AMENDMENT NO. ________  Calendar No. ______

Purpose: To provide for a complete substitute.


S. 178

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

Referred to the Committee on ______________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by ______________ to the amendment (No. 2499) proposed by Mr. McConnell

Viz:

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Delivering Immediate Relief to America’s Families, Schools and Small Businesses Act”.

7 SEC. 2. TABLE OF CONTENTS.

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

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

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

TITLE I—CORONAVIRUS LIABILITY RELIEF

Sec. 1001. Short title.
Sec. 1002. Findings and purposes.
Sec. 1003. Definitions.

Subtitle A—Liability Relief

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

Sec. 1121. Application of part.
Sec. 1122. Liability; safe harbor.

PART II—LIABILITY LIMITATIONS FOR HEALTH CARE PROVIDERS

Sec. 1141. Application of part.
Sec. 1142. Liability for health care professionals and health care facilities during coronavirus public health emergency.

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

Sec. 1161. Jurisdiction.
Sec. 1162. Limitations on suits.
Sec. 1163. Procedures for suit in district courts of the United States.
Sec. 1164. Demand letters; cause of action.

PART IV—RELATION TO LABOR AND EMPLOYMENT LAWS

Sec. 1181. Limitation on violations under specific laws.
Sec. 1182. Liability for conducting testing at workplace.
Sec. 1183. Joint employment and independent contracting.
Sec. 1184. Exclusion of certain notification requirements as a result of the COVID–19 public health emergency.

Subtitle B—Products

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

Subtitle C—General Provisions

Sec. 1301. Severability.

TITLE II—ASSISTANCE FOR AMERICAN FAMILIES


TITLE III—SMALL BUSINESS PROGRAMS
Sec. 3001. Small business recovery.

TITLE IV—POSTAL SERVICE ASSISTANCE

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

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 5001. Emergency designation.

DIVISION B—ADDITIONAL EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE

1 SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

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

TITLE I—CORONAVIRUS LIABILITY RELIEF

SEC. 1001. SHORT TITLE.

This title may be cited as the “Safeguarding America’s Frontline Employees To Offer Work Opportunities Required to Kickstart the Economy Act” or the “SAFE TO WORK Act”.

SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:
(1) The SARS–CoV–2 virus that originated in China and causes the disease COVID–19 has caused untold misery and devastation throughout the world, including in the United States.

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

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

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

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

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

(7) Congress passed a series of statutes to address the health care and economic crises—the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Public Law 116–123; 134 Stat. 146), the Families First Coronavirus Response Act (Public Law 116–127; 134 Stat. 178), the Coronavirus Aid, Relief, and Economic Security Act or the CARES Act (Public Law 116–136), and the Paycheck Protection Program and Health Care Enhancement Act (Public Law 116–139; 134 Stat. 620). In these laws Congress exercised its power under the Commerce and Spending Clauses of the Constitution of the United States to direct trillions of taxpayer dollars toward efforts to aid workers, businesses, State and local governments, health care workers, and patients.
(8) This legislation provided short-term insulation from the worst of the economic storm, but these laws alone cannot protect the United States from further devastation. Only reopening the economy so that workers can get back to work and students can get back to school can accomplish that goal.

(9) The Constitution of the United States specifically enumerates the legislative powers of Congress. One of those powers is the regulation of interstate commerce. The Government is not a substitute for the economy, but it has the authority and the duty to act when interstate commerce is threatened and damaged. As applied to the present crisis, Congress can deploy its power over interstate commerce to promote a prudent reopening of businesses and other organizations that serve as the foundation and backbone of the national economy and of commerce among the States. These include small and large businesses, schools (which are substantial employers in their own right and provide necessary services to enable parents and other caregivers to return to work), colleges and universities (which are substantial employers and supply the interstate market for higher-education services), religious, philanthropic and other nonprofit institutions (which are substan-
tial employers and provide necessary services to their communities), and local government agencies.

(10) Congress must also ensure that the Nation’s health care workers and health care facilities are able to act fully to defeat the virus.

(11) Congress must also safeguard its investment of taxpayer dollars under the CARES Act and other coronavirus legislation. Congress must ensure that those funds are used to help businesses and workers survive and recover from the economic crisis, and to help health care workers and health care facilities defeat the virus. CARES Act funds cannot be diverted from these important purposes to line the pockets of the trial bar.

(12) One of the chief impediments to the continued flow of interstate commerce as this public-health crisis has unfolded is the risk of litigation. Small and large businesses, schools, colleges and universities, religious, philanthropic and other non-profit institutions, and local government agencies confront the risk of a tidal wave of lawsuits accusing them of exposing employees, customers, students, and worshipers to coronavirus. Health care workers face the threat of lawsuits arising from their efforts to fight the virus.
They confront this litigation risk even as they work tirelessly to comply with the coronavirus guidance, rules, and regulations issued by local governments, State governments, and the Federal Government. They confront this risk notwithstanding equipment and staffing shortages. And they confront this risk while also grappling with constantly changing information on how best to protect employees, customers, students, and worshipers from the virus, and how best to treat it.

These lawsuits pose a substantial risk to interstate commerce because they threaten to keep small and large businesses, schools, colleges and universities, religious, philanthropic and other nonprofit institutions, and local government agencies from re-opening for fear of expensive litigation that might prove to be meritless. These lawsuits further threaten to undermine the Nation’s fight against the virus by exposing our health care workers and health care facilities to liability for difficult medical decisions they have made under trying and uncertain circumstances.

These lawsuits also risk diverting taxpayer money provided under the CARES Act and other
coronavirus legislation from its intended purposes to the pockets of opportunistic trial lawyers.

(16) This risk is not purely local. It is necessarily national in scale. A patchwork of local and State rules governing liability in coronavirus-related lawsuits creates tremendous unpredictability for everyone participating in interstate commerce and acts as a significant drag on national recovery. The aggregation of each individual potential liability risk poses a substantial and unprecedented threat to interstate commerce.

(17) The accumulated economic risks for these potential defendants directly and substantially affects interstate commerce. Individuals and entities potentially subject to coronavirus-related liability will structure their decisionmaking to avoid that liability. Small and large businesses, schools, colleges and universities, religious, philanthropic and other non-profit institutions, and local government agencies may decline to reopen because of the risk of litigation. They may limit their output or engagement with customers and communities to avoid the risk of litigation. These individual economic decisions substantially affect interstate commerce because, as a whole, they will prevent the free and fair exchange
of goods and services across State lines. Such eco-
nomic activity that, individually and in the aggreg-
ate, substantially affects interstate commerce is
precisely the sort of conduct that should be subject
to congressional regulation.

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

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

(20) Such a diversion would substantially affect
interstate commerce by degrading the national ca-
pacity for combating the virus and saving patients,
thereby substantially elongating the period before
interstate commerce could fully re-engage.
(21) Congress also has the authority to determine the jurisdiction of the courts of the United States, to set the standards for causes of action they can hear, and to establish the rules by which those causes of action should proceed. Congress therefore must act to set rules governing liability in coronavirus-related lawsuits.

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

(23) Because of the national scope of the economic and health care dangers posed by the risks of coronavirus-related lawsuits, establishing temporary rules governing liability for certain coronavirus-related tort claims is a necessary and proper means of carrying into execution Congress’s power to regulate commerce among the several States.

(24) Because Congress must safeguard the investment of taxpayer dollars it made in the CARES Act and other coronavirus legislation, and ensure that they are used for their intended purposes and not diverted for other purposes, establishing tem-
porary rules governing liability for certain coronavirus-related tort claims is a necessary and proper means of carrying into execution Congress’s power to provide for the general welfare of the United States.

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

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

(2) prevent the overburdening of the court systems with undue litigation;

(3) encourage planning, care, and appropriate risk management by small and large businesses, schools, colleges and universities, religious, philanthropic and other nonprofit institutions, local government agencies, and health care providers;

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

(5) prevent litigation brought to extract settlements and enrich trial lawyers rather than vindicate meritorious claims;
(6) protect interstate commerce from the burdens of potentially meritless litigation;

(7) ensure the economic recovery proceeds without artificial and unnecessary delay;

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

(9) protect the highest and best ideals of the national economy, so businesses can produce and serve their customers, workers can work, teachers can teach, students can learn, and believers can worship.

SEC. 1003. DEFINITIONS.

In this title:

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

(A) any mandatory standards or regulations specifically concerning the prevention or mitigation of the transmission of coronavirus issued by the Federal Government, or a State or local government with jurisdiction over an individual or entity, whether provided by executive, judicial, or legislative order; and
(B) with respect to an individual or entity that, at the time of the actual, alleged, feared, or potential for exposure to coronavirus is not subject to any mandatory standards or regulations described in subparagraph (A), any guidance, standards, or regulations specifically concerning the prevention or mitigation of the transmission of coronavirus issued by the Federal Government, or a State or local government with jurisdiction over the individual or entity.

(2) **BUSINESSES, SERVICES, ACTIVITIES, OR ACCOMMODATIONS.**—The term “businesses, services, activities, or accommodations” means any act by an individual or entity, irrespective of whether the act is carried on for profit, that is interstate or foreign commerce, that involves persons or things in interstate or foreign commerce, that involves the channels or instrumentalities of interstate or foreign commerce, that substantially affects interstate or foreign commerce, or that is otherwise an act subject to regulation by Congress as necessary and proper to carry into execution Congress’s powers to regulate interstate or foreign commerce or to spend funds for the general welfare.
(3) **CORONAVIRUS.**—The term “coronavirus” means any disease, health condition, or threat of harm caused by the SARS–CoV–2 virus or a virus mutating therefrom.

(4) **CORONAVIRUS EXPOSURE ACTION.**—

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

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

(ii) brought against an individual or entity engaged in businesses, services, activities, or accommodations; and

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

(I) occurred in the course of the businesses, services, activities, or accommodations of the individual or entity; and

(II) occurred—
(aa) on or after December 1, 2019; and

(bb) before the later of—

(AA) October 1, 2024;

or

(BB) the date on which there is no declaration by the Secretary of Health and Human Services under section 319F–3(b) of the Public Health Service Act (42 U.S.C. 247d–6d(b)) (relating to medical countermeasures) that is in effect with respect to coronavirus, including the Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19 (85 Fed. Reg. 15198 ) issued by the Secretary of Health and Human Services on March 17, 2020.
(B) EXCLUSIONS.—The term “coronavirus exposure action” does not include—

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

(ii) a claim alleging intentional discrimination on the basis of race, color, national origin, religion, sex (including pregnancy), disability, genetic information, or age.

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

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

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

(B) the assessment or care of an individual with a confirmed or suspected case of coronavirus; or
(C) the care of any individual who is admitted to, presents to, receives services from, or resides at, a health care provider for any purpose during the period of a Federal emergency declaration concerning coronavirus, if such provider’s decisions or activities with respect to such individual are impacted as a result of coronavirus.

(7) CORONAVIRUS-RELATED MEDICAL LIABILITY ACTION.—

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

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

(ii) brought against a health care provider; and

(iii) alleging any harm, damage, breach, or tort resulting in the personal injury alleged to have been caused by, arising out of, or be related to a health care provider’s act or omission in the course of arranging for or providing
coronavirus-related health care services that occurred—

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

(II) before the later of—

(aa) October 1, 2024; or

(bb) the date on which there is no declaration by the Secretary of Health and Human Services under section 319F–3(b) of the Public Health Service Act (42 U.S.C. 247d–6d(b)) (relating to covered countermeasures) that is in effect with respect to coronavirus, including the Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19 (85 Fed. Reg. 15198 ) issued by the Secretary of Health and Human Services on March 17, 2020.

(B) EXCLUSIONS.—The term “coronavirus-related medical liability action” does not include—
(i) a criminal, civil, or administrative enforcement action brought by the Federal Government or any State, local, or Tribal government; or

(ii) a claim alleging intentional discrimination on the basis of race, color, national origin, religion, sex (including pregnancy), disability, genetic information, or age.

(8) Employer.—The term “employer”—

(A) means any person serving as an employer or acting directly in the interest of an employer in relation to an employee;

(B) includes a public agency; and

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

(9) Government.—The term “government” means an agency, instrumentality, or other entity of the Federal Government, a State government (including multijurisdictional agencies, instrumentalities, and entities), a local government, or a Tribal government.
(10) **GROSS NEGLIGENCE.**—The term “gross negligence” means a conscious, voluntary act or omission in reckless disregard of—

(A) a legal duty;

(B) the consequences to another party; and

(C) applicable government standards and guidance.

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

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

(B) economic and noneconomic losses.

(12) **HEALTH CARE PROVIDER.**—

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

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

(ii) otherwise authorized by Federal or State law to provide care (including services and supports furnished in a home or community-based residential setting under
the State Medicaid program or a waiver of
that program); or

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

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

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

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

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

(I) in the course of providing
health care services;
(II) in the health care professional’s capacity as a volunteer;

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

(aa) are within the scope of the license, registration, or certification of the volunteer, as defined by the State of licensure, registration, or certification; and

(bb) do not exceed the scope of license, registration, or certification of a substantially similar health professional in the State in which such act or omission occurs; and

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

(13) INDIVIDUAL OR ENTITY.—The term “individual or entity” means—

(A) any natural person, corporation, company, trade, business, firm, partnership, joint stock company, vessel in rem, educational institution, labor organization, or similar organization or group of organizations;
(B) any nonprofit organization, foundation, society, or association organized for religious, charitable, educational, or other purposes; or

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

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

(A) county;

(B) borough;

(C) municipality;

(D) city;

(E) town;

(F) township;

(G) parish;

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

(I) special district;

(J) school district;

(K) intrastate district;

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

(M) agency or instrumentality of—
(i) multiple units of local government

(including units of local government located in different States); or

(ii) an intra-State unit of local government.

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

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

(A) actual or potential physical injury to an individual or death caused by a physical injury; or

(B) mental suffering, emotional distress, or similar injuries suffered by an individual in connection with a physical injury.

(17) STATE.—The term “State”—

(A) means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory or possession of
the United States, and any political subdivision
or instrumentality thereof; and

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

(18) Tribal government.—

(A) In general.—The term “Tribal gov-
ernment” means the recognized governing body
of any Indian tribe included on the list pub-
lished by the Secretary of the Interior pursuant
to section 104(a) of the Federally Recognized
5131(a)).

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

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

(ii) has been delegated the right to ex-
ercise 1 or more substantial governmental
functions of the governing body.
(19) **WILLFUL MISCONDUCT.**—The term “willful misconduct” means an act or omission that is taken—

(A) intentionally to achieve a wrongful purpose;

(B) knowingly without legal or factual justification; and

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

**Subtitle A—Liability Relief**

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

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

(a) **CAUSE OF ACTION; TRIBAL SOVEREIGN IMMUNITY.**—

(1) **CAUSE OF ACTION.**—

(A) **IN GENERAL.**—This part creates an exclusive cause of action for coronavirus exposure actions.

(B) **LIABILITY.**—A plaintiff may prevail in a coronavirus exposure action only in accordance with the requirements of this subtitle.
(C) APPLICATION.—The provisions of this part shall apply to—

   (i) any cause of action that is a coronavirus exposure action that was filed before the date of enactment of this Act and that is pending on such date of enactment; and

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

(2) PRESERVATION OF LIABILITY LIMITS AND DEFENSES.—Except as otherwise explicitly provided in this part, nothing in this part expands any liability otherwise imposed or limits any defense otherwise available under Federal, State, or Tribal law.

(3) IMMUNITY.—Nothing in this part abrogates the immunity of any State, or waives the immunity of any Tribal government. The limitations on liability provided under this part shall control in any action properly filed against a State or Tribal government pursuant to a duly executed waiver by the State or Tribe of sovereign immunity and stating claims within the scope of this part.

(b) PREEMPTION AND SUPERSEDURE.—

   (1) IN GENERAL.—Except as described in paragraphs (2) through (6), this part preempts and su-
persedes any Federal, State, or Tribal law, including statutes, regulations, rules, orders, proclamations, or standards that are enacted, promulgated, or established under common law, related to recovery for personal injuries caused by actual, alleged, feared, or potential for exposure to coronavirus.

(2) STRicter LAws NOT PREEMPTED OR SUPERSEDED.—Nothing in this part shall be construed to affect the applicability of any provision of any Federal, State, or Tribal law that imposes stricter limits on damages or liabilities for personal injury caused by, arising out of, or related to an actual, alleged, feared, or potential for exposure to coronavirus, or otherwise affords greater protection to defendants in any coronavirus exposure action, than are provided in this part. Any such provision of Federal, State, or Tribal law shall be applied in addition to the requirements of this part and not in lieu thereof.

(3) WORKers’ COMPENSATION LAWS NOT PReEMPTED OR SUPERSEDED.—Nothing in this part shall be construed to affect the applicability of any State or Tribal law providing for a claim for benefits under a workers’ compensation scheme or program,
or to preempt or supersede an exclusive remedy under such scheme or program.

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

(5) Discrimination Claims.—Nothing in this part shall be construed to affect the applicability of any provision of any Federal, State, or Tribal law that creates a cause of action for intentional discrimination on the basis of race, color, national origin, religion, sex (including pregnancy), disability, genetic information, or age.

(6) Maintenance and Cure.—Nothing in this part shall be construed to affect a seaman’s right to claim maintenance and cure benefits.

(c) Statute of Limitations.—A coronavirus exposure action may not be commenced in any Federal, State, or Tribal government court later than 1 year after the date of the actual, alleged, feared, or potential for exposure to coronavirus.
SEC. 1122. LIABILITY; SAFE HARBOR.

(a) Requirements for Liability for Exposure to Coronavirus.—Notwithstanding any other provision of law, and except as otherwise provided in this section, no individual or entity engaged in businesses, services, activities, or accommodations shall be liable in any coronavirus exposure action unless the plaintiff can prove by clear and convincing evidence that—

(1) in engaging in the businesses, services, activities, or accommodations, the individual or entity was not making reasonable efforts in light of all the circumstances to comply with the applicable government standards and guidance in effect at the time of the actual, alleged, feared, or potential for exposure to coronavirus;

(2) the individual or entity engaged in gross negligence or willful misconduct that caused an actual exposure to coronavirus; and

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

(b) Reasonable Efforts To Comply.—

(1) Conflicting Applicable Government Standards and Guidance.—

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

(B) EXCEPTION.—If mandatory standards and regulations constituting applicable government standards and guidance issued by any government with jurisdiction over the individual or entity conflict with applicable government standards and guidance that are not mandatory and are issued by any other government with jurisdiction over the individual or entity or by
the same government that issued the mandatory standards and regulations, the plaintiff may establish that the individual or entity did not make reasonable efforts in light of all the circumstances to comply with the applicable government standards and guidance for purposes of subsection (a)(1) by establishing by clear and convincing evidence that the individual or entity was not making reasonable efforts in light of all the circumstances to comply with the mandatory standards and regulations to which the individual or entity was subject.

(2) Written or Published Policy.—

(A) In General.—If an individual or entity engaged in businesses, services, activities, or accommodations maintained a written or published policy on the mitigation of transmission of coronavirus at the time of the actual, alleged, feared, or potential for exposure to coronavirus that complied with, or was more protective than, the applicable government standards and guidance to which the individual or entity was subject, the individual or entity shall be presumed to have made reasonable efforts in light of all the circumstances to comply with the ap-
applicable government standards and guidance for purposes of subsection (a)(1).

(B) REBUTTAL.—The plaintiff may rebut the presumption under subparagraph (A) by establishing that the individual or entity was not complying with the written or published policy at the time of the actual, alleged, feared, or potential for exposure to coronavirus.

(C) ABSENCE OF A WRITTEN OR PUBLISHED POLICY.—The absence of a written or published policy shall not give rise to a presumption that the individual or entity did not make reasonable efforts in light of all the circumstances to comply with the applicable government standards and guidance for purposes of subsection (a)(1).

(3) TIMING.—For purposes of subsection (a)(1), a change to a policy or practice by an individual or entity before or after the actual, alleged, feared, or potential for exposure to coronavirus, shall not be evidence of liability for the actual, alleged, feared, or potential for exposure to coronavirus.

(e) THIRD PARTIES.—No individual or entity shall be held liable in a coronavirus exposure action for the acts or omissions of a third party, unless—
(1) the individual or entity had an obligation under general common law principles to control the acts or omissions of the third party; or

(2) the third party was an agent of the individual or entity.

(d) Mitigation.—Changes to the policies, practices, or procedures of an individual or entity for complying with the applicable government standards and guidance after the time of the actual, alleged, feared, or potential for exposure to coronavirus, shall not be considered evidence of liability or culpability.

PART II—LIABILITY LIMITATIONS FOR HEALTH CARE PROVIDERS

SEC. 1141. APPLICATION OF PART.

(a) IN GENERAL.—

(1) CAUSE OF ACTION.—

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

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

(C) APPLICATION.—The provisions of this part shall apply to—
(i) any cause of action that is a coronavirus-related medical liability action that was filed before the date of enactment of this Act and that is pending on such date of enactment; and

(ii) any coronavirus-related medical liability action filed on or after such date of enactment.

(2) Preservation of Liability Limits and Defenses.—Except as otherwise explicitly provided in this part, nothing in this part expands any liability otherwise imposed or limits any defense otherwise available under Federal, State, or Tribal law.

(3) Immunity.—Nothing in this part abrogates the immunity of any State, or waives the immunity of any Tribal government. The limitations on liability provided under this part shall control in any action properly filed against a State or Tribal government pursuant to a duly executed waiver by the State or Tribe of sovereign immunity and stating claims within the scope of this part.

(b) Preemption and Supersedure.—

(1) In general.—Except as described in paragraphs (2) through (6), this part preempts and supersedes any Federal, State, or Tribal law, including
statutes, regulations, rules, orders, proclamations, or
standards that are enacted, promulgated, or estab-
lished under common law, related to recovery for
personal injuries caused by, arising out of, or related
to an act or omission by a health care provider in
the course of arranging for or providing coronavirus-
related health care services.

(2) Strictter laws not preempted or su-
perseeded.—Nothing in this part shall be construed
to affect the applicability of any provision of any
Federal, State, or Tribal law that imposes stricter
limits on damages or liabilities for personal injury
caused by, arising out of, or related to an act or
omission by a health care provider in the course of
arranging for or providing coronavirus-related health
care services, or otherwise affords greater protection
to defendants in any coronavirus-related medical li-
ability action than are provided in this part. Any
such provision of Federal, State, or Tribal law shall
be applied in addition to the requirements of this
part and not in lieu thereof.

(3) Enforcement actions.—Nothing in this
part shall be construed to impair, limit, or affect the
authority of the Federal Government, or of any
State, local, or Tribal government to bring any
criminal, civil, or administrative enforcement action against any health care provider.

(4) DISCRIMINATION CLAIMS.—Nothing in this part shall be construed to affect the applicability of any provision of any Federal, State, or Tribal law that creates a cause of action for intentional discrimination on the basis of race, color, national origin, religion, sex (including pregnancy), disability, genetic information, or age.

(5) PUBLIC READINESS AND EMERGENCY PREPAREDNESS.—Nothing in this part shall be construed to affect the applicability of section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d) to any act or omission involving a covered countermeasure, as defined in subsection (i) of such section in arranging for or providing coronavirus-related health care services. Nothing in this part shall be construed to affect the applicability of section 319F–4 of the Public Health Service Act (42 U.S.C. 247d–6e).

(6) VACCINE INJURY.—To the extent that title XXI of the Public Health Service Act (42 U.S.C. 300aa–1 et seq.) establishes a Federal rule applicable to a civil action brought for a vaccine-related in-
jury or death, this part does not affect the application of that rule to such an action.

(c) **Statute of Limitations.**—A coronavirus-related medical liability action may not be commenced in any Federal, State, or Tribal government court later than 1 year after the date of the alleged harm, damage, breach, or tort, unless tolled for—

(1) proof of fraud;

(2) intentional concealment; or

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

**SEC. 1142. LIABILITY FOR HEALTH CARE PROFESSIONALS AND HEALTH CARE FACILITIES DURING CORONAVIRUS PUBLIC HEALTH EMERGENCY.**

(a) **Requirements for Liability for Coronavirus-related Health Care Services.**—Notwithstanding any other provision of law, and except as provided in subsection (b), no health care provider shall be liable in a coronavirus-related medical liability action unless the plaintiff can prove by clear and convincing evidence—

(1) gross negligence or willful misconduct by the health care provider; and
(2) that the alleged harm, damage, breach, or
tort resulting in the personal injury was directly
caused by the alleged gross negligence or willful mis-
conduct.

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

PART III—SUBSTANTIVE AND PROCEDURAL PRO-
VISIONS FOR CORONAVIRUS-RELATED AC-
TIONS GENERALLY

SEC. 1161. JURISDICTION.

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

(b) REMOVAL.—

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

(A) notwithstanding subsection (b)(2)(A)
of such section, such action may be removed by
any defendant without the consent of all defendants; and

(B) notwithstanding subsection (b)(1) of such section, for any cause of action that is a coronavirus-related action that was filed in a State court before the date of enactment of this Act and that is pending in such court on such date of enactment, and of which the district courts of the United States have original jurisdiction under subsection (a), any defendant may file a notice of removal of a civil action or proceeding within 30 days of the date of enactment of this Act.

(2) Procedure after removal.—Section 1447 of title 28, United States Code, shall apply to any removal of a case under paragraph (1), except that, notwithstanding subsection (d) of such section, a court of appeals of the United States shall accept an appeal from an order of a district court granting or denying a motion to remand the case to the State or Tribal government court from which it was removed if application is made to the court of appeals of the United States not later than 10 days after the entry of the order.
SEC. 1162. LIMITATIONS ON SUITS.

(a) JOINT AND SEVERAL LIABILITY LIMITATIONS.—

(1) IN GENERAL.—An individual or entity against whom a final judgment is entered in any coronavirus-related action shall be liable solely for the portion of the judgment that corresponds to the relative and proportionate responsibility of that individual or entity. In determining the percentage of responsibility of any defendant, the trier of fact shall determine that percentage as a percentage of the total fault of all individuals or entities, including the plaintiff, who caused or contributed to the total loss incurred by the plaintiff.

(2) PROPORTIONATE LIABILITY.—

(A) DETERMINATION OF RESPONSIBILITY.—In any coronavirus-related action, the court shall instruct the jury to answer special interrogatories, or, if there is no jury, the court shall make findings with respect to each defendant, including defendants who have entered into settlements with the plaintiff or plaintiffs, concerning the percentage of responsibility, if any, of each defendant, measured as a percentage of the total fault of all individuals or entities who caused or contributed to the loss incurred by the plaintiff.
(B) **Factors for Consideration.**—In determining the percentage of responsibility under this subsection, the trier of fact shall consider—

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

(ii) the nature and extent of the causal relationship between the conduct of each such individual or entity and the damages incurred by the plaintiff.

(3) **Joint Liability for Specific Intent or Fraud.**—Notwithstanding paragraph (1), in any coronavirus-related action the liability of a defendant is joint and several if the trier of fact specifically determines that the defendant—

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

(B) knowingly committed fraud.

(4) **Right to Contribution Not Affected.**—Nothing in this subsection affects the right, under any other law, of a defendant to contribution with respect to another defendant determined under paragraph (3) to have acted with spe-
specific intent to injure the plaintiff or to have knowingly committed fraud.

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

(1) the award of compensatory damages shall be limited to economic losses incurred as the result of the personal injury, harm, damage, breach, or tort, except that the court may award damages for noneconomic losses if the trier of fact determines that the personal injury, harm, damage, breach, or tort was caused by the willful misconduct of the individual or entity;

(2) punitive damages—

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

(B) may not exceed the amount of compensatory damages awarded; and

(3) the amount of monetary damages awarded to a plaintiff shall be reduced by the amount of compensation received by the plaintiff from another source in connection with the personal injury, harm, damage, breach, or tort, such as insurance or reimbursement by a government.
(c) Preemption and Supersede—

(1) In general.—Except as described in paragraphs (2) and (3), this section preempts and supersedes any Federal, State, or Tribal law, including statutes, regulations, rules, orders, proclamations, or standards that are enacted, promulgated, or established under common law, related to joint and several liability, proportionate or contributory liability, contribution, or the award of damages for any coronavirus-related action.

(2) Strictly laws not preempted or superseded.—Nothing in this section shall be construed to affect the applicability of any provision of any Federal, State, or Tribal law that—

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

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

(C) limits the damages that can be recovered from a defendant in a coronavirus-related action to a lesser amount of damages than the amount determined under this section.
(3) Public readiness and emergency preparedness.—Nothing in this part shall be construed to affect the applicability of section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d) to any act or omission involving a covered countermeasure, as defined in subsection (i) of such section in arranging for or providing coronavirus-related health care services. Nothing in this part shall be construed to affect the applicability of section 319F–4 of the Public Health Service Act (42 U.S.C. 247d–6e).

SEC. 1163. PROCEDURES FOR SUIT IN DISTRICT COURTS OF THE UNITED STATES.

(a) Pleading With Particularity.—In any coronavirus-related action filed in or removed to a district court of the United States—

(1) the complaint shall plead with particularity—

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

and

(B) with respect to a coronavirus exposure action, all places and persons visited by the person on whose behalf the complaint was filed and all persons who visited the residence of the person on whose behalf the complaint was filed
during the 14-day-period before the onset of the first symptoms allegedly caused by coronavirus, including—

(i) each individual or entity against which a complaint is filed, along with the factual basis for the belief that such individual or entity was a cause of the personal injury alleged; and

(ii) every other person or place visited by the person on whose behalf the complaint was filed and every other person who visited the residence of the person on whose behalf the complaint was filed during such period, along with the factual basis for the belief that these persons and places were not the cause of the personal injury alleged; and

(2) the complaint shall plead with particularity each alleged act or omission constituting gross negligence or willful misconduct that resulted in personal injury, harm, damage, breach, or tort.

(b) Separate Statements Concerning the Nature and Amount of Damages and Required State of Mind.—
(1) Nature and Amount of Damages.—In any coronavirus-related action filed in or removed to a district court of the United States in which monetary damages are requested, there shall be filed with the complaint a statement of specific information as to the nature and amount of each element of damages and the factual basis for the damages calculation.

(2) Required State of Mind.—In any coronavirus-related action filed in or removed to a district court of the United States in which a claim is asserted on which the plaintiff may prevail only on proof that the defendant acted with a particular state of mind, there shall be filed with the complaint, with respect to each element of that claim, a statement of the facts giving rise to a strong inference that the defendant acted with the required state of mind.

(c) Verification and Medical Records.—

(1) Verification Requirement.—

(A) In General.—The complaint in a coronavirus-related action filed in or removed to a district court of the United States shall include a verification, made by affidavit of the plaintiff under oath, stating that the pleading is
true to the knowledge of the deponent, except as to matters specifically identified as being alleged on information and belief, and that as to those matters the plaintiff believes it to be true.

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

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

(A) an affidavit by a physician or other qualified medical expert who did not treat the person on whose behalf the complaint was filed that explains the basis for such physician’s or other qualified medical expert’s belief that such person suffered the personal injury, harm, damage, breach, or tort alleged in the complaint; and
(B) certified medical records documenting
the alleged personal injury, harm, damage,
breach, or tort.

(d) Application With Federal Rules of Civil
Procedure.—This section applies exclusively to any
coronavirus-related action filed in or removed to a district
court of the United States and, except to the extent that
this section requires additional information to be con-
tained in or attached to pleadings, nothing in this section
is intended to amend or otherwise supersede applicable
rules of Federal civil procedure.

(e) Civil Discovery for Actions in District
Courts of the United States.—

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

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

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

(2) Standard.—Notwithstanding any other
provision of law, the court in any coronavirus-related
action that is filed in or removed to a district court
of the United States—
(A) shall permit discovery only with respect to matters directly related to material issues contested in the coronavirus-related action; and

(B) may compel a response to a discovery request (including a request for admission, an interrogatory, a request for production of documents, or any other form of discovery request) under rule 37 of the Federal Rules of Civil Procedure, only if the court finds that—

(i) the requesting party needs the information sought to prove or defend as to a material issue contested in such action; and

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

(f) INTERLOCUTORY APPEAL AND STAY OF DISCOVERY.—The courts of appeals of the United States shall have jurisdiction of an appeal from a motion to dismiss that is denied in any coronavirus-related action in a district court of the United States. The district court shall stay all discovery in such a coronavirus-related action until the court of appeals has disposed of the appeal.
(g) **Class Actions and Multidistrict Litigation Proceedings.**—

(1) **Class Actions.**—In any coronavirus-related action that is filed in or removed to a district court of the United States and is maintained as a class action or multidistrict litigation—

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

(B) the court, in addition to any other notice required by applicable Federal or State law, shall direct notice of the action to each member of the class, which shall include—

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

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

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

(I) the hourly fee being charged;

or

(II) if it is a contingency fee, the percentage of the final award which will be paid, including an estimate of the total amount that would be paid if
the requested damages were to be

granted; and

(III) if the cost of the litigation

is being financed, a description of the

financing arrangement.

(2) MULTIDISTRICT LITIGATIONS.—

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

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

SEC. 1164. DEMAND LETTERS; CAUSE OF ACTION.

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

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

(1) compensatory damages including costs incurred in responding to the demand; and

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

(c) ATTORNEY’S FEES AND COSTS.—In an action commenced under subsection (a), if the plaintiff is a prevailing party, the court shall, in addition to any judgment
awarded to a plaintiff, allow a reasonable attorney’s fee to be paid by the defendant, and costs of the action.

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

(e) ENFORCEMENT BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of transmitting demands for remuneration in exchange for settling, releasing, waiving, or otherwise not pursuing a claim that is, or could be, brought as part of a coronavirus-related action and that is meritless, the Attorney General may commence a civil action in any appropriate district court of the United States.

(2) RELIEF.—In a civil action under paragraph (1), the court may, to vindicate the public interest, assess a civil penalty against the respondent in an amount not exceeding $50,000 per transmitted demand for remuneration in exchange for settling, releasing, waiving or otherwise not pursuing a claim that is meritless.

(3) DISTRIBUTION OF CIVIL PENALTIES.—If the Attorney General obtains civil penalties in ac-
cordance with paragraph (2), the Attorney General shall distribute the proceeds equitably among those persons aggrieved by the respondent’s pattern or practice of transmitting demands for remuneration in exchange for settling, releasing, waiving or otherwise not pursuing a claim that is meritless.

PART IV—RELATION TO LABOR AND EMPLOYMENT LAWS

SEC. 1181. LIMITATION ON VIOLATIONS UNDER SPECIFIC LAWS.

(a) In General.—

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

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


(D) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).
(E) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

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

(G) Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.).

(2) LIMITATION.—Notwithstanding any provision of a covered Federal employment law, in any action, proceeding, or investigation resulting from or related to an actual, alleged, feared, or potential for exposure to coronavirus, or a change in working conditions caused by a law, rule, declaration, or order related to coronavirus, an employer shall not be subject to any enforcement proceeding or liability under any provision of a covered Federal employment law if the employer—

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

(B) knew of the obligation under the relevant provision; and

(C) attempted to satisfy any such obligation by—

(i) exploring options to comply with such obligations and with the applicable
government standards and guidance (such as through the use of virtual training or remote communication strategies); (ii) implementing interim alternative protections or procedures; or (iii) following guidance issued by the relevant agency with jurisdiction with respect to any exemptions from such obligation.

(b) PUBLIC ACCOMMODATION LAWS.—

(1) DEFINITIONS.—In this subsection—

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

(B) the term “covered public accommodation law” means—

(i) title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181 et seq.); or

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

(C) the term “place of public accommodation” means—
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(i) a place of public accommodation,
as defined in section 201 of the Civil
Rights Act of 1964 (42 U.S.C. 2000a); or
(ii) a public accommodation, as de-
defined in section 301 of the Americans with
Disabilities Act of 1990 (42 U.S.C.
12181); and

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

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

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

(i) has determined that the significant
risk of substantial harm to public health or
the health of employees cannot be reduced
or eliminated by reasonably modifying policies, practices, or procedures, or the provision of an auxiliary aid or service; or

(ii) has offered such a reasonable modification or auxiliary aid or service but such offer has been rejected by the individual protected by the covered law.

(B) REQUIRED WAIVER PROHIBITED.—For purposes of this subsection, no person who owns, leases (or leases to), or operates a place of public accommodation shall be required to waive any measure, requirement, or recommendation that has been adopted in accordance with a requirement or recommendation issued by the Federal Government or any State or local government with regard to coronavirus, in order to offer such a reasonable modification or auxiliary aids and services.

SEC. 1182. LIABILITY FOR CONDUCTING TESTING AT WORKPLACE.

Notwithstanding any other provision of Federal, State, or local law, an employer, or other person who hires or contracts with other individuals to provide services, that conducts tests for coronavirus on the employees of the employer or persons hired or contracted to provide services
shall not be liable for any action or personal injury directly resulting from such testing, except for those personal injuries caused by the gross negligence or intentional misconduct of the employer or other person.

SEC. 1183. JOINT EMPLOYMENT AND INDEPENDENT CONTRACTING.

Notwithstanding any other provision of Federal or State law, including any covered Federal employment law (as defined in section 181(a)), the Labor Management Relations Act, 1947 (29 U.S.C. 141 et seq.), the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), and the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), it shall not constitute evidence of a joint employment relationship or employment relationship for any employer to provide or require, for an employee of another employer or for an independent contractor, any of the following:

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

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

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

(4) Workplace testing for coronavirus.
(5) Temporary assistance due to coronavirus, including financial assistance or other health and safety benefits.

SEC. 1184. EXCLUSION OF CERTAIN NOTIFICATION REQUIREMENTS AS A RESULT OF THE COVID–19 PUBLIC HEALTH EMERGENCY.

(a) DEFINITIONS.—Section 2(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101(a)) is amended—

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

(2) in paragraph (3)—

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

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

(C) by adding at the end the following:

“(C) if occurring during the covered period, is not a result of the COVID–19 national emergency;”;

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

(4) in paragraph (8), by striking the period at the end and inserting a semicolon; and
(5) by adding at the end the following:

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

“(A) begins on January 1, 2020; and

“(B) ends 90 days after the last date of

the COVID–19 national emergency; and

“(10) the term ‘COVID–19 national emergency’

means the national emergency declared by the Presi-
dent under the National Emergencies Act (50
U.S.C. 1601 et seq.) with respect to the Coronavirus
Disease 2019 (COVID–19).”.

(b) EXCLUSION FROM DEFINITION OF EMPLOYMENT

LOSS.—Section 2(b) of the Worker Adjustment and Re-
training Notification Act (29 U.S.C. 2101(b)) is amended
by adding at the end the following:

“(3) Notwithstanding subsection (a)(6), during

the covered period an employee may not be consid-
ered to have experienced an employment loss if the
termination, layoff exceeding 6 months, or reduction
in hours of work of more than 50 percent during
each month of any 6-month period involved is a re-
sult of the COVID–19 national emergency.”.
Subtitle B—Products


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

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

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

(3) by adding at the end the following:

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

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

“(I) when such notice is in effect;
“(II) within the scope of such notice; and

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

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

“(iii) in the case of a drug—

“(I) meets the requirements for marketing under a final administrative order under section 505G of the Federal Food, Drug, and Cosmetic Act; or

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

(b) Clarifying Means of Distribution.—Section 319F–3(a)(5) of the Public Health Service Act (42 U.S.C. 247d–6d(a)(5)) is amended by inserting “by, or in partnership with, Federal, State, or local public health officials or the private sector” after “distribution” the first place it appears.
(c) **No Change to Administrative Procedure**

*Act Application to Enforcement Discretion Exercise.*—Section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d) is amended by adding at the end the following:

“(j) **Rule of Construction.**—Nothing in this section shall be construed—

“(1) to require use of procedures described in section 553 of title 5, United States Code, for a notice of use of enforcement discretion for which such procedures are not otherwise required; or

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

**Subtitle C—General Provisions**

**Sec. 1301. Severability.**

If any provision of this title, an amendment made by this title, or the application of such a provision or amendment to any person or circumstance is held to be unconstitUTIONAL, the remaining provisions of and amendments made by this title, as well as the application of such provision or amendment to any person other than the parties to the action holding the provision or amendment to be unconstitutional, or to any circumstances other than those presented in such action, shall not be affected thereby.
TITLE II—ASSISTANCE FOR AMERICAN FAMILIES

SEC. 2001. SHORT TITLE.

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

SEC. 2002. EXTENSION OF THE FEDERAL PANDEMIC UNEMPLOYMENT COMPENSATION PROGRAM.

(a) Extension.—Section 2104(e)(2) of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)) is amended by striking “July 31, 2020” and inserting “December 27, 2020”.

(b) Amount.—

(1) In general.—Section 2104(b) of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)) is amended—

(A) in paragraph (1)(B), by striking “of $600” and inserting “equal to the amount specified in paragraph (3)”;

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

“(3) Amount of Federal Pandemic Unemployment Compensation.—The amount specified in this paragraph is the following amount:
“(A) For weeks of unemployment beginning after the date on which an agreement is entered into under this section and ending on or before July 31, 2020, $600.

“(B) For weeks of unemployment beginning after the last week under subparagraph (A) and ending on or before December 27, 2020, $300.”.

(2) Technical Amendment Regarding Application to Short-Time Compensation Programs and Agreements.—Section 2104(i)(2) of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)) is amended—

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

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

(C) by adding at the end the following:

“(E) short-time compensation under section 2108 or 2109.”.

(e) Effective Date.—The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of the Relief for Workers Affected by
Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)).

**TITLE III—SMALL BUSINESS PROGRAMS**

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

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

(b) **DEFINITIONS.**—In this section:

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

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

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

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

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

(B) in subclause (VII), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(VIII) covered operations expenditures, as defined in section 1106(a) of the CARES Act (15 U.S.C. 9005(a));

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

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

“(XI) covered worker protection expenditures, as defined in such section 1106(a).”.

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

(A) in subsection (a)—
(i) by redesignating paragraphs (6), (7), and (8) as paragraphs (10), (11), and (12), respectively;

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

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

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

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

“(3) the term ‘covered operations expenditure’ means a payment for any business software or cloud computing service that facilitates business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records and expenses;”;

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

“(5) the term ‘covered property damage cost’ means a cost related to property damage and vandalism or looting due to public disturbances that oc-
curred during 2020 that was not covered by insurance or other compensation;”;

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

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

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

“(9) the term ‘covered worker protection expenditure’—

“(A) means an operating or a capital expenditure that is required to facilitate the adaptation of the business activities of an entity to comply with requirements established or guidance issued by the Department of Health and Human Services, the Centers for Disease Control, or the Occupational Safety and Health Administration during the period beginning on March 1, 2020 and ending December 31, 2020 related to the maintenance of standards for sanitation, social distancing, or any other work-
er or customer safety requirement related to COVID–19;

“(B) may include—

“(i) the purchase, maintenance, or renovation of assets that create or expand—

“(I) a drive-through window facility;

“(II) an indoor, outdoor, or combined air or air pressure ventilation or filtration system;

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

“(IV) an indoor, outdoor, or combined commercial real property;

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

“(VI) other assets relating to the compliance with the requirements or guidance described in subparagraph (A), as determined by the Administrator in consultation with the Secretary of Health and Human Services and the Secretary of Labor; and

“(ii) the purchase of—
“(I) covered materials described in section 328.103(a) of title 44, Code of Federal Regulations, or any successor regulation;

“(II) particulate filtering facepiece respirators approved by the National Institute for Occupational Safety and Health, including those approved only for emergency use authorization; or

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

“(C) does not include residential real property or intangible property;”; and

(ix) in paragraph (11), as so redesignated—

(I) in subparagraph (C), by striking “and” at the end;

(II) in subparagraph (D), by striking “and” at the end; and
(III) by adding at the end the following:

“(E) covered operations expenditures;
“(F) covered property damage costs;
“(G) covered supplier costs; and
“(H) covered worker protection expenditures; and’’;

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

“(5) Any covered operations expenditure.
“(6) Any covered property damage cost.
“(7) Any covered supplier cost.
“(8) Any covered worker protection expenditure.”;

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

(D) in subsection (e)—

(i) in paragraph (2), by inserting “payments on covered operations expenditures, payments on covered property damage costs, payments on covered supplier
costs, payments on covered worker protection expenditures,” after “lease obligations,”; and

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

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

“(h) HOLD HARMLESS.—

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

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

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

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

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

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

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

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

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

“(A) beginning on the date of the origina-
tion of a covered loan; and
“(B) ending on a date selected by the eligible recipient of the covered loan that occurs during the period—

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

“(ii) ending on December 31, 2020;”;

and

(2) by striking subsection (l).

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

(1) in subsection (e), in the matter preceding paragraph (1), by striking “An eligible” and inserting “Except as provided in subsection (l), an eligible”;

(2) in subsection (f), by inserting “or the information required under subsection (l), as applicable” after “subsection (e)”; and

(3) by adding at the end the following:

“(l) SIMPLIFIED APPLICATION.—

“(1) COVERED LOANS UNDER $150,000.—

“(A) IN GENERAL.—Notwithstanding subsection (e), with respect to a covered loan made to an eligible recipient that is not more than $150,000, the covered loan amount shall be for—
given under this section if the eligible recipient—

“(i) signs and submits to the lender an attestation that the eligible recipient made a good faith effort to comply with the requirements under section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)); and

“(ii) for the 1-year period following submission of the attestation under clause (i), retains records relevant to the attestation that prove compliance with those requirements.

“(B) Demographic Information.—An eligible recipient of a covered loan described in subparagraph (A) may complete and submit any form related to borrower demographic information.

“(C) Audit.—The Administrator may—

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

“(ii) in the case of fraud, eligibility, or other material noncompliance with applicable loan or loan forgiveness requirements, modify—
“(I) the amount of a covered loan described in subparagraph (A); or

“(II) the loan forgiveness amount with respect to a covered loan described in subparagraph (A).

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

“(A) IN GENERAL.—Notwithstanding subsection (e), with respect to a covered loan made to an eligible recipient that is more than $150,000 and not more than $2,000,000—

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

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

“(II) shall retain all relevant schedules, worksheets, and supporting documentation for the 3-year period following submission of the application for loan forgiveness; and
“(III) may complete and submit any form related to borrower demographic information;

“(ii) review by the lender of an application submitted by the eligible recipient for loan forgiveness under this section shall be limited to whether the lender received a complete application, with all fields completed, initialed, or signed, as applicable; and

“(iii) the lender shall—

“(I) accept the application submitted by the eligible recipient for loan forgiveness under this section; and

“(II) submit the application to the Administrator.

“(B) AUDIT.—The Administrator may—

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

“(ii) in the case of fraud, ineligibility, or other material noncompliance with applicable loan or loan forgiveness requirements, modify—
“(I) the amount of a covered loan described in subparagraph (A); or

“(II) the loan forgiveness amount with respect to a covered loan described in subparagraph (A).

“(3) AUDIT PLAN.—

“(A) IN GENERAL.—Not later than 30 days after the date of enactment of the Continuing the Paycheck Protection Program Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives an audit plan that details—

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

“(ii) the metrics that the Administrator shall use to determine which covered loans will be audited for each category of covered loans described in paragraphs (1) and (2).

“(B) REPORTS.—Not later than 30 days after the date on which the Administrator submits the audit plan required under subpara-
graph (A), and each month thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the review and audit activities of the Administrator under this subsection, which shall include—

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

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

“(iii) any substantial changes made to the audit plan submitted under subparagraph (A).”.


(i) PAYCHECK PROTECTION PROGRAM SECOND DRAW LOANS.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:
“(37) Paycheck protection program second draw loans.—

“(A) Definitions.—In this paragraph—

“(i) the terms ‘community financial institutions’, ‘credit union’, ‘eligible self-employed individual’, ‘insured depository institution’, ‘nonprofit organization’, ‘payroll costs’, ‘seasonal employer’, and ‘veterans organization’ have the meanings given those terms in paragraph (36), except that ‘eligible entity’ shall be substituted for ‘eligible recipient’ each place it appears in the definitions of those terms;

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

“(iii) the terms ‘covered mortgage obligation’, ‘covered operating expenditure’, ‘covered property damage cost’, ‘covered rent obligation’, ‘covered supplier cost’, ‘covered utility payment’, and ‘covered worker protection expenditure’ have the meanings given those terms in section 1106(a) of the CARES Act (15 U.S.C. 9005(a));
“(iv) the term ‘covered period’ means the period beginning on the date of the origination of a covered loan and ending on December 31, 2020;

“(v) the term ‘eligible entity’—

“(I) means any business concern, nonprofit organization, veterans organization, Tribal business concern, eligible self-employed individual, sole proprietor, independent contractor, or small agricultural cooperative that—

“(aa)(AA) with respect to a business concern, would qualify as a small business concern by the annual receipts size standard (if applicable) established by section 121.201 of title 13, Code of Federal Regulations, or any successor regulation; or

“(BB) if the entity does not qualify as a small business concern, meets the alternative size standard established under section 3(a)(5);
“(bb) employs not more than 300 employees; and

“(cc)(AA) except as provided in subitems (BB), (CC), and (DD), had gross receipts during the first or second quarter in 2020 that are not less than 35 percent less than the gross receipts of the entity during the same quarter in 2019;

“(BB) if the entity was not in business during the first or second quarter of 2019, but was in business during the third and fourth quarter of 2019, had gross receipts during the first or second quarter of 2020 that are less than 35 percent of the amount of the gross receipts of the entity during the third or fourth quarter of 2019;

“(CC) if the entity was not in business during the first, second, or third quarter of 2019, but was in business during the
fourth quarter of 2019, had gross receipts during the first or second quarter of 2020 that are less than 35 percent of the amount of the gross receipts of the entity during the fourth quarter of 2019; or

“(DD) if the entity was not in business during 2019, but was in operation on February 15, 2020, had gross receipts during the second quarter of 2020 that are less than 35 percent of the amount of the gross receipts of the entity during the first quarter of 2020;

“(II) includes an organization described in subparagraph (D)(vii) of paragraph (36) that is eligible to receive a loan under that paragraph and that meets the requirements described in items (aa) and (cc) of subclause (I); and

“(III) does not include—
“(aa) an issuer, the securities of which are listed on an exchange registered a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);

“(bb) any entity that—

“(AA) is a type of business concern described in subsection (b), (c), (d), (e), (f), (h), (l) (m), (p), (q), (r), or (s) of section 120.110 of title 13, Code of Federal Regulations, or any successor regulation;

“(BB) is a type of business concern described in section 120.110(g) of title 13, Code of Federal Regulations, or any successor regulation, except as otherwise provided in the interim final rule of the Administration entitled ‘Business Loan Program Temporary Changes;
Paycheck Protection Program—Additional Eligibility Criteria and Requirements for Certain Pledges of Loans’ (85 Fed. Reg. 21747 (April 20, 2020));

“(CC) is a type of business concern described in section 120.110(i) of title 13, Code of Federal Regulations, or any successor regulation, except if the business concern is an organization described in paragraph (36)(D)(vii);

“(DD) is a type of business concern described in section 120.110(j) of title 13, Code of Federal Regulations, or any successor regulation, except as otherwise provided in the interim final rules of the Administration entitled ‘Business Loan Program Temporary Changes;
Paycheck Protection Program—Eligibility of Certain Electric Cooperatives’ (85 Fed. Reg. 29847 (May 19, 2020)) and ‘Business Loan Program Temporary Changes; Paycheck Protection Program—Eligibility of Certain Telephone Cooperatives’ (85 Fed. Reg. 35550 (June 11, 2020)) or any other guidance or rule issued or that may be issued by the Administrator;

“(EE) is a type of business concern described in section 120.110(n) of title 13, Code of Federal Regulations, or any successor regulation, except as otherwise provided in the interim final rule of the Administration entitled ‘Business Loan Program Temporary Changes; Paycheck Protection Pro-
gram—Additional Eligibility

Revisions to First Interim


38301 (June 26, 2020)) or

any other guidance or rule

issued or that may be issued

by the Administrator;

“(FF) is a type of business concern described in

section 120.110(o) of title

13, Code of Federal Regulations, or any successor regu-

lation, except as otherwise

provided in any guidance or

rule issued or that may be

issued by the Administrator;

or

“(GG) is an entity that

is organized for research or

for engaging in advocacy in

areas such as public policy

or political strategy or other-

wise describes itself as a

think tank in any public

documents;
“(HH) is an entity that would be described in the subsections listed in subitems (AA) through (GG) if the entity were a business concern; or

“(II) is assigned, or was approved for a loan under paragraph (36) with,

a North American Industry Classification System code beginning with 52;

“(cc) any business concern or entity primarily engaged in political or lobbying activities, which shall include any entity that is organized for research or for engaging in advocacy in areas such as public policy or political strategy or otherwise describes itself as a think tank in any public documents; or

“(dd) any business concern or entity—
“(AA) for which an entity created in or organized under the laws of the People’s Republic of China or the Special Administrative Region of Hong Kong, or that has significant operations in the People’s Republic of China or the Special Administrative Region of Hong Kong, owns or holds, directly or indirectly, not less than 20 percent of the economic interest of the business concern or entity, including as equity shares or a capital or profit interest in a limited liability company or partnership; or

“(BB) that retains, as a member of the board of directors of the business concern, a person who is a resident of the People’s Republic of China;
“(vi) the terms ‘exchange’, ‘issuer’, and ‘security’ have the meanings given those terms in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)); and

“(vii) the term ‘Tribal business concern’ means a Tribal business concern described in section 31(b)(2)(C).

“(B) LOANS.—Except as otherwise provided in this paragraph, the Administrator may guarantee covered loans to eligible entities under the same terms, conditions, and processes as a loan made under paragraph (36).

“(C) MAXIMUM LOAN AMOUNT.—

“(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the maximum amount of a covered loan made to an eligible entity is the lesser of—

“(I) the product obtained by multiplying—

“(aa) at the election of the eligible entity, the average total monthly payment for payroll costs incurred or paid by the eligible entity during—
“(AA) the 1-year period before the date on which the loan is made; or

“(BB) calendar year 2019; by

“(bb) 2.5; or

“(II) $2,000,000.

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

“(I) the product obtained by multiplying—

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

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

“(BB) for a consecutive 12-week period between May
1, 2019 and September 15, 2019; by
“(bb) 2.5; or
“(II) $2,000,000.
“(iii) NEW ENTITIES.—The maximum amount of a covered loan made to an eligible entity that did not exist during the 1-year period preceding February 15, 2020 is the lesser of—
“(I) the product obtained by multiplying—
“(aa) the quotient obtained by dividing—
“(AA) the sum of the total monthly payments by the eligible entity for payroll costs paid or incurred by the eligible entity as of the date on which the eligible entity applies for the covered loan; by
“(BB) the number of months in which those payroll costs were paid or incurred; by
“(bb) 2.5; or

“(II) $2,000,000.

“(iv) LIMIT FOR MULTIPLE LOCATIONS.—With respect to an eligible entity with more than 1 physical location, the total amount of all covered loans shall be not more than $2,000,000.

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

“(vi) 90 DAY RULE FOR MAXIMUM LOAN AMOUNT.—The maximum aggregate loan amount of loans guaranteed under this subsection that are approved for an eligible entity (including any affiliates) within 90 days of approval of another loan under this subsection for the eligible entity (including any affiliates) shall not exceed $10,000,000.

“(D) EXCEPTION FROM CERTIFICATION REQUIREMENTS.—An eligible entity applying for a covered loan shall not be required to make the certification described in subclause (III) or (IV) of paragraph (36)(G)(i).
“(E) Fee waiver.—With respect to a covered loan—

“(i) in lieu of the fee otherwise applicable under paragraph (23)(A), the Administrator shall collect no fee; and

“(ii) in lieu of the fee otherwise applicable under paragraph (18)(A), the Administrator shall collect no fee.

“(F) Eligible churches and religious organizations.—

“(i) Sense of Congress.—It is the sense of Congress that the interim final rule of the Administration entitled ‘Business Loan Program Temporary Changes; Paycheck Protection Program’ (85 Fed. Reg. 20817 (April 15, 2020)) properly clarified the eligibility of churches and religious organizations for loans made under paragraph (36).

“(ii) Applicability of prohibition.—The prohibition on eligibility established by section 120.110(k) of title 13, Code of Federal Regulations, or any successor regulation, shall not apply to a covered loan.
“(G) GROSS RECEIPTS FOR NONPROFIT AND VETERANS ORGANIZATIONS.—For purposes of calculating gross receipts under subparagraph (A)(v)(I)(ee) for an eligible entity that is a nonprofit organization, a veterans organization, or an organization described in subparagraph (A)(v)(II), gross receipts—

“(i) shall include proceeds from fund-raising events, federated campaigns, gifts, donor-advised funds, and funds from similar sources; and

“(ii) shall not include—

“(I) Federal grants (excluding any loan forgiveness on loans received under paragraph (36) or this paragraph);

“(II) revenues from a supporting organization;

“(III) grants from private foundations that are disbursed over the course of more than 1 calendar year; or

“(IV) any contribution of property other than money, stocks, bonds, and other securities, provided that the
non-cash contribution is not sold by
the organization in a transaction un-
related to the tax-exempt purpose of
the organization.

“(H) LOAN FORGIVENESS.—

“(i) IN GENERAL.—Except as other-
wise provided in this subparagraph, an eli-
gible entity shall be eligible for forgiveness
of indebtedness on a covered loan in the
same manner as an eligible recipient with
respect to a loan made under paragraph
(36), as described in section 1106 of the

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

“(I) Payroll costs.

“(II) Any payment of interest on
any covered mortgage obligation
(which shall not include any prepay-
ment of or payment of principal on a
covered mortgage obligation).
“(III) Any covered operations expenditure.

“(IV) Any covered property damage cost.

“(V) Any payment on any covered rent obligation.

“(VI) Any covered utility payment.

“(VII) Any covered supplier cost.

“(VIII) Any covered worker protection expenditure.

“(iii) LIMITATION ON FORGIVENESS FOR ALL ELIGIBLE ENTITIES.—The forgiveness amount under this subparagraph shall be equal to the lesser of—

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

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

“(aa) the amount of the covered loan used for payroll costs during the covered period; and

“(bb) 0.60.

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

“(J) Reimbursement for Loan Processing and Servicing.—The Administrator
shall reimburse a lender authorized to make a
covered loan in an amount that is—

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

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

“(K) Set Aside for Small Entities.—
Not less than $25,000,000,000 of the total
amount of covered loans guaranteed by the Ad-
ministrator shall be made to eligible entities
with not more than 10 employees as of Feb-

“(L) Set Aside for Community Finan-
cial Institutions, Small Insured Deposi-
tory Institutions, Credit Unions, and
Farm Credit System Institutions.—Not less
than $10,000,000,000 of the total amount of
covered loans guaranteed by the Administrator shall be made by—

“(i) community financial institutions;

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

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

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

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

“(N) STANDARD OPERATING PROCEDURE.—The Administrator shall, to the maximum extent practicable, allow a lender approved to make covered loans to use existing
program guidance and standard operating procedures for loans made under this subsection.

“(O) Prohibition on use of proceeds for lobbying activities.—None of the proceeds of a covered loan may be used for—

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

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

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

(j) Continued Access to the Paycheck Protection Program.—

(1) In general.—Section 7(a)(36)(E)(ii) of the Small Business Act (15 U.S.C. 636(a)(36)(E)(ii)) is amended by striking “$10,000,000” and inserting “$2,000,000”.

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

(B) APPLICABILITY.—The amendment made by paragraph (1) shall apply only with respect to a covered loan applied for by an eligible recipient on or after the date of enactment of this Act.

(k) INCREASED ABILITY FOR PAYCHECK PROTECTION PROGRAM BORROWERS TO REQUEST AN INCREASE IN LOAN AMOUNT DUE TO UPDATED REGULATIONS.—

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

(2) INCREASED AMOUNT.—Notwithstanding the interim final rule issued by the Administration entitled “Business Loan Program Temporary Changes; Paycheck Protection Program—Loan Increases” (85 Fed. Reg. 29842 (May 19, 2020)), an eligible recipient of a covered loan that is eligible for an increased covered loan amount as a result of any interim final rule that allows for covered loan increases may sub-
mit a request for an increase in the covered loan amount even if—

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

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

(i) Calculation of Maximum Loan Amount for Farmers and Ranchers Under the Paycheck Protection Program.—

(1) In General.—Section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)), as amended by subsection (j) of this section, is amended—

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

(B) by adding at the end the following:

“(T) Calculation of Maximum Loan Amount for Farmers and Ranchers.—

“(i) Definition.—In this subpara-graph, the term ‘covered recipient’ means an eligible recipient that—
“(I) operates as a sole proprietorship or as an independent contractor, or is an eligible self-employed individual;

“(II) reports farm income or expenses on a Schedule F (or any equivalent successor schedule); and

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

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

“(I) the sum of—

“(aa) the product obtained by multiplying—

“(AA) the gross income of the covered recipient in 2019, as reported on a Schedule F (or any equivalent successor schedule), that is not more than $100,000, divided by 12; and
“(BB) 2.5; and

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

“(II) $2,000,000.

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

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

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

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

(m) Farm Credit System Institutions.—

(1) Definition of Farm Credit System in-
stitution.—In this subsection, the term “Farm
Credit System institution”—

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

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

(2) Facilitation of Participation in PPP
and Second Draw Loans.—
(A) APPLICABLE RULES.—Solely with respect to loans under paragraphs (36) and (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), Farm Credit Administration regulations and guidance issued as of July 14, 2020, and compliance with such regulations and guidance, shall be deemed functionally equivalent to requirements referenced in section 3(a)(iii)(II) of the interim final rule of the Administration entitled “Business Loan Program Temporary Changes; Paycheck Protection Program” (85 Fed. Reg. 20811 (April 15, 2020)) or any similar requirement referenced in that interim final rule in implementing such paragraph (37).

(B) APPLICABILITY OF CERTAIN LOAN REQUIREMENTS.—For purposes of making loans under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or forgiving those loans in accordance with section 1106 of the CARES Act (15 U.S.C. 9005) and subparagraph (H) of such paragraph (37), sections 4.13, 4.14, and 4.14A of the Farm Credit Act of 1971 (12 U.S.C. 2199, 2202, 2202a)
(including regulations issued under those sec-
tions) shall not apply.

(C) Risk weight.—

(i) In general.—With respect to the
application of Farm Credit Administration
capital requirements, a loan described in
clause (ii)—

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

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

(ii) Loans described.—A loan re-
ferred to in clause (i) is—

(I) a loan made by a Farm Cred-
it Bank described in section 1.2(a) of
the Farm Credit Act of 1971 (12
U.S.C. 2002(a)) to a Federal Land
Bank Association, a Production Credit
Association, or an agricultural credit
association described in that section
to make loans under paragraph (36)
or (37) of section 7(a) of the Small
Business Act (15 U.S.C. 636(a)) or
forgive those loans in accordance with section 1106 of the CARES Act (15 U.S.C. 9005) and subparagraph (H) of such paragraph (37); or

(II) a loan made by a Federal Land Bank Association, a Production Credit Association, an agricultural credit association, or the bank for cooperatives described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)) under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

(D) Reservation of Loan Guarantees.—Section 7(a)(36)(S) of the Small Business Act (15 U.S.C. 636(a)(36)(S)) is amended—

(i) in clause (i)—

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

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

and
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(III) by adding at the end the following:

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

(ii) in clause (ii)—

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

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

(III) by adding at the end the following:

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

(n) DEFINITION OF SEASONAL EMPLOYER.—

(1) PPP LOANS.—Section 7(a)(36)(A) of the Small Business Act (15 U.S.C. 636(a)(36)(A)) is amended—
(A) in clause (xi), by striking “and” at the end;

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

(C) by adding at the end the following:

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

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

“(II) during the preceding calendar year, had gross receipts for any 6 months of that year that were not more than 33.33 percent of the gross receipts of the employer for the other 6 months of that year.”.

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

“(12) the terms ‘payroll costs’ and ‘seasonal employer’ have the meanings given those terms in section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)).”.
(o) Eligibility of 501(c)(6) Organizations for Loans Under the Paycheck Protection Program.—Section 7(a)(36)(D) of the Small Business Act (15 U.S.C. 636(a)(36)(D)) is amended—

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

(2) in clause (vi), by inserting “, an organization described in clause (vii),” after “nonprofit organization”; and

(3) by adding at the end the following:

“(vii) Eligibility for certain 501(c)(6) Organizations.—

“(I) In general.—Except as provided in subclause (II), any organization that is described in section 501(c)(6) of the Internal Revenue Code and that is exempt from taxation under section 501(a) of such Code (excluding professional sports leagues and organizations with the purpose of promoting or participating in a political campaign or other activity) shall be eligible to receive a covered loan if—
“(aa) the organization does not receive more than 10 percent of its receipts from lobbying activities;

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

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

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

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

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

“(cc) the destination marketing organization employs not more than 150 employees; and

“(dd) the destination marketing organization—

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

or

“(BB) is a quasi-governmental entity or is a political subdivision of a State or local government, including any instrumentality of those entities.”.

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

“(vi) PROHIBITION.—None of the proceeds of a covered loan may be used for—
“(I) lobbying activities, as defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602);

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

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

(q) EFFECTIVE DATE; APPLICABILITY.—The amendments made to paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) and title I of the CARES Act (Public Law 116–136) under this section shall be effective as if included in the CARES Act and shall apply to any loan made pursuant to section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)).

(r) BANKRUPTCY PROVISIONS.—

(1) IN GENERAL.—Section 364 of title 11, United States Code, is amended by adding at the end the following:
“(g)(1) The court, after notice and a hearing, may authorize a debtor in possession or a trustee that is authorized to operate the business of the debtor under section 1183, 1184, 1203, 1204, or 1304 of this title to obtain a loan under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), and such loan shall be treated as a debt to the extent the loan is not forgiven in accordance with section 1106 of the CARES Act (15 U.S.C. 9005) or subparagraph (H) of such paragraph (37), as applicable, with priority equal to a claim of the kind specified in subsection (c)(1) of this section.

“(2) The trustee may incur debt described in paragraph (1) notwithstanding any provision in a contract, prior order authorizing the trustee to incur debt under this section, prior order authorizing the trustee to use cash collateral under section 363, or applicable law that prohibits the debtor from incurring additional debt.

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

(2) ALLOWANCE OF ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, is amended—
(A) in paragraph (8)(B), by striking “and” at the end;

(B) in paragraph (9), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

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

(3) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1191 of title 11, United States Code, is amended by adding at the end the following:

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

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

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

(5) Confirmation of plan for individuals.—Section 1325 of title 11, United States Code, is amended by adding at the end the following:

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

(6) Effective date; sunset.—

(A) Effective date.—The amendments made by paragraphs (1) through (5) shall—

(i) take effect on the date on which the Administrator submits to the Director of the Executive Office for United States Trustees a written determination that, subject to satisfying any other eligibility requirements, any debtor in possession or trustee that is authorized to operate the
business of the debtor under section 1183, 1184, 1203, 1204, or 1304 of title 11, United States Code, would be eligible for a loan under paragraphs (36) and (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)); and

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

(B) SUNSET.—

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

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

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

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

(bb) in paragraph (9), by striking “; and” at the end and inserting a period; and
(cc) by striking paragraph (10);

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

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

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

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

(s) OVERSIGHT.—

(1) COMPLIANCE WITH OVERSIGHT REQUIREMENTS.—
(A) IN GENERAL.—Except as provided in subparagraph (B), on and after the date of enactment of this Act, the Administrator shall comply with any data or information requests or inquiries made by the Comptroller General of the United States not later than 30 days (or such later date as the Comptroller General may specify) after receiving the request or inquiry.

(B) EXCEPTION.—If the Administrator is unable to comply with a request or inquiry described in subparagraph (A) within the 30-day period or, if applicable, later period described in that clause, the Administrator shall, during that 30-day (or later) period, submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a notification that includes a detailed justification for the inability of the Administrator to comply with the request or inquiry.

(2) TESTIMONY.—Not later than the date that is 30 days after the date of enactment of this Act, and every quarter thereafter until the date that is 2 years after the date of enactment of this Act, the Administrator and the Secretary of the Treasury
shall testify before the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding implementation of this section and the amendments made by this section.

(t) **CONFLICTS OF INTEREST.**—

(1) **DEFINITIONS.**—In this subsection:

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

(B) **COVERED ENTITY.**—

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

(ii) **TREATMENT OF SECURITIES.**—For the purpose of determining whether an entity is a covered entity, the securities owned, controlled, or held by 2 or more individuals who are related as described in subparagraph (C)(ii) shall be aggregated.

(C) **COVERED INDIVIDUAL.**—The term “covered individual” means—
(i) the President, the Vice President, the head of an Executive department, or a Member of Congress; and

(ii) the spouse, child, son-in-law, or daughter-in-law, as determined under applicable common law, of an individual described in clause (i).

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

(E) MEMBER OF CONGRESS.—The term “Member of Congress” means a Member of the Senate or House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

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

(i) a share in an entity, without regard to whether the share is—

(I) transferable; or

(II) classified as stock or anything similar;

(ii) a capital or profit interest in a limited liability company or partnership; or
(iii) a warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share or interest described in clause (i) or (ii), respectively.

(2) REQUIREMENT.—The principal executive officer and the principal financial officer, or individuals performing similar functions, of an entity seeking to enter a transaction made under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as added and amended by this section, shall, before that transaction is approved, disclose to the Administrator whether the entity is a covered entity.

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

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

(B) shall not apply with respect to—

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

(u) COMMITMENT AUTHORITY AND APPROPRIATIONS.—

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

(A) in paragraph (1)—

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

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

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

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

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

“(2) OTHER 7(A) LOANS.—During fiscal year 2020, the amount authorized for commitments for
section 7(a) of the Small Business Act (15 U.S.C. 636(a)) under the heading ‘Small Business Administration—Business Loans Program Account’ in the Financial Services and General Government Appropriations Act, 2020 (division C of Public Law 116–193) shall apply with respect to any commitments under such section 7(a) other than under paragraphs (36) and (37) of such section 7(a).”.

(2) DIRECT APPROPRIATIONS.—

(A) RESCISSION.—With respect to unobligated balances under the heading ‘‘Small Business Administration—Business Loans Program Account, CARES Act’’ as of the day before the date of enactment of this Act, $100,000,000,000 shall be rescinded and deposited into the general fund of the Treasury.

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

(i) PPP AND SECOND DRAW LOANS.—

There is appropriated, out of amounts in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020, to remain available until September 30, 2021, for additional amounts—
(I) $257,690,000,000 under the heading “Small Business Administration—Business Loans Program Account, CARES Act” for the cost of guaranteed loans as authorized under paragraph (36) and (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as amended and added by this Act; and

(II) $10,000,000 under the heading under the heading “Department of Commerce—Minority Business Development Agency” for minority business centers of the Minority Business Development Agency to provide technical assistance to small business concerns.

(C) Availability of amounts appropriated for the Office of Inspector General.—Section 1107(a)(3) of the CARES Act (15 U.S.C. 9006(a)(3)) is amended by striking “September 20, 2024” and inserting “ex- pended”.

TITLE IV—POSTAL SERVICE
ASSISTANCE

SEC. 4001. COVID–19 FUNDING FOR THE UNITED STATES POSTAL SERVICE.

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

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

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

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

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

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

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

“(d) CERTIFICATIONS.—

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

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

TITLE V—MISCELLANEOUS
PROVISIONS

SEC. 5001. EMERGENCY DESIGNATION.

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

(b) DESIGNATION IN SENATE.—In the Senate, this
Act and the amendments made by this Act are designated
as an emergency requirement pursuant to section 4112(a)
of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

DIVISION B—ADDITIONAL EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE

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

TITLE I

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(including transfer of funds)

For an additional amount for “Public Health and Social Services Emergency Fund”, $29,000,000,000, to remain available until September 30, 2024, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including the development of necessary countermeasures and vaccines, prioritizing platform-based technologies with U.S.-based manufacturing capabilities, the purchase of vaccines, therapeutics, diagnostics, necessary medical supplies, as well as medical surge capacity,
addressing blood supply chain, workforce modernization, telehealth access and infrastructure, initial advanced manufacturing, novel dispensing, enhancements to the U.S. Commissioned Corps, and other preparedness and response activities: Provided, That funds appropriated under this paragraph in this Act may be used to develop and demonstrate innovations and enhancements to manufacturing platforms to support such capabilities: Provided further, That the Secretary of Health and Human Services shall purchase vaccines developed using funds made available under this paragraph in this Act to respond to an outbreak or pandemic related to coronavirus in quantities determined by the Secretary to be adequate to address the public health need: Provided further, That products purchased by the Federal government with funds made available under this paragraph in this Act, including vaccines, therapeutics, and diagnostics, shall be purchased in accordance with Federal Acquisition Regulation guidance on fair and reasonable pricing: Provided further, That the Secretary may take such measures authorized under current law to ensure that vaccines, therapeutics, and diagnostics developed from funds provided in this Act will be affordable in the commercial market: Provided further, That in carrying out the previous proviso, the Secretary shall not take actions that delay the development of such
products: Provided further, That the Secretary shall ensure that protections remain for individuals enrolled in group or individual health care coverage with pre-existing conditions, including those linked to coronavirus: Provided further, That products purchased with funds appropriated under this paragraph in this Act may, at the discretion of the Secretary of Health and Human Services, be deposited in the Strategic National Stockpile under section 319F–2 of the Public Health Service Act: Provided further, That of the amount appropriated under this paragraph in this Act, not more than $2,000,000,000 shall be for the Strategic National Stockpile under section 319F–2(a) of such Act: Provided further, That funds appropriated under this paragraph in this Act may be transferred to, and merged with, the fund authorized by section 319F–4, the Covered Countermeasure Process Fund, of the Public Health Service Act: Provided further, That of the amount appropriated under this paragraph in this Act, $20,000,000,000 shall be available to the Biomedical Advanced Research and Development Authority for necessary expenses of manufacturing, production, and purchase, at the discretion of the Secretary, of vaccines, therapeutics, diagnostics, and small molecule active pharmaceutical ingredients, including the development, translation, and demonstration at scale of innovations in manufacturing...
platforms: *Provided further*, That funds in the previous
proviso may be used for the construction or renovation of
U.S.-based next generation manufacturing facilities, other
than facilities owned by the United States Government:

*Provided further*, That of the amount provided under this
heading in this Act, $6,000,000,000 shall be for activities
to plan, prepare for, promote, distribute, administer, mon-
itor, and track coronavirus vaccines to ensure broad-based
distribution, access, and vaccine coverage: *Provided fur-
ther*, That the Secretary shall coordinate funding and ac-
tivities outlined in the previous proviso through the Direc-
tor of CDC: *Provided further*, That the Secretary, through
the Director of CDC, shall report to the Committees on
Appropriations of the House of Representatives and the
Senate within 60 days of enactment of this Act on a com-
prehensive coronavirus vaccine distribution strategy and
spend plan that includes how existing infrastructure will
be leveraged, enhancements or new infrastructure that
may be built, considerations for moving and storing vac-
cines, guidance for how States and health care providers
should prepare for, store, and administer vaccines, nation-
wide vaccination targets, funding that will be distributed
to States, how an informational campaign to both the pub-
lic and health care providers will be executed, and how
the vaccine distribution plan will focus efforts on high risk,
underserved, and minority populations: Provided further,

That such plan shall be updated and provided to the Committees on Appropriations of the House of Representatives and the Senate 90 days after submission of the first plan: Provided further, That the Secretary shall notify the Committees on Appropriations of the House of Representatives and the Senate 2 days in advance of any obligation in excess of $50,000,000, including but not limited to contracts and interagency agreements, from funds provided in this paragraph in this Act: Provided further, That funds appropriated under this paragraph in this Act may be used for the construction, alteration, or renovation of non-federally owned facilities for the production of vaccines, therapeutics, diagnostics, and medical supplies where the Secretary determines that such a contract is necessary to secure sufficient amounts of such supplies: Provided further, That the not later than 30 days after enactment of this Act, and every 30 days thereafter until funds are expended, the Secretary shall report to the Committees on Appropriations of the House of Representatives and the Senate on uses of funding for Operation Warp Speed, detailing current obligations by Department or Agency, or component thereof broken out by the coronavirus supplemental appropriations Act that provided the source of funds: Provided further, That the plan outlined in the pre-
vious proviso shall include funding by contract, grant, or other transaction in excess of $20,000,000 with a notation of which Department or Agency, and component thereof is managing the contract. Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for “Public Health and Social Services Emergency Fund”, $16,000,000,000, to remain available until expended, to prevent, prepare for, and respond to coronavirus, domestically or internationally, which shall be for necessary expenses for testing, contact tracing, surveillance, containment, and mitigation to monitor and suppress COVID–19, including tests for both active infection and prior exposure, including molecular, antigen, and serological tests, the manufacturing, procurement and distribution of tests, testing equipment and testing supplies, including personal protective equipment needed for administering tests, the development and validation of rapid, molecular point-of-care tests, and other tests, support for workforce, epidemiology, to scale up academic, commercial, public health, and hospital laboratories, to conduct surveillance and contact tracing, support development of COVID–19 testing plans, and other re-
lated activities related to COVID–19 testing: Provided,
That of the amount appropriated under this paragraph in
this Act, not less than $15,000,000,000 shall be for
States, localities, territories, tribes, tribal organizations,
urban Indian health organizations, or health service pro-
viders to tribes for necessary expenses for testing, contact
tracing, surveillance, containment, and mitigation, includ-
ing support for workforce, epidemiology, use by employers,
elementary and secondary schools, child care facilities, in-
stitutions of higher education, long-term care facilities, or
in other settings, scale up of testing by public health, aca-
demic, commercial, and hospital laboratories, and commu-
nity-based testing sites, health care facilities, and other
entities engaged in COVID–19 testing, and other related
activities related to COVID–19 testing, contact tracing,
surveillance, containment, and mitigation: Provided fur-
ther, That the amount identified in the preceding proviso
shall be allocated to States, localities, and territories ac-
cording to the formula that applied to the Public Health
Emergency Preparedness cooperative agreement in fiscal
year 2019: Provided further, That not less than
$500,000,000 shall be allocated in coordination with the
Director of the Indian Health Service, to tribes, tribal or-
ganizations, urban Indian health organizations, or health
service providers to tribes: Provided further, That the Sec-
Secretary of Health and Human Services (referred to in this paragraph as the “Secretary”) may satisfy the funding thresholds outlined in the first and third provisos under this paragraph in this Act by making awards through other grant or cooperative agreement mechanisms: Provided further, That the Governor or designee of each State, locality, territory, tribe, or tribal organization receiving funds pursuant to this Act shall update their plans, as applicable, for COVID–19 testing and contact tracing submitted to the Secretary pursuant to the Paycheck Protection Program and Health Care Enhancement Act (Public Law 116–139) and submit such updates to the Secretary not later than 60 days after funds appropriated in this paragraph in this Act have been awarded to such recipient: Provided further, That funds an entity receives from amounts described in the first proviso in this paragraph may also be used for the rent, lease, purchase, acquisition, construction, alteration, renovation, or equipping of non-federally owned facilities to improve coronavirus preparedness and response capability at the State and local level: Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.
For an additional amount for “Education Stabilization Fund”, $105,000,000,000, to remain available through September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally:

Provided, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISIONS

EDUCATION STABILIZATION FUND

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

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

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

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

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

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

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

GOVERNOR’S EMERGENCY EDUCATION RELIEF FUND

Sec. 102. (a) GRANTS.—From funds reserved under section 101(b)(1) of this title, the Secretary shall make supplemental Emergency Education Relief grants to the Governor of each State with an approved application under section 18002 of division B of the CARES Act (Public Law 116–136). The Secretary shall award funds under this section to the Governor of each State with an approved application within 30 calendar days of enactment of this Act.

(b) ALLOCATIONS.—The amount of each grant under subsection (a) shall be allocated by the Secretary to each State as follows:
1. (1) 60 percent on the basis of their relative population of individuals aged 5 through 24.
2. (2) 40 percent on the basis of their relative number of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (referred to under this heading as ‘‘ESEA’’).
3. (e) USES OF FUNDS.—Grant funds awarded under subsection (b) may be used to—
4. (1) provide emergency support through grants to local educational agencies that the State educational agency deems have been most significantly impacted by coronavirus to support the ability of such local educational agencies to continue to provide educational services to their students and to support the on-going functionality of the local educational agency;
5. (2) provide emergency support through grants to institutions of higher education serving students within the State that the Governor determines have been most significantly impacted by coronavirus to support the ability of such institutions to continue to provide educational services and support the on-going functionality of the institution; and
6. (3) provide support to any other institution of higher education, local educational agency, or edu-
cation related entity within the State that the Governor deems essential for carrying out emergency educational services to students for authorized activities described in section 103(e) of this title, the ESEA of 1965, the Higher Education Act of 1965, the provision of child care and early childhood education, social and emotional support, career and technical education, adult education, and the protection of education-related jobs.

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

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

ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF FUND

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

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

(c) SUBGRANTS.—From the payment provided by the Secretary under subsection (b), the State educational agency shall provide services and assistance to local educational agencies and non-public schools, consistent with the provisions of this title. After carrying out the reservation of funds in section 105 of this title, each State shall allocate not less than 90 percent of the remaining grant funds awarded to the State under this section as sub-grants to local educational agencies (including charter schools that are local educational agencies) in the State in proportion to the amount of funds such local educational agencies and charter schools that are local educational agencies received under part A of title I of the ESEA of 1965 in the most recent fiscal year. The state
educational agency shall make such subgrants to local educational agencies as follows—

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

(2) the remaining two-thirds of funds shall be awarded only after the local educational agency submits to the Governor and the Governor approves a comprehensive school reopening plan for the 2020–2021 school-year, based on criteria determined by the Governor in consultation with the state educational agency (including criteria for the Governor to carry out subparagraph (A) through (C)), that describes how the local educational agency will safely reopen schools with the physical presence of students, consistent with maintaining safe and continuous operations aligned with challenging state academic standards. The Governor shall approve such plans within 30 days after the plan is submitted, subject to the requirements in subparagraphs (A) through (C).

(A) A local educational agency that provides in-person instruction for at least 50 percent of its students where the students physically attend school no less than 50 percent of
each school-week, as it was defined by the local educational agency prior to the coronavirus emergency, shall have its plan automatically approved.

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

(C) A local educational agency that provides in-person instruction to at least some students where the students physically attend school in-person but does not satisfy the requirements in subparagraph (A) shall have its allocation reduced on a pro rata basis as determined by the Governor.

(d) Plan Contents.—A school reopening plan submitted to a Governor under subsection (c)(2) shall include, in addition to any other information necessary to meet the criteria determined by the Governor—

(1) A detailed timeline for when the local educational agency will provide in-person instruction, including the goals and criteria used for providing full-time in-person instruction to all students;
(2) A description of how many days of in-person instruction per calendar week the local educational agency plans to offer to students during the 2020–2021 school year; and

(3) An assurance that the local educational agency will offer students as much in-person instruction as is safe and practicable, consistent with maintaining safe and continuous operations aligned with challenging state academic standards.

(e) USES OF FUNDS.—

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

(A) Activities to support returning to in-person instruction, including purchasing personal protective equipment, implementing flexible schedules to keep children in isolated groups, purchasing box lunches so that children can eat in their classroom, purchasing physical barriers, providing additional transportation services, repurposing existing school rooms and space, and improving ventilation systems.

(B) Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agen-
cies or non-public schools including coordination
with State, local, Tribal, and territorial public
health departments, and other relevant agen-
cies, to improve coordinated responses among
such entities to prevent, prepare for, and re-
spond to coronavirus.

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

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

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

(F) Purchasing supplies to sanitize, clean,
and disinfect the facilities of a local educational
agency or non-public school, including buildings
operated by such agency.
(G) Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.) and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements.

(H) Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the local educational agency or non-public school that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.

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

(J) Planning and implementing activities related to summer learning and supplemental
afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.

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

(A) Purchasing personal protective equipment, implementing flexible schedules to keep children in isolated groups, purchasing box lunches so that children can eat in their classroom, purchasing physical barriers, providing additional transportation services, repurposing existing school rooms and space, and improving ventilation systems.

(B) Developing and implementation of procedures and systems to improve the preparedness and response efforts of local educational agencies or non-public schools, including coordination with State, local, Tribal, and territorial public health departments, and other relevant
agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.

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

(D) Providing additional services to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.

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

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

(G) Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the local educational agency or non-public school that aids
in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.

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

(I) Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.

(f) STATE FUNDING.—A State may reserve not more than 5 percent of the funds not otherwise allocated under subsection (c) and section 105 for administrative costs and the remainder for emergency needs as determined by the state educational agency to address issues responding to coronavirus, which may be addressed through the use of grants or contracts.
(g) ASSURANCES.—A State, state educational agency, or local educational agency receiving funding under this section shall provide assurances, as applicable, that:

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

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

   (B) disproportionally reduce funding to charter schools or otherwise increase funding gaps between charter schools and other public schools in the local educational agency.

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

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

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

(j) RULE OF CONSTRUCTION.—

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

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

(3) No State participating in any program under this section shall authorize any person or entity to use any funds authorized or appropriated under this section, including pursuant to section 105 of this Act, except as provided by subsection (e), nor shall any such State impose any limits upon the use of any such funds except as provided by subsection (e).

HIGHER EDUCATION EMERGENCY RELIEF FUND

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

(1) 85 percent to each institution of higher education described in section 101 or section 102(c) of the Higher Education Act of 1965 to prevent, prepare for, and respond to coronavirus, by apportioning it—

(A) 90 percent according to the relative share of full-time equivalent enrollment of Federal Pell Grant recipients who were not exclusively enrolled in distance education courses prior to the coronavirus emergency; and
(B) 10 percent according to the relative share of full-time equivalent enrollment of students who were not Federal Pell Grant recipients who were not exclusively enrolled in distance education courses prior to the coronavirus emergency.

(2) 10 percent for additional awards under parts A and B of title III, parts A and B of title V, and subpart 4 of part A of title VII of the Higher Education Act to address needs directly related to coronavirus, that shall be in addition to awards made in section 104(a)(1) of this title, and allocated by the Secretary proportionally to such programs based on the relative share of funding appropriated to such programs in the Further Consolidated Appropriations Act, 2020 (Public Law 116–94) and distributed to eligible institutions of higher education, except as otherwise provided in subparagraphs (A)–(D), on the basis of the formula described in section 104(a)(1) of this title:

(A) Except as otherwise provided in subparagraph (B), for eligible institutions under part B of title III and subpart 4 of part A of title VII of the Higher Education Act, the Sec-
the Secretary shall allot to each eligible institution an amount using the following formula:

(i) 70 percent according to a ratio equivalent to the number of Pell Grant recipients in attendance at such institution at the end of the school year preceding the beginning of the most recent fiscal year and the total number of Pell Grant recipients at all such institutions;

(ii) 20 percent according to a ratio equivalent to the total number of students enrolled at such institution at the end of the school year preceding the beginning of that fiscal year and the number of students enrolled at all such institutions; and

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

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

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

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

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

(A) described under title I of the Higher Education Act of 1965 that were not eligible to receive an award under section 104(a)(1) of
this title, including institutions described in section 102(b) of the Higher Education Act of 1965; and

(B) that otherwise demonstrate significant needs related to coronavirus that were not addressed by funding allocated under subsections (a)(1) or (a)(2) of this section.

(b) DISTRIBUTION.—The funds made available to each institution under subsection (a)(1) shall be distributed by the Secretary using the same systems as the Secretary otherwise distributes funding to each institution under title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(e) USES OF FUNDS.—An institution of higher education receiving funds under this section may use the funds received to:

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

(2) provide financial aid grants to students (including students exclusively enrolled in distance education), which may be used for any component of the
student’s cost of attendance or for emergency costs that arise due to coronavirus.

(d) **Special Provisions.**—

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

(2) An institution of higher education receiving funds under section 18004 of division B of the CARES Act (Public Law 116–136) may use those funds under the terms and conditions of section 104(e) of this act. Amounts repurposed pursuant to this paragraph that were previously designated by the Congress as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(3) No funds received by an institution of higher education under this section shall be used to fund contractors for the provision of pre-enrollment recruitment activities; endowments; or capital outlays
associated with facilities related to athletics, sectarian instruction, or religious worship.

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

(e) REPORT.—An institution receiving funds under this section shall submit a report to the Secretary, not later than 6 months after receiving funding provided in this Act, in such manner and with such subsequent frequency as the Secretary may require, that provides a detailed accounting of the use of funds provided under this section.

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

ASSISTANCE TO NON-PUBLIC SCHOOLS

SEC. 105. (a) FUNDS AVAILABILITY.—From the payment provided by the Secretary under section 103 of this title to a State educational agency, the State educational agency shall reserve an amount of funds equal to the percentage of students enrolled in non-public elementary and secondary schools in the State prior to the coronavirus emergency. Upon reserving funds under this section, the Governor of the State shall award such funds equally to each non-public school accredited or otherwise located in and licensed to operate in the State based on the number of low-income students enrolled in the non-public school as a share of all low-income students enrolled in non-public elementary and secondary schools in the State prior to the coronavirus emergency, subject to the requirements in subsection (b).

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

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

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

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

CONTINUED PAYMENT TO EMPLOYEES

Sec. 106. A local educational agency, State, institution of higher education, or other entity that receives funds under “Education Stabilization Fund”, shall to the greatest extent practicable, continue to pay its employees
and contractors during the period of any disruptions or closures related to coronavirus.

DEFINITIONS

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

(1) the terms “elementary education” and “secondary education” have the meaning given such terms under State law;

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

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

(4) the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) the term “cost of attendance” has the meaning given such term in section 472 of the Higher Education Act of 1965.

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

(7) the term “public school” means a public elementary or secondary school; and

(8) any other term used that is defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) shall have the meaning given the term in such section.

MAINTENANCE OF EFFORT

Sec. 108. A State’s application for funds to carry out sections 102 or 103 of this title shall include assurances that the State will maintain support for elementary and secondary education, and State support for higher education (which shall include State funding to institutions of higher education and state need-based financial aid, and shall not include support for capital projects or for research and development or tuition and fees paid by students) in fiscal years 2020 and 2021 at least at the proportional levels of such State’s support for elementary and secondary education and for higher education relative to such States overall spending in fiscal year 2019.

GENERAL PROVISION—THIS TITLE

Sec. 109. Not later than 30 days after the date of enactment of this Act, the Secretaries of Health and Human Services and Education shall provide a detailed
spend plan of anticipated uses of funds made available in this Act, including estimated personnel and administrative costs, to the Committees on Appropriations of the House of Representatives and the Senate: Provided, That such plans shall be updated and submitted to such Committees every 60 days until September 30, 2024: Provided further, That the spend plans shall be accompanied by a listing of each contract obligation incurred that exceeds $5,000,000 which has not previously been reported, including the amount of each such obligation.

TITLE II

GENERAL PROVISIONS—THIS ACT

Sec. 201. Each amount appropriated or made available by this Act is in addition to amounts otherwise appropriated for the fiscal year involved.

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

Sec. 203. Unless otherwise provided for by this Act, the additional amounts appropriated by this Act to appropriations accounts shall be available under the authorities and conditions applicable to such appropriations accounts for fiscal year 2020.
SEC. 204. In this Act, the term “coronavirus” means SARS–CoV–2 or another coronavirus with pandemic potential.

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

SEC. 206. Any amount appropriated by this Act, designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 and subsequently so designated by the President, and transferred pursuant to transfer authorities provided by this Act shall retain such designation.

BUDGETARY EFFECTS

SEC. 207. (a) Statutory PAYGO Scorecards.—The budgetary effects of this division shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay As-You-Go Act of 2010.

(b) Senate PAYGO Scorecards.—The budgetary effects of this division shall not be entered on any PAYGO
scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

(c) Classification of Budgetary Effects.—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217 and section 250(c)(7) and (c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985, the budgetary effects of this division shall be estimated for purposes of section 251 of such Act.

(d) Ensuring No Within-Session Sequestration.—Solely for the purpose of calculating a breach within a category for fiscal year 2020 pursuant to section 251(a)(6) or section 254(g) of the Balanced Budget and Emergency Deficit Control Act of 1985, and notwithstanding any other provision of this division, the budgetary effects from this division shall be counted as amounts designated as being for an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

This division may be cited as the “Coronavirus Response Additional Supplemental Appropriations Act, 2020”.