory Committee on Training in Primary Care Medi-
10 cine and Dentistry and the Advisory Council on
11 Graduate Medical Education, shall develop a com-
12 prehensive and coordinated plan with respect to the
13 health care workforce development programs of the
14 Department of Health and Human Services, includ-
15 ing education and training programs.

16 (2) REQUIREMENTS.—The plan under para-
17 graph (1) shall—

18 (A) include performance measures to de-
19 termine the extent to which the programs de-
20 scribed in paragraph (1) are strengthening the
21 Nation’s health care system;

22 (B) identify any gaps that exist between
23 the outcomes of programs described in para-
24 graph (1) and projected health care workforce
25 needs identified in workforce projection reports

1 conducted by the Health Resources and Serv-
2 ices Administration;

3 (C) identify actions to address the gaps de-
4 scribed in subparagraph (B); and

5 (D) identify barriers, if any, to imple-
6 menting the actions identified under subpara-
7 graph (C).

8 (b) COORDINATION WITH OTHER AGENCIES.—The
9 Secretary shall coordinate with the heads of other Federal
10 agencies and departments that fund or administer health
11 care workforce development programs, including education
12 and training programs, to—

13 (1) evaluate the performance of such programs,
14 including the extent to which such programs are effi-
15 cient and effective and are meeting the nation’s
16 health workforce needs; and

17 (2) identify opportunities to improve the quality
18 and consistency of the information collected to evalu-
19 ate within and across such programs, and to imple-
20 ment such improvements.

21 (c) REPORT.—Not later than 2 years after the date
22 of enactment of this Act, the Secretary shall submit to
23 the Committee on Health, Education, Labor, and Pen-
24 sions of the Senate, and the Committee on Energy and
25 Commerce of the House of Representatives, a report de-

1 scribing the plan developed under subsection (a) and ac-
2 tions taken to implement such plan.

3 **SEC. 3403. EDUCATION AND TRAINING RELATING TO GERI-**
4 **ATRICS.**

5 Section 753 of the Public Health Service Act (42
6 U.S.C. 294e) is amended to read as follows:

7 **“SEC. 753. EDUCATION AND TRAINING RELATING TO GERI-**
8 **ATRICS.**

9 “(a) GERIATRICS WORKFORCE ENHANCEMENT PRO-
10 GRAM.—

11 “(1) IN GENERAL.—The Secretary shall award
12 grants, contracts, or cooperative agreements under
13 this subsection to entities described in paragraph
14 (1), (3), or (4) of section 799B, section 801(2), or
15 section 865(d), or other health professions schools or
16 programs approved by the Secretary, for the estab-
17 lishment or operation of Geriatrics Workforce En-
18 hancement Programs that meet the requirements of
19 paragraph (2).

20 “(2) REQUIREMENTS.—

21 “(A) IN GENERAL.—A Geriatrics Work-
22 force Enhancement Program receiving an
23 award under this section shall support the
24 training of health professionals in geriatrics, in-
25 cluding traineeships or fellowships. Such pro-

1 grams shall emphasize, as appropriate, patient
2 and family engagement, integration of geriatrics
3 with primary care and other appropriate spe-
4 cialties, and collaboration with community part-
5 ners to address gaps in health care for older
6 adults.

7 “(B) ACTIVITIES.—Activities conducted by
8 a program under this section may include the
9 following:

10 “(i) Clinical training on providing in-
11 tegrated geriatrics and primary care deliv-
12 ery services.

13 “(ii) Interprofessional training to
14 practitioners from multiple disciplines and
15 specialties, including training on the provi-
16 sion of care to older adults.

17 “(iii) Establishing or maintaining
18 training-related community-based pro-
19 grams for older adults and caregivers to
20 improve health outcomes for older adults.

21 “(iv) Providing education on Alz-
22 heimer’s disease and related dementias to
23 families and caregivers of older adults, di-
24 rect care workers, and health professions
25 students, faculty, and providers.

1 “(3) DURATION.—Each grant, contract, or co-
2 operative agreement or contract awarded under
3 paragraph (1) shall be for a period not to exceed 5
4 years.

5 “(4) APPLICATIONS.—To be eligible to receive a
6 grant, contract, or cooperative agreement under
7 paragraph (1), an entity described in such para-
8 graph shall submit to the Secretary an application at
9 such time, in such manner, and containing such in-
10 formation as the Secretary may require.

11 “(5) PROGRAM REQUIREMENTS.—

12 “(A) IN GENERAL.—In awarding grants,
13 contracts, and cooperative agreements under
14 paragraph (1), the Secretary—

15 “(i) shall give priority to programs
16 that demonstrate coordination with an-
17 other Federal or State program or another
18 public or private entity;

19 “(ii) shall give priority to applicants
20 with programs or activities that are ex-
21 pected to substantially benefit rural or
22 medically underserved populations of older
23 adults, or serve older adults in Indian
24 Tribes or Tribal organizations; and

1 “(iii) may give priority to any pro-
2 gram that—

3 “(I) integrates geriatrics into pri-
4 mary care practice;

5 “(II) provides training to inte-
6 grate geriatric care into other special-
7 ties across care settings, including
8 practicing clinical specialists, health
9 care administrators, faculty without
10 backgrounds in geriatrics, and stu-
11 dents from all health professions;

12 “(III) emphasizes integration of
13 geriatric care into existing service de-
14 livery locations and care across set-
15 tings, including primary care clinics,
16 medical homes, Federally qualified
17 health centers, ambulatory care clin-
18 ics, critical access hospitals, emer-
19 gency care, assisted living and nursing
20 facilities, and home- and community-
21 based services, which may include
22 adult daycare;

23 “(IV) supports the training and
24 retraining of faculty, primary care
25 providers, other direct care providers,

1 and other appropriate professionals on
2 geriatrics;

3 “(V) emphasizes education and
4 engagement of family caregivers on
5 disease management and strategies to
6 meet the needs of caregivers of older
7 adults; or

8 “(VI) proposes to conduct out-
9 reach to communities that have a
10 shortage of geriatric workforce profes-
11 sionals.

12 “(B) SPECIAL CONSIDERATION.—In
13 awarding grants, contracts, and cooperative
14 agreements under this section, the Secretary
15 shall give special consideration to entities that
16 provide services in areas with a shortage of
17 geriatric workforce professionals.

18 “(6) PRIORITY.—The Secretary may provide
19 awardees with additional support for activities in
20 areas of demonstrated need, which may include edu-
21 cation and training for home health workers, family
22 caregivers, and direct care workers on care for older
23 adults.

24 “(7) REPORTING.—

1 “(A) REPORTS FROM ENTITIES.—Each en-
2 tity awarded a grant, contract, or cooperative
3 agreement under this section shall submit an
4 annual report to the Secretary on the activities
5 conducted under such grant, contract, or coop-
6 erative agreement, which may include informa-
7 tion on the number of trainees, the number of
8 professions and disciplines, the number of part-
9 nerships with health care delivery sites, the
10 number of faculty and practicing professionals
11 who participated in such programs, and other
12 information, as the Secretary may require.

13 “(B) REPORT TO CONGRESS.—Not later
14 than 4 years after the date of enactment of the
15 Title VII Health Care Workforce Reauthoriza-
16 tion Act of 2019 and every 5 years thereafter,
17 the Secretary shall submit to the Committee on
18 Health, Education, Labor, and Pensions of the
19 Senate and the Committee on Energy and Com-
20 merce of the House of Representatives a report
21 that provides a summary of the activities and
22 outcomes associated with grants, contracts, and
23 cooperative agreements made under this sec-
24 tion. Such reports shall include—

1 “(i) information on the number of
2 trainees, faculty, and professionals who
3 participated in programs under this sec-
4 tion;

5 “(ii) information on the impact of the
6 program conducted under this section on
7 the health status of older adults, including
8 in areas with a shortage of health profes-
9 sionals; and

10 “(iii) information on outreach and
11 education provided under this section to
12 families and caregivers of older adults.

13 “(C) PUBLIC AVAILABILITY.—The Sec-
14 retary shall make reports submitted under
15 paragraph (B) publically available on the inter-
16 net website of the Department of Health and
17 Human Services.

18 “(b) GERIATRIC ACADEMIC CAREER AWARDS.—

19 “(1) ESTABLISHMENT OF PROGRAM.—The Sec-
20 retary shall, as appropriate, establish or maintain a
21 program to provide geriatric academic career awards
22 to eligible entities applying on behalf of eligible indi-
23 viduals to promote the career development of such
24 individuals as academic geriatricians or other aca-
25 demic geriatrics health professionals.

1 “(2) ELIGIBILITY.—

2 “(A) ELIGIBLE ENTITY.—For purposes of
3 this subsection, the term ‘eligible entity’
4 means—

5 “(i) an entity described in paragraph
6 (1), (3), or (4) of section 799B or section
7 801(2); or

8 “(ii) another accredited health profes-
9 sions school or graduate program approved
10 by the Secretary.

11 “(B) ELIGIBLE INDIVIDUAL.—For pur-
12 poses of this subsection, the term ‘eligible indi-
13 vidual’ means an individual who—

14 “(i)(I) is board certified or board eli-
15 gible in internal medicine, family practice,
16 psychiatry, or licensed dentistry, or has
17 completed required training in a discipline
18 and is employed in an accredited health
19 professions school or graduate program
20 that is approved by the Secretary; or

21 “(II) has completed an approved fel-
22 lowship program in geriatrics, or has com-
23 pleted specialty training in geriatrics as re-
24 quired by the discipline and any additional

1 geriatrics training as required by the Sec-
2 retary; and

3 “(ii) has a junior, nontenured, faculty
4 appointment at an accredited health pro-
5 fessions school or graduate program in
6 geriatrics or a geriatrics health profession.

7 “(C) CLARIFICATION.—If an eligible indi-
8 vidual is promoted during the period of an
9 award under this subsection and thereby no
10 longer meets the criteria of subparagraph
11 (B)(ii), the individual shall continue to be treat-
12 ed as an eligible individual through the term of
13 the award.

14 “(3) APPLICATION REQUIREMENTS.—In order
15 to receive an award under paragraph (1), an eligible
16 entity, on behalf of an eligible individual, shall—

17 “(A) submit to the Secretary an applica-
18 tion, at such time, in such manner, and con-
19 taining such information as the Secretary may
20 require;

21 “(B) provide, in such form and manner as
22 the Secretary may require, assurances that the
23 eligible individual will meet the service require-
24 ment described in paragraph (6); and

1 “(C) provide, in such form and manner as
2 the Secretary may require, assurances that the
3 individual has a full-time faculty appointment
4 in a health professions institution and docu-
5 mented commitment from such eligible entity
6 that the individual will spend 75 percent of the
7 individual’s time that is supported by the award
8 on teaching and developing skills in inter-
9 disciplinary education in geriatrics.

10 “(4) **EQUITABLE DISTRIBUTION.**—In making
11 awards under this subsection, the Secretary shall
12 seek to ensure geographical distribution among
13 award recipients, including among rural or medically
14 underserved areas of the United States.

15 “(5) **AMOUNT AND DURATION.**—

16 “(A) **AMOUNT.**—The amount of an award
17 under this subsection shall be at least \$75,000
18 for fiscal year 2021, adjusted for subsequent
19 years in accordance with the consumer price
20 index. The Secretary shall determine the
21 amount of an award under this subsection for
22 individuals who are not physicians.

23 “(B) **DURATION.**—The Secretary shall
24 make awards under paragraph (1) for a period
25 not to exceed 5 years.

1 “(6) SERVICE REQUIREMENT.—An individual
2 who receives an award under this subsection shall
3 provide training in clinical geriatrics, including the
4 training of interprofessional teams of health care
5 professionals. The provision of such training shall
6 constitute at least 75 percent of the obligations of
7 such individual under the award.

8 “(c) NONAPPLICABILITY OF PROVISION.—Notwith-
9 standing any other provision of this title, section 791(a)
10 shall not apply to awards made under this section.

11 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated \$40,737,000 for each of
13 fiscal years 2021 through 2025 for purposes of carrying
14 out this section.”.

15 **SEC. 3404. NURSING WORKFORCE DEVELOPMENT.**

16 (a) IN GENERAL.—Title VIII of the Public Health
17 Service Act (42 U.S.C. 296 et seq.) is amended—

18 (1) in section 801 (42 U.S.C. 296), by adding
19 at the end the following:

20 “(18) NURSE MANAGED HEALTH CLINIC.—The
21 term ‘nurse managed health clinic’ means a nurse-
22 practice arrangement, managed by advanced practice
23 nurses, that provides primary care or wellness serv-
24 ices to underserved or vulnerable populations and
25 that is associated with a school, college, university or

1 department of nursing, federally qualified health
2 center, or independent nonprofit health or social
3 services agency.”;

4 (2) in section 802(c) (42 U.S.C. 296a(e)), by
5 inserting “, and how such project aligns with the
6 goals in section 806(a)” before the period in the sec-
7 ond sentence;

8 (3) in section 803(b) (42 U.S.C. 296b(b)), by
9 adding at the end the following: “Such Federal
10 funds are intended to supplement, not supplant, ex-
11 isting non-Federal expenditures for such activities.”;

12 (4) in section 806 (42 U.S.C. 296e)—

13 (A) in subsection (a), by striking “as need-
14 ed to” and all that follows and inserting the fol-
15 lowing: “as needed to address national nursing
16 needs, including—

17 “(1) addressing challenges, including through
18 supporting training and education of nursing stu-
19 dents, related to the distribution of the nursing
20 workforce and existing or projected nursing work-
21 force shortages in geographic areas that have been
22 identified as having, or that are projected to have,
23 a nursing shortage;

24 “(2) increasing access to and the quality of
25 health care services, including by supporting the

1 training of professional registered nurses, advanced
2 practice registered nurses, and advanced education
3 nurses within community based settings and in a va-
4 riety of health delivery system settings; or

5 “(3) addressing the strategic goals and prior-
6 ities identified by the Secretary and that are in ac-
7 cordance with this title.

8 Contracts may be entered into under this title with public
9 or private entities as determined necessary by the Sec-
10 retary.”;

11 (B) in subsection (b)(2), by striking “a
12 demonstration” and all that follows and insert-
13 ing the following: “the reporting of data and in-
14 formation demonstrating that satisfactory
15 progress has been made by the program or
16 project in meeting the performance outcome
17 standards (as described in section 802) of such
18 program or project.”;

19 (C) in subsection (e)(2), by inserting “,
20 and have relevant expertise and experience” be-
21 fore the period at the end of the first sentence;
22 and

23 (D) by adding at the end the following:

24 “(i) BIENNIAL REPORT ON NURSING WORKFORCE
25 PROGRAM IMPROVEMENTS.—Not later than September

1 30, 2020, and biennially thereafter, the Secretary shall
2 submit to the Committee on Health, Education, Labor,
3 and Pensions of the Senate and the Committee on Energy
4 and Commerce of the House of Representatives, a report
5 that contains an assessment of the programs and activities
6 of the Department of Health and Human Services related
7 to enhancing the nursing workforce, including the extent
8 to which programs and activities under this title meet the
9 identified goals and performance measures developed for
10 the respective programs and activities, and the extent to
11 which the Department coordinates with other Federal de-
12 partments regarding programs designed to improve the
13 nursing workforce.”;

14 (5) in section 811 (42 U.S.C. 296j)—

15 (A) in subsection (b)—

16 (i) by striking “Master’s” and insert-
17 ing “graduate”; and

18 (ii) by inserting “clinical nurse lead-
19 ers,” after “nurse administrators,”;

20 (B) by redesignating subsections (f) and
21 (g) as subsections (g) and (h), respectively; and

22 (C) by inserting after subsection (e), the
23 following:

24 “(f) AUTHORIZED CLINICAL NURSE SPECIALIST
25 PROGRAMS.—Clinical nurse specialist programs eligible

1 for support under this section are education programs
2 that—

3 “(1) provide registered nurses with full-time
4 clinical nurse specialist education; and

5 “(2) have as their objective the education of
6 clinical nurse specialists who will, upon completion
7 of such a program, be qualified to effectively provide
8 care through the wellness and illness continuum to
9 inpatients and outpatients experiencing acute and
10 chronic illness.”; and

11 (6) in section 831 (42 U.S.C. 296p)—

12 (A) in the section heading, by striking
13 “**AND QUALITY GRANTS**” and inserting
14 “**QUALITY, AND RETENTION GRANTS**”;

15 (B) in subsection (b)(2), by striking “other
16 high-risk groups such as the elderly, individuals
17 with HIV/AIDS, substance abusers, the home-
18 less, and victims” and inserting “high risk
19 groups, such as the elderly, individuals with
20 HIV/AIDS, individuals with mental health or
21 substance use disorders, individuals who are
22 homeless, and survivors”;

23 (C) in subsection (c)(1)—

24 (i) in subparagraph (A)—

1 (I) by striking “advancement for
2 nursing personnel” and inserting the
3 following: “advancement for—
4 “(i) nursing”;

5 (II) by striking “professional
6 nurses, advanced education nurses, li-
7 censed practical nurses, certified
8 nurse assistants, and home health
9 aides” and inserting “professional
10 registered nurses, advanced practice
11 registered nurses, and nurses with
12 graduate nursing education”; and

13 (III) by adding at the end the
14 following:

15 “(ii) individuals including licensed
16 practical nurses, licensed vocational nurses,
17 certified nurse assistants, home health
18 aides, diploma degree or associate degree
19 nurses, and other health professionals,
20 such as health aides or community health
21 practitioners certified under the Commu-
22 nity Health Aide Program of the Indian
23 Health Service, to become registered
24 nurses with baccalaureate degrees or
25 nurses with graduate nursing education;”;

1 (ii) in subparagraph (B), by striking
2 the period and inserting “; and”; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(C) developing and implementing intern-
6 ships, accredited fellowships, and accredited
7 residency programs in collaboration with one or
8 more accredited schools of nursing, to encour-
9 age the mentoring and development of special-
10 ties.”;

11 (D) by striking subsections (e) and (h);

12 (E) by redesignating subsections (f) and
13 (g), as subsections (e) and (f), respectively;

14 (F) in subsection (e) (as so redesignated),
15 by striking “The Secretary shall submit to the
16 Congress before the end of each fiscal year”
17 and inserting “As part of the report on nursing
18 workforce programs described in section 806(i),
19 the Secretary shall include”; and

20 (G) in subsection (f) (as so redesignated),
21 by striking “a school of nursing, as defined in
22 section 801(2),” and inserting “an accredited
23 school of nursing, as defined in section 801(2),
24 a health care facility, including federally quali-
25 fied health centers or nurse-managed health

1 clinics, or a partnership of such a school and
2 facility”;

3 (7) by striking section 831A (42 U.S.C. 296p-
4 1);

5 (8) in section 846 (42 U.S.C. 297n)—

6 (A) by striking the last sentence of sub-
7 section (a);

8 (B) in subsection (b)(1), by striking “he
9 began such practice” and inserting “the indi-
10 vidual began such practice”; and

11 (C) in subsection (i), by striking “FUND-
12 ING” in the subsection heading and all that fol-
13 lows through “paragraph (1)” in paragraph (2),
14 and inserting the following: “ALLOCATIONS.—
15 Of the amounts appropriated under section
16 871(b),”;

17 (9) in section 846A (42 U.S.C. 247n-1), by
18 striking subsection (f);

19 (10) in section 847 (42 U.S.C. 297o), by strik-
20 ing subsection (g);

21 (11) in section 851 (42 U.S.C. 297t)—

22 (A) in subsection (b)(1)(A)(iv), by striking
23 “and nurse anesthetists” and inserting “nurse
24 anesthetists, and clinical nurse specialists”;

25 (B) in subsection (d)(3)—

1 (i) by striking “3 years after the date
2 of enactment of this section” and inserting
3 “2 years after the date of enactment of the
4 Title VIII Nursing Reauthorization Act”;

5 (ii) by striking “Labor and Human
6 Resources” and inserting “Health, Edu-
7 cation, Labor, and Pensions”; and

8 (iii) by inserting “Energy and” before
9 “Commerce”; and

10 (C) in subsection (g), by striking “under
11 this title” and inserting “for carrying out parts
12 B, C, and D”;

13 (12) by striking sections 861 and 862 (42
14 U.S.C. 297w and 297x); and

15 (13) in section 871 (42 U.S.C. 298d)—

16 (A) by striking “For the purpose of” and
17 inserting the following:

18 “(a) IN GENERAL.—For the purpose of”;

19 (B) by striking “\$338,000,000 for fiscal
20 year 2010, and such sums as may be necessary
21 for each of the fiscal years 2011 through 2016”
22 and inserting “\$137,837,000 for each of fiscal
23 years 2021 through 2025”; and

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

1 “(b) PART E.—For the purpose of carrying out part
2 E, there are authorized to be appropriated \$117,135,000
3 for each of the fiscal years 2021 through 2025.”.

4 (b) EVALUATION AND REPORT ON NURSE LOAN RE-
5 PAYMENT PROGRAMS.—

6 (1) EVALUATION.—The Comptroller General
7 shall conduct an evaluation of the nurse loan repay-
8 ment programs administered by the Health Re-
9 sources and Services Administration. Such evalua-
10 tion shall include—

11 (A) the manner in which payments are
12 made under such programs;

13 (B) the existing oversight functions nec-
14 essary to ensure the proper use of such pro-
15 grams, including payments made as part of
16 such programs;

17 (C) the identification of gaps, if any, in
18 oversight functions; and

19 (D) information on the number of nurses
20 assigned to facilities pursuant to such pro-
21 grams, including the type of facility to which
22 nurses are assigned and the impact of modi-
23 fying the eligibility requirements for programs
24 under section 846 of the Public Health Service
25 Act (42 U.S.C. 297n), such as the impact on

1 entities to which nurses had previously been as-
2 signed prior to fiscal year 2019 (such as feder-
3 ally qualified health centers and facilities affili-
4 ated with the Indian Health Service).

5 (2) REPORT.—Not later than 18 months after
6 the enactment of this Act, the Comptroller General
7 shall submit to the Committee on Health, Edu-
8 cation, Labor, and Pensions of the Senate and the
9 Committee on Energy and Commerce of the House
10 of Representatives, a report on the evaluation under
11 paragraph (1), which may include recommendations
12 to improve relevant nursing workforce loan repay-
13 ment programs.

14 **Subtitle B—Education Provisions**

15 **SEC. 3501. SHORT TITLE.**

16 This subtitle may be cited as the “COVID-19 Pan-
17 demic Education Relief Act of 2020”.

18 **SEC. 3502. DEFINITIONS.**

19 (a) DEFINITIONS.—In this subtitle:

20 (1) CORONAVIRUS.—The term “coronavirus”
21 has the meaning given the term in section 506 of the
22 Coronavirus Preparedness and Response Supple-
23 mental Appropriations Act, 2020 (Public Law 116–
24 123).

1 (2) FOREIGN INSTITUTION.—The term “foreign
2 institution” means an institution of higher education
3 located outside the United States that is described
4 in paragraphs (1)(C) and (2) of section 102(a) of
5 the Higher Education Act of 1965 (20 U.S.C.
6 1002(a)).

7 (3) INSTITUTION OF HIGHER EDUCATION.—The
8 term “institution of higher education” has the
9 meaning of the term under section 102 of the High-
10 er Education Act of 1965 (20 U.S.C. 1002).

11 (4) QUALIFYING EMERGENCY.—The term
12 “qualifying emergency” means—

13 (A) a public health emergency related to
14 the coronavirus declared by the Secretary of
15 Health and Human Services pursuant to sec-
16 tion 319 of the Public Health Service Act (42
17 U.S.C. 247d);

18 (B) an event related to the coronavirus for
19 which the President declared a major disaster
20 or an emergency under section 401 or 501, re-
21 spectively, of the Robert T. Stafford Disaster
22 Relief and Emergency Assistance Act (42
23 U.S.C. 5170 and 5191); or

24 (C) a national emergency related to the
25 coronavirus declared by the President under

1 section 201 of the National Emergencies Act
2 (50 U.S.C. 1601 et seq.).

3 (5) SECRETARY.—The term “Secretary” means
4 the Secretary of Education.

5 **SEC. 3503. CAMPUS-BASED AID WAIVERS.**

6 (a) WAIVER OF NON-FEDERAL SHARE REQUIRE-
7 MENT.—Notwithstanding sections 413C(a)(2) and
8 443(b)(5) of the Higher Education Act of 1965 (20
9 U.S.C. 1070b–2(a)(2) and 1087–53(b)(5)), with respect
10 to funds made available for award years 2019-2020 and
11 2020-2021, the Secretary shall waive the requirement that
12 a participating institution of higher education provide a
13 non-Federal share to match Federal funds provided to the
14 institution for the programs authorized pursuant to sub-
15 part 3 of part A and part C of title IV of the Higher
16 Education Act of 1965 (20 U.S.C. 1070b et seq. and
17 1087–51 et seq.) for all awards made under such pro-
18 grams during such award years, except nothing in this
19 subsection shall affect the non-Federal share requirement
20 under section 443(c)(3) that applies to private for-profit
21 organizations.

22 (b) AUTHORITY TO REALLOCATE.—Notwithstanding
23 sections 413D, 442, and 488 of the Higher Education Act
24 of 1965 (20 U.S.C. 1070b–3, 1087–52, and 1095), during
25 a period of a qualifying emergency, an institution may

1 transfer up to 100 percent of the institution's unexpended
2 allotment under section 442 of such Act to the institu-
3 tion's allotment under section 413D of such Act, but may
4 not transfer any funds from the institution's unexpended
5 allotment under section 413D of such Act to the institu-
6 tion's allotment under section 442 of such Act.

7 **SEC. 3504. USE OF SUPPLEMENTAL EDUCATIONAL OPPOR-**
8 **TUNITY GRANTS FOR EMERGENCY AID.**

9 (a) IN GENERAL.—Notwithstanding section 413B of
10 the Higher Education Act of 1965 (20 U.S.C. 1070b–1),
11 an institution of higher education may reserve any amount
12 of an institution's allocation under subpart 3 of part A
13 of title IV of the Higher Education Act of 1965 (20 U.S.C.
14 1070b et seq.) for a fiscal year to award, in such fiscal
15 year, emergency financial aid grants to assist under-
16 graduate or graduate students for unexpected expenses
17 and unmet financial need as the result of a qualifying
18 emergency.

19 (b) DETERMINATIONS.—In determining eligibility for
20 and awarding emergency financial aid grants under this
21 section, an institution of higher education may—

22 (1) waive the amount of need calculation under
23 section 471 of the Higher Education Act of 1965
24 (20 U.S.C. 1087kk);

1 students' work-study obligation for all or part of such aca-
2 demic year due to such qualifying emergency, as follows:

3 (1) Payments may be made under such part to
4 affected work-study students in an amount equal to
5 or less than the amount of wages such students
6 would have been paid under such part had the stu-
7 dents been able to complete the work obligation nec-
8 essary to receive work study funds, as a one time
9 grant or as multiple payments.

10 (2) Payments shall not be made to any student
11 who was not eligible for work study or was not com-
12 pleting the work obligation necessary to receive work
13 study funds under such part prior to the occurrence
14 of the qualifying emergency.

15 (3) Any payments made to affected work-study
16 students under this subsection shall meet the match-
17 ing requirements of section 443 of the Higher Edu-
18 cation Act of 1965 (20 U.S.C. 1087-53), unless
19 such matching requirements are waived by the Sec-
20 retary.

21 (b) DEFINITION OF AFFECTED WORK-STUDY STU-
22 DENT.—In this section, the term “affected work-study
23 student” means a student enrolled at an eligible institu-
24 tion participating in the program under part C of title IV

1 of the Higher Education Act of 1965 (20 U.S.C. 1087–
2 51 et seq.) who—

3 (1) received a work-study award under section
4 443 of the Higher Education Act of 1965 (20
5 U.S.C. 1087–53) for the academic year during which
6 a qualifying emergency occurred;

7 (2) earned Federal work-study wages from such
8 eligible institution for such academic year; and

9 (3) was prevented from fulfilling the student’s
10 work-study obligation for all or part of such aca-
11 demic year due to such qualifying emergency.

12 **SEC. 3506. ADJUSTMENT OF SUBSIDIZED LOAN USAGE LIM-**
13 **ITS.**

14 Notwithstanding section 455(q)(3) of the Higher
15 Education Act of 1965 (20 U.S.C. 1087e(q)(3)), the Sec-
16 retary shall exclude from a student’s period of enrollment
17 for purposes of loans made under part D of title IV of
18 the Higher Education Act of 1965 (20 U.S.C. 1087a et
19 seq.) any semester (or the equivalent) that the student
20 does not complete due to a qualifying emergency, if the
21 Secretary is able to administer such policy in a manner
22 that limits complexity and the burden on the student.

1 **SEC. 3507. EXCLUSION FROM FEDERAL PELL GRANT DURA-**
2 **TION LIMIT.**

3 The Secretary shall exclude from a student's Federal
4 Pell Grant duration limit under section 401(c)(5) of the
5 Higher Education Act of 1965 (2 U.S.C. 1070a(c)(5)) any
6 semester (or the equivalent) that the student does not
7 complete due to a qualifying emergency if the Secretary
8 is able to administer such policy in a manner that limits
9 complexity and the burden on the student.

10 **SEC. 3508. INSTITUTIONAL REFUNDS AND FEDERAL STU-**
11 **DENT LOAN FLEXIBILITY.**

12 (a) INSTITUTIONAL WAIVER.—

13 (1) IN GENERAL.—The Secretary shall waive
14 the institutional requirement under section 484B of
15 the Higher Education Act of 1965 (20 U.S.C.
16 1091b) with respect to the amount of grant or loan
17 assistance (other than assistance received under part
18 C of title IV of such Act) to be returned under such
19 section if a recipient of assistance under title IV of
20 the Higher Education Act of 1965 (20 U.S.C. 1070
21 et seq.) withdraws from the institution of higher
22 education during the payment period or period of
23 enrollment as a result of a qualifying emergency.

24 (2) WAIVERS.—The Secretary shall require
25 each institution using a waiver relating to the with-
26 drawal of recipients under this subsection to report

1 the number of such recipients, the amount of grant
2 or loan assistance (other than assistance received
3 under part C of title IV of such Act) associated with
4 each such recipient, and the total amount of grant
5 or loan assistance (other than assistance received
6 under part C of title IV of such Act) for which each
7 institution has not returned assistance under title IV
8 to the Secretary.

9 (b) STUDENT WAIVER.—The Secretary shall waive
10 the amounts that students are required to return under
11 section 484B of the Higher Education Act of 1965 (20
12 U.S.C. 1091b) with respect to Federal Pell Grants or
13 other grant assistance if the withdrawals on which the re-
14 turns are based, are withdrawals by students who with-
15 drew from the institution of higher education as a result
16 of a qualifying emergency.

17 (c) CANCELING LOAN OBLIGATION.—Notwith-
18 standing any other provision of the Higher Education Act
19 of 1965 (20 U.S.C. 1001 et seq.), the Secretary shall can-
20 cel the borrower's obligation to repay the entire portion
21 of a loan made under part D of title IV of such Act (20
22 U.S.C. 1087a et seq.) associated with a payment period
23 for a recipient of such loan who withdraws from the insti-
24 tution of higher education during the payment period as
25 a result of a qualifying emergency.

1 (d) APPROVED LEAVE OF ABSENCE.—Notwith-
2 standing any other provision of the Higher Education Act
3 of 1965 (20 U.S.C. 1001 et seq.), for purposes of receiving
4 assistance under title IV of the Higher Education Act of
5 1965 (20 U.S.C. 1070 et seq.), an institution of higher
6 education may, as a result of a qualifying emergency, pro-
7 vide a student with an approved leave of absence that does
8 not require the student to return at the same point in the
9 academic program that the student began the leave of ab-
10 sence if the student returns within the same semester (or
11 the equivalent).

12 **SEC. 3509. SATISFACTORY ACADEMIC PROGRESS.**

13 Notwithstanding section 484 of the Higher Education
14 Act of 1965 (20 U.S.C. 1091), in determining whether a
15 student is maintaining satisfactory academic progress for
16 purposes of title IV of the Higher Education Act of 1965
17 (20 U.S.C. 1070 et seq.), an institution of higher edu-
18 cation may, as a result of a qualifying emergency, exclude
19 from the quantitative component of the calculation any at-
20 tempted credits that were not completed by such student
21 without requiring an appeal by such student.

22 **SEC. 3510. CONTINUING EDUCATION AT AFFECTED FOR-**
23 **EIGN INSTITUTIONS.**

24 (a) IN GENERAL.—Notwithstanding section 481(b)
25 of the Higher Education Act of 1965 (20 U.S.C. 1088(b)),

1 with respect to a foreign institution, in the case of a public
2 health emergency, major disaster or emergency, or na-
3 tional emergency declared by the applicable government
4 authorities in the country in which the foreign institution
5 is located, the Secretary may permit any part of an other-
6 wise eligible program to be offered via distance education
7 for the duration of such emergency or disaster and the
8 following payment period for purposes of title IV of the
9 Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

10 (b) ELIGIBILITY.—An otherwise eligible program
11 that is offered in whole or in part through distance edu-
12 cation by a foreign institution between March 1, 2020, and
13 the date of enactment of this Act shall be deemed eligible
14 for the purposes of part D of title IV of the Higher Edu-
15 cation Act of 1965 (20 U.S.C. 1087a et seq.) for the dura-
16 tion of the qualifying emergency and the following pay-
17 ment period for purposes of title IV of the Higher Edu-
18 cation Act of 1965 (20 U.S.C. 1070 et seq.). An institu-
19 tion of higher education that uses the authority provided
20 in the previous sentence shall report such use to the Sec-
21 retary—

22 (1) for the 2019–2020 award year, not later
23 than June 30, 2020; and

1 (2) for an award year subsequent to the 2019–
2 2020 award year, not later than 30 days after such
3 use.

4 (c) REPORT.—Not later than 180 days after the date
5 of enactment of this Act, and every 180 days thereafter
6 for the duration of the qualifying emergency and the fol-
7 lowing payment period, the Secretary shall submit to the
8 authorizing committees (as defined in section 103 of the
9 Higher Education Act of 1965 (20 U.S.C. 1003)) a report
10 that identifies each foreign institution that carried out a
11 distance education program authorized under this section.

12 (d) WRITTEN ARRANGEMENTS.—

13 (1) IN GENERAL.—Notwithstanding section 102
14 of the Higher Education Act of 1965 (20 U.S.C.
15 1002), for the duration of a qualifying emergency
16 and the following payment period, the Secretary may
17 allow a foreign institution to enter into a written ar-
18 rangement with an institution of higher education
19 located in the United States that participates in the
20 Federal Direct Loan Program under part D of title
21 IV of the Higher Education Act of 1965 (20 U.S.C.
22 1087a et seq.) for the purpose of allowing a student
23 of the foreign institution who is a borrower of a loan
24 made under such part to take courses from the insti-

1 tution of higher education located in the United
2 States.

3 (2) FORM OF ARRANGEMENTS.—

4 (A) PUBLIC OR OTHER NONPROFIT INSTI-
5 TUTIONS.—A foreign institution that is a public
6 or other nonprofit institution may enter into a
7 written arrangement under subsection (a) only
8 with an institution of higher education de-
9 scribed in section 101 of such Act (20 U.S.C.
10 1001).

11 (B) OTHER INSTITUTIONS.—A foreign in-
12 stitution that is a graduate medical school,
13 nursing school, or a veterinary school and that
14 is not a public or other nonprofit institution
15 may enter into a written arrangement under
16 subsection (a) with an institution of higher edu-
17 cation described in section 101 or section 102
18 of such Act (20 U.S.C. 1001 and 1002).

19 (3) REPORT ON USE.—An institution of higher
20 education that uses the authority described in para-
21 graph (2) shall report such use to the Secretary—

22 (A) for the 2019–2020 award year, not
23 later than June 30, 2020; and

1 (B) for an award year subsequent to the
2 2019–2020 award year, not later than 30 days
3 after such use.

4 (4) REPORT FROM THE SECRETARY.—Not later
5 than 180 days after the date of enactment of this
6 Act, and every 180 days thereafter for the duration
7 of the qualifying emergency and the following pay-
8 ment period, the Secretary shall submit to the au-
9 thorizing committees (as defined in section 103 of
10 the Higher Education Act of 1965 (20 U.S.C.
11 1003)) a report that identifies each foreign institu-
12 tion that entered into a written arrangement author-
13 ized under subsection (a).

14 **SEC. 3511. NATIONAL EMERGENCY EDUCATIONAL WAIVERS.**

15 (a) IN GENERAL.—Notwithstanding any other provi-
16 sion of law, the Secretary may, upon the request of a State
17 or Indian tribe, waive any statutory or regulatory provi-
18 sion described under paragraphs (1) and (2) of subsection
19 (b), and upon the request of a local educational agency,
20 waive any statutory or regulatory provision described
21 under paragraph (2) of subsection (b), if the Secretary
22 determines that such a waiver is necessary and appro-
23 priate due to the emergency involving Federal primary re-
24 sponsibility determined to exist by the President under the
25 section 501(b) of the Robert T. Stafford Disaster Relief

1 and Emergency Assistance Act (42 U.S.C. 5191(b)) with
2 respect to the Coronavirus Disease 2019 (COVID-19).

3 (b) APPLICABLE PROVISIONS OF LAW.—

4 (1) STREAMLINED WAIVERS.—The Secretary
5 shall create an expedited application process to re-
6 quest a waiver and the Secretary may waive any
7 statutory or regulatory requirements for a State
8 educational agency (related to assessments, account-
9 ability, and reporting requirements related to assess-
10 ments and accountability), if the Secretary deter-
11 mines that such a waiver is necessary and appro-
12 priate as described in subsection (a), under the fol-
13 lowing provisions of law:

14 (A) Paragraphs (2) and (3) of subsection
15 (b), subsections (c) and (d), and requirements
16 under subsection (h) that relate to paragraphs
17 (2) and (3) of subsection (b), and subsections
18 (c) and (d), of section 1111 of the Elementary
19 and Secondary Education Act of 1965 (20
20 U.S.C. 6311).

21 (B) Section 421(b) of the General Edu-
22 cation Provisions Act (20 U.S.C. 1225(b)).

23 (2) STATE AND LOCALLY-REQUESTED WAIV-
24 ERS.—For a State educational agency, local edu-
25 cational agency, or Indian tribe that receives funds

1 under a program authorized under the Elementary
2 and Secondary Education Act of 1965 (20 U.S.C.
3 6301 et seq.) that requests a waiver under sub-
4 section (c), the Secretary may waive statutory and
5 regulatory requirements under any of the following
6 provisions of such Act:

7 (A) Section 1114(a)(1).

8 (B) Section 1118(a) and section 8521.

9 (C) Section 1127.

10 (D) Section 4106(d).

11 (E) Subparagraphs (C), (D), and (E) of
12 section 4106(e)(2).

13 (F) Section 4109(b).

14 (G) The professional development (as de-
15 fined in section 8101(42) of the Elementary
16 and Secondary Education Act of 1965 (20
17 U.S.C. 7801(42)) requirements under the Ele-
18 mentary and Secondary Education Act of 1965
19 (20 U.S.C. 6301 et seq.).

20 (3) APPLICABILITY TO CHARTER SCHOOLS.—

21 Any waivers issued by the Secretary under this sec-
22 tion shall be implemented, as applicable—

23 (A) for all public schools, including public
24 charter schools within the boundaries of the re-
25 cipient of the waiver;

1 (B) in accordance with State charter
2 school law; and

3 (C) pursuant to section 1111(c)(5) of the
4 Elementary and Secondary Education Act of
5 1965 (20 U.S.C. 6311(c)(5)).

6 (4) LIMITATION.—Nothing in this section shall
7 be construed to allow the Secretary to waive any
8 statutory or regulatory requirements under applica-
9 ble civil rights laws.

10 (5) ACCOUNTABILITY AND IMPROVEMENT.—
11 Any school located in a State that receives a waiver
12 under paragraph (1) and that is identified for com-
13 prehensive support and improvement or targeted
14 support and improvement in the 2019-2020 school
15 year under section 1111(c)(4)(D) or section
16 1111(d)(2) of the Elementary and Secondary Edu-
17 cation Act of 1965 (20 U.S.C. 6311(c)(4)(D) or
18 (d)(2)) shall maintain that identification status in
19 the 2020-2021 school year and continue to receive
20 supports and interventions consistent with the
21 school's support and improvement plan in the 2020-
22 2021 school year.

23 (c) STATE AND LOCAL REQUESTS FOR WAIVERS.—

24 (1) IN GENERAL.—A State educational agency,
25 local educational agency, or Indian tribe that desires

1 a waiver from any statutory or regulatory provision
2 described under subsection (b)(2), may submit a
3 waiver request to the Secretary in accordance with
4 this subsection.

5 (2) REQUESTS SUBMITTED.—A request for a
6 waiver under this subsection shall—

7 (A) identify the Federal programs affected
8 by the requested waiver;

9 (B) describe which Federal statutory or
10 regulatory requirements are to be waived;

11 (C) describe how the emergency involving
12 Federal primary responsibility determined to
13 exist by the President under the section 501(b)
14 of the Robert T. Stafford Disaster Relief and
15 Emergency Assistance Act (42 U.S.C. 5191(b))
16 with respect to the Coronavirus Disease 2019
17 (COVID-19) prevents or otherwise restricts the
18 ability of the State, State educational agency,
19 local educational agency, Indian tribe, or school
20 to comply with such statutory or regulatory re-
21 quirements; and

22 (D) provide an assurance that the State,
23 local educational agency, or Indian tribe will
24 work to mitigate any negative effects, if any,

1 that may occur as a result of the requested
2 waiver.

3 (3) SECRETARY APPROVAL.—

4 (A) IN GENERAL.—Except as provided
5 under subparagraph (B), the Secretary shall
6 approve or disapprove a waiver request sub-
7 mitted under paragraph (1) not more than 30
8 days after the date on which such request is
9 submitted.

10 (B) EXCEPTIONS.—The Secretary may dis-
11 approve a waiver request submitted under para-
12 graph (1), only if the Secretary determines
13 that—

14 (i) the waiver request does not meet
15 the requirements of this section;

16 (ii) the waiver is not permitted pursu-
17 ant to subsection (b)(2); or

18 (iii) the description required under
19 paragraph (2)(C) provides insufficient in-
20 formation to demonstrate that the waiving
21 of such requirements is necessary or ap-
22 propriate consistent with subsection (a).

23 (4) DURATION.—A waiver approved by the Sec-
24 retary under this section may be for a period not to
25 exceed the 2019–2020 academic year, except in the

1 case of implementation of any maintenance of effort
2 waivers granted during the 2019–2020 academic
3 year.

4 (d) REPORTING AND PUBLICATION.—

5 (1) PUBLIC NOTICE.—A State, Indian Tribe, or
6 local educational agency requesting a waiver under
7 subsection (b)(2) shall provide the public and all
8 local educational agencies in the State with notice
9 of, and the opportunity to comment on, the request
10 by posting information regarding the waiver request
11 and the process for commenting on the State
12 website.

13 (2) NOTIFYING CONGRESS.—Not later than 7
14 days after granting a waiver under this section, the
15 Secretary shall notify the Committee on Health,
16 Education, Labor, and Pensions of the Senate, the
17 Committee on Appropriations of the Senate, the
18 Committee on Education and Labor of the House of
19 Representatives, and the Committee on Appropria-
20 tions of the House of Representatives of such waiv-
21 er.

22 (3) PUBLICATION.—Not later than 30 days
23 after granting a waiver under this section, the Sec-
24 retary shall publish a notice of the Secretary’s deci-
25 sion (including which waiver was granted and the

1 reason for granting the waiver) in the Federal Reg-
2 ister and on the website of the Department of Edu-
3 cation.

4 (4) REPORT.—Not later than 30 days after the
5 date of enactment of this Act, the Secretary shall
6 prepare and submit a report to the Committee on
7 Health, Education, Labor, and Pensions and the
8 Committee on Appropriations of the Senate, and the
9 Committee on Education and Labor and the Com-
10 mittee on Appropriations of the House of Represent-
11 atives, with recommendations on any additional
12 waivers under the Individuals with Disabilities Edu-
13 cation Act (20 U.S.C. 1401 et seq.), the Rehabilita-
14 tion Act of 1973 (29 U.S.C. 701 et seq.), the Ele-
15 mentary and Secondary Education Act of 1965 (20
16 U.S.C. 6301 et seq.), and the Carl D. Perkins Ca-
17 reer and Technical Education Act of 2006 (20
18 U.S.C. 2301 et seq.) the Secretary believes are nec-
19 essary to be enacted into law to provide limited flexi-
20 bility to States and local educational agencies to
21 meet the needs of students during the emergency in-
22 volving Federal primary responsibility determined to
23 exist by the President under section 501(b) of the
24 Robert T. Stafford Disaster Relief and Emergency

1 Assistance Act (42 U.S.C. 5191(b)) with respect to
2 the Coronavirus Disease 2019 (COVID-19).

3 (e) TERMS.—In this section, the term “State edu-
4 cational agency” includes the Bureau of Indian Education,
5 and the term “local educational agency” includes Bureau
6 of Indian Education funded schools operated pursuant to
7 a grant under the Tribally Controlled Schools Act of 1988
8 (25 U.S.C. 2501 et seq.), or a contract under the Indian
9 Self-Determination and Education Assistance Act (25
10 U.S.C. 5301 et seq.).

11 **SEC. 3512. HBCU CAPITAL FINANCING.**

12 (a) DEFERMENT PERIOD.—

13 (1) IN GENERAL.—Notwithstanding any provi-
14 sion of title III of the Higher Education Act of 1965
15 (20 U.S.C. 1051 et seq.), or any regulation promul-
16 gated under such title, the Secretary may grant a
17 deferment, for the duration of a qualifying emer-
18 gency, to an institution that has received a loan
19 under part D of title III of such Act (20 U.S.C.
20 1066 et seq.).

21 (2) TERMS.—During the deferment period
22 granted under this subsection—

23 (A) the institution shall not be required to
24 pay any periodic installment of principal or in-

1 terest required under the loan agreement for
2 such loan; and

3 (B) the Secretary shall make principal and
4 interest payments otherwise due under the loan
5 agreement.

6 (3) CLOSING.—At the closing of a loan deferred
7 under this subsection, terms shall be set under
8 which the institution shall be required to repay the
9 Secretary for the payments of principal and interest
10 made by the Secretary during the deferment, on a
11 schedule that begins upon repayment to the lender
12 in full on the loan agreement, except in no case shall
13 repayment be required to begin before the date that
14 is 1 full fiscal year after the date that is the end of
15 the qualifying emergency.

16 (b) TERMINATION DATE.—

17 (1) IN GENERAL.—The authority provided
18 under this section to grant a loan deferment under
19 subsection (a) shall terminate on the date on which
20 the qualifying emergency is no longer in effect.

21 (2) DURATION.—Any provision of a loan agree-
22 ment or insurance agreement modified by the au-
23 thority under this section shall remain so modified
24 for the duration of the period covered by the loan
25 agreement or insurance agreement.

1 (c) REPORT.—Not later than 180 days after the date
2 of enactment of this Act, and every 180 days thereafter
3 during the period beginning on the first day of the quali-
4 fying emergency and ending on September 30 of the fiscal
5 year following the end of the qualifying emergency, the
6 Secretary shall submit to the authorizing committees (as
7 defined in section 103 of the Higher Education Act of
8 1965 (20 U.S.C. 1003)) a report that identifies each insti-
9 tution that received assistance under this section.

10 **SEC. 3513. TEMPORARY RELIEF FOR FEDERAL STUDENT**
11 **LOAN BORROWERS.**

12 (a) IN GENERAL.—The Secretary shall suspend all
13 payments due for loans made under part D and part B
14 (that are held by the Department of Education) of title
15 IV of the Higher Education Act of 1965 (20 U.S.C. 1087a
16 et seq.; 1071 et seq.) for 6 months.

17 (b) NO ACCRUAL OF INTEREST.—Notwithstanding
18 any other provision of the Higher Education Act of 1965
19 (20 U.S.C. 1001 et seq.), interest shall not accrue on a
20 loan described under subsection (a) for which payment
21 was suspended for the period of the suspension.

22 (c) CONSIDERATION OF PAYMENTS.—The Secretary
23 shall deem each month for which a loan payment was sus-
24 pended under this section as if the borrower of the loan
25 had made a payment for the purpose of any loan forgive-

1 ness program authorized under part D or B of title IV
2 of the Higher Education Act of 1965 (20 U.S.C. 1087a
3 et seq.; 1071 et seq.) for which the borrower would have
4 otherwise qualified.

5 **SEC. 3514. PROVISIONS RELATED TO THE CORPORATION**
6 **FOR NATIONAL AND COMMUNITY SERVICE.**

7 (a) ACCRUAL OF SERVICE HOURS.—

8 (1) ACCRUAL THROUGH OTHER SERVICE
9 HOURS.—

10 (A) IN GENERAL.—Notwithstanding any
11 other provision of the Domestic Volunteer Serv-
12 ice Act of 1973 (42 U.S.C. 4950 et seq.) or the
13 National and Community Service Act of 1990
14 (42 U.S.C. 12501 et seq.), the Corporation for
15 National and Community Service shall allow an
16 individual described in subparagraph (B) to ac-
17 crue other service hours that will count toward
18 the number of hours needed for the individual's
19 education award.

20 (B) AFFECTED INDIVIDUALS.—Subpara-
21 graph (A) shall apply to any individual serving
22 in a position eligible for an educational award
23 under subtitle D of title I of the National and
24 Community Service Act of 1990 (42 U.S.C.
25 12601 et seq.)—

1 (i) who is performing limited service
2 due to COVID-19; or

3 (ii) whose position has been suspended
4 or placed on hold due to COVID-19.

5 (2) PROVISIONS IN CASE OF EARLY EXIT.—In
6 any case where an individual serving in a position el-
7 igible for an educational award under subtitle D of
8 title I of the National and Community Service Act
9 of 1990 (42 U.S.C. 12601 et seq.) was required to
10 exit the position early at the direction of the Cor-
11 poration for National and Community Service, the
12 Chief Executive Officer of the Corporation for Na-
13 tional and Community Service may—

14 (A) deem such individual as having met
15 the requirements of the position; and

16 (B) award the individual the full value of
17 the educational award under such subtitle for
18 which the individual would otherwise have been
19 eligible.

20 (b) AVAILABILITY OF FUNDS.—Notwithstanding any
21 other provision of law, all funds made available to the Cor-
22 poration for National and Community Service under any
23 Act, including the amounts appropriated to the Corpora-
24 tion under the headings “OPERATING EXPENSES”, “SALA-
25 RIES AND EXPENSES”, and “OFFICE OF THE INSPECTOR

1 GENERAL” under the heading “CORPORATION FOR NA-
2 TIONAL AND COMMUNITY SERVICE” under title IV of Divi-
3 sion A of the Further Consolidated Appropriations Act,
4 2020 (Public Law 116–94), shall remain available for the
5 fiscal year ending September 30, 2021.

6 (c) NO REQUIRED RETURN OF GRANT FUNDS.—
7 Notwithstanding section 129(l)(3)(A)(i) of the National
8 and Community Service Act of 1990 (42 U.S.C.
9 12581(l)(3)(A)(i)), the Chief Executive Officer of the Cor-
10 poration for National and Community Service may permit
11 fixed-amount grant recipients under such section 129(l)
12 to maintain a pro rata amount of grant funds, at the dis-
13 cretion of the Corporation for National and Community
14 Service, for participants who exited, were suspended, or
15 are serving in a limited capacity due to COVID-19, to en-
16 able the grant recipients to maintain operations and to
17 accept participants.

18 (d) EXTENSION OF TERMS AND AGE LIMITS.—Not-
19 withstanding any other provision of law, the Corporation
20 for National and Community Service may extend the term
21 of service (for a period not to exceed the 1-year period
22 immediately following the end of the national emergency)
23 or waive any upper age limit (except in no case shall the
24 maximum age exceed 26 years of age) for national service
25 programs carried out by the National Civilian Community

1 Corps under subtitle E of title I of the National and Com-
2 munity Service Act of 1990 (42 U.S.C. 12611 et seq.),
3 and the participants in such programs, for the purposes
4 of—

5 (1) addressing disruptions due to COVID-19;

6 and

7 (2) minimizing the difficulty in returning to full
8 operation due to COVID-19 on such programs and
9 participants.

10 **SEC. 3515. WORKFORCE RESPONSE ACTIVITIES.**

11 (a) ADMINISTRATIVE COSTS.—Notwithstanding sec-
12 tion 128(b)(4) of the Workforce Innovation Opportunity
13 Act (29 U.S.C. 3163(b)(4)), of the total amount allocated
14 to a local area (including the total amount allotted to a
15 single State local area) under subtitle B of title I of such
16 Act (29 U.S.C. 3151 et seq.) for program year 2019, not
17 more than 20 percent of the total amount may be used
18 for the administrative costs of carrying out local workforce
19 investment activities under chapter 2 or chapter 3 of sub-
20 title B of title I of such Act, if the portion of the total
21 amount that exceeds 10 percent of the total amount is
22 used to respond to a qualifying emergency.

23 (b) RAPID RESPONSE ACTIVITIES.—

24 (1) STATEWIDE RAPID RESPONSE.—Of the
25 funds reserved by a Governor for program year 2019

1 for statewide activities under section 128(a) of the
2 Workforce Innovation and Opportunity Act (29
3 U.S.C. 3163(a)) that remain unobligated, such
4 funds may be used for statewide rapid response ac-
5 tivities as described in section 134(a)(2)(A) of such
6 Act (29 U.S.C. 3174(a)(2)(A)) for responding to a
7 qualifying emergency.

8 (2) LOCAL BOARDS.—Of the funds reserved by
9 a Governor for program 2019 under section
10 133(a)(2) of such Act (29 U.S.C. 3173(a)(2)) that
11 remain unobligated, such funds may be released
12 within 30 days after the date of enactment of this
13 Act to the local boards most impacted by the
14 coronavirus at the determination of the Governor for
15 rapid response activities related to responding to a
16 qualifying emergency.

17 (c) DEFINITIONS.—Except as otherwise provided, the
18 terms in this section have the meanings given the terms
19 in section 3 of the Workforce Innovation and Opportunity
20 Act (29 U.S.C. 3102).

21 **SEC. 3516. TECHNICAL AMENDMENTS.**

22 (a) IN GENERAL.—

23 (1) Section 6103(a)(3) of the Internal Revenue
24 Code of 1986, as amended by the FUTURE Act
25 (Public Law 116-91), is further amended by striking

1 “(13), (16)” and inserting “(13)(A), (13)(B),
2 (13)(C), (13)(D)(i), (16)”.

3 (2) Section 6103(p)(3)(A) of such Code, as so
4 amended, is further amended by striking “(12),”
5 and inserting “(12), (13)(A), (13)(B), (13)(C),
6 (13)(D)(i)”.

7 (3) Section 6103(p)(4) of such Code, as so
8 amended, is further amended by striking “(13) or
9 (16)” each place it appears and inserting “(13), or
10 (16)”.

11 (4) Section 6103(p)(4) of such Code, as so
12 amended and as amended by paragraph (3), is fur-
13 ther amended by striking “(13)” each place it ap-
14 pears and inserting “(13)(A), (13)(B), (13)(C),
15 (13)(D)(i)”.

16 (5) Section 6103(l)(13)(C)(ii) of such Code, as
17 added by the FUTURE Act (Public Law 116-91), is
18 amended by striking “section 236A(e)(4)” and in-
19 serting “section 263A(e)(4)”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply as if included in the enactment
22 of the FUTURE Act (Public Law 116-91).

1 **SEC. 3517. WAIVER AUTHORITY AND REPORTING REQUIRE-**
2 **MENT FOR INSTITUTIONAL AID.**

3 (a) WAIVER AUTHORITY.—Notwithstanding any
4 other provision of the Higher Education Act of 1965
5 (U.S.C. 1001 et seq.), unless enacted with specific ref-
6 erence to this section, for any institution of higher edu-
7 cation that was receiving assistance under title III, title
8 V, or subpart 4 of part A of title VII of such Act (20
9 U.S.C. 1051 et seq.; 1101 et seq.; 1136a et seq.) at the
10 time of a qualifying emergency, the Secretary may, for the
11 period beginning on the first day of the qualifying emer-
12 gency and ending on September 30 of the fiscal year fol-
13 lowing the end of the qualifying emergency—

14 (1) waive—

15 (A) the eligibility data requirements set
16 forth in section 391(d) and 521(e) of the High-
17 er Education Act of 1965 (20 U.S.C. 1068(d);
18 1103(e));

19 (B) the wait-out period set forth in section
20 313(d) of the Higher Education Act of 1965
21 (20 U.S.C. 1059(d));

22 (C) the allotment requirements under
23 paragraphs (2) and (3) of subsection 318(e) of
24 the Higher Education Act of 1965 (20 U.S.C.
25 1059e(e)), and the reference to “the academic

1 year preceding the beginning of that fiscal
2 year” under such section 318(e)(1);

3 (D) the allotment requirements under sub-
4 sections (b), (c), and (g) of section 324 of the
5 Higher Education Act of 1965 (20 U.S.C.
6 1063), the reference to “the end of the school
7 year preceding the beginning of that fiscal
8 year” under such section 324(a), and the ref-
9 erence to “the academic year preceding such
10 fiscal year” under such section 324(h);

11 (E) subparagraphs (A), (C), (D), and (E)
12 of section 326(f)(3) of the Higher Education
13 Act of 1965 (20 U.S.C. 1063b(f)(3)), and ref-
14 erences to “previous year” under such section
15 326(f)(3)(B);

16 (F) subparagraphs (A), (C), (D), and (E)
17 of section 723(f)(3) and subparagraphs (A),
18 (C), (D), and (E) of section 724(f)(3) of the
19 Higher Education Act of 1965 (20 U.S.C.
20 1136a(f)(3); 1136b(f)(3)), and references to
21 “previous academic year” under subparagraph
22 (B) of such sections 723(f)(3) and 724(f)(3);
23 and

24 (G) the allotment restriction set forth in
25 section 318(d)(4) and section 323(e)(2) of the

1 Higher Education Act of 1965 (20 U.S.C.
2 1059e(d)(4); 1062(c)(2)); and

3 (2) waive or modify any statutory or regulatory
4 provision to ensure that institutions that were re-
5 ceiving assistance under title III, title V, or subpart
6 4 of part A of title VII of such Act (20 U.S.C. 1051
7 et seq.; 1101 et seq.; 1136a et seq.) at the time of
8 a qualifying emergency are not adversely affected by
9 any formula calculation for fiscal year 2020 and for
10 the period beginning on the first day of the quali-
11 fying emergency and ending on September 30 of the
12 fiscal year following the end of the qualifying emer-
13 gency, as necessary.

14 (b) USE OF UNEXPENDED FUNDS.—Any funds paid
15 to an institution under title III, title V, or subpart 4 of
16 part A of title VII of the Higher Education Act of 1965
17 (20 U.S.C. 1051 et seq.; 1101 et seq.; 1136a et seq.) and
18 not expended or used for the purposes for which the funds
19 were paid to the institution during the 5-year period fol-
20 lowing the date on which the funds were first paid to the
21 institution, may be carried over and expended during the
22 succeeding 5-year period.

23 (c) REPORT.—Not later than 180 days after the date
24 of enactment of this Act, and every 180 days thereafter
25 for the period beginning on the first day of the qualifying

1 emergency and ending on September 30 of the fiscal year
2 following the end of the qualifying emergency, the Sec-
3 retary shall submit to the authorizing committees (as de-
4 fined in section 103 of the Higher Education Act of 1965
5 (20 U.S.C. 1003)) a report that identifies each institution
6 that received a waiver or modification under this section.

7 **SEC. 3518. AUTHORIZED USES AND OTHER MODIFICATIONS**
8 **FOR GRANTS.**

9 (a) IN GENERAL.—The Secretary is authorized to
10 modify the required and allowable uses of funds for grants
11 awarded under part A or B of title III, chapter I or II
12 of subpart 2 of part A of title IV, title V, or subpart 4
13 of part A of title VII of the Higher Education Act of 1965
14 (20 U.S.C. 1057 et seq.; 1060 et seq.; 1070a–11 et seq.;
15 1070a–21 et seq.; 1101 et seq.; 1136a et seq.) to an insti-
16 tution of higher education or other grant recipient (not
17 including individual recipients of Federal student financial
18 assistance), at the request of an institution of higher edu-
19 cation or other recipient of a grant (not including indi-
20 vidual recipients of Federal student financial assistance)
21 as a result of a qualifying emergency, for the period begin-
22 ning on the first day of the qualifying emergency and end-
23 ing on September 30 of the fiscal year following the end
24 of the qualifying emergency.

1 (b) MATCHING REQUIREMENT MODIFICATIONS.—
2 Notwithstanding any other provision of the Higher Edu-
3 cation Act of 1965 (20 U.S.C. 1001 et seq.), the Secretary
4 is authorized to modify any Federal share or other finan-
5 cial matching requirement for a grant awarded on a com-
6 petitive basis or a grant awarded under part A or B of
7 title III or subpart 4 of part A of title VII of the Higher
8 Education Act of 1965 (20 U.S.C. 1057 et seq.; 1060 et
9 seq.; 1136a et seq.) at the request of an institution of
10 higher education or other grant recipient as a result of
11 a qualifying emergency, for the period beginning on the
12 first day of the qualifying emergency and ending on Sep-
13 tember 30 of the fiscal year following the end of the quali-
14 fying emergency.

15 (c) REPORTS.—Not later than 180 days after the
16 date of enactment of this Act, and every 180 days there-
17 after for the duration of the period beginning on the first
18 day of the qualifying emergency and ending on September
19 30 of the fiscal year following the end of the qualifying
20 emergency, the Secretary shall submit to the authorizing
21 committees (as defined in section 103 of the Higher Edu-
22 cation Act of 1965 (20 U.S.C. 1003)) a report that identi-
23 fies each institution of higher education or other grant re-
24 cipient that received a modification under this section.

1 **SEC. 3519. SERVICE OBLIGATIONS FOR TEACHERS.**

2 (a) **TEACH GRANTS.**—For the purpose of section
3 420N of the Higher Education Act of 1965 (20 U.S.C.
4 1070g–2), during a qualifying emergency, the Secretary—

5 (1) may modify the categories of extenuating
6 circumstances under which a recipient of a grant
7 under subpart 9 of part A of title IV of the Higher
8 Education Act of 1965 (20 U.S.C. 1070g et seq.)
9 who is unable to fulfill all or part of the recipient’s
10 service obligation may be excused from fulfilling that
11 portion of the service obligation; and

12 (2) shall consider teaching service that, as a re-
13 sult of a qualifying emergency, is part-time or tem-
14 porarily interrupted, to be full-time service and to
15 fulfill the service obligations under such section
16 420N.

17 (b) **TEACHER LOAN FORGIVENESS.**—Notwith-
18 standing section 428J or 460 of the Higher Education Act
19 of 1965 (20 U.S.C. 1078–10; 1087j), the Secretary shall
20 waive the requirements under such sections that years of
21 teaching service shall be consecutive if—

22 (1) the teaching service of a borrower is tempo-
23 rarily interrupted due to a qualifying emergency;
24 and

25 (2) after the temporary interruption due to a
26 qualifying emergency, the borrower resumes teaching

1 service and completes a total of 5 years of qualifying
2 teaching service under such sections, including quali-
3 fying teaching service performed before, during, and
4 after such qualifying emergency.

5 **Subtitle C—Labor Provisions**

6 **SEC. 3601. LIMITATION ON PAID LEAVE.**

7 Section 110(b)(2)(B) of the Family and Medical
8 Leave Act of 1993 (as added by the Emergency Family
9 and Medical Leave Expansion Act) is amended by striking
10 clause (ii) and inserting the following:

11 “(ii) LIMITATION.—An employer shall
12 not be required to pay more than \$200 per
13 day and \$10,000 in the aggregate for each
14 employee for paid leave under this sec-
15 tion.”.

16 **SEC. 3602. EMERGENCY PAID SICK LEAVE ACT LIMITATION.**

17 Section 5102 of the Emergency Paid Sick Leave Act
18 (division E of the Families First Coronavirus Response
19 Act) is amended by adding at the end the following:

20 “(f) LIMITATIONS.—

21 “(1) IN GENERAL.—An employer shall not be
22 required to pay more than either—

23 “(A) \$511 per day and \$5,110 in the ag-
24 gregate for each employee, when the employee

1 is taking leave for a reason described in para-
2 graph (1), (2), or (3) of section 5102(a); or

3 “(B) \$200 per day and \$2,000 in the ag-
4 gregate for each employee, when the employee
5 is taking leave for a reason described in para-
6 graph (4), (5), or (6) of section 5102(a).

7 “(2) EXPIRATION OF REQUIREMENT.— An em-
8 ployer’s requirement to provide paid leave with re-
9 spect to a specific employee shall expire at the ear-
10 lier of—

11 “(A) the time when the employer has paid
12 that employee for paid leave under this section
13 for an equivalent of 80 hours of work; or

14 “(B) upon the employee’s return to work
15 after taking paid leave under this section.”.

16 **SEC. 3603. REGULATORY AUTHORITIES UNDER THE EMER-**
17 **GENCY PAID SICK LEAVE ACT.**

18 Section 5111(2) of the Emergency Paid Sick Leave
19 Act (division E of the Families First Coronavirus Re-
20 sponse Act) is amended by striking “section 5102(a)(5)”
21 and inserting “paragraphs (4) and (5) of section
22 5102(a).”.

23 **SEC. 3604. UNEMPLOYMENT INSURANCE.**

24 Section 903(h)(2)(B) of the Social Security Act (42
25 U.S.C. 1103(h)(2)(B)), as added by section 4102 of the

1 Emergency Unemployment Insurance Stabilization and
2 Access Act of 2020, is amended to read as follows:

3 “(B) The State ensures that applications
4 for unemployment compensation, and assistance
5 with the application process, are accessible in
6 person, by phone, or online.”.

7 **SEC. 3605. OMB WAIVER OF PAID FAMILY AND PAID SICK**
8 **LEAVE.**

9 (a) FAMILY AND MEDICAL LEAVE ACT OF 1993.—
10 Section 110(a) of title I of the Family and Medical Leave
11 Act of 1993 (29 U.S.C. 2611 et seq.) (as added by division
12 C of the Families First Coronavirus Response Act) is
13 amended by adding at the end the following new para-
14 graph:

15 “(4) The Director of the Office of Management
16 and Budget shall have the authority to exclude for
17 good cause from the requirements under subsection
18 (b) certain employers of the United States Govern-
19 ment with respect to certain categories of Executive
20 Branch employees.”.

21 (b) EMERGENCY PAID SICK LEAVE ACT.—The
22 Emergency Paid Sick Leave Act (division E of the Fami-
23 lies First Coronavirus Response Act) is amended by add-
24 ing at the end the following new section:

1 **“SEC. 5112. AUTHORITY TO EXCLUDE CERTAIN EMPLOYEES.**

2 “The Director of the Office of Management and
3 Budget shall have the authority to exclude for good cause
4 from the definition of employee under section 5110(1) cer-
5 tain employees described in subparagraphs (E) and (F)
6 of such section, including by exempting certain United
7 States Government employers covered by section
8 5110(2)(A)(i)(V) from the requirements of this title with
9 respect to certain categories of Executive Branch employ-
10 ees.”.

11 **SEC. 3606. PAID LEAVE FOR REHIRED EMPLOYEES.**

12 Section 110(a)(1)(A) of the Family and Medical
13 Leave Act of 1993, as added by section 3102 of the Emer-
14 gency Family and Medical Leave Expansion Act, is
15 amended to read as follows:

16 “(A) ELIGIBLE EMPLOYEE.—

17 “(i) IN GENERAL.—In lieu of the defi-
18 nition in sections 101(2)(A) and
19 101(2)(B)(ii), the term ‘eligible employee’
20 means an employee who has been employed
21 for at least 30 calendar days by the em-
22 ployer with respect to whom leave is re-
23 quested under section 102(a)(1)(F).

24 “(ii) RULE REGARDING REHIRED EM-
25 PLOYEES.—For purposes of clause (i), the
26 term ‘employed for at least 30 calendar

1 days', used with respect to an employee
2 and an employer described in clause (i), in-
3 cludes an employee who was laid off by
4 that employer not earlier than March 1,
5 2020, had worked for the employer for not
6 less than 30 of the last 60 calendar days
7 prior to the employee's layoff, and was re-
8 hired by the employer."

9 **SEC. 3607. ADVANCE REFUNDING OF CREDITS.**

10 (a) PAYROLL CREDIT FOR REQUIRED PAID SICK
11 LEAVE.—Section 7001 of division G of the Families First
12 Coronavirus Response Act is amended—

13 (1) in subsection (b)(4)(A)—

14 (A) by striking "(A) In general.—If the
15 amount" and inserting "(A)(i) Credit is refund-
16 able.—If the amount"; and

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

18 "(ii) ADVANCING CREDIT.—In antici-
19 pation of the credit, including the refund-
20 able portion under clause (i), the credit
21 may be advanced, according to forms and
22 instructions provided by the Secretary, up
23 to an amount calculated under subsection
24 (a), subject to the limits under subsection

1 (b), both calculated through the end of the
2 most recent payroll period in the quarter.”;

3 (2) in subsection (f)—

4 (A) in paragraph (4), by striking “, and”
5 and inserting a comma;

6 (B) in paragraph (5), by striking the pe-
7 riod at the end and inserting “, and”; and

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

9 “(6) regulations or other guidance to permit the
10 advancement of the credit determined under sub-
11 section (a).”; and

12 (3) by inserting after subsection (h) the fol-
13 lowing new subsection:

14 “(i) TREATMENT OF DEPOSITS.—The Secretary of
15 the Treasury (or the Secretary’s delegate) shall waive any
16 penalty under section 6656 of the Internal Revenue Code
17 of 1986 for any failure to make a deposit of the tax im-
18 posed by section 3111(a) or 3221(a) of such Code if the
19 Secretary determines that such failure was due to the an-
20 ticipation of the credit allowed under this section.”.

21 (b) PAYROLL CREDIT FOR REQUIRED PAID FAMILY
22 LEAVE.—Section 7003 of division G of the Families First
23 Coronavirus Response Act is amended—

24 (1) in subsection (b)(3)—

1 (A) by striking “If the amount” and in-
2 serting “(A) Credit is refundable.—If the
3 amount”; and

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

5 “(B) ADVANCING CREDIT.—In anticipation
6 of the credit, including the refundable portion
7 under subparagraph (A), the credit may be ad-
8 vanced, according to forms and instructions
9 provided by the Secretary, up to an amount cal-
10 culated under subsection (a), subject to the lim-
11 its under subsection (b), both calculated
12 through the end of the most recent payroll pe-
13 riod in the quarter.”;

14 (2) in subsection (f)—

15 (A) in paragraph (4), by striking “, and”
16 and inserting a comma;

17 (B) in paragraph (5), by striking the pe-
18 riod at the end and inserting “, and”; and

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

20 “(6) regulations or other guidance to permit the
21 advancement of the credit determined under sub-
22 section (a).”; and

23 (c) by inserting after subsection (h) the following new
24 subsection:

1 plan years beginning on or before December 31,
2 2021, a plan shall not fail to be treated as a
3 high deductible health plan by reason of failing
4 to have a deductible for telehealth and other re-
5 mote care services.”.

6 (b) CERTAIN COVERAGE DISREGARDED.—Clause (ii)
7 of section 223(c)(1)(B) of the Internal Revenue Code of
8 1986 is amended by striking “or long-term care” and in-
9 serting “long-term care, or (in the case of plan years be-
10 ginning on or before December 31, 2021) telehealth and
11 other remote care”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the date of the enactment
14 of this Act.

15 **SEC. 3702. INCLUSION OF CERTAIN OVER-THE-COUNTER**
16 **MEDICAL PRODUCTS AS QUALIFIED MEDICAL**
17 **EXPENSES.**

18 (a) HSAs.—Section 223(d)(2) of the Internal Rev-
19 enue Code of 1986 is amended—

20 (1) by striking the last sentence of subpara-
21 graph (A) and inserting the following: “For pur-
22 poses of this subparagraph, amounts paid for men-
23 strual care products shall be treated as paid for
24 medical care.”; and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(D) MENSTRUAL CARE PRODUCT.—For
4 purposes of this paragraph, the term ‘menstrual
5 care product’ means a tampon, pad, liner, cup,
6 sponge, or similar product used by individuals
7 with respect to menstruation or other genital-
8 tract secretions.”.

9 (b) ARCHER MSAS.—Section 220(d)(2)(A) of such
10 Code is amended by striking the last sentence and insert-
11 ing the following: “For purposes of this subparagraph,
12 amounts paid for menstrual care products (as defined in
13 section 223(d)(2)(D)) shall be treated as paid for medical
14 care.”.

15 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
16 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
17 tion 106 of such Code is amended by striking subsection
18 (f) and inserting the following new subsection:

19 “(f) REIMBURSEMENTS FOR MENSTRUAL CARE
20 PRODUCTS.—For purposes of this section and section
21 105, expenses incurred for menstrual care products (as
22 defined in section 223(d)(2)(D)) shall be treated as in-
23 curred for medical care.”.

24 (d) EFFECTIVE DATES.—

1 (1) DISTRIBUTIONS FROM SAVINGS AC-
2 COUNTS.—The amendment made by subsections (a)
3 and (b) shall apply to amounts paid after December
4 31, 2019.

5 (2) REIMBURSEMENTS.—The amendment made
6 by subsection (c) shall apply to expenses incurred
7 after December 31, 2019.

8 **SEC. 3703. INCREASING MEDICARE TELEHEALTH FLEXI-**
9 **BILITIES DURING EMERGENCY PERIOD.**

10 Section 1135 of the Social Security Act (42 U.S.C.
11 1320b–5) is amended—

12 (1) in subsection (b)(8), by striking “to an indi-
13 vidual by a qualified provider (as defined in sub-
14 section (g)(3))” and all that follows through the pe-
15 riod and inserting “, the requirements of section
16 1834(m).”; and

17 (2) in subsection (g), by striking paragraph (3).

18 **SEC. 3704. ENHANCING MEDICARE TELEHEALTH SERVICES**
19 **FOR FEDERALLY QUALIFIED HEALTH CEN-**
20 **TERS AND RURAL HEALTH CLINICS DURING**
21 **EMERGENCY PERIOD.**

22 Section 1834(m) of the Social Security Act (42
23 U.S.C. 1395m(m)) is amended—

1 (1) in the first sentence of paragraph (1), by
2 striking “The Secretary” and inserting “Subject to
3 paragraph (8), the Secretary”;

4 (2) in paragraph (2)(A), by striking “The Sec-
5 retary” and inserting “Subject to paragraph (8), the
6 Secretary”;

7 (3) in paragraph (4)—

8 (A) in subparagraph (A), by striking “The
9 term” and inserting “Subject to paragraph (8),
10 the term”; and

11 (B) in subparagraph (F)(i), by striking
12 “The term” and inserting “Subject to para-
13 graph (8), the term”; and

14 (4) by adding at the end the following new
15 paragraph:

16 “(8) ENHANCING TELEHEALTH SERVICES FOR
17 FEDERALLY QUALIFIED HEALTH CENTERS AND
18 RURAL HEALTH CLINICS DURING EMERGENCY PE-
19 RIOD.—

20 “(A) IN GENERAL.—During the emergency
21 period described in section 1135(g)(1)(B)—

22 “(i) the Secretary shall pay for tele-
23 health services that are furnished via a
24 telecommunications system by a Federally
25 qualified health center or a rural health

1 clinic to an eligible telehealth individual en-
2 rolled under this part notwithstanding that
3 the Federally qualified health center or
4 rural clinic providing the telehealth service
5 is not at the same location as the bene-
6 ficiary;

7 “(ii) the amount of payment to a Fed-
8 erally qualified health center or rural
9 health clinic that serves as a distant site
10 for such a telehealth service shall be deter-
11 mined under subparagraph (B); and

12 “(iii) for purposes of this subsection—

13 “(I) the term ‘distant site’ in-
14 cludes a Federally qualified health
15 center or rural health clinic that fur-
16 nishes a telehealth service to an eligi-
17 ble telehealth individual; and

18 “(II) the term ‘telehealth serv-
19 ices’ includes a rural health clinic
20 service or Federally qualified health
21 center service that is furnished using
22 telehealth to the extent that payment
23 codes corresponding to services identi-
24 fied by the Secretary under clause (i)
25 or (ii) of paragraph (4)(F) are listed

1 on the corresponding claim for such
2 rural health clinic service or Federally
3 qualified health center service.

4 “(B) SPECIAL PAYMENT RULE.—

5 “(i) IN GENERAL.—The Secretary
6 shall develop and implement payment
7 methods that apply under this subsection
8 to a Federally qualified health center or
9 rural health clinic that serves as a distant
10 site that furnishes a telehealth service to
11 an eligible telehealth individual during
12 such emergency period. Such payment
13 methods shall be based on payment rates
14 that are similar to the national average
15 payment rates for comparable telehealth
16 services under the physician fee schedule
17 under section 1848. Notwithstanding any
18 other provision of law, the Secretary may
19 implement such payment methods through
20 program instruction or otherwise.

21 “(ii) EXCLUSION FROM FQHC PPS
22 CALCULATION AND RHC AIR CALCULA-
23 TION.—Costs associated with telehealth
24 services shall not be used to determine the
25 amount of payment for Federally qualified

1 health center services under the prospec-
2 tive payment system under section 1834(o)
3 or for rural health clinic services under the
4 methodology for all-inclusive rates (estab-
5 lished by the Secretary) under section
6 1833(a)(3).”.

7 **SEC. 3705. TEMPORARY WAIVER OF REQUIREMENT FOR**
8 **FACE-TO-FACE VISITS BETWEEN HOME DI-**
9 **ALYSIS PATIENTS AND PHYSICIANS.**

10 Section 1881(b)(3)(B) of the Social Security Act (42
11 U.S.C. 1395rr(b)(3)(B)) is amended—

12 (1) in clause (i), by striking “clause (ii)” and
13 inserting “clauses (ii) and (iii)”;

14 (2) in clause (ii), in the matter preceding sub-
15 clause (I), by striking “Clause (i)” and inserting
16 “Except as provided in clause (iii), clause (i)”;

17 (3) by adding at the end the following new
18 clause:

19 “(iii) The Secretary may waive the
20 provisions of clause (ii) during the emer-
21 gency period described in section
22 1135(g)(1)(B).”.

1 **SEC. 3706. USE OF TELEHEALTH TO CONDUCT FACE-TO-**
2 **FACE ENCOUNTER PRIOR TO RECERTIFI-**
3 **CATION OF ELIGIBILITY FOR HOSPICE CARE**
4 **DURING EMERGENCY PERIOD.**

5 Section 1814(a)(7)(D)(i) of the Social Security Act
6 (42 U.S.C. 1395f(a)(7)(D)(i)) is amended—

7 (1) by striking “a hospice” and inserting “(I
8 subject to subclause (II), a hospice”;

9 (2) by inserting after subclause (I), as added by
10 paragraph (1), the following new subclause:

11 “(II) during the emergency period de-
12 scribed in section 1135(g)(1)(B), a hospice
13 physician or nurse practitioner may con-
14 duct a face-to-face encounter required
15 under this clause via telehealth, as deter-
16 mined appropriate by the Secretary; and”.

17 **SEC. 3707. ENCOURAGING USE OF TELECOMMUNICATIONS**
18 **SYSTEMS FOR HOME HEALTH SERVICES FUR-**
19 **NISHED DURING EMERGENCY PERIOD.**

20 With respect to home health services (as defined in
21 section 1861(m) of the Social Security Act (42 U.S.C.
22 1395x(m)) that are furnished during the emergency period
23 described in section 1135(g)(1)(B) of such Act (42 U.S.C.
24 1320b-5(g)(1)(B)), the Secretary of Health and Human
25 Services shall consider ways to encourage the use of tele-
26 communications systems, including for remote patient

1 monitoring as described in section 409.46(e) of title 42,
2 Code of Federal Regulations (or any successor regula-
3 tions) and other communications or monitoring services,
4 consistent with the plan of care for the individual, includ-
5 ing by clarifying guidance and conducting outreach, as ap-
6 propriate.

7 **SEC. 3708. IMPROVING CARE PLANNING FOR MEDICARE**
8 **HOME HEALTH SERVICES.**

9 (a) PART A PROVISIONS.—Section 1814(a) of the So-
10 cial Security Act (42 U.S.C. 1395f(a)) is amended—

11 (1) in paragraph (2)—

12 (A) in the matter preceding subparagraph
13 (A), by inserting “, a nurse practitioner or clinical
14 nurse specialist (as such terms are defined
15 in section 1861(aa)(5)) who is working in ac-
16 cordance with State law, or a physician assist-
17 ant (as defined in section 1861(aa)(5)) under
18 the supervision of a physician, who is” after “in
19 the case of services described in subparagraph
20 (C), a physician”; and

21 (B) in subparagraph (C)—

22 (i) by inserting “, a nurse practi-
23 tioner, a clinical nurse specialist, or a phy-
24 sician assistant (as the case may be)” after

1 “physician” the first 2 times it appears;
2 and

3 (ii) by striking “, and, in the case of
4 a certification made by a physician” and
5 all that follows through “face-to-face en-
6 counter” and inserting “, and, in the case
7 of a certification made by a physician after
8 January 1, 2010, or by a nurse practi-
9 tioner, clinical nurse specialist, or physi-
10 cian assistant (as the case may be) after a
11 date specified by the Secretary (but in no
12 case later than the date that is 6 months
13 after the date of the enactment of the
14 CARES Act), prior to making such certifi-
15 cation a physician, nurse practitioner, clin-
16 ical nurse specialist, or physician assistant
17 must document that a physician, nurse
18 practitioner, clinical nurse specialist, cer-
19 tified nurse-midwife (as defined in section
20 1861(gg)) as authorized by State law, or
21 physician assistant has had a face-to-face
22 encounter”;

23 (2) in the third sentence—

24 (A) by striking “physician certification”
25 and inserting “certification”;

1 (B) by inserting “(or in the case of regula-
2 tions to implement the amendments made by
3 section 3708 of the CARES Act, the Secretary
4 shall prescribe regulations, which shall become
5 effective no later than 6 months after the date
6 of the enactment of such Act)” after “1981”;
7 and

8 (C) by striking “a physician who” and in-
9 serting “a physician, nurse practitioner, clinical
10 nurse specialist, or physician assistant who”;

11 (3) in the fourth sentence, by inserting “, nurse
12 practitioner, clinical nurse specialist, or physician as-
13 sistant” after “physician”; and

14 (4) in the fifth sentence—

15 (A) by inserting “or no later than 6
16 months after the date of the enactment of the
17 CARES Act for purposes of documentation for
18 certification and recertification made under
19 paragraph (2) by a nurse practitioner, clinical
20 nurse specialist, or physician assistant,” after
21 “January 1, 2019”; and

22 (B) by inserting “, nurse practitioner, clin-
23 ical nurse specialist, or physician assistant”
24 after “of the physician”.

1 (b) PART B PROVISIONS.—Section 1835(a) of the So-
2 cial Security Act (42 U.S.C. 1395n(a)) is amended—

3 (1) in paragraph (2)—

4 (A) in the matter preceding subparagraph
5 (A), by inserting “, a nurse practitioner or clin-
6 ical nurse specialist (as those terms are defined
7 in section 1861(aa)(5)) who is working in ac-
8 cordance with State law, or a physician assist-
9 ant (as defined in section 1861(aa)(5)) under
10 the supervision of a physician, who is” after “in
11 the case of services described in subparagraph
12 (A), a physician”; and

13 (B) in subparagraph (A)—

14 (i) in each of clauses (ii) and (iii) of
15 subparagraph (A) by inserting “, a nurse
16 practitioner, a clinical nurse specialist, or a
17 physician assistant (as the case may be)”
18 after “physician”; and

19 (ii) in clause (iv), by striking “after
20 January 1, 2010” and all that follows
21 through “face-to-face encounter” and in-
22 serting “made by a physician after Janu-
23 ary 1, 2010, or by a nurse practitioner,
24 clinical nurse specialist, or physician as-
25 sistant (as the case may be) after a date

1 specified by the Secretary (but in no case
2 later than the date that is 6 months after
3 the date of the enactment of the CARES
4 Act), prior to making such certification a
5 physician, nurse practitioner, clinical nurse
6 specialist, or physician assistant must doc-
7 ument that a physician, nurse practitioner,
8 clinical nurse specialist, certified nurse-
9 midwife (as defined in section 1861(gg)) as
10 authorized by State law, or physician as-
11 sistant has had a face-to-face encounter”;

12 (2) in the third sentence, by inserting “, nurse
13 practitioner, clinical nurse specialist, or physician as-
14 sistant (as the case may be)” after physician;

15 (3) in the fourth sentence—

16 (A) by striking “physician certification”
17 and inserting “certification”;

18 (B) by inserting “(or in the case of regula-
19 tions to implement the amendments made by
20 section 3708 of the CARES Act the Secretary
21 shall prescribe regulations which shall become
22 effective no later than 6 months after the enact-
23 ment of such Act)” after “1981”; and

1 (C) by striking “a physician who” and in-
2 serting “a physician, nurse practitioner, clinical
3 nurse specialist, or physician assistant who”;

4 (4) in the fifth sentence, by inserting “, nurse
5 practitioner, clinical nurse specialist, or physician as-
6 sistant” after “physician”; and

7 (5) in the sixth sentence—

8 (A) by inserting “or no later than 6
9 months after the date of the enactment of the
10 CARES Act for purposes of documentation for
11 certification and recertification made under
12 paragraph (2) by a nurse practitioner, clinical
13 nurse specialist, or physician assistant,” after
14 “January 1, 2019”; and

15 (B) by inserting “, nurse practitioner, clin-
16 ical nurse specialist, or physician assistant”
17 after “of the physician”.

18 (c) DEFINITION PROVISIONS.—

19 (1) HOME HEALTH SERVICES.—Section
20 1861(m) of the Social Security Act (42 U.S.C.
21 1395x(m)) is amended—

22 (A) in the matter preceding paragraph
23 (1)—

24 (i) by inserting “, a nurse practitioner
25 or a clinical nurse specialist (as those

1 terms are defined in subsection (aa)(5)), or
2 a physician assistant (as defined in sub-
3 section (aa)(5))” after “physician” the
4 first place it appears; and

5 (ii) by inserting “, a nurse practi-
6 tioner, a clinical nurse specialist, or a phy-
7 sician assistant” after “physician” the sec-
8 ond place it appears; and

9 (B) in paragraph (3), by inserting “, a
10 nurse practitioner, a clinical nurse specialist, or
11 a physician assistant” after “physician”.

12 (2) HOME HEALTH AGENCY.—Section
13 1861(o)(2) of the Social Security Act (42 U.S.C.
14 1395x(o)(2)) is amended—

15 (A) by inserting “, nurse practitioners or
16 clinical nurse specialists (as those terms are de-
17 fined in subsection (aa)(5)), certified nurse-mid-
18 wives (as defined in subsection (gg)), or physi-
19 cian assistants (as defined in subsection
20 (aa)(5))” after “physicians”; and

21 (B) by inserting “, nurse practitioner, clin-
22 ical nurse specialist, certified nurse-midwife,
23 physician assistant,” after “physician”.

24 (3) COVERED OSTEOPOROSIS DRUG.—Section
25 1861(kk)(1) of the Social Security Act (42 U.S.C.

1 1395x(kk)(1)) is amended by inserting “, nurse
2 practitioner or clinical nurse specialist (as those
3 terms are defined in subsection (aa)(5)), certified
4 nurse-midwife (as defined in subsection (gg)), or
5 physician assistant (as defined in subsection
6 (aa)(5))” after “attending physician”.

7 (d) HOME HEALTH PROSPECTIVE PAYMENT SYSTEM
8 PROVISIONS.—Section 1895 of the Social Security Act (42
9 U.S.C. 1395fff) is amended—

10 (1) in subsection (c)(1)—

11 (A) by striking “(provided under section
12 1842(r))”; and

13 (B) by inserting “the nurse practitioner or
14 clinical nurse specialist (as those terms are de-
15 fined in section 1861(aa)(5)), or the physician
16 assistant (as defined in section 1861(aa)(5))”
17 after “physician”; and

18 (2) in subsection (e)—

19 (A) in paragraph (1)(A), by inserting “a
20 nurse practitioner or clinical nurse specialist, or
21 a physician assistant” after “physician”; and

22 (B) in paragraph (2)—

23 (i) in the heading, by striking “PHY-
24 SICIAN CERTIFICATION” and inserting

1 “RULE OF CONSTRUCTION REGARDING RE-
2 QUIREMENT FOR CERTIFICATION”; and

3 (ii) by striking “physician”.

4 (e) APPLICATION TO MEDICAID.—The amendments
5 made under this section shall apply under title XIX of the
6 Social Security Act in the same manner and to the same
7 extent as such requirements apply under title XVIII of
8 such Act or regulations promulgated thereunder.

9 (f) EFFECTIVE DATE.—The Secretary of Health and
10 Human Services shall prescribe regulations to apply the
11 amendments made by this section to items and services
12 furnished, which shall become effective no later than 6
13 months after the date of the enactment of this legislation.
14 The Secretary shall promulgate an interim final rule if
15 necessary, to comply with the required effective date.

16 **SEC. 3709. ADJUSTMENT OF SEQUESTRATION.**

17 (a) TEMPORARY SUSPENSION OF MEDICARE SE-
18 QUESTRATION.—During the period beginning on May 1,
19 2020 and ending on December 31, 2020, the Medicare
20 programs under title XVIII of the Social Security Act (42
21 U.S.C. 1395 et seq.) shall be exempt from reduction under
22 any sequestration order issued before, on, or after the date
23 of enactment of this Act.

24 (b) EXTENSION OF DIRECT SPENDING REDUCTIONS
25 THROUGH FISCAL YEAR 2030.—Section 251A(6) of the

1 Balanced Budget and Emergency Deficit Control Act of
2 1985 (2 U.S.C. 901a(6)) is amended—

3 (1) in subparagraph (B), in the matter pre-
4 ceding clause (i), by striking “through 2029” and
5 inserting “through 2030”; and

6 (2) in subparagraph (C), in the matter pre-
7 ceding clause (i), by striking “fiscal year 2029” and
8 inserting “fiscal year 2030”.

9 **SEC. 3710. MEDICARE HOSPITAL INPATIENT PROSPECTIVE**
10 **PAYMENT SYSTEM ADD-ON PAYMENT FOR**
11 **COVID-19 PATIENTS DURING EMERGENCY PE-**
12 **RIOD.**

13 (a) IN GENERAL.—Section 1886(d)(4)(C) of the So-
14 cial Security Act (42 U.S.C. 1395ww(d)(4)(C)) is amend-
15 ed by adding at the end the following new clause:

16 “(iv)(I) For discharges occurring during the emer-
17 gency period described in section 1135(g)(1)(B), in the
18 case of a discharge of an individual diagnosed with
19 COVID-19, the Secretary shall increase the weighting fac-
20 tor that would otherwise apply to the diagnosis-related
21 group to which the discharge is assigned by 20 percent.
22 The Secretary shall identify a discharge of such an indi-
23 vidual through the use of diagnosis codes, condition codes,
24 or other such means as may be necessary.

1 “(II) Any adjustment under subclause (I) shall not
2 be taken into account in applying budget neutrality under
3 clause (iii).”.

4 (b) IMPLEMENTATION.—Notwithstanding any other
5 provision of law, the Secretary may implement the amend-
6 ment made by subsection (a) by program instruction or
7 otherwise.

8 **SEC. 3711. INCREASING ACCESS TO POST-ACUTE CARE DUR-**
9 **ING EMERGENCY PERIOD.**

10 (a) WAIVER OF IRF 3-HOUR RULE.—With respect
11 to inpatient rehabilitation services furnished by a rehabili-
12 tation facility described in section 1886(j)(1) of the Social
13 Security Act (42 U.S.C. 1395ww(j)(1)) during the emer-
14 gency period described in section 1135(g)(1)(B) of the So-
15 cial Security Act (42 U.S.C. 1320b–5(g)(1)(B)), the Sec-
16 retary of Health and Human Services shall waive section
17 412.622(a)(3)(ii) of title 42, Code of Federal Regulations
18 (or any successor regulations), relating to the requirement
19 that patients of an inpatient rehabilitation facility receive
20 at least 15 hours of therapy per week.

21 (b) WAIVER OF SITE-NEUTRAL PAYMENT RATE PRO-
22 VISIONS FOR LONG-TERM CARE HOSPITALS.—With re-
23 spect to inpatient hospital services furnished by a long-
24 term care hospital described in section 1886(d)(1)(B)(iv)
25 of the Social Security Act (42 U.S.C.

1 1395ww(d)(1)(B)(iv)) during the emergency period de-
2 scribed in section 1135(g)(1)(B) of the Social Security Act
3 (42 U.S.C. 1320b-5(g)(1)(B)), the Secretary of Health
4 and Human Services shall waive the following provisions
5 of section 1886(m)(6) of such Act (42 U.S.C.
6 1395ww(m)(6)):

7 (1) LTCH 50-PERCENT RULE.—Subparagraph
8 (C)(ii) of such section, relating to the payment ad-
9 justment for long-term care hospitals that do not
10 have a discharge payment percentage for the period
11 that is at least 50 percent.

12 (2) SITE-NEUTRAL IPPS PAYMENT RATE.—Sub-
13 paragraph (A)(i) of such section, relating to the ap-
14 plication of the site-neutral payment rate (and pay-
15 ment shall be made to a long-term care hospital
16 without regard to such section) for a discharge if the
17 admission occurs during such emergency period and
18 is in response to the public health emergency de-
19 scribed in such section 1135(g)(1)(B).

20 **SEC. 3712. REVISING PAYMENT RATES FOR DURABLE MED-**
21 **ICAL EQUIPMENT UNDER THE MEDICARE**
22 **PROGRAM THROUGH DURATION OF EMER-**
23 **GENCY PERIOD.**

24 (a) RURAL AND NONCONTIGUOUS AREAS.—The Sec-
25 retary of Health and Human Services shall implement sec-

1 tion 414.210(g)(9)(iii) of title 42, Code of Federal Regula-
2 tions (or any successor regulation), to apply the transition
3 rule described in such section to all applicable items and
4 services furnished in rural areas and noncontiguous areas
5 (as such terms are defined for purposes of such section)
6 as planned through December 31, 2020, and through the
7 duration of the emergency period described in section
8 1135(g)(1)(B) of the Social Security Act (42 U.S.C.
9 1320b–5(g)(1)(B)), if longer.

10 (b) AREAS OTHER THAN RURAL AND NONCONTIG-
11 UOUS AREAS.—With respect to items and services fur-
12 nished on or after the date that is 30 days after the date
13 of the enactment of this Act, the Secretary of Health and
14 Human Services shall apply section 414.210(g)(9)(iv) of
15 title 42, Code of Federal Regulations (or any successor
16 regulation), as if the reference to “dates of service from
17 June 1, 2018 through December 31, 2020, based on the
18 fee schedule amount for the area is equal to 100 percent
19 of the adjusted payment amount established under this
20 section” were instead a reference to “dates of service from
21 March 6, 2020, through the remainder of the duration of
22 the emergency period described in section 1135(g)(1)(B)
23 of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)),
24 based on the fee schedule amount for the area is equal
25 to 75 percent of the adjusted payment amount established

1 under this section and 25 percent of the unadjusted fee
2 schedule amount”.

3 **SEC. 3713. COVERAGE OF THE COVID-19 VACCINE UNDER**
4 **PART B OF THE MEDICARE PROGRAM WITH-**
5 **OUT ANY COST-SHARING.**

6 (a) **MEDICAL AND OTHER HEALTH SERVICES.**—Sec-
7 tion 1861(s)(10)(A) of the Social Security Act (42 U.S.C.
8 1395x(s)(10)(A)) is amended by inserting “, and COVID-
9 19 vaccine and its administration” after “influenza vac-
10 cine and its administration”.

11 (b) **PART B DEDUCTIBLE.**—The first sentence of sec-
12 tion 1833(b) of the Social Security Act (42 U.S.C.
13 1395l(b)) is amended—

14 (1) in paragraph (10), by striking “and” at the
15 end; and

16 (2) in paragraph (11), by striking the period at
17 the end and inserting “, and (12) such deductible
18 shall not apply with respect a COVID-19 vaccine
19 and its administration described in section
20 1861(s)(10)(A).”.

21 (c) **EFFECTIVE DATE.**—The amendments made by
22 this section shall take effect on the date of enactment of
23 this Act and shall apply with respect to a COVID-19 vac-
24 cine beginning on the date that such vaccine is licensed

1 under section 351 of the Public Health Service Act (42
2 U.S.C. 262).

3 (d) IMPLEMENTATION.—Notwithstanding any other
4 provision of law, the Secretary may implement the provi-
5 sions of, and the amendments made by, this section by
6 program instruction or otherwise.

7 **SEC. 3714. REQUIRING MEDICARE PRESCRIPTION DRUG**
8 **PLANS AND MA-PD PLANS TO ALLOW DURING**
9 **THE COVID-19 EMERGENCY PERIOD FOR**
10 **FILLS AND REFILLS OF COVERED PART D**
11 **DRUGS FOR UP TO A 3-MONTH SUPPLY.**

12 (a) IN GENERAL.—Section 1860D–4(b) of the Social
13 Security Act (42 U.S.C. 1395w–104(b)) is amended by
14 adding at the end the following new paragraph:

15 “(4) ENSURING ACCESS DURING COVID-19 PUB-
16 LIC HEALTH EMERGENCY PERIOD.—

17 “(A) IN GENERAL.—During the emergency
18 period described in section 1135(g)(1)(B), sub-
19 ject to subparagraph (B), a prescription drug
20 plan or MA–PD plan shall, notwithstanding any
21 cost and utilization management, medication
22 therapy management, or other such programs
23 under this part, permit a part D eligible indi-
24 vidual enrolled in such plan to obtain in a sin-
25 gular fill or refill, at the option of such individual,

1 the total day supply (not to exceed a 90-day
2 supply) prescribed for such individual for a cov-
3 ered part D drug.

4 “(B) SAFETY EDIT EXCEPTION.—A pre-
5 scription drug plan or MA–PD plan may not
6 permit a part D eligible individual to obtain a
7 single fill or refill inconsistent with an applica-
8 ble safety edit.”.

9 (b) IMPLEMENTATION.—Notwithstanding any other
10 provision of law, the Secretary of Health and Human
11 Services may implement the amendment made by this sec-
12 tion by program instruction or otherwise.

13 **SEC. 3715. PROVIDING HOME AND COMMUNITY-BASED**
14 **SERVICES IN ACUTE CARE HOSPITALS.**

15 Section 1902(h) of the Social Security Act (42 U.S.C.
16 1396a(h)) is amended—

17 (1) by inserting “(1)” after “(h)”;

18 (2) by inserting “, home and community-based
19 services provided under subsection (c), (d), or (i) of
20 section 1915 or under a waiver or demonstration
21 project under section 1115, self-directed personal as-
22 sistance services provided pursuant to a written plan
23 of care under section 1915(j), and home and com-
24 munity-based attendant services and supports under
25 section 1915(k)” before the period; and

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

2 “(2) Nothing in this title, title XVIII, or title XI shall
3 be construed as prohibiting receipt of any care or services
4 specified in paragraph (1) in an acute care hospital that
5 are—

6 “(A) identified in an individual’s person-cen-
7 tered service plan (or comparable plan of care);

8 “(B) provided to meet needs of the individual
9 that are not met through the provision of hospital
10 services;

11 “(C) not a substitute for services that the hos-
12 pital is obligated to provide through its conditions of
13 participation or under Federal or State law, or
14 under another applicable requirement; and

15 “(D) designed to ensure smooth transitions be-
16 tween acute care settings and home and community-
17 based settings, and to preserve the individual’s func-
18 tional abilities.”.

19 **SEC. 3716. CLARIFICATION REGARDING UNINSURED INDI-**
20 **VIDUALS.**

21 Subsection (ss) of section 1902 of the Social Security
22 Act (42 U.S.C. 1396a), as added by section 6004(a)(3)(C)
23 of the Families First Coronavirus Response Act, is amend-
24 ed—

1 **Subtitle E—Health and Human**
2 **Services Extenders**

3 **PART I—MEDICARE PROVISIONS**

4 **SEC. 3801. EXTENSION OF THE WORK GEOGRAPHIC INDEX**
5 **FLOOR UNDER THE MEDICARE PROGRAM.**

6 Section 1848(e)(1)(E) of the Social Security Act (42
7 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “May
8 23, 2020” and inserting “December 1, 2020”.

9 **SEC. 3802. EXTENSION OF FUNDING FOR QUALITY MEAS-**
10 **URE ENDORSEMENT, INPUT, AND SELECTION.**

11 (a) IN GENERAL.—Section 1890(d)(2) of the Social
12 Security Act (42 U.S.C. 1395aaa(d)(2)) is amended—

13 (1) in the first sentence, by striking “and
14 \$4,830,000 for the period beginning on October 1,
15 2019, and ending on May 22, 2020” and inserting
16 “\$20,000,000 for fiscal year 2020, and for the pe-
17 riod beginning on October 1, 2020, and ending on
18 November 30, 2020, the amount equal to the pro
19 rata portion of the amount appropriated for such pe-
20 riod for fiscal year 2020”; and

21 (2) in the third sentence, by striking “and 2019
22 and for the period beginning on October 1, 2019,
23 and ending on May 22, 2020” and inserting “,
24 2019, and 2020, and for the period beginning on

1 October 1, 2020, and ending on November 30,
2 2020.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall take effect as if included in the enact-
5 ment of the Further Consolidated Appropriations Act,
6 2020 (Public Law 116–94).

7 **SEC. 3803. EXTENSION OF FUNDING OUTREACH AND AS-**
8 **SISTANCE FOR LOW-INCOME PROGRAMS.**

9 (a) **FUNDING EXTENSIONS.**—

10 (1) **ADDITIONAL FUNDING FOR STATE HEALTH**
11 **INSURANCE PROGRAMS.**—Subsection (a)(1)(B) of
12 section 119 of the Medicare Improvements for Pa-
13 tients and Providers Act of 2008 (42 U.S.C. 1395b–
14 3 note), as amended by section 3306 of the Patient
15 Protection and Affordable Care Act (Public Law
16 111–148), section 610 of the American Taxpayer
17 Relief Act of 2012 (Public Law 112–240), section
18 1110 of the Pathway for SGR Reform Act of 2013
19 (Public Law 113–67), section 110 of the Protecting
20 Access to Medicare Act of 2014 (Public Law 113–
21 93), section 208 of the Medicare Access and CHIP
22 Reauthorization Act of 2015 (Public Law 114–10),
23 section 50207 of division E of the Bipartisan Budg-
24 et Act of 2018 (Public Law 115–123), section 1402
25 of division B of the Continuing Appropriations Act,

1 2020, and Health Extenders Act of 2019 (Public
2 Law 116–59), section 1402 of division B of the Fur-
3 ther Continuing Appropriations Act, 2020, and Fur-
4 ther Health Extenders Act of 2019 (Public Law
5 116–69), and section 103 of division N of the Fur-
6 ther Consolidated Appropriations Act, 2020 (Public
7 Law 116–94) is amended by striking clauses (x)
8 through (xii) and inserting the following new
9 clauses:

10 “(x) for fiscal year 2020, of
11 \$13,000,000; and

12 “(xi) for the period beginning on Oc-
13 tober 1, 2020, and ending on November
14 30, 2020, the amount equal to the pro rata
15 portion of the amount appropriated for
16 such period for fiscal year 2020.”.

17 (2) ADDITIONAL FUNDING FOR AREA AGENCIES
18 ON AGING.—Subsection (b)(1)(B) of such section
19 119, as so amended, is amended by striking clauses
20 (x) through (xii) and inserting the following new
21 clauses:

22 “(x) for fiscal year 2020, of
23 \$7,500,000; and

24 “(xi) for the period beginning on Oc-
25 tober 1, 2020, and ending on November

1 30, 2020, the amount equal to the pro rata
2 portion of the amount appropriated for
3 such period for fiscal year 2020.”.

4 (3) ADDITIONAL FUNDING FOR AGING AND DIS-
5 ABILITY RESOURCE CENTERS.—Subsection (c)(1)(B)
6 of such section 119, as so amended, is amended by
7 striking clauses (x) through (xii) and inserting the
8 following new clauses:

9 “(x) for fiscal year 2020, of
10 \$5,000,000; and

11 “(xi) for the period beginning on Oc-
12 tober 1, 2020, and ending on November
13 30, 2020, the amount equal to the pro rata
14 portion of the amount appropriated for
15 such period for fiscal year 2020.”.

16 (4) ADDITIONAL FUNDING FOR CONTRACT
17 WITH THE NATIONAL CENTER FOR BENEFITS AND
18 OUTREACH ENROLLMENT.—Subsection (d)(2) of
19 such section 119, as so amended, is amended by
20 striking clauses (x) through (xii) and inserting the
21 following new clauses:

22 “(x) for fiscal year 2020, of
23 \$12,000,000; and

24 “(xi) for the period beginning on Oc-
25 tober 1, 2020, and ending on November

1 30, 2020, the amount equal to the pro rata
2 portion of the amount appropriated for
3 such period for fiscal year 2020.”.

4 (b) **EFFECTIVE DATE.**—The amendments made by
5 subsection (a) shall take effect as if included in the enact-
6 ment of the Further Consolidated Appropriations Act,
7 2020 (Public Law 116–94).

8 **PART II—MEDICAID PROVISIONS**

9 **SEC. 3811. EXTENSION OF THE MONEY FOLLOWS THE PER-**
10 **SON REBALANCING DEMONSTRATION PRO-**
11 **GRAM.**

12 Section 6071(h) of the Deficit Reduction Act of 2005
13 (42 U.S.C. 1396a note) is amended—

14 (1) in paragraph (1), by striking subparagraph
15 (G) and inserting the following:

16 “(G) subject to paragraph (3),
17 \$337,500,000 for the period beginning on Jan-
18 uary 1, 2020, and ending on September 30,
19 2020; and

20 “(H) subject to paragraph (3), for the pe-
21 riod beginning on October 1, 2020, and ending
22 on November 30, 2020, the amount equal to
23 the pro rata portion of the amount appropriated
24 for such period for fiscal year 2020.”; and

1 (2) in paragraph (3), by striking “and (G)” and
2 inserting “, (G), and (H)”.

3 **SEC. 3812. EXTENSION OF SPOUSAL IMPOVERISHMENT**
4 **PROTECTIONS.**

5 (a) IN GENERAL.—Section 2404 of Public Law 111–
6 148 (42 U.S.C. 1396r–5 note) is amended by striking
7 “May 22, 2020” and inserting “November 30, 2020”.

8 (b) RULE OF CONSTRUCTION.—Nothing in section
9 2404 of Public Law 111–148 (42 U.S.C. 1396r–5 note)
10 or section 1902(a)(17) or 1924 of the Social Security Act
11 (42 U.S.C. 1396a(a)(17), 1396r–5) shall be construed as
12 prohibiting a State from—

13 (1) applying an income or resource disregard
14 under a methodology authorized under section
15 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2))—

16 (A) to the income or resources of an indi-
17 vidual described in section
18 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C.
19 1396a(a)(10)(A)(ii)(VI)) (including a disregard
20 of the income or resources of such individual’s
21 spouse); or

22 (B) on the basis of an individual’s need for
23 home and community-based services authorized
24 under subsection (c), (d), (i), or (k) of section

1 1915 of such Act (42 U.S.C. 1396n) or under
2 section 1115 of such Act (42 U.S.C. 1315); or
3 (2) disregarding an individual’s spousal income
4 and assets under a plan amendment to provide med-
5 ical assistance for home and community-based serv-
6 ices for individuals by reason of being determined el-
7 igible under section 1902(a)(10)(C) of such Act (42
8 U.S.C. 1396a(a)(10)(C)) or by reason of section
9 1902(f) of such Act (42 U.S.C. 1396a(f)) or other-
10 wise on the basis of a reduction of income based on
11 costs incurred for medical or other remedial care
12 under which the State disregarded the income and
13 assets of the individual’s spouse in determining the
14 initial and ongoing financial eligibility of an indi-
15 vidual for such services in place of the spousal im-
16 poverishment provisions applied under section 1924
17 of such Act (42 U.S.C. 1396r-5).

18 **SEC. 3813. DELAY OF DSH REDUCTIONS.**

19 Section 1923(f)(7)(A) of the Social Security Act (42
20 U.S.C. 1396r-4(f)(7)(A)) is amended—

21 (1) in clause (i), in the matter preceding sub-
22 clause (I), by striking “May 23, 2020, and ending
23 September 30, 2020, and for each of fiscal years
24 2021” and inserting “December 1, 2020, and ending

1 September 30, 2021, and for each of fiscal years
2 2022”; and

3 (2) in clause (ii)—

4 (A) in subclause (I), by striking “May 23,
5 2020, and ending September 30, 2020” and in-
6 serting “December 1, 2020, and ending Sep-
7 tember 30, 2021”; and

8 (B) in subclause (II), by striking “2021”
9 and inserting “2022”.

10 **SEC. 3814. EXTENSION OF COMMUNITY MENTAL HEALTH**
11 **SERVICES DEMONSTRATION PROGRAM.**

12 Section 223(d)(3) of the Protecting Access to Medi-
13 care Act of 2014 (42 U.S.C. 1396a note) is amended by
14 striking “May 22, 2020” and inserting “November 30,
15 2020”.

16 **PART III—HUMAN SERVICES AND OTHER**
17 **HEALTH PROGRAMS**

18 **SEC. 3821. EXTENSION OF SEXUAL RISK AVOIDANCE EDU-**
19 **CATION PROGRAM.**

20 Section 510 of the Social Security Act (42 U.S.C.
21 710) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (1), in the matter pre-
24 ceding subparagraph (A)—

1 (i) by striking “and 2019 and for the
2 period beginning October 1, 2019, and
3 ending May 22, 2020” and inserting
4 “through 2020 and for the period begin-
5 ning October 1, 2020, and ending Novem-
6 ber 30, 2020”; and

7 (ii) by striking “fiscal year 2020” and
8 inserting “fiscal year 2021”

9 (B) in paragraph (2)(A)—

10 (i) by striking “and 2019 and for the
11 period beginning October 1, 2019, and
12 ending May 22, 2020” and inserting
13 “through 2020 and for the period begin-
14 ning October 1, 2020, and ending Novem-
15 ber 30, 2020”; and

16 (ii) by striking “fiscal year 2020” and
17 inserting “fiscal year 2021”; and

18 (2) in subsection (f)(1), by striking “and 2019
19 and \$48,287,671 for the period beginning October 1,
20 2019, and ending May 22, 2020” and inserting
21 “through 2020, and for the period beginning on Oc-
22 tober 1, 2020, and ending on November 30, 2020,
23 the amount equal to the pro rata portion of the
24 amount appropriated for such period for fiscal year
25 2020”.

1 **SEC. 3822. EXTENSION OF PERSONAL RESPONSIBILITY**
2 **EDUCATION PROGRAM.**

3 Section 513 of the Social Security Act (42 U.S.C.
4 713) is amended—

5 (1) in subsection (a)(1)—

6 (A) in subparagraph (A), in the matter
7 preceding clause (i), by striking “2019 and for
8 the period beginning October 1, 2019, and end-
9 ing May 22, 2020” and inserting “2020 and for
10 the period beginning October 1, 2020, and end-
11 ing November 30, 2020”;

12 (B) in subparagraph (B)(i), by striking by
13 striking “October 1, 2019, and ending May 22,
14 2020” and inserting “October 1, 2020, and
15 ending November 30, 2020”; and

16 (2) in subsection (f), by striking “2019 and
17 \$48,287,671 for the period beginning October 1,
18 2019, and ending May 22, 2020” and inserting
19 “2020, and for the period beginning on October 1,
20 2020, and ending on November 30, 2020, the
21 amount equal to the pro rata portion of the amount
22 appropriated for such period for fiscal year 2020”.

1 **SEC. 3823. EXTENSION OF DEMONSTRATION PROJECTS TO**
2 **ADDRESS HEALTH PROFESSIONS WORK-**
3 **FORCE NEEDS.**

4 Activities authorized by section 2008 of the Social Se-
5 curity Act shall continue through November 30, 2020, in
6 the manner authorized for fiscal year 2019, and out of
7 any money in the Treasury of the United States not other-
8 wise appropriated, there are hereby appropriated such
9 sums as may be necessary for such purpose. Grants and
10 payments may be made pursuant to this authority through
11 the date so specified at the pro rata portion of the total
12 amount authorized for such activities in fiscal year 2019.

13 **SEC. 3824. EXTENSION OF THE TEMPORARY ASSISTANCE**
14 **FOR NEEDY FAMILIES PROGRAM AND RE-**
15 **LATED PROGRAMS.**

16 Activities authorized by part A of title IV and section
17 1108(b) of the Social Security Act shall continue through
18 November 30, 2020, in the manner authorized for fiscal
19 year 2019, and out of any money in the Treasury of the
20 United States not otherwise appropriated, there are here-
21 by appropriated such sums as may be necessary for such
22 purpose.

1 **PART IV—PUBLIC HEALTH PROVISIONS**
2 **SEC. 3831. EXTENSION FOR COMMUNITY HEALTH CENTERS,**
3 **THE NATIONAL HEALTH SERVICE CORPS,**
4 **AND TEACHING HEALTH CENTERS THAT OP-**
5 **ERATE GME PROGRAMS.**

6 (a) COMMUNITY HEALTH CENTERS.—Section
7 10503(b)(1)(F) of the Patient Protection and Affordable
8 Care Act (42 U.S.C. 254b–2(b)(1)(F)) is amended by
9 striking “and \$2,575,342,466 for the period beginning on
10 October 1, 2019, and ending on May 22, 2020” and in-
11 serting “\$4,000,000,000 for fiscal year 2020, and
12 \$668,493,151 for the period beginning on October 1,
13 2020, and ending on November 30, 2020”.

14 (b) NATIONAL HEALTH SERVICE CORPS.—Section
15 10503(b)(2) of the Patient Protection and Affordable
16 Care Act (42 U.S.C. 254b–2(b)(2)) is amended—

17 (1) in subparagraph (F), by striking “and” at
18 the end; and

19 (2) by striking subparagraph (G) and inserting
20 the following:

21 “(G) \$310,000,000 for fiscal year 2020;

22 and

23 “(H) \$51,808,219 for the period beginning
24 on October 1, 2020, and ending on November
25 30, 2020.”.

1 (c) TEACHING HEALTH CENTERS THAT OPERATE
2 GRADUATE MEDICAL EDUCATION PROGRAMS.—Section
3 340H(g)(1) of the Public Health Service Act (42 U.S.C.
4 256h(g)(1)) is amended by striking “and 2019, and
5 \$81,445,205 for the period beginning on October 1, 2019,
6 and ending on May 22, 2020” and inserting “through fis-
7 cal year 2020, and \$21,141,096 for the period beginning
8 on October 1, 2020, and ending on November 30, 2020”.

9 (d) APPLICATION OF PROVISIONS.—Amounts appro-
10 priated pursuant to the amendments made by this section
11 for fiscal years 2020 and 2021 shall be subject to the re-
12 quirements contained in Public Law 116–94 for funds for
13 programs authorized under sections 330 through 340 of
14 the Public Health Service Act (42 U.S.C. 254 through
15 256).

16 (e) CONFORMING AMENDMENT.—Paragraph (4) of
17 section 3014(h) of title 18, United States Code, as amend-
18 ed by section 401(e) of division N of Public Law 116–
19 94, is amended by striking “section 401(d) of division N
20 of the Further Consolidated Appropriations Act, 2020”
21 and inserting “section 3831 of the CARES Act”.

22 **SEC. 3832. DIABETES PROGRAMS.**

23 (a) TYPE I.—Section 330B(b)(2)(D) of the Public
24 Health Service Act (42 U.S.C. 254c–2(b)(2)(D)) is
25 amended by striking “and 2019, and \$96,575,342 for the

1 period beginning on October 1, 2019, and ending on May
2 22, 2020” and inserting “through 2020, and \$25,068,493
3 for the period beginning on October 1, 2020, and ending
4 on November 30, 2020”.

5 (b) INDIANS.—Section 330C(c)(2)(D) of the Public
6 Health Service Act (42 U.S.C. 254e-3(c)(2)(D)) is
7 amended by striking “and 2019, and \$96,575,342 for the
8 period beginning on October 1, 2019, and ending on May
9 22, 2020” and inserting “through 2020, and \$25,068,493
10 for the period beginning on October 1, 2020, and ending
11 on November 30, 2020”.

12 **PART V—MISCELLANEOUS PROVISIONS**

13 **SEC. 3841. PREVENTION OF DUPLICATE APPROPRIATIONS**

14 **FOR FISCAL YEAR 2020.**

15 Expenditures made under any provision of law
16 amended in this title pursuant to the amendments made
17 by the Continuing Appropriations Act, 2020, and Health
18 Extenders Act of 2019 (Public Law 116-59), the Further
19 Continuing Appropriations Act, 2020, and Further Health
20 Extenders Act of 2019 (Public Law 116-69), and the Fur-
21 ther Consolidated Appropriations Act, 2020 (Public Law
22 116-94) for fiscal year 2020 shall be charged to the appli-
23 cable appropriation or authorization provided by the
24 amendments made by this title to such provision of law
25 for such fiscal year.

1 **Subtitle F—Over-the-Counter**
2 **Drugs**

3 **PART I—OTC DRUG REVIEW**

4 **SEC. 3851. REGULATION OF CERTAIN NONPRESCRIPTION**
5 **DRUGS THAT ARE MARKETED WITHOUT AN**
6 **APPROVED DRUG APPLICATION.**

7 (a) IN GENERAL.—Chapter V of the Federal Food,
8 Drug, and Cosmetic Act is amended by inserting after sec-
9 tion 505F of such Act (21 U.S.C. 355g) the following:

10 **“SEC. 505G. REGULATION OF CERTAIN NONPRESCRIPTION**
11 **DRUGS THAT ARE MARKETED WITHOUT AN**
12 **APPROVED DRUG APPLICATION.**

13 “(a) NONPRESCRIPTION DRUGS MARKETED WITH-
14 OUT AN APPROVED APPLICATION.—Nonprescription
15 drugs marketed without an approved drug application
16 under section 505, as of the date of the enactment of this
17 section, shall be treated in accordance with this sub-
18 section.

19 “(1) DRUGS SUBJECT TO A FINAL MONOGRAPH;
20 CATEGORY I DRUGS SUBJECT TO A TENTATIVE
21 FINAL MONOGRAPH.—A drug is deemed to be gen-
22 erally recognized as safe and effective under section
23 201(p)(1), not a new drug under section 201(p), and
24 not subject to section 503(b)(1), if—

25 “(A) the drug is—

1 “(i) in conformity with the require-
2 ments for nonprescription use of a final
3 monograph issued under part 330 of title
4 21, Code of Federal Regulations (except as
5 provided in paragraph (2)), the general re-
6 quirements for nonprescription drugs, and
7 conditions or requirements under sub-
8 sections (b), (c), and (k); and

9 “(ii) except as permitted by an order
10 issued under subsection (b) or, in the case
11 of a minor change in the drug, in con-
12 formity with an order issued under sub-
13 section (c), in a dosage form that, imme-
14 diately prior to the date of the enactment
15 of this section, has been used to a material
16 extent and for a material time under sec-
17 tion 201(p)(2); or

18 “(B) the drug is—

19 “(i) classified in category I for safety
20 and effectiveness under a tentative final
21 monograph that is the most recently appli-
22 cable proposal or determination issued
23 under part 330 of title 21, Code of Federal
24 Regulations;

1 “(ii) in conformity with the proposed
2 requirements for nonprescription use of
3 such tentative final monograph, any appli-
4 cable subsequent determination by the Sec-
5 retary, the general requirements for non-
6 prescription drugs, and conditions or re-
7 quirements under subsections (b), (c), and
8 (k); and

9 “(iii) except as permitted by an order
10 issued under subsection (b) or, in the case
11 of a minor change in the drug, in con-
12 formity with an order issued under sub-
13 section (c), in a dosage form that, imme-
14 diately prior to the date of the enactment
15 of this section, has been used to a material
16 extent and for a material time under sec-
17 tion 201(p)(2).

18 “(2) TREATMENT OF SUNSCREEN DRUGS.—
19 With respect to sunscreen drugs subject to this sec-
20 tion, the applicable requirements in terms of con-
21 formity with a final monograph, for purposes of
22 paragraph (1)(A)(i), shall be the requirements speci-
23 fied in part 352 of title 21, Code of Federal Regula-
24 tions, as published on May 21, 1999, beginning on
25 page 27687 of volume 64 of the Federal Register,

1 drug in such preamble or in an appli-
2 cable subsequent proposed rule;

3 “(II) the proposed requirements
4 for drugs classified in such tentative
5 final monograph in category I in the
6 most recently proposed rule estab-
7 lishing requirements related to such
8 tentative final monograph and in any
9 final rule establishing requirements
10 that are applicable to the drug; and

11 “(III) the general requirements
12 for nonprescription drugs and condi-
13 tions or requirements under sub-
14 section (b) or (k); and

15 “(iii) in a dosage form that, imme-
16 diately prior to the date of the enactment
17 of this section, had been used to a material
18 extent and for a material time under sec-
19 tion 201(p)(2); or

20 “(B) the drug is—

21 “(i) classified in category I for safety
22 and effectiveness under a proposed mono-
23 graph or advance notice of proposed rule-
24 making that is the most recently applicable
25 proposal or determination for such drug

1 issued under part 330 of title 21, Code of
2 Federal Regulations;

3 “(ii) in conformity with the require-
4 ments for nonprescription use of such pro-
5 posed monograph or advance notice of pro-
6 posed rulemaking, any applicable subse-
7 quent determination by the Secretary, the
8 general requirements for nonprescription
9 drugs, and conditions or requirements
10 under subsection (b) or (k); and

11 “(iii) in a dosage form that, imme-
12 diately prior to the date of the enactment
13 of this section, has been used to a material
14 extent and for a material time under sec-
15 tion 201(p)(2).

16 “(4) CATEGORY II DRUGS DEEMED NEW
17 DRUGS.—A drug that is classified in category II for
18 safety or effectiveness under a tentative final mono-
19 graph or that is subject to a determination to be not
20 generally recognized as safe and effective in a pro-
21 posed rule that is the most recently applicable pro-
22 posal issued under part 330 of title 21, Code of Fed-
23 eral Regulations, shall be deemed to be a new drug
24 under section 201(p), misbranded under section
25 502(ee), and subject to the requirement for an ap-

1 proved new drug application under section 505 be-
2 ginning on the day that is 180 calendar days after
3 the date of the enactment of this section, unless, be-
4 fore such day, the Secretary determines that it is in
5 the interest of public health to extend the period
6 during which the drug may be marketed without
7 such an approved new drug application.

8 “(5) DRUGS NOT GRASE DEEMED NEW
9 DRUGS.—A drug that the Secretary has determined
10 not to be generally recognized as safe and effective
11 under section 201(p)(1) under a final determination
12 issued under part 330 of title 21, Code of Federal
13 Regulations, shall be deemed to be a new drug under
14 section 201(p), misbranded under section 502(ee),
15 and subject to the requirement for an approved new
16 drug application under section 505.

17 “(6) OTHER DRUGS DEEMED NEW DRUGS.—
18 Except as provided in subsection (m), a drug is
19 deemed to be a new drug under section 201(p) and
20 misbranded under section 502(ee) if the drug—

21 “(A) is not subject to section 503(b)(1);

22 and

23 “(B) is not described in paragraph (1),
24 (2), (3), (4), or (5), or subsection (b)(1)(B).

25 “(b) ADMINISTRATIVE ORDERS.—

1 “(1) IN GENERAL.—

2 “(A) DETERMINATION.—The Secretary
3 may, on the initiative of the Secretary or at the
4 request of one or more requestors, issue an ad-
5 ministrative order determining whether there
6 are conditions under which a specific drug, a
7 class of drugs, or a combination of drugs, is de-
8 termined to be—

9 “(i) not subject to section 503(b)(1);

10 and

11 “(ii) generally recognized as safe and
12 effective under section 201(p)(1).

13 “(B) EFFECT.—A drug or combination of
14 drugs shall be deemed to not require approval
15 under section 505 if such drug or combination
16 of drugs—

17 “(i) is determined by the Secretary to
18 meet the conditions specified in clauses (i)
19 and (ii) of subparagraph (A);

20 “(ii) is marketed in conformity with
21 an administrative order under this sub-
22 section;

23 “(iii) meets the general requirements
24 for nonprescription drugs; and

1 “(iv) meets the requirements under
2 subsections (e) and (k).

3 “(C) STANDARD.—The Secretary shall find
4 that a drug is not generally recognized as safe
5 and effective under section 201(p)(1) if—

6 “(i) the evidence shows that the drug
7 is not generally recognized as safe and ef-
8 fective under section 201(p)(1); or

9 “(ii) the evidence is inadequate to
10 show that the drug is generally recognized
11 as safe and effective under section
12 201(p)(1).

13 “(2) ADMINISTRATIVE ORDERS INITIATED BY
14 THE SECRETARY.—

15 “(A) IN GENERAL.—In issuing an adminis-
16 trative order under paragraph (1) upon the
17 Secretary’s initiative, the Secretary shall—

18 “(i) make reasonable efforts to notify
19 informally, not later than 2 business days
20 before the issuance of the proposed order,
21 the sponsors of drugs who have a listing in
22 effect under section 510(j) for the drugs or
23 combination of drugs that will be subject
24 to the administrative order;

1 “(ii) after any such reasonable efforts
2 of notification—

3 “(I) issue a proposed administra-
4 tive order by publishing it on the
5 website of the Food and Drug Admin-
6 istration and include in such order the
7 reasons for the issuance of such order;
8 and

9 “(II) publish a notice of avail-
10 ability of such proposed order in the
11 Federal Register;

12 “(iii) except as provided in subpara-
13 graph (B), provide for a public comment
14 period with respect to such proposed order
15 of not less than 45 calendar days; and

16 “(iv) if, after completion of the pro-
17 ceedings specified in clauses (i) through
18 (iii), the Secretary determines that it is ap-
19 propriate to issue a final administrative
20 order—

21 “(I) issue the final administrative
22 order, together with a detailed state-
23 ment of reasons, which order shall not
24 take effect until the time for request-

1 ing judicial review under paragraph
2 (3)(D)(ii) has expired;

3 “**(II)** publish a notice of such
4 final administrative order in the Fed-
5 eral Register;

6 “**(III)** afford requestors of drugs
7 that will be subject to such order the
8 opportunity for formal dispute resolu-
9 tion up to the level of the Director of
10 the Center for Drug Evaluation and
11 Research, which initially must be re-
12 quested within 45 calendar days of
13 the issuance of the order, and, for
14 subsequent levels of appeal, within 30
15 calendar days of the prior decision;
16 and

17 “**(IV)** except with respect to
18 drugs described in paragraph (3)(B),
19 upon completion of the formal dispute
20 resolution procedure, inform the per-
21 sons which sought such dispute reso-
22 lution of their right to request a hear-
23 ing.

24 “**(B) EXCEPTIONS.**—When issuing an ad-
25 ministrative order under paragraph (1) on the

1 Secretary's initiative proposing to determine
2 that a drug described in subsection (a)(3) is not
3 generally recognized as safe and effective under
4 section 201(p)(1), the Secretary shall follow the
5 procedures in subparagraph (A), except that—

6 “(i) the proposed order shall include
7 notice of—

8 “(I) the general categories of
9 data the Secretary has determined
10 necessary to establish that the drug is
11 generally recognized as safe and effec-
12 tive under section 201(p)(1); and

13 “(II) the format for submissions
14 by interested persons;

15 “(ii) the Secretary shall provide for a
16 public comment period of no less than 180
17 calendar days with respect to such pro-
18 posed order, except when the Secretary de-
19 termines, for good cause, that a shorter pe-
20 riod is in the interest of public health; and

21 “(iii) any person who submits data in
22 such comment period shall include a cer-
23 tification that the person has submitted all
24 evidence created, obtained, or received by
25 that person that is both within the cat-

1 paragraph (2)(A)(iv) if the final adminis-
2 trative order involved relates to a drug—

3 “(I) that is described in sub-
4 section (a)(3)(A); and

5 “(II) with respect to which no
6 human or non-human data studies rel-
7 evant to the safety or effectiveness of
8 such drug have been submitted to the
9 administrative record since the
10 issuance of the most recent tentative
11 final monograph relating to such
12 drug.

13 “(ii) HUMAN DATA STUDIES AND
14 NON-HUMAN DATA DEFINED.—In this sub-
15 paragraph:

16 “(I) The term ‘human data stud-
17 ies’ means clinical trials of safety or
18 effectiveness (including actual use
19 studies), pharmacokinetics studies, or
20 bioavailability studies.

21 “(II) The term ‘non-human data’
22 means data from testing other than
23 with human subjects which provides
24 information concerning safety or ef-
25 fectiveness.

1 “(C) HEARING PROCEDURES.—

2 “(i) DENIAL OF REQUEST FOR HEAR-
3 ING.—If the Secretary determines that in-
4 formation submitted in a request for a
5 hearing under subparagraph (A) with re-
6 spect to a final administrative order issued
7 under paragraph (2)(A)(iv) does not iden-
8 tify the existence of a genuine and sub-
9 stantial question of material fact, the Sec-
10 retary may deny such request. In making
11 such a determination, the Secretary may
12 consider only information and data that
13 are based on relevant and reliable scientific
14 principles and methodologies.

15 “(ii) SINGLE HEARING FOR MULTIPLE
16 RELATED REQUESTS.—If more than one
17 request for a hearing is submitted with re-
18 spect to the same administrative order
19 under subparagraph (A), the Secretary
20 may direct that a single hearing be con-
21 ducted in which all persons whose hearing
22 requests were granted may participate.

23 “(iii) PRESIDING OFFICER.—The pre-
24 siding officer of a hearing requested under
25 subparagraph (A) shall—

1 “(I) be designated by the Sec-
2 retary;

3 “(II) not be an employee of the
4 Center for Drug Evaluation and Re-
5 search; and

6 “(III) not have been previously
7 involved in the development of the ad-
8 ministrative order involved or pro-
9 ceedings relating to that administra-
10 tive order.

11 “(iv) RIGHTS OF PARTIES TO HEAR-
12 ING.—The parties to a hearing requested
13 under subparagraph (A) shall have the
14 right to present testimony, including testi-
15 mony of expert witnesses, and to cross-ex-
16 amine witnesses presented by other parties.
17 Where appropriate, the presiding officer
18 may require that cross-examination by par-
19 ties representing substantially the same in-
20 terests be consolidated to promote effi-
21 ciency and avoid duplication.

22 “(v) FINAL DECISION.—

23 “(I) At the conclusion of a hear-
24 ing requested under subparagraph
25 (A), the presiding officer of the hear-

1 ing shall issue a decision containing
2 findings of fact and conclusions of
3 law. The decision of the presiding offi-
4 cer shall be final.

5 “(II) The final decision may not
6 take effect until the period under sub-
7 paragraph (D)(ii) for submitting a re-
8 quest for judicial review of such deci-
9 sion expires.

10 “(D) JUDICIAL REVIEW OF FINAL ADMIN-
11 ISTRATIVE ORDER.—

12 “(i) IN GENERAL.—The procedures
13 described in section 505(h) shall apply
14 with respect to judicial review of final ad-
15 ministrative orders issued under this sub-
16 section in the same manner and to the
17 same extent as such section applies to an
18 order described in such section except that
19 the judicial review shall be taken by filing
20 in an appropriate district court of the
21 United States in lieu of the appellate
22 courts specified in such section.

23 “(ii) PERIOD TO SUBMIT A REQUEST
24 FOR JUDICIAL REVIEW.—A person eligible
25 to request a hearing under this paragraph

1 and seeking judicial review of a final ad-
2 ministrative order issued under this sub-
3 section shall file such request for judicial
4 review not later than 60 calendar days
5 after the latest of—

6 “(I) the date on which notice of
7 such order is published;

8 “(II) the date on which a hearing
9 with respect to such order is denied
10 under subparagraph (B) or (C)(i);

11 “(III) the date on which a final
12 decision is made following a hearing
13 under subparagraph (C)(v); or

14 “(IV) if no hearing is requested,
15 the date on which the time for re-
16 questing a hearing expires.

17 “(4) EXPEDITED PROCEDURE WITH RESPECT
18 TO ADMINISTRATIVE ORDERS INITIATED BY THE
19 SECRETARY.—

20 “(A) IMMINENT HAZARD TO THE PUBLIC
21 HEALTH.—

22 “(i) IN GENERAL.—In the case of a
23 determination by the Secretary that a
24 drug, class of drugs, or combination of
25 drugs subject to this section poses an im-

1 minent hazard to the public health, the
2 Secretary, after first making reasonable ef-
3 forts to notify, not later than 48 hours be-
4 fore issuance of such order under this sub-
5 paragraph, sponsors who have a listing in
6 effect under section 510(j) for such drug
7 or combination of drugs—

8 “(I) may issue an interim final
9 administrative order for such drug,
10 class of drugs, or combination of
11 drugs under paragraph (1), together
12 with a detailed statement of the rea-
13 sons for such order;

14 “(II) shall publish in the Federal
15 Register a notice of availability of any
16 such order; and

17 “(III) shall provide for a public
18 comment period of at least 45 cal-
19 endar days with respect to such in-
20 terim final order.

21 “(ii) NONDELEGATION.—The Sec-
22 retary may not delegate the authority to
23 issue an interim final administrative order
24 under this subparagraph.

25 “(B) SAFETY LABELING CHANGES.—

1 “(i) IN GENERAL.—In the case of a
2 determination by the Secretary that a
3 change in the labeling of a drug, class of
4 drugs, or combination of drugs subject to
5 this section is reasonably expected to miti-
6 gate a significant or unreasonable risk of
7 a serious adverse event associated with use
8 of the drug, the Secretary may—

9 “(I) make reasonable efforts to
10 notify informally, not later than 48
11 hours before the issuance of the in-
12 terim final order, the sponsors of
13 drugs who have a listing in effect
14 under section 510(j) for such drug or
15 combination of drugs;

16 “(II) after reasonable efforts of
17 notification, issue an interim final ad-
18 ministrative order in accordance with
19 paragraph (1) to require such change,
20 together with a detailed statement of
21 the reasons for such order;

22 “(III) publish in the Federal
23 Register a notice of availability of
24 such order; and

1 “(IV) provide for a public com-
2 ment period of at least 45 calendar
3 days with respect to such interim final
4 order.

5 “(ii) CONTENT OF ORDER.—An in-
6 terim final order issued under this sub-
7 paragraph with respect to the labeling of a
8 drug may provide for new warnings and
9 other information required for safe use of
10 the drug.

11 “(C) EFFECTIVE DATE.—An order under
12 subparagraph (A) or (B) shall take effect on a
13 date specified by the Secretary.

14 “(D) FINAL ORDER.—After the completion
15 of the proceedings in subparagraph (A) or (B),
16 the Secretary shall—

17 “(i) issue a final order in accordance
18 with paragraph (1);

19 “(ii) publish a notice of availability of
20 such final administrative order in the Fed-
21 eral Register; and

22 “(iii) afford sponsors of such drugs
23 that will be subject to such an order the
24 opportunity for formal dispute resolution
25 up to the level of the Director of the Cen-

1 or (B), issue a final order in accord-
2 ance with paragraph (1); and

3 “(II) not later than 12 months
4 after the date on which such final
5 order is issued, complete any hearing
6 under subparagraph (E).

7 “(ii) DISPUTE RESOLUTION RE-
8 QUEST.—The Secretary shall specify in an
9 interim final order issued under subpara-
10 graph (A) or (B) such shorter periods for
11 requesting dispute resolution under sub-
12 paragraph (D)(iii) as are necessary to
13 meet the requirements of this subpara-
14 graph.

15 “(G) JUDICIAL REVIEW.—A final order
16 issued pursuant to subparagraph (F) shall be
17 subject to judicial review in accordance with
18 paragraph (3)(D).

19 “(5) ADMINISTRATIVE ORDER INITIATED AT
20 THE REQUEST OF A REQUESTOR.—

21 “(A) IN GENERAL.—In issuing an adminis-
22 trative order under paragraph (1) at the re-
23 quest of a requestor with respect to certain
24 drugs, classes of drugs, or combinations of
25 drugs—

1 “(i) the Secretary shall, after receiv-
2 ing a request under this subparagraph, de-
3 termine whether the request is sufficiently
4 complete and formatted to permit a sub-
5 stantive review;

6 “(ii) if the Secretary determines that
7 the request is sufficiently complete and for-
8 matted to permit a substantive review, the
9 Secretary shall—

10 “(I) file the request; and

11 “(II) initiate proceedings with re-
12 spect to issuing an administrative
13 order in accordance with paragraphs
14 (2) and (3); and

15 “(iii) except as provided in paragraph
16 (6), if the Secretary determines that a re-
17 quest does not meet the requirements for
18 filing or is not sufficiently complete and
19 formatted to permit a substantive review,
20 the requestor may demand that the request
21 be filed over protest, and the Secretary
22 shall initiate proceedings to review the re-
23 quest in accordance with paragraph (2)(A).

24 “(B) REQUEST TO INITIATE PRO-
25 CEEDINGS.—

1 “(i) IN GENERAL.—A requestor seek-
2 ing an administrative order under para-
3 graph (1) with respect to certain drugs,
4 classes of drugs, or combinations of drugs,
5 shall submit to the Secretary a request to
6 initiate proceedings for such order in the
7 form and manner as specified by the Sec-
8 retary. Such requestor may submit a re-
9 quest under this subparagraph for the
10 issuance of an administrative order—

11 “(I) determining whether a drug
12 is generally recognized as safe and ef-
13 fective under section 201(p)(1), ex-
14 empt from section 503(b)(1), and not
15 required to be the subject of an ap-
16 proved application under section 505;
17 or

18 “(II) determining whether a
19 change to a condition of use of a drug
20 is generally recognized as safe and ef-
21 fective under section 201(p)(1), ex-
22 empt from section 503(b)(1), and not
23 required to be the subject of an ap-
24 proved application under section 505,

1 if, absent such a changed condition of
2 use, such drug is—

3 “(aa) generally recognized
4 as safe and effective under sec-
5 tion 201(p)(1) in accordance with
6 subsection (a)(1), (a)(2), or an
7 order under this subsection; or

8 “(bb) subject to subsection
9 (a)(3), but only if such requestor
10 initiates such request in conjunc-
11 tion with a request for the Sec-
12 retary to determine whether such
13 drug is generally recognized as
14 safe and effective under section
15 201(p)(1), which is filed by the
16 Secretary under subparagraph
17 (A)(ii).

18 “(ii) EXCEPTION.—The Secretary is
19 not required to complete review of a re-
20 quest for a change described in clause
21 (i)(II) if the Secretary determines that
22 there is an inadequate basis to find the
23 drug is generally recognized as safe and ef-
24 fective under section 201(p)(1) under para-

1 graph (1) and issues a final order an-
2 nouncing that determination.

3 “(iii) WITHDRAWAL.—The requestor
4 may withdraw a request under this para-
5 graph, according to the procedures set
6 forth pursuant to subsection (d)(2)(B).
7 Notwithstanding any other provision of
8 this section, if such request is withdrawn,
9 the Secretary may cease proceedings under
10 this subparagraph.

11 “(C) EXCLUSIVITY.—

12 “(i) IN GENERAL.—A final adminis-
13 trative order issued in response to a re-
14 quest under this section shall have the ef-
15 fect of authorizing solely the order re-
16 questor (or the licensees, assignees, or suc-
17 cessors in interest of such requestor with
18 respect to the subject of such order), for a
19 period of 18 months following the effective
20 date of such final order and beginning on
21 the date the requestor may lawfully market
22 such drugs pursuant to the order, to mar-
23 ket drugs—

24 “(I) incorporating changes de-
25 scribed in clause (ii); and

1 “(II) subject to the limitations
2 under clause (iv).

3 “(ii) CHANGES DESCRIBED.—A
4 change described in this clause is a change
5 subject to an order specified in clause (i),
6 which—

7 “(I) provides for a drug to con-
8 tain an active ingredient (including
9 any ester or salt of the active ingre-
10 dient) not previously incorporated in a
11 drug described in clause (iii); or

12 “(II) provides for a change in the
13 conditions of use of a drug, for which
14 new human data studies conducted or
15 sponsored by the requestor (or for
16 which the requestor has an exclusive
17 right of reference) were essential to
18 the issuance of such order.

19 “(iii) DRUGS DESCRIBED.—The drugs
20 described in this clause are drugs—

21 “(I) specified in subsection
22 (a)(1), (a)(2), or (a)(3);

23 “(II) subject to a final order
24 issued under this section;

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1 “(III) subject to a final sun-
2 screen order (as defined in section
3 586(2)(A)); or

4 “(IV) described in subsection
5 (m)(1), other than drugs subject to an
6 active enforcement action under chap-
7 ter III of this Act.

8 “(iv) LIMITATIONS ON EXCLU-
9 SIVITY.—

10 “(I) IN GENERAL.—Only one 18-
11 month period under this subpara-
12 graph shall be granted, under each
13 order described in clause (i), with re-
14 spect to changes (to the drug subject
15 to such order) which are either—

16 “(aa) changes described in
17 clause (ii)(I), relating to active
18 ingredients; or

19 “(bb) changes described in
20 clause (ii)(II), relating to condi-
21 tions of use.

22 “(II) NO EXCLUSIVITY AL-
23 LOWED.—No exclusivity shall apply to
24 changes to a drug which are—

1 “(aa) the subject of a Tier 2
2 OTC monograph order request
3 (as defined in section 744L);

4 “(bb) safety-related changes,
5 as defined by the Secretary, or
6 any other changes the Secretary
7 considers necessary to assure
8 safe use; or

9 “(cc) changes related to
10 methods of testing safety or effi-
11 cacy.

12 “(v) NEW HUMAN DATA STUDIES DE-
13 FINED.—In this subparagraph, the term
14 ‘new human data studies’ means clinical
15 trials of safety or effectiveness (including
16 actual use studies), pharmacokinetics stud-
17 ies, or bioavailability studies, the results of
18 which—

19 “(I) have not been relied on by
20 the Secretary to support—

21 “(aa) a proposed or final de-
22 termination that a drug described
23 in subclause (I), (II), or (III) of
24 clause (iii) is generally recognized

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1 as safe and effective under sec-
2 tion 201(p)(1); or

3 “(bb) approval of a drug
4 that was approved under section
5 505; and

6 “(II) do not duplicate the results
7 of another study that was relied on by
8 the Secretary to support—

9 “(aa) a proposed or final de-
10 termination that a drug described
11 in subclause (I), (II), or (III) of
12 clause (iii) is generally recognized
13 as safe and effective under sec-
14 tion 201(p)(1); or

15 “(bb) approval of a drug
16 that was approved under section
17 505.

18 “(vi) NOTIFICATION OF DRUG NOT
19 AVAILABLE FOR SALE.—A requestor that
20 is granted exclusivity with respect to a
21 drug under this subparagraph shall notify
22 the Secretary in writing within 1 year of
23 the issuance of the final administrative
24 order if the drug that is the subject of
25 such order will not be available for sale

1 within 1 year of the date of issuance of
2 such order. The requestor shall include
3 with such notice the—

4 “(I) identity of the drug by es-
5 tablished name and by proprietary
6 name, if any;

7 “(II) strength of the drug;

8 “(III) date on which the drug
9 will be available for sale, if known;
10 and

11 “(IV) reason for not marketing
12 the drug after issuance of the order.

13 “(6) INFORMATION REGARDING SAFE NON-
14 PRESCRIPTION MARKETING AND USE AS CONDITION
15 FOR FILING A GENERALLY RECOGNIZED AS SAFE
16 AND EFFECTIVE REQUEST.—

17 “(A) IN GENERAL.—In response to a re-
18 quest under this section that a drug described
19 in subparagraph (B) be generally recognized as
20 safe and effective, the Secretary—

21 “(i) may file such request, if the re-
22 quest includes information specified under
23 subparagraph (C) with respect to safe non-
24 prescription marketing and use of such
25 drug; or

1 “(ii) if the request fails to include in-
2 formation specified under subparagraph
3 (C), shall refuse to file such request and
4 require that nonprescription marketing of
5 the drug be pursuant to a new drug appli-
6 cation as described in subparagraph (D).

7 “(B) DRUG DESCRIBED.—A drug de-
8 scribed in this subparagraph is a nonprescrip-
9 tion drug which contains an active ingredient
10 not previously incorporated in a drug—

11 “(i) specified in subsection (a)(1),
12 (a)(2), or (a)(3);

13 “(ii) subject to a final order under
14 this section; or

15 “(iii) subject to a final sunscreen
16 order (as defined in section 586(2)(A)).

17 “(C) INFORMATION DEMONSTRATING
18 PRIMA FACIE SAFE NONPRESCRIPTION MAR-
19 KETING AND USE.—Information specified in
20 this subparagraph, with respect to a request de-
21 scribed in subparagraph (A)(i), is—

22 “(i) information sufficient for a prima
23 facie demonstration that the drug subject
24 to such request has a verifiable history of
25 being marketed and safely used by con-

1 consumers in the United States as a non-
2 prescription drug under comparable condi-
3 tions of use;

4 “(ii) if the drug has not been pre-
5 viously marketed in the United States as a
6 nonprescription drug, information suffi-
7 cient for a prima facie demonstration that
8 the drug was marketed and safely used
9 under comparable conditions of marketing
10 and use in a country listed in section
11 802(b)(1)(A) or designated by the Sec-
12 retary in accordance with section
13 802(b)(1)(B)—

14 “(I) for such period as needed to
15 provide reasonable assurances con-
16 cerning the safe nonprescription use
17 of the drug; and

18 “(II) during such time was sub-
19 ject to sufficient monitoring by a reg-
20 ulatory body considered acceptable by
21 the Secretary for such monitoring
22 purposes, including for adverse events
23 associated with nonprescription use of
24 the drug; or

1 “(iii) if the Secretary determines that
2 information described in clause (i) or (ii) is
3 not needed to provide a prima facie dem-
4 onstration that the drug can be safely mar-
5 keted and used as a nonprescription drug,
6 such other information the Secretary deter-
7 mines is sufficient for such purposes.

8 “(D) MARKETING PURSUANT TO NEW
9 DRUG APPLICATION.—In the case of a request
10 described in subparagraph (A)(ii), the drug
11 subject to such request may be resubmitted for
12 filing only if—

13 “(i) the drug is marketed as a non-
14 prescription drug, under conditions of use
15 comparable to the conditions specified in
16 the request, for such period as the Sec-
17 retary determines appropriate (not to ex-
18 ceed 5 consecutive years) pursuant to an
19 application approved under section 505;
20 and

21 “(ii) during such period, 1,000,000
22 retail packages of the drug, or an equiva-
23 lent quantity as determined by the Sec-
24 retary, were distributed for retail sale, as

1 determined in such manner as the Sec-
2 retary finds appropriate.

3 “(E) RULE OF APPLICATION.—Except in
4 the case of a request involving a drug described
5 in section 586(9), as in effect on January 1,
6 2017, if the Secretary refuses to file a request
7 under this paragraph, the requestor may not
8 file such request over protest under paragraph
9 (5)(A)(iii).

10 “(7) PACKAGING.—An administrative order
11 issued under paragraph (2), (4)(A), or (5) may in-
12 clude requirements for the packaging of a drug to
13 encourage use in accordance with labeling. Such re-
14 quirements may include unit dose packaging, re-
15 quirements for products intended for use by pedi-
16 atric populations, requirements to reduce risk of
17 harm from unsupervised ingestion, and other appro-
18 priate requirements. This paragraph does not au-
19 thorize the Food and Drug Administration to re-
20 quire standards or testing procedures as described in
21 part 1700 of title 16, Code of Federal Regulations.

22 “(8) FINAL AND TENTATIVE FINAL MONO-
23 GRAPHS FOR CATEGORY I DRUGS DEEMED FINAL
24 ADMINISTRATIVE ORDERS.—

1 “(A) IN GENERAL.—A final monograph or
2 tentative final monograph described in subpara-
3 graph (B) shall be deemed to be a final admin-
4 istrative order under this subsection and may
5 be amended, revoked, or otherwise modified in
6 accordance with the procedures of this sub-
7 section.

8 “(B) MONOGRAPHS DESCRIBED.—For pur-
9 poses of subparagraph (A), a final monograph
10 or tentative final monograph is described in this
11 subparagraph if it—

12 “(i) establishes conditions of use for a
13 drug described in paragraph (1) or (2) of
14 subsection (a); and

15 “(ii) represents the most recently pro-
16 mulgated version of such conditions, in-
17 cluding as modified, in whole or in part, by
18 any proposed or final rule.

19 “(C) DEEMED ORDERS INCLUDE HARMO-
20 NIZING TECHNICAL AMENDMENTS.—The
21 deemed establishment of a final administrative
22 order under subparagraph (A) shall be con-
23 strued to include any technical amendments to
24 such order as the Secretary determines nec-
25 essary to ensure that such order is appro-

1 priately harmonized, in terms of terminology or
2 cross-references, with the applicable provisions
3 of this Act (and regulations thereunder) and
4 any other orders issued under this section.

5 “(c) PROCEDURE FOR MINOR CHANGES.—

6 “(1) IN GENERAL.—Minor changes in the dos-
7 age form of a drug that is described in paragraph
8 (1) or (2) of subsection (a) or the subject of an
9 order issued under subsection (b) may be made by
10 a requestor without the issuance of an order under
11 subsection (b) if—

12 “(A) the requestor maintains such infor-
13 mation as is necessary to demonstrate that the
14 change—

15 “(i) will not affect the safety or effec-
16 tiveness of the drug; and

17 “(ii) will not materially affect the ex-
18 tent of absorption or other exposure to the
19 active ingredient in comparison to a suit-
20 able reference product; and

21 “(B) the change is in conformity with the
22 requirements of an applicable administrative
23 order issued by the Secretary under paragraph
24 (3).

25 “(2) ADDITIONAL INFORMATION.—

1 “(A) ACCESS TO RECORDS.—A sponsor
2 shall submit records requested by the Secretary
3 relating to such a minor change under section
4 704(a)(4), within 15 business days of receiving
5 such a request, or such longer period as the
6 Secretary may provide.

7 “(B) INSUFFICIENT INFORMATION.—If the
8 Secretary determines that the information con-
9 tained in such records is not sufficient to dem-
10 onstrate that the change does not affect the
11 safety or effectiveness of the drug or materially
12 affect the extent of absorption or other expo-
13 sure to the active ingredient, the Secretary—

14 “(i) may so inform the sponsor of the
15 drug in writing; and

16 “(ii) if the Secretary so informs the
17 sponsor, shall provide the sponsor of the
18 drug with a reasonable opportunity to pro-
19 vide additional information.

20 “(C) FAILURE TO SUBMIT SUFFICIENT IN-
21 FORMATION.—If the sponsor fails to provide
22 such additional information within a time pre-
23 scribed by the Secretary, or if the Secretary de-
24 termines that such additional information does
25 not demonstrate that the change does not—

1 “(i) affect the safety or effectiveness
2 of the drug; or

3 “(ii) materially affect the extent of
4 absorption or other exposure to the active
5 ingredient in comparison to a suitable ref-
6 erence product,

7 the drug as modified is a new drug under sec-
8 tion 201(p) and shall be deemed to be mis-
9 branded under section 502(ee).

10 “(3) DETERMINING WHETHER A CHANGE WILL
11 AFFECT SAFETY OR EFFECTIVENESS.—

12 “(A) IN GENERAL.—The Secretary shall
13 issue one or more administrative orders speci-
14 fying requirements for determining whether a
15 minor change made by a sponsor pursuant to
16 this subsection will affect the safety or effective-
17 ness of a drug or materially affect the extent of
18 absorption or other exposure to an active ingre-
19 dient in the drug in comparison to a suitable
20 reference product, together with guidance for
21 applying those orders to specific dosage forms.

22 “(B) STANDARD PRACTICES.—The orders
23 and guidance issued by the Secretary under
24 subparagraph (A) shall take into account rel-
25 evant public standards and standard practices

1 for evaluating the quality of drugs, and may
2 take into account the special needs of popu-
3 lations, including children.

4 “(d) CONFIDENTIALITY OF INFORMATION SUB-
5 MITTED TO THE SECRETARY.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
7 any information, including reports of testing con-
8 ducted on the drug or drugs involved, that is sub-
9 mitted by a requestor in connection with proceedings
10 on an order under this section (including any minor
11 change under subsection (c)) and is a trade secret
12 or confidential information subject to section
13 552(b)(4) of title 5, United States Code, or section
14 1905 of title 18, United States Code, shall not be
15 disclosed to the public unless the requestor consents
16 to that disclosure.

17 “(2) PUBLIC AVAILABILITY.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), the Secretary shall—

20 “(i) make any information submitted
21 by a requestor in support of a request
22 under subsection (b)(5)(A) available to the
23 public not later than the date on which the
24 proposed order is issued; and

1 “(ii) make any information submitted
2 by any other person with respect to an
3 order requested (or initiated by the Sec-
4 retary) under subsection (b), available to
5 the public upon such submission.

6 “(B) LIMITATIONS ON PUBLIC AVAIL-
7 ABILITY.—Information described in subpara-
8 graph (A) shall not be made public if—

9 “(i) the information pertains to phar-
10 maceutical quality information, unless such
11 information is necessary to establish stand-
12 ards under which a drug is generally rec-
13 ognized as safe and effective under section
14 201(p)(1);

15 “(ii) the information is submitted in a
16 requestor-initiated request, but the re-
17 questor withdraws such request, in accord-
18 ance with withdrawal procedures estab-
19 lished by the Secretary, before the Sec-
20 retary issues the proposed order;

21 “(iii) the Secretary requests and ob-
22 tains the information under subsection (c)
23 and such information is not submitted in
24 relation to an order under subsection (b);
25 or

1 “(iv) the information is of the type
2 contained in raw datasets.

3 “(e) UPDATES TO DRUG LISTING INFORMATION.—
4 A sponsor who makes a change to a drug subject to this
5 section shall submit updated drug listing information for
6 the drug in accordance with section 510(j) within 30 cal-
7 endar days of the date when the drug is first commercially
8 marketed, except that a sponsor who was the order re-
9 questor with respect to an order subject to subsection
10 (b)(5)(C) (or a licensee, assignee, or successor in interest
11 of such requestor) shall submit updated drug listing infor-
12 mation on or before the date when the drug is first com-
13 mercially marketed.

14 “(f) APPROVALS UNDER SECTION 505.—The provi-
15 sions of this section shall not be construed to preclude a
16 person from seeking or maintaining the approval of an ap-
17 plication for a drug under sections 505(b)(1), 505(b)(2),
18 and 505(j). A determination under this section that a drug
19 is not subject to section 503(b)(1), is generally recognized
20 as safe and effective under section 201(p)(1), and is not
21 a new drug under section 201(p) shall constitute a finding
22 that the drug is safe and effective that may be relied upon
23 for purposes of an application under section 505(b)(2), so
24 that the applicant shall be required to submit for purposes
25 of such application only information needed to support any

1 modification of the drug that is not covered by such deter-
2 mination under this section.

3 “(g) PUBLIC AVAILABILITY OF ADMINISTRATIVE OR-
4 DERS.—The Secretary shall establish, maintain, update
5 (as determined necessary by the Secretary but no less fre-
6 quently than annually), and make publicly available, with
7 respect to orders issued under this section—

8 “(1) a repository of each final order and in-
9 terim final order in effect, including the complete
10 text of the order; and

11 “(2) a listing of all orders proposed and under
12 development under subsection (b)(2), including—

13 “(A) a brief description of each such order;
14 and

15 “(B) the Secretary’s expectations, if re-
16 sources permit, for issuance of proposed orders
17 over a 3-year period.

18 “(h) DEVELOPMENT ADVICE TO SPONSORS OR RE-
19 QUESTORS.—The Secretary shall establish procedures
20 under which sponsors or requestors may meet with appro-
21 priate officials of the Food and Drug Administration to
22 obtain advice on the studies and other information nec-
23 essary to support submissions under this section and other
24 matters relevant to the regulation of nonprescription

1 drugs and the development of new nonprescription drugs
2 under this section.

3 “(i) PARTICIPATION OF MULTIPLE SPONSORS OR RE-
4 QUESTORS.—The Secretary shall establish procedures to
5 facilitate efficient participation by multiple sponsors or re-
6 questors in proceedings under this section, including provi-
7 sion for joint meetings with multiple sponsors or reques-
8 tors or with organizations nominated by sponsors or re-
9 questors to represent their interests in a proceeding.

10 “(j) ELECTRONIC FORMAT.—All submissions under
11 this section shall be in electronic format.

12 “(k) EFFECT ON EXISTING REGULATIONS GOV-
13 ERNING NONPRESCRIPTION DRUGS.—

14 “(1) REGULATIONS OF GENERAL APPLICA-
15 BILITY TO NONPRESCRIPTION DRUGS.—Except as
16 provided in this subsection, nothing in this section
17 supersedes regulations establishing general require-
18 ments for nonprescription drugs, including regula-
19 tions of general applicability contained in parts 201,
20 250, and 330 of title 21, Code of Federal Regula-
21 tions, or any successor regulations. The Secretary
22 shall establish or modify such regulations by means
23 of rulemaking in accordance with section 553 of title
24 5, United States Code.

1 “(2) REGULATIONS ESTABLISHING REQUIRE-
2 MENTS FOR SPECIFIC NONPRESCRIPTION DRUGS.—

3 “(A) The provisions of section 310.545 of
4 title 21, Code of Federal Regulations, as in ef-
5 fect on the day before the date of the enact-
6 ment of this section, shall be deemed to be a
7 final order under subsection (b).

8 “(B) Regulations in effect on the day be-
9 fore the date of the enactment of this section,
10 establishing requirements for specific non-
11 prescription drugs marketed pursuant to this
12 section (including such requirements in parts
13 201 and 250 of title 21, Code of Federal Regu-
14 lations), shall be deemed to be final orders
15 under subsection (b), only as they apply to
16 drugs—

17 “(i) subject to paragraph (1), (2), (3),
18 or (4) of subsection (a); or

19 “(ii) otherwise subject to an order
20 under this section.

21 “(3) WITHDRAWAL OF REGULATIONS.—The
22 Secretary shall withdraw regulations establishing
23 final monographs and the procedures governing the
24 over-the-counter drug review under part 330 and
25 other relevant parts of title 21, Code of Federal

1 Regulations (as in effect on the day before the date
2 of the enactment of this section), or make technical
3 changes to such regulations to ensure conformity
4 with appropriate terminology and cross references.
5 Notwithstanding subchapter II of chapter 5 of title
6 5, United States Code, any such withdrawal or tech-
7 nical changes shall be made without public notice
8 and comment and shall be effective upon publication
9 through notice in the Federal Register (or upon such
10 date as specified in such notice).

11 “(1) GUIDANCE.—The Secretary shall issue guidance
12 that specifies—

13 “(1) the procedures and principles for formal
14 meetings between the Secretary and sponsors or re-
15 questors for drugs subject to this section;

16 “(2) the format and content of data submis-
17 sions to the Secretary under this section;

18 “(3) the format of electronic submissions to the
19 Secretary under this section;

20 “(4) consolidated proceedings for appeal and
21 the procedures for such proceedings where appro-
22 priate; and

23 “(5) for minor changes in drugs, recommenda-
24 tions on how to comply with the requirements in or-
25 ders issued under subsection (c)(3).

1 “(m) RULE OF CONSTRUCTION.—

2 “(1) IN GENERAL.—This section shall not af-
3 fect the treatment or status of a nonprescription
4 drug—

5 “(A) that is marketed without an applica-
6 tion approved under section 505 as of the date
7 of the enactment of this section;

8 “(B) that is not subject to an order issued
9 under this section; and

10 “(C) to which paragraph (1), (2), (3), (4),
11 or (5) of subsection (a) do not apply.

12 “(2) TREATMENT OF PRODUCTS PREVIOUSLY
13 FOUND TO BE SUBJECT TO TIME AND EXTENT RE-
14 QUIREMENTS.—

15 “(A) Notwithstanding subsection (a), a
16 drug described in subparagraph (B) may only
17 be lawfully marketed, without an application
18 approved under section 505, pursuant to an
19 order issued under this section.

20 “(B) A drug described in this subpara-
21 graph is a drug which, prior to the date of the
22 enactment of this section, the Secretary deter-
23 mined in a proposed or final rule to be ineligible
24 for review under the OTC drug review (as such
25 phrase ‘OTC drug review’ was used in section

1 330.14 of title 21, Code of Federal Regulations,
2 as in effect on the day before the date of the
3 enactment of this section).

4 “(3) PRESERVATION OF AUTHORITY.—

5 “(A) Nothing in paragraph (1) shall be
6 construed to preclude or limit the applicability
7 of any provision of this Act other than this sec-
8 tion.

9 “(B) Nothing in subsection (a) shall be
10 construed to prohibit the Secretary from issuing
11 an order under this section finding a drug to be
12 not generally recognized as safe and effective
13 under section 201(p)(1), as the Secretary deter-
14 mines appropriate.

15 “(n) INVESTIGATIONAL NEW DRUGS.—A drug is not
16 subject to this section if an exemption for investigational
17 use under section 505(i) is in effect for such drug.

18 “(o) INAPPLICABILITY OF PAPERWORK REDUCTION
19 ACT.—Chapter 35 of title 44, United States Code, shall
20 not apply to collections of information made under this
21 section.

22 “(p) INAPPLICABILITY OF NOTICE AND COMMENT
23 RULEMAKING AND OTHER REQUIREMENTS.—The re-
24 quirements of subsection (b) shall apply with respect to
25 orders issued under this section instead of the require-

1 ments of subchapter II of chapter 5 of title 5, United
2 States Code.

3 “(q) DEFINITIONS.—In this section:

4 “(1) The term ‘nonprescription drug’ refers to
5 a drug not subject to the requirements of section
6 503(b)(1).

7 “(2) The term ‘sponsor’ refers to any person
8 marketing, manufacturing, or processing a drug
9 that—

10 “(A) is listed pursuant to section 510(j);

11 and

12 “(B) is or will be subject to an administra-
13 tive order under this section of the Food and
14 Drug Administration.

15 “(3) The term ‘requestor’ refers to any person
16 or group of persons marketing, manufacturing, proc-
17 essing, or developing a drug.”.

18 (b) GAO STUDY.—Not later than 4 years after the
19 date of enactment of this Act, the Comptroller General
20 of the United States shall submit a study to the Com-
21 mittee on Energy and Commerce of the House of Rep-
22 resentatives and the Committee on Health, Education,
23 Labor, and Pensions of the Senate addressing the effec-
24 tiveness and overall impact of exclusivity under section
25 505G of the Federal Food, Drug, and Cosmetic Act, as

1 added by subsection (a), and section 586C of such Act
2 (21 U.S.C. 360fff-3), including the impact of such exclu-
3 sivity on consumer access. Such study shall include—

4 (1) an analysis of the impact of exclusivity
5 under such section 505G for nonprescription drug
6 products, including—

7 (A) the number of nonprescription drug
8 products that were granted exclusivity and the
9 indication for which the nonprescription drug
10 products were determined to be generally recog-
11 nized as safe and effective;

12 (B) whether the exclusivity for such drug
13 products was granted for—

14 (i) a new active ingredient (including
15 any ester or salt of the active ingredient);

16 or

17 (ii) changes in the conditions of use of
18 a drug, for which new human data studies
19 conducted or sponsored by the requestor
20 were essential;

21 (C) whether, and to what extent, the exclu-
22 sivity impacted the requestor's or sponsor's de-
23 cision to develop the drug product;

- 1 (D) an analysis of the implementation of
2 the exclusivity provision in such section 505G,
3 including—
- 4 (i) the resources used by the Food
5 and Drug Administration;
 - 6 (ii) the impact of such provision on
7 innovation, as well as research and devel-
8 opment in the nonprescription drug mar-
9 ket;
 - 10 (iii) the impact of such provision on
11 competition in the nonprescription drug
12 market;
 - 13 (iv) the impact of such provision on
14 consumer access to nonprescription drug
15 products;
 - 16 (v) the impact of such provision on
17 the prices of nonprescription drug prod-
18 ucts; and
 - 19 (vi) whether the administrative orders
20 initiated by requestors under such section
21 505G have been sufficient to encourage the
22 development of nonprescription drug prod-
23 ucts that would likely not be otherwise de-
24 veloped, or developed in as timely a man-
25 ner; and

1 (E) whether the administrative orders ini-
2 tiated by requestors under such section 505G
3 have been sufficient incentive to encourage in-
4 novation in the nonprescription drug market;
5 and

6 (2) an analysis of the impact of exclusivity
7 under such section 586C for sunscreen ingredients,
8 including—

9 (A) the number of sunscreen ingredients
10 that were granted exclusivity and the specific
11 ingredient that was determined to be generally
12 recognized as safe and effective;

13 (B) whether, and to what extent, the exclu-
14 sivity impacted the requestor's or sponsor's de-
15 cision to develop the sunscreen ingredient;

16 (C) whether, and to what extent, the sun-
17 screen ingredient granted exclusivity had pre-
18 viously been available outside of the United
19 States;

20 (D) an analysis of the implementation of
21 the exclusivity provision in such section 586C,
22 including—

23 (i) the resources used by the Food
24 and Drug Administration;

1 (ii) the impact of such provision on
2 innovation, as well as research and devel-
3 opment in the sunscreen market;

4 (iii) the impact of such provision on
5 competition in the sunscreen market;

6 (iv) the impact of such provision on
7 consumer access to sunscreen products;

8 (v) the impact of such provision on
9 the prices of sunscreen products; and

10 (vi) whether the administrative orders
11 initiated by requestors under such section
12 505G have been utilized by sunscreen in-
13 gredient sponsors and whether such proc-
14 ess has been sufficient to encourage the
15 development of sunscreen ingredients that
16 would likely not be otherwise developed, or
17 developed in as timely a manner; and

18 (E) whether the administrative orders ini-
19 tiated by requestors under such section 586C
20 have been sufficient incentive to encourage in-
21 novation in the sunscreen market.

22 (c) CONFORMING AMENDMENT.—Section 751(d)(1)
23 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
24 379r(d)(1)) is amended—

25 (1) in the matter preceding subparagraph (A)—

1 (A) by striking “final regulation promul-
2 gated” and inserting “final order under section
3 505G”; and

4 (B) by striking “and not misbranded”; and

5 (2) in subparagraph (A), by striking “regula-
6 tion in effect” and inserting “regulation or order in
7 effect”.

8 **SEC. 3852. MISBRANDING.**

9 Section 502 of the Federal Food, Drug, and Cosmetic
10 Act (21 U.S.C. 352) is amended by adding at the end the
11 following:

12 “(ee) If it is a nonprescription drug that is subject
13 to section 505G, is not the subject of an application ap-
14 proved under section 505, and does not comply with the
15 requirements under section 505G.

16 “(ff) If it is a drug and it was manufactured, pre-
17 pared, propagated, compounded, or processed in a facility
18 for which fees have not been paid as required by section
19 744M.”.

20 **SEC. 3853. DRUGS EXCLUDED FROM THE OVER-THE-**
21 **COUNTER DRUG REVIEW.**

22 (a) IN GENERAL.—Nothing in this Act (or the
23 amendments made by this Act) shall apply to any non-
24 prescription drug (as defined in section 505G(q) of the
25 Federal Food, Drug, and Cosmetic Act, as added by sec-

1 tion 3851 of this subtitle) which was excluded by the Food
2 and Drug Administration from the Over-the-Counter
3 Drug Review in accordance with the paragraph numbered
4 25 on page 9466 of volume 37 of the Federal Register,
5 published on May 11, 1972.

6 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
7 tion shall be construed to preclude or limit the applica-
8 bility of any other provision of the Federal Food, Drug,
9 and Cosmetic Act (21 U.S.C. 301 et seq.).

10 **SEC. 3854. TREATMENT OF SUNSCREEN INNOVATION ACT.**

11 (a) REVIEW OF NONPRESCRIPTION SUNSCREEN AC-
12 TIVE INGREDIENTS.—

13 (1) APPLICABILITY OF SECTION 505G FOR
14 PENDING SUBMISSIONS.—

15 (A) IN GENERAL.—A sponsor of a non-
16 prescription sunscreen active ingredient or com-
17 bination of nonprescription sunscreen active in-
18 gredients that, as of the date of enactment of
19 this Act, is subject to a proposed sunscreen
20 order under section 586C of the Federal Food,
21 Drug, and Cosmetic Act (21 U.S.C. 360fff–3)
22 may elect, by means of giving written notifica-
23 tion to the Secretary of Health and Human
24 Services within 180 calendar days of the enact-
25 ment of this Act, to transition into the review

1 of such ingredient or combination of ingredients
2 pursuant to the process set out in section 505G
3 of the Federal Food, Drug, and Cosmetic Act,
4 as added by section 3851 of this subtitle.

5 (B) ELECTION EXERCISED.—Upon receipt
6 by the Secretary of Health and Human Services
7 of a timely notification under subparagraph
8 (A)—

9 (i) the proposed sunscreen order in-
10 volved is deemed to be a request for an
11 order under subsection (b) of section 505G
12 of the Federal Food, Drug, and Cosmetic
13 Act, as added by section 3851 of this sub-
14 title; and

15 (ii) such order is deemed to have been
16 accepted for filing under subsection
17 (b)(6)(A)(i) of such section 505G.

18 (C) ELECTION NOT EXERCISED.—If a noti-
19 fication under subparagraph (A) is not received
20 by the Secretary of Health and Human Services
21 within 180 calendar days of the date of enact-
22 ment of this Act, the review of the proposed
23 sunscreen order described in subparagraph
24 (A)—

1 (i) shall continue under section 586C
2 of the Federal Food, Drug, and Cosmetic
3 Act (21 U.S.C. 360fff–3); and

4 (ii) shall not be eligible for review
5 under section 505G, added by section 3851
6 of this subtitle.

7 (2) DEFINITIONS.—In this subsection, the
8 terms “sponsor”, “nonprescription”, “sunscreen ac-
9 tive ingredient”, and “proposed sunscreen order”
10 have the meanings given to those terms in section
11 586 of the Federal Food, Drug, and Cosmetic Act
12 (21 U.S.C. 360fff).

13 (b) AMENDMENTS TO SUNSCREEN PROVISIONS.—

14 (1) FINAL SUNSCREEN ORDERS.—Paragraph
15 (3) of section 586C(e) of the Federal Food, Drug,
16 and Cosmetic Act (21 U.S.C. 360fff–3(e)) is amend-
17 ed to read as follows:

18 “(3) RELATIONSHIP TO ORDERS UNDER SEC-
19 TION 505G.—A final sunscreen order shall be deemed
20 to be a final order under section 505G.”.

21 (2) MEETINGS.—Paragraph (7) of section
22 586C(b) of the Federal Food, Drug, and Cosmetic
23 Act (21 U.S.C. 360fff–3(b)) is amended—

24 (A) by striking “A sponsor may request”
25 and inserting the following:

1 “(A) IN GENERAL.—A sponsor may re-
2 quest”; and

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

4 “(B) CONFIDENTIAL MEETINGS.—A spon-
5 sor may request one or more confidential meet-
6 ings with respect to a proposed sunscreen order,
7 including a letter deemed to be a proposed sun-
8 screen order under paragraph (3), to discuss
9 matters relating to data requirements to sup-
10 port a general recognition of safety and effec-
11 tiveness involving confidential information and
12 public information related to such proposed
13 sunscreen order, as appropriate. The Secretary
14 shall convene a confidential meeting with such
15 sponsor in a reasonable time period. If a spon-
16 sor requests more than one confidential meeting
17 for the same proposed sunscreen order, the Sec-
18 retary may refuse to grant an additional con-
19 fidential meeting request if the Secretary deter-
20 mines that such additional confidential meeting
21 is not reasonably necessary for the sponsor to
22 advance its proposed sunscreen order, or if the
23 request for a confidential meeting fails to in-
24 clude sufficient information upon which to base
25 a substantive discussion. The Secretary shall

1 publish a post-meeting summary of each con-
2 fidential meeting under this subparagraph that
3 does not disclose confidential commercial infor-
4 mation or trade secrets. This subparagraph
5 does not authorize the disclosure of confidential
6 commercial information or trade secrets subject
7 to 552(b)(4) of title 5, United States Code, or
8 section 1905 of title 18, United States Code.”.

9 (3) EXCLUSIVITY.—Section 586C of the Fed-
10 eral Food, Drug, and Cosmetic Act (21 U.S.C.
11 360fff-3) is amended by adding at the end the fol-
12 lowing:

13 “(f) EXCLUSIVITY.—

14 “(1) IN GENERAL.—A final sunscreen order
15 shall have the effect of authorizing solely the order
16 requestor (or the licensees, assignees, or successors
17 in interest of such requestor with respect to the sub-
18 ject of such request and listed under paragraph (5))
19 for a period of 18 months, to market a sunscreen in-
20 gredient under this section incorporating changes
21 described in paragraph (2) subject to the limitations
22 under paragraph (4), beginning on the date the re-
23 questor (or any licensees, assignees, or successors in
24 interest of such requestor with respect to the subject
25 of such request and listed under paragraph (5)) may

1 lawfully market such sunscreen ingredient pursuant
2 to the order.

3 “(2) CHANGES DESCRIBED.—A change de-
4 scribed in this paragraph is a change subject to an
5 order specified in paragraph (1) that permits a sun-
6 screen to contain an active sunscreen ingredient not
7 previously incorporated in a marketed sunscreen list-
8 ed in paragraph (3).

9 “(3) MARKETED SUNSCREEN.—The marketed
10 sunscreen ingredients described in this paragraph
11 are sunscreen ingredients—

12 “(A) marketed in accordance with a final
13 monograph for sunscreen drug products set
14 forth at part 352 of title 21, Code of Federal
15 Regulations (as published at 64 Fed. Reg.
16 27687); or

17 “(B) marketed in accordance with a final
18 order issued under this section.

19 “(4) LIMITATIONS ON EXCLUSIVITY.—Only one
20 18-month period may be granted per ingredient
21 under paragraph (1).

22 “(5) LISTING OF LICENSEES, ASSIGNEES, OR
23 SUCCESSORS IN INTEREST.—Requestors shall submit
24 to the Secretary at the time when a drug subject to
25 such request is introduced or delivered for introduc-

1 tion into interstate commerce, a list of licensees, as-
2 signees, or successors in interest under paragraph
3 (1).”.

4 (4) SUNSET PROVISION.—Subchapter I of chap-
5 ter V of the Federal Food, Drug, and Cosmetic Act
6 (21 U.S.C. 360fff et seq.) is amended by adding at
7 the end the following:

8 **“SEC. 586H. SUNSET.**

9 “‘This subchapter shall cease to be effective at the end
10 of fiscal year 2022.’”.

11 (5) TREATMENT OF FINAL SUNSCREEN
12 ORDER.—The Federal Food, Drug, and Cosmetic
13 Act is amended by striking section 586E of such Act
14 (21 U.S.C. 360fff–5).

15 (c) TREATMENT OF AUTHORITY REGARDING FINAL-
16 IZATION OF SUNSCREEN MONOGRAPH.—

17 (1) IN GENERAL.—

18 (A) REVISION OF FINAL SUNSCREEN
19 ORDER.—The Secretary of Health and Human
20 Services (referred to in this subsection as the
21 “Secretary”) shall amend and revise the final
22 administrative order concerning nonprescription
23 sunscreen (referred to in this subsection as the
24 “sunscreen order”) for which the content, prior
25 to the date of enactment of this Act, was rep-

1 resented by the final monograph for sunscreen
2 drug products set forth in part 352 of title 21,
3 Code of Federal Regulations (as in effect on
4 May 21, 1999).

5 (B) ISSUANCE OF REVISED SUNSCREEN
6 ORDER; EFFECTIVE DATE.—A revised sunscreen
7 order described in subparagraph (A) shall be—

8 (i) issued in accordance with the pro-
9 cedures described in section 505G(b)(2) of
10 the Federal Food, Drug, and Cosmetic
11 Act;

12 (ii) issued in proposed form not later
13 than 18 months after the date of enact-
14 ment of this Act; and

15 (iii) issued by the Secretary at least 1
16 year prior to the effective date of the re-
17 vised order.

18 (2) REPORTS.—If a revised sunscreen order
19 issued under paragraph (1) does not include provi-
20 sions related to the effectiveness of various sun pro-
21 tection factor levels, and does not address all dosage
22 forms known to the Secretary to be used in sun-
23 screens marketed in the United States without a
24 new drug application approved under section 505 of
25 the Federal Food, Drug, and Cosmetic Act (21

1 U.S.C. 355), the Secretary shall submit a report to
2 the Committee on Energy and Commerce of the
3 House of Representatives and the Committee on
4 Health, Education, Labor, and Pensions of the Sen-
5 ate on the rationale for omission of such provisions
6 from such order, and a plan and timeline to compile
7 any information necessary to address such provisions
8 through such order.

9 (d) TREATMENT OF NON-SUNSCREEN TIME AND EX-
10 TENT APPLICATIONS.—

11 (1) IN GENERAL.—Any application described in
12 section 586F of the Federal Food, Drug, and Cos-
13 metic Act (21 U.S.C. 360fff-6) that was submitted
14 to the Secretary pursuant to section 330.14 of title
15 21, Code of Federal Regulations, as such provisions
16 were in effect immediately prior to the date of enact-
17 ment date of this Act, shall be extinguished as of
18 such date of enactment, subject to paragraph (2).

19 (2) ORDER REQUEST.—Nothing in paragraph
20 (1) precludes the submission of an order request
21 under section 505G(b) of the Federal Food, Drug,
22 and Cosmetic Act, as added by section 3851 of this
23 subtitle, with respect to a drug that was the subject
24 of an application extinguished under paragraph (1).

1 **SEC. 3855. ANNUAL UPDATE TO CONGRESS ON APPRO-**
2 **PRIATE PEDIATRIC INDICATION FOR CER-**
3 **TAIN OTC COUGH AND COLD DRUGS.**

4 (a) IN GENERAL.—Subject to subsection (c), the Sec-
5 retary of Health and Human Services shall, beginning not
6 later than 1 year after the date of enactment of this Act,
7 annually submit to the Committee on Energy and Com-
8 merce of the House of Representatives and the Committee
9 on Health, Education, Labor, and Pensions of the Senate
10 a letter describing the progress of the Food and Drug Ad-
11 ministration—

12 (1) in evaluating the cough and cold monograph
13 described in subsection (b) with respect to children
14 under age 6; and

15 (2) as appropriate, revising such cough and cold
16 monograph to address such children through the
17 order process under section 505G(b) of the Federal
18 Food, Drug, and Cosmetic Act, as added by section
19 3851 of this subtitle.

20 (b) COUGH AND COLD MONOGRAPH DESCRIBED.—
21 The cough and cold monograph described in this sub-
22 section consists of the conditions under which nonprescrip-
23 tion drugs containing antitussive, expectorant, nasal de-
24 congestant, or antihistamine active ingredients (or com-
25 binations thereof) are generally recognized as safe and ef-
26 fective, as specified in part 341 of title 21, Code of Federal

1 Regulations (as in effect immediately prior to the date of
2 enactment of this Act), and included in an order deemed
3 to be established under section 505G(b) of the Federal
4 Food, Drug, and Cosmetic Act, as added by section 3851
5 of this subtitle.

6 (c) DURATION OF AUTHORITY.—The requirement
7 under subsection (a) shall terminate as of the date of a
8 letter submitted by the Secretary of Health and Human
9 Services pursuant to such subsection in which the Sec-
10 retary indicates that the Food and Drug Administration
11 has completed its evaluation and revised, in a final order,
12 as applicable, the cough and cold monograph as described
13 in subsection (a)(2).

14 **SEC. 3856. TECHNICAL CORRECTIONS.**

15 (a) IMPORTS AND EXPORTS.—Section
16 801(e)(4)(E)(iii) of the Federal Food, Drug, and Cosmetic
17 Act (21 U.S.C. 381(e)(4)(E)(iii)) is amended by striking
18 “subparagraph” each place such term appears and insert-
19 ing “paragraph”.

20 (b) FDA REAUTHORIZATION ACT OF 2017.—

21 (1) IN GENERAL.—Section 905(b)(4) of the
22 FDA Reauthorization Act of 2017 (Public Law 115–
23 52) is amended by striking “Section 744H(e)(2)(B)”
24 and inserting “Section 744H(f)(2)(B)”.

1 “(1) The term ‘affiliate’ means a business enti-
2 ty that has a relationship with a second business en-
3 tity if, directly or indirectly—

4 “(A) one business entity controls, or has
5 the power to control, the other business entity;
6 or

7 “(B) a third party controls, or has power
8 to control, both of the business entities.

9 “(2) The term ‘contract manufacturing organi-
10 zation facility’ means an OTC monograph drug facil-
11 ity where neither the owner of such manufacturing
12 facility nor any affiliate of such owner or facility
13 sells the OTC monograph drug produced at such fa-
14 cility directly to wholesalers, retailers, or consumers
15 in the United States.

16 “(3) The term ‘costs of resources allocated for
17 OTC monograph drug activities’ means the expenses
18 in connection with OTC monograph drug activities
19 for—

20 “(A) officers and employees of the Food
21 and Drug Administration, contractors of the
22 Food and Drug Administration, advisory com-
23 mittees, and costs related to such officers, em-
24 ployees, and committees and costs related to
25 contracts with such contractors;

1 “(B) management of information, and the
2 acquisition, maintenance, and repair of com-
3 puter resources;

4 “(C) leasing, maintenance, renovation, and
5 repair of facilities and acquisition, maintenance,
6 and repair of fixtures, furniture, scientific
7 equipment, and other necessary materials and
8 supplies; and

9 “(D) collecting fees under section 744M
10 and accounting for resources allocated for OTC
11 monograph drug activities.

12 “(4) The term ‘FDA establishment identifier’ is
13 the unique number automatically generated by Food
14 and Drug Administration’s Field Accomplishments
15 and Compliance Tracking System (FACTS) (or any
16 successor system).

17 “(5) The term ‘OTC monograph drug’ means a
18 nonprescription drug without an approved new drug
19 application which is governed by the provisions of
20 section 505G.

21 “(6) The term ‘OTC monograph drug activities’
22 means activities of the Secretary associated with
23 OTC monograph drugs and inspection of facilities
24 associated with such products, including the fol-
25 lowing activities:

1 “(A) The activities necessary for review
2 and evaluation of OTC monographs and OTC
3 monograph order requests, including—

4 “(i) orders proposing or finalizing ap-
5 plicable conditions of use for OTC mono-
6 graph drugs;

7 “(ii) orders affecting status regarding
8 general recognition of safety and effective-
9 ness of an OTC monograph ingredient or
10 combination of ingredients under specified
11 conditions of use;

12 “(iii) all OTC monograph drug devel-
13 opment and review activities, including
14 intra-agency collaboration;

15 “(iv) regulation and policy develop-
16 ment activities related to OTC monograph
17 drugs;

18 “(v) development of product standards
19 for products subject to review and evalua-
20 tion;

21 “(vi) meetings referred to in section
22 505G(i);

23 “(vii) review of labeling prior to
24 issuance of orders related to OTC mono-
25 graph drugs or conditions of use; and

1 “(viii) regulatory science activities re-
2 lated to OTC monograph drugs.

3 “(B) Inspections related to OTC mono-
4 graph drugs.

5 “(C) Monitoring of clinical and other re-
6 search conducted in connection with OTC
7 monograph drugs.

8 “(D) Safety activities with respect to OTC
9 monograph drugs, including—

10 “(i) collecting, developing, and review-
11 ing safety information on OTC monograph
12 drugs, including adverse event reports;

13 “(ii) developing and using improved
14 adverse event data-collection systems, in-
15 cluding information technology systems;
16 and

17 “(iii) developing and using improved
18 analytical tools to assess potential safety
19 risks, including access to external data-
20 bases.

21 “(E) Other activities necessary for imple-
22 mentation of section 505G.

23 “(7) The term ‘OTC monograph order request’
24 means a request for an order submitted under sec-
25 tion 505G(b)(5).

1 “(8) The term ‘Tier 1 OTC monograph order
2 request’ means any OTC monograph order request
3 not determined to be a Tier 2 OTC monograph
4 order request.

5 “(9)(A) The term ‘Tier 2 OTC monograph
6 order request’ means, subject to subparagraph (B),
7 an OTC monograph order request for—

8 “(i) the reordering of existing information
9 in the drug facts label of an OTC monograph
10 drug;

11 “(ii) the addition of information to the
12 other information section of the drug facts label
13 of an OTC monograph drug, as limited by sec-
14 tion 201.66(c)(7) of title 21, Code of Federal
15 Regulations (or any successor regulations);

16 “(iii) modification to the directions for use
17 section of the drug facts label of an OTC mono-
18 graph drug, if such changes conform to changes
19 made pursuant to section 505G(c)(3)(A);

20 “(iv) the standardization of the concentra-
21 tion or dose of a specific finalized ingredient
22 within a particular finalized monograph;

23 “(v) a change to ingredient nomenclature
24 to align with nomenclature of a standards-set-
25 ting organization; or

1 “(vi) addition of an interchangeable term
2 in accordance with section 330.1 of title 21,
3 Code of Federal Regulations (or any successor
4 regulations).

5 “(B) The Secretary may, based on program im-
6 plementation experience or other factors found ap-
7 propriate by the Secretary, characterize any OTC
8 monograph order request as a Tier 2 OTC mono-
9 graph order request (including recharacterizing a re-
10 quest from Tier 1 to Tier 2) and publish such deter-
11 mination in a proposed order issued pursuant to sec-
12 tion 505G.

13 “(10)(A) The term ‘OTC monograph drug facil-
14 ity’ means a foreign or domestic business or other
15 entity that—

16 “(i) is—

17 “(I) under one management, either di-
18 rect or indirect; and

19 “(II) at one geographic location or ad-
20 dress engaged in manufacturing or proc-
21 essing the finished dosage form of an OTC
22 monograph drug;

23 “(ii) includes a finished dosage form man-
24 ufacturer facility in a contractual relationship
25 with the sponsor of one or more OTC mono-

1 graph drugs to manufacture or process such
2 drugs; and

3 “(iii) does not include a business or other
4 entity whose only manufacturing or processing
5 activities are one or more of the following: pro-
6 duction of clinical research supplies, testing, or
7 placement of outer packaging on packages con-
8 taining multiple products, for such purposes as
9 creating multipacks, when each monograph
10 drug product contained within the overpack-
11 aging is already in a final packaged form prior
12 to placement in the outer overpackaging.

13 “(B) For purposes of subparagraph (A)(i)(II),
14 separate buildings or locations within close proximity
15 are considered to be at one geographic location or
16 address if the activities conducted in such buildings
17 or locations are—

18 “(i) closely related to the same business
19 enterprise;

20 “(ii) under the supervision of the same
21 local management; and

22 “(iii) under a single FDA establishment
23 identifier and capable of being inspected by the
24 Food and Drug Administration during a single
25 inspection.

1 “(C) If a business or other entity would meet
2 criteria specified in subparagraph (A), but for being
3 under multiple management, the business or other
4 entity is deemed to constitute multiple facilities, one
5 per management entity, for purposes of this para-
6 graph.

7 “(11) The term ‘OTC monograph drug meet-
8 ing’ means any meeting regarding the content of a
9 proposed OTC monograph order request.

10 “(12) The term ‘person’ includes an affiliate of
11 a person.

12 “(13) The terms ‘requestor’ and ‘sponsor’ have
13 the meanings given such terms in section 505G.

14 **“SEC. 744M. AUTHORITY TO ASSESS AND USE OTC MONO-**
15 **GRAPH FEES.**

16 “(a) TYPES OF FEES.—Beginning with fiscal year
17 2021, the Secretary shall assess and collect fees in accord-
18 ance with this section as follows:

19 “(1) FACILITY FEE.—

20 “(A) IN GENERAL.—Each person that
21 owns a facility identified as an OTC monograph
22 drug facility on December 31 of the fiscal year
23 or at any time during the preceding 12-month
24 period shall be assessed an annual fee for each

1 such facility as determined under subsection
2 (c).

3 “(B) EXCEPTIONS.—

4 “(i) FACILITIES THAT CEASE ACTIVI-
5 TIES.—A fee shall not be assessed under
6 subparagraph (A) if the identified OTC
7 monograph drug facility—

8 “(I) has ceased all activities re-
9 lated to OTC monograph drugs prior
10 to December 31 of the year imme-
11 diately preceding the applicable fiscal
12 year; and

13 “(II) has updated its registration
14 to reflect such change under the re-
15 quirements for drug establishment
16 registration set forth in section 510.

17 “(ii) CONTRACT MANUFACTURING OR-
18 GANIZATIONS.—The amount of the fee for
19 a contract manufacturing organization fa-
20 cility shall be equal to two-thirds of the
21 amount of the fee for an OTC monograph
22 drug facility that is not a contract manu-
23 facturing organization facility.

1 “(C) AMOUNT.—The amount of fees estab-
2 lished under subparagraph (A) shall be estab-
3 lished under subsection (c).

4 “(D) DUE DATE.—

5 “(i) FOR FIRST PROGRAM YEAR.—For
6 fiscal year 2021, the facility fees required
7 under subparagraph (A) shall be due on
8 the later of—

9 “(I) the first business day of
10 June of 2020; or

11 “(II) 45 calendar days after pub-
12 lication of the Federal Register notice
13 provided for under subsection
14 (c)(4)(A).

15 “(ii) SUBSEQUENT FISCAL YEARS.—
16 For each fiscal year after fiscal year 2021,
17 the facility fees required under subpara-
18 graph (A) shall be due on the later of—

19 “(I) the first business day of
20 June of such year; or

21 “(II) the first business day after
22 the enactment of an appropriations
23 Act providing for the collection and
24 obligation of fees under this section
25 for such year.

1 “(2) OTC MONOGRAPH ORDER REQUEST
2 FEE.—

3 “(A) IN GENERAL.—Each person that sub-
4 mits an OTC monograph order request shall be
5 subject to a fee for an OTC monograph order
6 request. The amount of such fee shall be—

7 “(i) for a Tier 1 OTC monograph
8 order request, \$500,000, adjusted for in-
9 flation for the fiscal year (as determined
10 under subsection (c)(1)(B)); and

11 “(ii) for a Tier 2 OTC monograph
12 order request, \$100,000, adjusted for in-
13 flation for the fiscal year (as determined
14 under subsection (c)(1)(B)).

15 “(B) DUE DATE.—The OTC monograph
16 order request fees required under subparagraph
17 (A) shall be due on the date of submission of
18 the OTC monograph order request.

19 “(C) EXCEPTION FOR CERTAIN SAFETY
20 CHANGES.—A person who is named as the re-
21 questor in an OTC monograph order shall not
22 be subject to a fee under subparagraph (A) if
23 the Secretary finds that the OTC monograph
24 order request seeks to change the drug facts la-

1 belong of an OTC monograph drug in a way
2 that would add to or strengthen—

3 “(i) a contraindication, warning, or
4 precaution;

5 “(ii) a statement about risk associated
6 with misuse or abuse; or

7 “(iii) an instruction about dosage and
8 administration that is intended to increase
9 the safe use of the OTC monograph drug.

10 “(D) REFUND OF FEE IF ORDER REQUEST
11 IS RECATEGORIZED AS A TIER 2 OTC MONO-
12 GRAPH ORDER REQUEST.—If the Secretary de-
13 termines that an OTC monograph request ini-
14 tially characterized as Tier 1 shall be re-charac-
15 terized as a Tier 2 OTC monograph order re-
16 quest, and the requestor has paid a Tier 1 fee
17 in accordance with subparagraph (A)(i), the
18 Secretary shall refund the requestor the dif-
19 ference between the Tier 1 and Tier 2 fees de-
20 termined under subparagraphs (A)(i) and
21 (A)(ii), respectively.

22 “(E) REFUND OF FEE IF ORDER REQUEST
23 REFUSED FOR FILING OR WITHDRAWN BEFORE
24 FILING.—The Secretary shall refund 75 percent
25 of the fee paid under subparagraph (B) for any

1 order request which is refused for filing or was
2 withdrawn before being accepted or refused for
3 filing.

4 “(F) FEES FOR ORDER REQUESTS PRE-
5 VIOUSLY REFUSED FOR FILING OR WITHDRAWN
6 BEFORE FILING.—An OTC monograph order
7 request that was submitted but was refused for
8 filing, or was withdrawn before being accepted
9 or refused for filing, shall be subject to the full
10 fee under subparagraph (A) upon being resub-
11 mitted or filed over protest.

12 “(G) REFUND OF FEE IF ORDER REQUEST
13 WITHDRAWN.—If an order request is withdrawn
14 after the order request was filed, the Secretary
15 may refund the fee or a portion of the fee if no
16 substantial work was performed on the order
17 request after the application was filed. The Sec-
18 retary shall have the sole discretion to refund a
19 fee or a portion of the fee under this subpara-
20 graph. A determination by the Secretary con-
21 cerning a refund under this subparagraph shall
22 not be reviewable.

23 “(3) REFUNDS.—

24 “(A) IN GENERAL.—Other than refunds
25 provided pursuant to any of subparagraphs (D)

1 through (G) of paragraph (2), the Secretary
2 shall not refund any fee paid under paragraph
3 (1) except as provided in subparagraph (B).

4 “(B) DISPUTES CONCERNING FEES.—To
5 qualify for the return of a fee claimed to have
6 been paid in error under paragraph (1) or (2),
7 a person shall submit to the Secretary a written
8 request justifying such return within 180 cal-
9 endar days after such fee was paid.

10 “(4) NOTICE.—Within the timeframe specified
11 in subsection (c), the Secretary shall publish in the
12 Federal Register the amount of the fees under para-
13 graph (1) for such fiscal year.

14 “(b) FEE REVENUE AMOUNTS.—

15 “(1) FISCAL YEAR 2021.—For fiscal year 2021,
16 fees under subsection (a)(1) shall be established to
17 generate a total facility fee revenue amount equal to
18 the sum of—

19 “(A) the annual base revenue for fiscal
20 year 2021 (as determined under paragraph
21 (3));

22 “(B) the dollar amount equal to the oper-
23 ating reserve adjustment for the fiscal year, if
24 applicable (as determined under subsection
25 (c)(2)); and

1 “(C) additional direct cost adjustments (as
2 determined under subsection (c)(3)).

3 “(2) SUBSEQUENT FISCAL YEARS.—For each of
4 the fiscal years 2022 through 2025, fees under sub-
5 section (a)(1) shall be established to generate a total
6 facility fee revenue amount equal to the sum of—

7 “(A) the annual base revenue for the fiscal
8 year (as determined under paragraph (3));

9 “(B) the dollar amount equal to the infla-
10 tion adjustment for the fiscal year (as deter-
11 mined under subsection (c)(1));

12 “(C) the dollar amount equal to the oper-
13 ating reserve adjustment for the fiscal year, if
14 applicable (as determined under subsection
15 (c)(2));

16 “(D) additional direct cost adjustments (as
17 determined under subsection (c)(3)); and

18 “(E) additional dollar amounts for each
19 fiscal year as follows:

20 “(i) \$7,000,000 for fiscal year 2022.

21 “(ii) \$6,000,000 for fiscal year 2023.

22 “(iii) \$7,000,000 for fiscal year 2024.

23 “(iv) \$3,000,000 for fiscal year 2025.

24 “(3) ANNUAL BASE REVENUE.—For purposes
25 of paragraphs (1)(A) and (2)(A), the dollar amount

1 of the annual base revenue for a fiscal year shall
2 be—

3 “(A) for fiscal year 2021, \$8,000,000; and

4 “(B) for fiscal years 2022 through 2025,
5 the dollar amount of the total revenue amount
6 established under this subsection for the pre-
7 vious fiscal year, not including any adjustments
8 made under subsection (c)(2) or (c)(3).

9 “(c) ADJUSTMENTS; ANNUAL FEE SETTING.—

10 “(1) INFLATION ADJUSTMENT.—

11 “(A) IN GENERAL.—For purposes of sub-
12 section (b)(2)(B), the dollar amount of the in-
13 flation adjustment to the annual base revenue
14 for fiscal year 2022 and each subsequent fiscal
15 year shall be equal to the product of—

16 “(i) such annual base revenue for the
17 fiscal year under subsection (b)(2); and

18 “(ii) the inflation adjustment percent-
19 age under subparagraph (C).

20 “(B) OTC MONOGRAPH ORDER REQUEST
21 FEES.—For purposes of subsection (a)(2), the
22 dollar amount of the inflation adjustment to the
23 fee for OTC monograph order requests for fis-
24 cal year 2022 and each subsequent fiscal year
25 shall be equal to the product of—

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1 years of the preceding 4 fiscal years,
2 multiplied by the proportion of per-
3 sonnel compensation and benefits
4 costs to total costs of OTC mono-
5 graph drug activities for the first 3
6 years of the preceding 4 fiscal years;
7 and

8 “(II) the average annual percent
9 change that occurred in the Consumer
10 Price Index for urban consumers
11 (Washington-Baltimore, DC–MD–VA–
12 WV; Not Seasonally Adjusted; All
13 items; Annual Index) for the first 3
14 years of the preceding 4 years of
15 available data multiplied by the pro-
16 portion of all costs other than per-
17 sonnel compensation and benefits
18 costs to total costs of OTC mono-
19 graph drug activities for the first 3
20 years of the preceding 4 fiscal years.

21 “(2) OPERATING RESERVE ADJUSTMENT.—

22 “(A) IN GENERAL.—For fiscal year 2021
23 and subsequent fiscal years, for purposes of
24 subsections (b)(1)(B) and (b)(2)(C), the Sec-
25 retary may, in addition to adjustments under

1 paragraph (1), further increase the fee revenue
2 and fees if such an adjustment is necessary to
3 provide operating reserves of carryover user
4 fees for OTC monograph drug activities for not
5 more than the number of weeks specified in
6 subparagraph (B).

7 “(B) NUMBER OF WEEKS.—The number of
8 weeks specified in this subparagraph is—

9 “(i) 3 weeks for fiscal year 2021;

10 “(ii) 7 weeks for fiscal year 2022;

11 “(iii) 10 weeks for fiscal year 2023;

12 “(iv) 10 weeks for fiscal year 2024;

13 and

14 “(v) 10 weeks for fiscal year 2025.

15 “(C) DECREASE.—If the Secretary has
16 carryover balances for such process in excess of
17 10 weeks of the operating reserves referred to
18 in subparagraph (A), the Secretary shall de-
19 crease the fee revenue and fees referred to in
20 such subparagraph to provide for not more than
21 10 weeks of such operating reserves.

22 “(D) RATIONALE FOR ADJUSTMENT.—If
23 an adjustment under this paragraph is made,
24 the rationale for the amount of the increase or
25 decrease (as applicable) in fee revenue and fees

1 shall be contained in the annual Federal Reg-
2 ister notice under paragraph (4) establishing
3 fee revenue and fees for the fiscal year involved.

4 “(3) ADDITIONAL DIRECT COST ADJUST-
5 MENT.—The Secretary shall, in addition to adjust-
6 ments under paragraphs (1) and (2), further in-
7 crease the fee revenue and fees for purposes of sub-
8 section (b)(2)(D) by an amount equal to—

9 “(A) \$14,000,000 for fiscal year 2021;

10 “(B) \$7,000,000 for fiscal year 2022;

11 “(C) \$4,000,000 for fiscal year 2023;

12 “(D) \$3,000,000 for fiscal year 2024; and

13 “(E) \$3,000,000 for fiscal year 2025.

14 “(4) ANNUAL FEE SETTING.—

15 “(A) FISCAL YEAR 2021.—The Secretary
16 shall, not later than the second Monday in
17 March of 2020—

18 “(i) establish OTC monograph drug
19 facility fees for fiscal year 2021 under sub-
20 section (a), based on the revenue amount
21 for such year under subsection (b) and the
22 adjustments provided under this sub-
23 section; and

1 “(ii) publish fee revenue, facility fees,
2 and OTC monograph order requests in the
3 Federal Register.

4 “(B) SUBSEQUENT FISCAL YEARS.—The
5 Secretary shall, for each fiscal year that begins
6 after September 30, 2021, not later than the
7 second Monday in March that precedes such fis-
8 cal year—

9 “(i) establish for such fiscal year,
10 based on the revenue amounts under sub-
11 section (b) and the adjustments provided
12 under this subsection—

13 “(I) OTC monograph drug facil-
14 ity fees under subsection (a)(1); and

15 “(II) OTC monograph order re-
16 quest fees under subsection (a)(2);
17 and

18 “(ii) publish such fee revenue
19 amounts, facility fees, and OTC mono-
20 graph order request fees in the Federal
21 Register.

22 “(d) IDENTIFICATION OF FACILITIES.—Each person
23 that owns an OTC monograph drug facility shall submit
24 to the Secretary the information required under this sub-

1 section each year. Such information shall, for each fiscal
2 year—

3 “(1) be submitted as part of the requirements
4 for drug establishment registration set forth in sec-
5 tion 510; and

6 “(2) include for each such facility, at a min-
7 imum, identification of the facility’s business oper-
8 ation as that of an OTC monograph drug facility.

9 “(e) EFFECT OF FAILURE TO PAY FEES.—

10 “(1) OTC MONOGRAPH DRUG FACILITY FEE.—

11 “(A) IN GENERAL.—Failure to pay the fee
12 under subsection (a)(1) within 20 calendar days
13 of the due date as specified in subparagraph
14 (D) of such subsection shall result in the fol-
15 lowing:

16 “(i) The Secretary shall place the fa-
17 cility on a publicly available arrears list.

18 “(ii) All OTC monograph drugs man-
19 ufactured in such a facility or containing
20 an ingredient manufactured in such a facil-
21 ity shall be deemed misbranded under sec-
22 tion 502(ff).

23 “(B) APPLICATION OF PENALTIES.—The
24 penalties under this paragraph shall apply until
25 the fee established by subsection (a)(1) is paid.

1 “(2) ORDER REQUESTS.—An OTC monograph
2 order request submitted by a person subject to fees
3 under subsection (a) shall be considered incomplete
4 and shall not be accepted for filing by the Secretary
5 until all fees owed by such person under this section
6 have been paid.

7 “(3) MEETINGS.—A person subject to fees
8 under this section shall be considered ineligible for
9 OTC monograph drug meetings until all such fees
10 owed by such person have been paid.

11 “(f) CREDITING AND AVAILABILITY OF FEES.—

12 “(1) IN GENERAL.—Fees authorized under sub-
13 section (a) shall be collected and available for obliga-
14 tion only to the extent and in the amount provided
15 in advance in appropriations Acts. Such fees are au-
16 thorized to remain available until expended. Such
17 sums as may be necessary may be transferred from
18 the Food and Drug Administration salaries and ex-
19 penses appropriation account without fiscal year lim-
20 itation to such appropriation account for salaries
21 and expenses with such fiscal year limitation. The
22 sums transferred shall be available solely for OTC
23 monograph drug activities.

24 “(2) COLLECTIONS AND APPROPRIATION
25 ACTS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (C), the fees authorized by this section
3 shall be collected and available in each fiscal
4 year in an amount not to exceed the amount
5 specified in appropriation Acts, or otherwise
6 made available for obligation, for such fiscal
7 year.

8 “(B) USE OF FEES AND LIMITATION.—
9 The fees authorized by this section shall be
10 available to defray increases in the costs of the
11 resources allocated for OTC monograph drug
12 activities (including increases in such costs for
13 an additional number of full-time equivalent po-
14 sitions in the Department of Health and
15 Human Services to be engaged in such activi-
16 ties), only if the Secretary allocates for such
17 purpose an amount for such fiscal year (exclud-
18 ing amounts from fees collected under this sec-
19 tion) no less than \$12,000,000, multiplied by
20 the adjustment factor applicable to the fiscal
21 year involved under subsection (c)(1).

22 “(C) COMPLIANCE.—The Secretary shall
23 be considered to have met the requirements of
24 subparagraph (B) in any fiscal year if the costs
25 funded by appropriations and allocated for OTC

1 monograph drug activities are not more than 15
2 percent below the level specified in such sub-
3 paragraph.

4 “(D) PROVISION FOR EARLY PAYMENTS IN
5 SUBSEQUENT YEARS.—Payment of fees author-
6 ized under this section for a fiscal year (after
7 fiscal year 2021), prior to the due date for such
8 fees, may be accepted by the Secretary in ac-
9 cordance with authority provided in advance in
10 a prior year appropriations Act.

11 “(3) AUTHORIZATION OF APPROPRIATIONS.—
12 For each of the fiscal years 2021 through 2025,
13 there is authorized to be appropriated for fees under
14 this section an amount equal to the total amount of
15 fees assessed for such fiscal year under this section.

16 “(g) COLLECTION OF UNPAID FEES.—In any case
17 where the Secretary does not receive payment of a fee as-
18 sessed under subsection (a) within 30 calendar days after
19 it is due, such fee shall be treated as a claim of the United
20 States Government subject to subchapter II of chapter 37
21 of title 31, United States Code.

22 “(h) CONSTRUCTION.—This section may not be con-
23 strued to require that the number of full-time equivalent
24 positions in the Department of Health and Human Serv-
25 ices, for officers, employers, and advisory committees not

1 engaged in OTC monograph drug activities, be reduced
2 to offset the number of officers, employees, and advisory
3 committees so engaged.

4 **“SEC. 744N. REAUTHORIZATION; REPORTING REQUIRE-**
5 **MENTS.**

6 “(a) PERFORMANCE REPORT.—Beginning with fiscal
7 year 2021, and not later than 120 calendar days after the
8 end of each fiscal year thereafter for which fees are col-
9 lected under this part, the Secretary shall prepare and
10 submit to the Committee on Energy and Commerce of the
11 House of Representatives and the Committee on Health,
12 Education, Labor, and Pensions of the Senate a report
13 concerning the progress of the Food and Drug Adminis-
14 tration in achieving the goals identified in the letters de-
15 scribed in section 3861(b) of the CARES Act during such
16 fiscal year and the future plans of the Food and Drug
17 Administration for meeting such goals.

18 “(b) FISCAL REPORT.—Not later than 120 calendar
19 days after the end of fiscal year 2021 and each subsequent
20 fiscal year for which fees are collected under this part,
21 the Secretary shall prepare and submit to the Committee
22 on Energy and Commerce of the House of Representatives
23 and the Committee on Health, Education, Labor, and
24 Pensions of the Senate a report on the implementation
25 of the authority for such fees during such fiscal year and

1 the use, by the Food and Drug Administration, of the fees
2 collected for such fiscal year.

3 “(c) PUBLIC AVAILABILITY.—The Secretary shall
4 make the reports required under subsections (a) and (b)
5 available to the public on the internet website of the Food
6 and Drug Administration.

7 “(d) REAUTHORIZATION.—

8 “(1) CONSULTATION.—In developing rec-
9 ommendations to present to the Congress with re-
10 spect to the goals described in subsection (a), and
11 plans for meeting the goals, for OTC monograph
12 drug activities for the first 5 fiscal years after fiscal
13 year 2025, and for the reauthorization of this part
14 for such fiscal years, the Secretary shall consult
15 with—

16 “(A) the Committee on Energy and Com-
17 merce of the House of Representatives;

18 “(B) the Committee on Health, Education,
19 Labor, and Pensions of the Senate;

20 “(C) scientific and academic experts;

21 “(D) health care professionals;

22 “(E) representatives of patient and con-
23 sumer advocacy groups; and

24 “(F) the regulated industry.

1 “(2) PUBLIC REVIEW OF RECOMMENDA-
2 TIONS.—After negotiations with the regulated indus-
3 try, the Secretary shall—

4 “(A) present the recommendations devel-
5 oped under paragraph (1) to the congressional
6 committees specified in such paragraph;

7 “(B) publish such recommendations in the
8 Federal Register;

9 “(C) provide for a period of 30 calendar
10 days for the public to provide written comments
11 on such recommendations;

12 “(D) hold a meeting at which the public
13 may present its views on such recommenda-
14 tions; and

15 “(E) after consideration of such public
16 views and comments, revise such recommenda-
17 tions as necessary.

18 “(3) TRANSMITTAL OF RECOMMENDATIONS.—
19 Not later than January 15, 2025, the Secretary
20 shall transmit to the Congress the revised rec-
21 ommendations under paragraph (2), a summary of
22 the views and comments received under such para-
23 graph, and any changes made to the recommenda-
24 tions in response to such views and comments.”.

1 **TITLE IV—ECONOMIC STA-**
2 **BILIZATION AND ASSISTANCE**
3 **TO SEVERELY DISTRESSED**
4 **SECTORS OF THE UNITED**
5 **STATES ECONOMY**

6 **SEC. 4001. SHORT TITLE.**

7 This title may be cited as the “Coronavirus Economic
8 Stabilization Act of 2020”.

9 **SEC. 4002. DEFINITIONS.**

10 In this title:

11 (1) AIR CARRIER.—The term “air carrier” has
12 the meaning such term has under section 40102 of
13 title 49, United States Code.

14 (2) CORONAVIRUS.—The term “coronavirus”
15 means SARS-CoV-2 or another coronavirus with
16 pandemic potential.

17 (3) COVERED LOSS.—The term “covered loss”
18 includes losses incurred directly or indirectly as a re-
19 sult of coronavirus, as determined by the Secretary.

20 (4) ELIGIBLE BUSINESS.—The term “eligible
21 business” means—

22 (A) an air carrier; or

23 (B) a United States business that has not
24 otherwise received adequate economic relief in

1 the form of loans or loan guarantees provided
2 under this Act.

3 (5) SECRETARY.—The term “Secretary” means
4 the Secretary of the Treasury, or the designee of the
5 Secretary of the Treasury.

6 (6) STATE.—The term “State” means any of
7 the several States, the District of Columbia, any of
8 the territories and possessions of the United States,
9 and any Indian tribe.

10 **SEC. 4003. EMERGENCY RELIEF AND TAXPAYER PROTEC-**
11 **TIONS.**

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sion of law, to provide liquidity to eligible businesses,
14 States, and municipalities related to losses incurred as a
15 result of coronavirus, the Secretary is authorized to make
16 loans, loan guarantees, and other investments in support
17 of eligible businesses, States, and municipalities that do
18 not, in the aggregate, exceed \$500,000,000,000 and pro-
19 vide the subsidy amounts necessary for such loans, loan
20 guarantees, and other investments in accordance with the
21 provisions of the Federal Credit Reform Act of 1990 (2
22 U.S.C. 661 et seq.).

23 (b) LOANS, LOAN GUARANTEES, AND OTHER IN-
24 VESTMENTS.—Loans, loan guarantees, and other invest-

1 ments made pursuant to subsection (a) shall be made
2 available as follows:

3 (1) Not more than \$50,000,000,000 shall be
4 available to make loans and loan guarantees for pas-
5 senger air carriers.

6 (2) Not more than \$8,000,000,000 shall be
7 available to make loans and loan guarantees for
8 cargo air carriers.

9 (3) Not more than \$17,000,000,000 shall be
10 available to make loans and loan guarantees for
11 businesses critical to maintaining national security.

12 (4) Not more than the sum of
13 \$425,000,000,000 and any amounts available under
14 paragraphs (1), (2), and (3) that are not used as
15 provided under those paragraphs shall be available
16 to make loans and loan guarantees to, and other in-
17 vestments in, programs or facilities established by
18 the Board of Governors of the Federal Reserve Sys-
19 tem for the purpose of providing liquidity to the fi-
20 nancial system that supports lending to eligible busi-
21 nesses, States, or municipalities by—

22 (A) purchasing obligations or other inter-
23 ests directly from issuers of such obligations or
24 other interests; or

1 (B) purchasing obligations or other inter-
2 ests in secondary markets or otherwise.

3 (c) TERMS AND CONDITIONS.—

4 (1) IN GENERAL.—

5 (A) FORMS; TERMS AND CONDITIONS.—A
6 loan, loan guarantee, or other investment shall
7 be made under this section in such form and on
8 such terms and conditions and contain such
9 covenants, representations, warranties, and re-
10 quirements (including requirements for audits)
11 as the Secretary determines appropriate. Any
12 loans made by the Secretary under this section
13 shall be at a rate determined by the Secretary
14 based on the risk and the current average yield
15 on outstanding marketable obligations of the
16 United States of comparable maturity.

17 (B) PROCEDURES.—As soon as prac-
18 ticable, but in no case later than 10 days after
19 the date of enactment of this Act, the Secretary
20 shall publish procedures for application and
21 minimum requirements, which may be supple-
22 mented by the Secretary in the Secretary's dis-
23 cretion, for making loans, loan guarantees, or
24 other investments under paragraphs (1), (2),
25 and (3) of subsection (b).

1 (2) LOANS AND LOAN GUARANTEES.—The Sec-
2 retary may enter into agreements to make loans or
3 loan guarantees to 1 or more eligible businesses
4 under paragraphs (1), (2), or (3) of subsection (b)
5 if the Secretary determines that, in the Secretary’s
6 discretion—

7 (A) the applicant is an eligible business for
8 which credit is not reasonably available at the
9 time of the transaction;

10 (B) the intended obligation by the appli-
11 cant is prudently incurred;

12 (C) the loan or loan guarantee is suffi-
13 ciently secured or is made at a rate that—

14 (i) reflects the risk of the loan or loan
15 guarantee; and

16 (ii) is to the extent practicable, not
17 less than an interest rate based on market
18 conditions for comparable obligations prev-
19 alent prior to the outbreak of the
20 coronavirus disease 2019 (COVID–19);

21 (D) the duration of the loan or loan guar-
22 antee is as short as practicable and in any case
23 not longer than 5 years;

24 (E) except to the extent required under a
25 contractual obligation in effect as of the date of

1 enactment of this Act, the agreement prohibits
2 the eligible business from repurchasing any out-
3 standing equity interests while the loan or loan
4 guarantee is outstanding;

5 (F) the agreement requires the eligible
6 business to maintain its existing employment
7 levels as of March 13, 2020, to the extent prac-
8 ticable, while the loan or loan guarantee is out-
9 standing; and

10 (G) for purposes of a loan or loan guar-
11 antee under subsection (b)(3), the eligible bor-
12 rower must have incurred or is expected to
13 incur covered losses such that the continued op-
14 erations of the business are jeopardized, as de-
15 termined by the Secretary.

16 (3) FEDERAL RESERVE PROGRAMS OR FACILI-
17 TIES AND OTHER LOANS OR LOAN GUARANTEES.—

18 (A) TERMS AND CONDITIONS.—

19 (i) DEFINITION.—In this subpara-
20 graph, the term “direct loan” means a
21 loan under a bilateral loan agreement that
22 is entered into directly with an eligible
23 business as borrower and that is not part
24 of a syndicated loan, a loan originated by
25 a financial institution in the ordinary

1 course of business, or a securities or cap-
2 ital markets transaction.

3 (ii) PROHIBITION ON SHARE REPUR-
4 CHASES.—The Secretary may make a loan,
5 loan guarantee, or other investment under
6 subsection (b)(4) as part of a program or
7 facility that provides direct loans only if
8 the relevant eligible businesses agree not to
9 repurchase any outstanding equity inter-
10 ests while the direct loan is outstanding,
11 except to the extent required under a con-
12 tractual obligation in effect as of the date
13 of enactment of this Act.

14 (iii) WAIVER.—The Secretary may
15 waive the requirement under clause (ii)
16 with respect to any program or facility
17 upon a determination that such waiver is
18 not necessary to protect the interests of
19 the Federal Government.

20 (B) PROHIBITION ON LOAN FORGIVE-
21 NESS.—The principal amount of any obligation
22 issued by an eligible business, State, or munici-
23 pality that is acquired under a program or facil-
24 ity under paragraph (1), (2), (3), or (4) of sub-

1 section (b) shall not be reduced through loan
2 forgiveness.

3 (C) FEDERAL RESERVE ACT TAXPAYER
4 PROTECTIONS AND OTHER REQUIREMENTS
5 APPLY.—For the avoidance of doubt, any appli-
6 cable requirements under section 13(3) of the
7 Federal Reserve Act (12 U.S.C. 343(3)), in-
8 cluding requirements relating to loan
9 collateralization, taxpayer protection, and bor-
10 rower solvency, shall apply with respect to any
11 obligation or other interest issued by an eligible
12 business, State, or municipality that is acquired
13 under a program or facility under subsection
14 (b)(4).

15 (d) FINANCIAL PROTECTION OF GOVERNMENT.—

16 (1) IN GENERAL.—To the extent feasible and
17 practicable, the Secretary shall ensure that the com-
18 pensation of the Federal Government is commensu-
19 rate to the risk assumed in making loans and loan
20 guarantees under this section. The Secretary shall
21 liquidate any equity interests the Secretary acquires
22 under this section as soon as reasonably practicable,
23 consistent with maximizing returns to the Federal
24 Government. The Secretary shall not exercise voting

1 power with respect to any shares of common stock
2 acquired under this section.

3 (2) GOVERNMENT PARTICIPATION IN GAINS.—If
4 an eligible business receives a loan or loan guarantee
5 under paragraphs (1), (2), or (3) of subsection (b),
6 the Secretary is authorized to enter into contracts
7 under which the Federal Government, contingent on
8 the financial success of the eligible business, would
9 participate in the gains of the eligible business or its
10 security holders through the use of such instruments
11 as warrants, stock options, common or preferred
12 stock, or other appropriate equity instruments, pro-
13 vided that the Secretary shall not exercise voting
14 power with respect to any shares of common stock
15 so acquired.

16 (e) DEPOSIT OF PROCEEDS.—Amounts collected by
17 the Secretary under this section, including the repayment
18 of principal, proceeds of investments, earnings, and inter-
19 est collected, shall be deposited as follows:

20 (1) Amounts collected under paragraphs (1) or
21 (2) of subsection (b) shall be deposited in the Air-
22 port and Airway Trust Fund under section 9502 of
23 the Internal Revenue Code of 1986 up to the
24 amount of the difference between—

1 (A) the amount of deposits in such fund
2 forecast in such fund's budget for fiscal year
3 2020; and

4 (B) the amount deposited in such fund
5 during fiscal year 2020.

6 (2) Amounts collected under paragraphs (3) or
7 (4) of subsection (b) and any amount collected
8 under paragraphs (1) or (2) of subsection (b) that
9 is not deposited in the Airport and Airway Trust
10 Fund under the preceding subparagraph, shall be
11 deposited in the Treasury as miscellaneous receipts.

12 (f) ADMINISTRATIVE PROVISIONS.—Notwithstanding
13 any other provision of law, the Secretary may use not
14 greater than \$100,000,000 of the funds made available
15 under this section to pay costs and administrative ex-
16 penses associated with the loans, loan guarantees, and
17 other investments authorized under this section. The Sec-
18 retary is authorized to take such actions as the Secretary
19 deems necessary to carry out the authorities in this chap-
20 ter, including, without limitation—

21 (1) using direct hiring authority to hire employ-
22 ees to administer this title;

23 (2) entering into contracts, including contracts
24 for services authorized by this title;

1 (3) establishing vehicles that are authorized,
2 subject to supervision by the Secretary, to purchase,
3 hold, and sell assets and issue obligations; and

4 (4) issuing such regulations and other guidance
5 as may be necessary or appropriate to carry out the
6 authorities or purposes of this title.

7 (g) FINANCIAL AGENTS.—The Secretary is author-
8 ized to designate financial institutions, including but not
9 limited to, depositories, brokers, dealers, and other institu-
10 tions, as financial agents of the United States. Such insti-
11 tutions shall—

12 (1) perform all reasonable duties the Secretary
13 determines necessary to respond to the coronavirus;
14 and

15 (2) shall be paid for such duties using appro-
16 priations available to the Secretary to reimburse fi-
17 nancial institutions in their capacity as financial
18 agents of the United States.

19 (h) LOANS MADE BY OR GUARANTEED BY THE DE-
20 PARTMENT OF THE TREASURY TREATED AS INDEBTED-
21 NESS FOR TAX PURPOSES.—

22 (1) IN GENERAL.—Any loan made by or guar-
23 anteed by the Department of the Treasury under
24 this section shall be treated as indebtedness for pur-
25 poses of the Internal Revenue Code of 1986, shall be

1 treated as issued for its stated principal amount,
2 and stated interest on such loans shall be treated as
3 qualified stated interest.

4 (2) REGULATIONS OR GUIDANCE.—The Sec-
5 retary of the Treasury (or the Secretary’s delegate)
6 shall prescribe such regulations or guidance as may
7 be necessary or appropriate to carry out the pur-
8 poses of this section, including guidance providing
9 that the acquisition of warrants, stock options, com-
10 mon or preferred stock or other equity under this
11 section does not result in an ownership change for
12 purposes of section 382 of the Internal Revenue
13 Code of 1986.

14 **SEC. 4004. LIMITATION ON CERTAIN EMPLOYEE COM-**
15 **PENSATION.**

16 (a) IN GENERAL.—The Secretary may only enter into
17 an agreement directly with an eligible business to make
18 a loan or loan guarantee under paragraph (1), (2), or (3)
19 of section 4003(b) if such agreement provides that, during
20 the 2-year period beginning March 1, 2020, and ending
21 March 1, 2022, no officer or employee of the eligible busi-
22 ness whose total compensation exceeded \$425,000 in cal-
23 endar year 2019 (other than an employee whose com-
24 pensation is determined through an existing collective bar-
25 gaining agreement entered into prior to March 1, 2020)—

1 (1) will receive from the eligible business total
2 compensation which exceeds, during any 12 consecu-
3 tive months of such 2-year period, the total com-
4 pensation received by the officer or employee from
5 the eligible business in calendar year 2019; and

6 (2) will receive from the eligible business sever-
7 ance pay or other benefits upon termination of em-
8 ployment with the eligible business which exceeds
9 twice the maximum total compensation received by
10 the officer or employee from the eligible business in
11 calendar year 2019.

12 (b) **TOTAL COMPENSATION DEFINED.**—In this sec-
13 tion, the term “total compensation” includes salary, bo-
14 nuses, awards of stock, and other financial benefits pro-
15 vided by an eligible business to an officer or employee of
16 the eligible business.

17 **SEC. 4005. CONTINUATION OF CERTAIN AIR SERVICE.**

18 The Secretary of Transportation is authorized to re-
19 quire, to the extent reasonable and practicable, an air car-
20 rier receiving loans and loan guarantees under section
21 4003 to maintain scheduled air transportation service as
22 the Secretary of Transportation deems necessary to ensure
23 services to any point served by that carrier before March
24 1, 2020. When considering whether to exercise the author-
25 ity granted by this section, the Secretary of Transpor-

1 tation shall take into consideration the air transportation
2 needs of small and remote communities. The authority
3 under this section, including any requirement issued by
4 the Secretary under this section, shall terminate on March
5 1, 2022.

6 **SEC. 4006. COORDINATION WITH SECRETARY OF TRANS-**
7 **PORTATION.**

8 In implementing this title with respect to air carriers,
9 the Secretary shall coordinate with the Secretary of
10 Transportation.

11 **SEC. 4007. SUSPENSION OF CERTAIN AVIATION EXCISE**
12 **TAXES.**

13 (a) **TRANSPORTATION BY AIR.**—In the case of any
14 amount paid for transportation by air (including any
15 amount treated as paid for transportation by air by reason
16 of section 4261(e)(3) of the Internal Revenue Code of
17 1986) during the excise tax holiday period, no tax shall
18 be imposed under section 4261 or 4271 of such Code. The
19 preceding sentence shall not apply to amounts paid on or
20 before the date of the enactment of this Act.

21 (b) **USE OF KEROSENE IN COMMERCIAL AVIATION.**—
22 In the case of kerosene used in commercial aviation (as
23 defined in section 4083 of the Internal Revenue Code of
24 1986) during the excise tax holiday period—

1 “(h) APPROVAL OF GUARANTEE PROGRAM DURING
2 THE COVID-19 CRISIS.—For purposes of the congressional
3 joint resolution of approval provided for in subsections
4 (c)(1) and (2) and (d), notwithstanding any other provi-
5 sion of this section, the Federal Deposit Insurance Cor-
6 poration is approved upon enactment of this Act to estab-
7 lish a program provided for in subsection (a) without a
8 maximum guarantee provided that any such program and
9 any such guarantee shall terminate not later than Decem-
10 ber 31, 2020.”.

11 (b) FEDERAL CREDIT UNION TRANSACTION AC-
12 COUNT GUARANTEES.—Notwithstanding any other provi-
13 sion of law and in coordination with the Federal Deposit
14 Insurance Corporation, the National Credit Union Admin-
15 istration Board may by a vote of the Board increase to
16 unlimited, or such lower amount as the Board approves,
17 the share insurance coverage provided by the National
18 Credit Union Share Insurance Fund on any noninterest-
19 bearing transaction account in any federally insured credit
20 union without exception, provided that any such increase
21 shall terminate not later than December 31, 2020.

22 **SEC. 4009. TEMPORARY GOVERNMENT IN THE SUNSHINE**
23 **ACT RELIEF.**

24 (a) IN GENERAL.—Except as provided in subsection
25 (b), notwithstanding any other provision of law, if the

1 Chairman of the Board of Governors of the Federal Re-
2 serve System determines, in writing, that unusual and exi-
3 gent circumstances exist, the Board may conduct meetings
4 without regard to the requirements of section 552b of title
5 5, United States Code, during the period beginning on the
6 date of enactment of this Act and ending on the earlier
7 of—

8 (1) the date on which the public health emer-
9 gency declared by the Secretary of Health and
10 Human Services on January 31, 2020, under section
11 319 of the Public Health Service Act (42 U.S.C.
12 247d), terminates; or

13 (2) December 31, 2020.

14 (b) RECORDS.—The Board of Governors of the Fed-
15 eral Reserve System shall keep a record of all Board votes
16 and the reasons for such votes during the period described
17 in subsection (a).

18 **SEC. 4010. TEMPORARY HIRING FLEXIBILITY.**

19 (a) DEFINITION.—In this section, the term “covered
20 period” means the period beginning on the date of enact-
21 ment of this Act and ending on the sooner of—

22 (1) the termination date of the public health
23 emergency declared by the Secretary of Health and
24 Human Services on January 31, 2020, under section

1 319 of the Public Health Services Act (42 U.S.C.
2 247d) in response to COVID–19; or

3 (2) December 31, 2020.

4 (b) **AUTHORITY.**— During the covered period, the
5 Secretary of Housing and Urban Development and the Se-
6 curities and Exchange Commission may, without regard
7 to sections 3309 through 3318 of title 5, United States
8 Code, recruit and appoint candidates to fill temporary and
9 term appointments within their respective agencies upon
10 a determination that those expedited procedures are nec-
11 essary and appropriate to enable the respective agencies
12 to prevent, prepare for, or respond to COVID–19.

13 **SEC. 4011. TEMPORARY LENDING LIMIT WAIVER.**

14 (a) **IN GENERAL.**—Section 5200 of the Revised Stat-
15 utes of the United States (12 U.S.C. 84) is amended—

16 (1) in subsection (c)(7)—

17 (A) by inserting “any nonbank financial
18 company (as that term is defined in section 102
19 of the Financial Stability Act of 2010 (12
20 U.S.C. 5311)),” after “Loans or extensions of
21 credit to”; and

22 (B) by striking “financial institution or to”
23 and inserting “financial institution, or to”; and

24 (2) in subsection (d), by adding at the end of
25 paragraph (1) the following: “The Comptroller of

1 the Currency may, by order, exempt any transaction
2 or series of transactions from the requirements of
3 this section upon a finding by the Comptroller that
4 such exemption is in the public interest and con-
5 sistent with the purposes of this section.”.

6 (b) EFFECTIVE PERIOD.—This section, and the
7 amendments made by this section, shall be effective during
8 the period beginning on the date of enactment of this Act
9 and ending on the sooner of—

10 (1) the termination date of the public health
11 emergency declared by the Secretary of Health and
12 Human Services on January 31, 2020, under section
13 319 of the Public Health Services Act (42 U.S.C.
14 247d) in response to COVID–19; or

15 (2) December 31, 2020.

16 **SEC. 4012. TEMPORARY RELIEF FOR COMMUNITY BANKS.**

17 (a) DEFINITIONS.—In this section—

18 (1) the term “appropriate Federal banking
19 agency” has the meaning given the term in section
20 2 of the Economic Growth, Regulatory Relief, and
21 Consumer Protection Act (12 U.S.C. 5365 note);
22 and

23 (2) the terms “Community Bank Leverage
24 Ratio” and “qualifying community bank” have the
25 meanings given the terms in section 201(a) of the

1 Economic Growth, Regulatory Relief, and Consumer
2 Protection Act (12 U.S.C. 5371 note).

3 (b) INTERIM RULE.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of law or regulation, the appropriate Fed-
6 eral banking agencies shall issue an interim final
7 rule that provides that, for the purposes of section
8 201 of the Economic Growth, Regulatory Relief, and
9 Consumer Protection Act (12 U.S.C. 5371 note)—

10 (A) the Community Bank Leverage Ratio
11 shall be 8 percent; and

12 (B) a qualifying community bank that falls
13 below the Community Bank Leverage Ratio es-
14 tablished under subparagraph (A) shall have a
15 reasonable grace period to satisfy the Commu-
16 nity Bank Leverage Ratio.

17 (2) EFFECTIVE PERIOD.—The interim rule
18 issued under paragraph (1) shall be effective during
19 the period beginning on the date on which the ap-
20 propriate Federal banking agencies issue the rule
21 and ending on the sooner of—

22 (A) the termination date of the public
23 health emergency declared by the Secretary of
24 Health and Human Services on January 31,
25 2020, under section 319 of the Public Health

1 Services Act (42 U.S.C. 247d) in response to
2 COVID-19; or

3 (B) December 31, 2020.

4 (c) GRACE PERIOD.—During a grace period de-
5 scribed in paragraph (1)(B), a qualifying community bank
6 to which the grace period applies may continue to be treat-
7 ed as a qualifying community bank and shall be presumed
8 to satisfy the capital and leverage requirements described
9 in section 201(c) of the Economic Growth, Regulatory Re-
10 lief, and Consumer Protection Act (12 U.S.C. 5371 note).

11 **SEC. 4013. TEMPORARY RELIEF FROM TROUBLED DEBT**
12 **RESTRUCTURINGS.**

13 (a) DEFINITIONS.—In this section:

14 (1) APPLICABLE PERIOD.—The term “applica-
15 ble period” means the period beginning on March 1,
16 2020 and ending on the date 60 days after the date
17 on which the public health emergency declared by
18 the Secretary of Health and Human Services on
19 January 31, 2020, under section 319 of the Public
20 Health Service Act (42 U.S.C. 247d), terminates.

21 (2) APPROPRIATE FEDERAL BANKING AGEN-
22 CY.—The term “appropriate Federal banking agen-
23 cy”—

1 (A) has the meaning given the term in sec-
2 tion 3 of the Federal Deposit Insurance Act (12
3 U.S.C. 1813); and

4 (B) includes the National Credit Union
5 Administration.

6 (b) SUSPENSION.—

7 (1) IN GENERAL.—During the applicable pe-
8 riod, a financial institution may elect to—

9 (A) suspend the requirements under
10 United States generally accepted accounting
11 principles for loan modifications related to the
12 coronavirus disease 2019 (COVID–19) pan-
13 demic that would otherwise be categorized as a
14 troubled debt restructuring; and

15 (B) suspend any determination of a loan
16 modified as a result of the effects of the
17 coronavirus disease 2019 (COVID–19) pan-
18 demic as being a troubled debt restructuring,
19 including impairment for accounting purposes.

20 (2) APPLICABILITY.—Any suspension under
21 paragraph (1)—

22 (A) shall be applicable for the term of the
23 loan modification, but solely with respect to any
24 modification, including a forbearance arrange-
25 ment, an interest rate modification, a repay-

1 ment plan, and any other similar arrangement
2 that defers or delays the payment of principal
3 or interest, that occurs during the applicable
4 period for a loan that was not more than 30
5 days past due as of December 31, 2019; and

6 (B) shall not apply to any adverse impact
7 on the credit of a borrower that is not related
8 to the coronavirus disease 2019 (COVID–19)
9 pandemic.

10 (c) DEFERENCE.—The appropriate Federal banking
11 agency of the financial institution shall defer to the deter-
12 mination of the financial institution to make a suspension
13 under this section.

14 (d) RECORDS.—For modified loans for which suspen-
15 sions under subsection (a) apply—

16 (1) financial institutions should continue to
17 maintain records of the volume of loans involved;
18 and

19 (2) the appropriate Federal banking agencies
20 may collect data about such loans for supervisory
21 purposes.

22 **SEC. 4014. OPTIONAL TEMPORARY RELIEF FROM CURRENT**
23 **EXPECTED CREDIT LOSSES.**

24 (a) DEFINITIONS.—In this section:

1 (1) APPROPRIATE FEDERAL BANKING AGEN-
2 CY.—The term “appropriate Federal banking agen-
3 cy”—

4 (A) has the meaning given the term in sec-
5 tion 3 of the Federal Deposit Insurance Act (12
6 U.S.C. 1813); and

7 (B) includes the National Credit Union
8 Administration.

9 (2) INSURED DEPOSITORY INSTITUTION.—The
10 term “insured depository institution”—

11 (A) has the meaning given the term in sec-
12 tion 3 of the Federal Deposit Insurance Act (12
13 U.S.C. 1813); and

14 (B) includes a federally insured credit
15 union.

16 (b) TEMPORARY RELIEF FROM CECL STAND-
17 ARDS.—Notwithstanding any other provision of law, no in-
18 sured depository institution, bank holding company, or
19 any affiliate thereof shall be required to comply with the
20 Financial Accounting Standards Board Accounting Stand-
21 ards Update No. 2016–13 (“Measurement of Credit
22 Losses on Financial Instruments”), including the current
23 expected credit losses methodology for estimating allow-
24 ances for credit losses, during the period beginning on the

1 date of enactment of this Act and ending on the earlier
2 of—

3 (1) the date on which the public health emer-
4 gency declared by the Secretary of Health and
5 Human Services on January 31, 2020, under section
6 319 of the Public Health Service Act (42 U.S.C.
7 247d), terminates; or

8 (2) December 31, 2020.

9 **SEC. 4015. NON-APPLICABILITY OF RESTRICTIONS ON ESF**
10 **DURING NATIONAL EMERGENCY.**

11 (a) **IN GENERAL.**—Section 131 of the Emergency
12 Economic Stabilization Act of 2008 (12 U.S.C. 5236)
13 shall not apply during the period beginning on the date
14 of enactment of this Act and ending on December 31,
15 2020. Any guarantee established as a result of the applica-
16 tion of subsection (a) shall terminate not later than De-
17 cember 31, 2020.

18 (b) **DIRECT APPROPRIATION.**—Upon the expiration
19 of the period described in subsection (a), there is appro-
20 priated, out of amounts in the Treasury not otherwise ap-
21 propriated, such sums as may be necessary to reimburse
22 the fund established under section 5302(a)(1) of title 31,
23 United States Code, for any funds that are used for the
24 Treasury Money Market Funds Guaranty Program for the
25 United States money market mutual fund industry to the

1 extent a claim payment made exceeds the balance of fees
2 collected by the fund.

3 **SEC. 4016. TEMPORARY CREDIT UNION PROVISIONS.**

4 (a) IN GENERAL.—

5 (1) DEFINITIONS.—Section 302(1) of the Fed-
6 eral Credit Union Act (12 U.S.C. 1795a(1)) is
7 amended, in the matter preceding subparagraph (A),
8 by striking “primarily serving natural persons”.

9 (2) MEMBERSHIP.—Section 304(b)(2) of the
10 Federal Credit Union Act (12 U.S.C. 1795c(b)(2))
11 is amended by striking “all those credit unions” and
12 inserting “such credit unions as the Board may in
13 its discretion determine”.

14 (3) EXTENSIONS OF CREDIT.—Section
15 306(a)(1) of the Federal Credit Union Act (12
16 U.S.C. 1795e(a)(1)) is amended, in the second sen-
17 tence, by striking “the intent of which is to expand
18 credit union portfolios” and inserting “without first
19 having obtained evidence from the applicant that the
20 applicant has made reasonable efforts to first use
21 primary sources of liquidity of the applicant, includ-
22 ing balance sheet and market funding sources, to
23 address the liquidity needs of the applicant”.

24 (4) POWERS OF THE BOARD.—Section
25 307(a)(4)(A) of the Federal Credit Union Act (12

1 U.S.C. 1795f(a)(4)(A)) is amended by inserting “,
2 provided that, the total face value of such obliga-
3 tions shall not exceed 16 times the subscribed cap-
4 ital stock and surplus of the Facility for the period
5 beginning on the date of enactment of the
6 Coronavirus Economic Stabilization Act of 2020 and
7 ending on December 31, 2020” after “Facility”.

8 (b) SUNSET.—

9 (1) IN GENERAL.—

10 (A) DEFINITIONS.—Section 302(1) of the
11 Federal Credit Union Act (12 U.S.C. 1795a(1))
12 is amended, in the matter preceding subpara-
13 graph (A), by inserting “primarily serving nat-
14 ural persons” after “credit unions”.

15 (B) MEMBERSHIP.—Section 304(b)(2) of
16 the Federal Credit Union Act (12 U.S.C.
17 1795c(b)(2)) is amended by striking “such
18 credit unions as the Board may in its discretion
19 determine” and inserting “all those credit
20 unions”.

21 (C) EXTENSIONS OF CREDIT.—Section
22 306(a)(1) of the Federal Credit Union Act (12
23 U.S.C. 1795e(a)(1)) is amended, in the second
24 sentence, by striking “without first having ob-
25 tained evidence from the applicant that the ap-

1 plicant has made reasonable efforts to first use
2 primary sources of liquidity of the applicant, in-
3 cluding balance sheet and market funding
4 sources, to address the liquidity needs of the
5 applicant” and inserting “the intent of which is
6 to expand credit union portfolios”.

7 (2) EFFECTIVE DATE.—The amendments made
8 by paragraph (1) shall take effect on December 31,
9 2020.

10 **SEC. 4017. INCREASING ACCESS TO MATERIALS NECESSARY**
11 **FOR NATIONAL SECURITY AND PANDEMIC**
12 **RECOVERY.**

13 Notwithstanding any other provision of law—

14 (1) during the 2-year period beginning on the
15 date of enactment of this Act, the requirements de-
16 scribed in sections 303(a)(6)(C) and 304(e) of the
17 Defense Production Act of 1950 (50 U.S.C.
18 4533(a)(6)(C), 4534(e)) shall not apply; and

19 (2) during the 1-year period beginning on the
20 date of enactment of this Act, the requirements de-
21 scribed in sections 302(d)(1) and 303 (a)(6)(B) of
22 the Defense Production Act of 1950 (50 U.S.C.
23 4532(d)(1), 4533(a)(6)(B)) shall not apply.

1 **SEC. 4018. REPORTS.**

2 (a) SECRETARY.—The Secretary shall, with respect
3 to the loans, loan guarantees, and other investments under
4 paragraphs (1), (2), and (3) of section 4003(b), make
5 such reports as are required under section 5302(c) of title
6 31, United States Code, provided that the names of appli-
7 cable eligible businesses, States, and municipalities and
8 the amounts of individual loans or loan guarantees may
9 be disclosed on a delayed basis of up to 6 months, if nec-
10 essary and appropriate to promote the stability of United
11 States financial markets or the safety and soundness of
12 eligible businesses, States, and municipalities.

13 (b) GOVERNMENT ACCOUNTABILITY OFFICE.—

14 (1) STUDY.—The Comptroller General of the
15 United States shall conduct a study on the loans,
16 loan guarantees, and other investments provided
17 under section 4003.

18 (2) REPORT.—Not later than 9 months after
19 the date of enactment of this Act, and annually
20 thereafter through the year succeeding the last year
21 for which loans or loan guarantees provided under
22 section 4003 are outstanding, the Comptroller Gen-
23 eral shall submit to the Committee on Banking,
24 Housing and Urban Affairs, Committee on Trans-
25 portation and Infrastructure, the Committee on Ap-
26 propriations, and the Committee on the Budget of

1 the House of Representatives and the Committee on
2 Commerce, Science, and Transportation, the Com-
3 mittee on Appropriations, and the Committee on the
4 Budget of the Senate a report on the loans and loan
5 guarantees provided under section 4003.

6 **SEC. 4019. DIRECT APPROPRIATION.**

7 (a) IN GENERAL.—Notwithstanding any other provi-
8 sion of law, there is appropriated, out of amounts in the
9 Treasury not otherwise appropriated, to the fund estab-
10 lished under section 5302(a)(1) of title 31, United States
11 Code, \$500,000,000,000 to carry out this title.

12 (b) TECHNICAL AND CONFORMING AMENDMENT.—
13 Section 5302(a) of title 31, United States Code, is amend-
14 ed—

15 (1) by striking “and” before “section 3”; and

16 (2) by inserting “and the Coronavirus Eco-
17 nomic Stabilization Act of 2020,” before “and for
18 investing”.

19 (c) CLARIFICATION.—

20 (1) IN GENERAL.—On January 1, 2021, any re-
21 maining funds made available under section 4003(b)
22 may not be used—

23 (A) to make new loans, loan guarantees, or
24 other investments; and

1 (B) except as provided in paragraph (2),
2 may not be used for any other purpose.

3 (2) DEFICIT REDUCTION.—Any funds described
4 in paragraph (1) shall be transferred to the general
5 fund of the Treasury to be used for deficit reduction.

6 **SEC. 4020. RULE OF CONSTRUCTION.**

7 Nothing in this title shall be construed to allow the
8 Secretary to provide relief to eligible businesses, States,
9 and municipalities except in the form of loans, loan guar-
10 antees, and other investments as provided in this title and
11 under terms and conditions that are in the interest of the
12 Federal Government.

13 **SEC. 4021. TERMINATION OF AUTHORITY.**

14 (a) IN GENERAL.—Except as provided in subsection
15 (b), on December 31, 2020, the authority provided under
16 this title to make new loans, loan guarantees, or other in-
17 vestments shall terminate.

18 (b) OUTSTANDING.—Any loan, loan guarantee, or
19 other investment outstanding on the date described in sub-
20 section (a)—

21 (1) may be modified, restructured, or otherwise
22 amended; and

23 (2) may not be forgiven.

24 (c) DURATION.—The duration of any loan or loan
25 guarantee made under paragraph (1), (2), or (3) of section

1 4003(b) that is modified, restructured, or otherwise
2 amended under subsection (b)(1) shall not be extended be-
3 yond 5 years from the initial origination date of the loan
4 or loan guarantee.

5 **TITLE V—BUDGETARY**
6 **PROVISIONS**

7 **SEC. 5001. EMERGENCY DESIGNATION.**

8 (a) **IN GENERAL.**—The amounts provided under this
9 division are designated as an emergency requirement pur-
10 suant to section 4(g) of the Statutory Pay-As-You-Go Act
11 of 2010 (2 U.S.C. 933(g)).

12 (b) **DESIGNATION IN SENATE.**—In the Senate, this
13 division is designated as an emergency requirement pursu-
14 ant to section 4112(a) of H. Con. Res. 71 (115th Con-
15 gress), the concurrent resolution on the budget for fiscal
16 year 2018.