

## **Families First Coronavirus Response Act**

[Public Law 116–127]

[As Amended Through P.L. 117–328, Enacted December 29, 2022]

【Currency: This publication is a compilation of the text of Public Law 116–127. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT Making emergency supplemental appropriations for the fiscal year ending September 30, 2020, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. [29 U.S.C. 2601 note] SHORT TITLE.**

This Act may be cited as the “Families First Coronavirus Response Act”.

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### **SEC. 3. [1 U.S.C. 1 note] 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—SECOND CORONAVIRUS PREPAREDNESS AND RESPONSE SUP- PLEMENTAL APPROPRIATIONS ACT, 2020**

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 AGRICULTURE**

#### **FOOD AND NUTRITION SERVICE**

##### **SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)**

For an additional amount for the “Special Supplemental Nutrition Program for Women, Infants, and Children”, \$500,000,000, to remain available through September 30, 2021: *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.

##### **COMMODITY ASSISTANCE PROGRAM**

For an additional amount for the “Commodity Assistance Program” for the emergency food assistance program as authorized by section 27(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)) and section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)), \$400,000,000, to remain available through September 30, 2021: *Provided*, That of the funds made available, the Secretary may use up to \$100,000,000 for costs associated with the distribution of commodities: *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.

### **GENERAL PROVISIONS—THIS TITLE**

SEC. 1101. [7 U.S.C. 2011 note] (a) PUBLIC HEALTH EMERGENCY.—In any school year in which there is a public health emergency designation, in any case in which a school is closed or has reduced the number of days or hours that students attend the school for at least 5 consecutive days during a public health emergency designation during which the school would otherwise be in session or in a covered summer period following a school session, each household containing at least 1 member who is an eligible child attending the school shall be eligible to receive assistance pursuant to a state agency plan approved under subsection (b).

(b) ASSISTANCE.—To carry out this section, the Secretary of Agriculture may approve State agency plans for temporary emergency standards of eligibility and levels of benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) for households with eligible children and, as applicable, households with children eligible for assistance under subsection (h). Plans approved by the Sec-

retary shall provide for supplemental allotments to households receiving benefits under such Act, and issuances to households not already receiving benefits. Such level of benefits shall be determined by the Secretary in an amount not less than the value of meals at the free rate over the course of 5 school days for each eligible child in the household.

(c) **MINIMUM CLOSURE REQUIREMENT.**—The Secretary of Agriculture shall not provide assistance under this section in the case of a school that is closed or has reduced the number of days or hours that students attend the school for less than 5 consecutive days.

(d) **USE OF EBT SYSTEM.**—A State agency may provide assistance under this section through the EBT card system established under section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016).

(e) **RELEASE OF INFORMATION.**—Notwithstanding any other provision of law, the Secretary of Agriculture may authorize State educational agencies and school food authorities administering a school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) to release to appropriate officials administering the supplemental nutrition assistance program such information as may be necessary to carry out this section.

(f) **WAIVERS.**—

(1) **IN GENERAL.**—To facilitate implementation of this section, the Secretary of Agriculture may approve waivers of the limits on certification periods otherwise applicable under section 3(f) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(f)), reporting requirements otherwise applicable under section 6(c) of such Act (7 U.S.C. 2015(c)), and other administrative requirements otherwise applicable to State agencies under such Act.

(2) **SIMPLIFYING ASSUMPTIONS FOR SCHOOL YEAR 2020–2021.**—For purposes of this section, a State agency may develop and use simplifying assumptions (including a State or local public health ordinance developed in response to COVID–19) and the best feasibly available data to determine the status of a school or covered child care facility as opened, closed, or operating with a reduced number of days or hours, establish State or regionally-based benefits levels, identify eligible children and children eligible for assistance under subsection (h), and establish eligibility periods for eligible children and children eligible for assistance under subsection (h).

(g) **AVAILABILITY OF COMMODITIES.**—The Secretary of Agriculture may purchase commodities for emergency distribution in any area of the United States during a public health emergency designation.

(h) **ASSISTANCE FOR CHILDREN IN CHILD CARE.**—

(1) **IN GENERAL.**—Beginning on October 1, 2020, subject to an approved State agency plan under subsection (b) or an approved amendment to such a plan, in any case in which, during a public health emergency designation, a covered child care facility is closed or has reduced attendance or hours for at least 5 consecutive days, or 1 or more schools in the area of a covered child care facility or the area of a child's residence are

closed or have reduced attendance or hours for at least 5 consecutive days, each household containing at least 1 child enrolled in such a covered child care facility and either the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) or a Department of Agriculture grant-funded nutrition assistance program in the Commonwealth of the Northern Mariana Islands, Puerto Rico, or American Samoa shall be eligible to receive assistance, in accordance with paragraph (2), until covered child care facilities or schools in the area reopen or operate at full attendance and hours, as applicable, as determined by the State agency.

(2) ASSISTANCE.—A household shall receive benefits under paragraph (1) in an amount that is equal to at least 1 breakfast and 1 lunch at the free rate for each child enrolled in a covered child care facility for each day that the child does not attend the facility because the facility is closed or operating with reduced attendance or hours or for each day that a school in the area of a covered child care facility or the area of the child's residence is closed or has reduced attendance or hours for at least 5 consecutive days.

(3) STATE OPTION.—A State shall not be required to provide assistance under this subsection in order to provide assistance to eligible children under a State agency plan under subsection (b).

(4) DEEMED POPULATION.—For purposes of an approved State agency plan described in paragraph (1) or an approved amendment to such a plan described in such paragraph, the Secretary of Agriculture shall deem any child who has not attained the age of 6 as a child who is enrolled in a covered child care facility.

(i) EMERGENCIES DURING SUMMER.—

(1) IN GENERAL.—The Secretary of Agriculture may approve or permit a State agency to extend a State agency plan approved under subsection (b) for not more than 90 days for the purpose of operating the plan during a covered summer period, during which time schools participating in the school lunch program under the Richard B. Russell National School Lunch Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773 ) and covered child care facilities shall be deemed closed for purposes of this section.

(2) LIMITATION.—A State shall not provide benefits during a covered summer period pursuant to paragraph (1) to children who, at the end of the school year immediately preceding the covered summer period, attended a school that did not participate in the school lunch program or school breakfast program described in that paragraph.

(3) OTHER ASSISTANCE NOT REQUIRED.—A State shall not be required to provide assistance under subsection (a) or (h) in order to provide assistance under this subsection.

(4) SUMMER 2023.—Any benefits issued to households during a covered summer period pursuant to paragraph (1) in summer 2023 shall not exceed \$120 per child for the covered

summer period, except that benefits may be proportionately higher consistent with any adjustments established under section 12(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(f)).

(j) DEFINITIONS.—In this section:

(1) COVERED CHILD CARE FACILITY.—The term “covered child care facility” means—

(A) an organization described in subparagraph (A) or

(B) of section 17(a)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(a)(2)); and

(B) a family or group day care home.

(2) COVERED SUMMER PERIOD.—The term “covered summer period” means a summer period that follows a school year during which there was a public health emergency designation.

(3) ELIGIBLE CHILD.—The term “eligible child” means a child (as defined in section 12(d) or served under section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d), 1759(a)(1)) who, if not for the closure or reduced attendance or hours of the school attended by the child during a public health emergency designation and due to concerns about a COVID-19 outbreak, would receive free or reduced price school meals under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) at the school.

(4) FREE RATE.—The term “free rate” means—

(A) with respect to a breakfast, the rate of a free breakfast under the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(B) with respect to a lunch, the rate of a free lunch under the school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(5) PUBLIC HEALTH EMERGENCY DESIGNATION.—The term “public health emergency designation” means the declaration of a public health emergency, based on an outbreak of SARS-CoV-2, by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d).

(6) SCHOOL.—The term “school” has the meaning given the term in section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)).

(7) STATE.—The term “State” has the meaning given the term in section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)).

(k) FUNDING.—There are hereby appropriated to the Secretary of Agriculture such amounts as are necessary to carry out this section (including all administrative expenses for Federal agencies, State agencies, other agencies of the State, local units, and schools): *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.

SEC. 1102. In addition to amounts otherwise made available, \$100,000,000, to remain available through September 30, 2021, shall be available for the Secretary of Agriculture to provide grants to the Commonwealth of the Northern Mariana Islands, Puerto

Rico, and American Samoa for nutrition assistance in response to a COVID-19 public health emergency: *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.

## TITLE II

### DEPARTMENT OF DEFENSE

#### DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$82,000,000, to remain available until September 30, 2022, for health services consisting of SARS-CoV-2 or COVID-19 related items and services as described in section 6006(a) of division F of the Families First Coronavirus Response Act (or the administration of such products): *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.

## TITLE III

### DEPARTMENT OF THE TREASURY

#### INTERNAL REVENUE SERVICE

##### TAXPAYER SERVICES

For an additional amount for “Taxpayer Services”, \$15,000,000, to remain available until September 30, 2022, for the purposes of carrying out the Families First Coronavirus Response Act: *Provided*, That amounts provided under this heading in this Act may be transferred to and merged with “Operations Support”: *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.

## TITLE IV

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### INDIAN HEALTH SERVICE

##### INDIAN HEALTH SERVICES

For an additional amount for “Indian Health Services”, \$64,000,000, to remain available until September 30, 2022, for health services consisting of SARS-CoV-2 or COVID-19 related items and services as described in section 6007 of division F of the Families First Coronavirus Response Act (or the administration of such products): *Provided*, That such amounts shall be allocated at the discretion of the Director of the Indian Health Service: *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.

## TITLE V

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## ADMINISTRATION FOR COMMUNITY LIVING

## AGING AND DISABILITY SERVICES PROGRAMS

For an additional amount for “Aging and Disability Services Programs”, \$250,000,000, to remain available until September 30, 2021, for activities authorized under subparts 1 and 2 of part C, of title III, and under title VI, of the Older Americans Act of 1965 (“OAA”), of which \$160,000,000 shall be for Home-Delivered Nutrition Services, \$80,000,000 shall be for Congregate Nutrition Services, and \$10,000,000 shall be for Nutrition Services for Native Americans: *Provided*, That State matching requirements under sections 304(d)(1)(D) and 309(b)(2) of the OAA shall not apply to funds made available under this heading in this Act: *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.

## OFFICE OF THE SECRETARY

## PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for “Aging and Disability Services Programs”, \$250,000,000, to remain available until September 30, 2021, for activities authorized under subparts 1 and 2 of part C, of title III, and under title VI, of the Older Americans Act of 1965 (“OAA”), of which \$160,000,000 shall be for Home-Delivered Nutrition Services, \$80,000,000 shall be for Congregate Nutrition Services, and \$10,000,000 shall be for Nutrition Services for Native Americans: *Provided*, That State matching requirements under sections 304(d)(1)(D) and 309(b)(2) of the OAA shall not apply to funds made available under this heading in this Act: *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.

(1) a Federal health care program (as defined under section 1128B(f) of the Social Security Act (42 U.S.C. 1320a-7b(f)), including an individual who is eligible for medical assistance only because of subsection (a)(10)(A)(ii)(XXIII) of Section 1902 of the Social Security Act; or

(2) a group health plan or health insurance coverage offered by a health insurance issuer in the group or individual market (as such terms are defined in section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91)), or a health plan offered under chapter 89 of title 5, United States Code:

*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.

## TITLE VI

## DEPARTMENT OF VETERANS AFFAIRS

## VETERANS HEALTH ADMINISTRATION

## MEDICAL SERVICES

For an additional amount for “Medical Services”, \$30,000,000, to remain available until September 30, 2022, for health services consisting of SARS-CoV-2 or COVID-19 related items and services as described in section 6006(b) of division F of the Families First Coronavirus Response Act (or the administration of such products): *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.

## MEDICAL COMMUNITY CARE

For an additional amount for “Medical Community Care”, \$30,000,000, to remain available until September 30, 2022, for health services consisting of SARS-CoV-2 or COVID-19 related items and services as described in section 6006(b) of division F of the Families First Coronavirus Response Act (or the administration of such products): *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.

## TITLE VII

## GENERAL PROVISIONS—THIS ACT

SEC. 1701. Not later than 30 days after the date of enactment of this Act, the head of each executive agency that receives funding in this Act shall provide a report detailing the anticipated uses of all such funding to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That each report shall include estimated personnel and administrative costs, as well as the total amount of funding apportioned, allotted, obligated, and expended, to date: *Provided further*, That each such plan shall be updated and submitted to such Committees every 60 days until all funds are expended or expire.

【Section 18115(d) of division B of Public Law 116–136 repealed section 1702.】

SEC. 1703. Each amount appropriated or made available by this Act is in addition to amounts otherwise appropriated for the fiscal year involved.

SEC. 1704. 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. 1705. 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. 1706. 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 Con-



trol 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. 1707. 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.

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

## **DIVISION B—NUTRITION WAIVERS**

### **TITLE I—MAINTAINING ESSENTIAL ACCESS TO LUNCH FOR STUDENTS ACT**

#### **SEC. 2101. [42 U.S.C. 1751 note] SHORT TITLE.**

This title may be cited as the “Maintaining Essential Access to Lunch for Students Act” or the “MEALS Act”.

#### **SEC. 2102. [42 U.S.C. 1760 note] WAIVER EXCEPTION FOR SCHOOL CLOSURES DUE TO COVID-19.**

(a) **IN GENERAL.**—The requirements under section 12(l)(1)(A)(iii) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)(1)(A)(iii)) shall not apply to a qualified COVID-19 waiver.

(b) **ALLOWABLE INCREASE IN FEDERAL COSTS.**—Notwithstanding paragraph (4) of section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)), the Secretary of Agriculture may grant a qualified COVID-19 waiver that increases Federal costs.

(c) **TERMINATION AFTER PERIODIC REVIEW.**—The requirements under section 12(l)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)(5)) shall not apply to a qualified COVID-19 waiver.

(d) **QUALIFIED COVID-19 WAIVER.**—In this section, the term “qualified COVID-19 waiver” means a waiver—

(1) requested by a State (as defined in section 12(d)(8) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)(8))) or eligible service provider under section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)); and

(2) to waive any requirement under such Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or any regulation issued under either such Act, for purposes of providing meals and meal supplements under such Acts during a school closure due to COVID-19.

## TITLE II—COVID

**SEC. 2201. [42 U.S.C. 1751 note] SHORT TITLE.**

This title may be cited as the “COVID-19 Child Nutrition Response Act”.

**SEC. 2202. [42 U.S.C. 1760 note] NATIONAL SCHOOL LUNCH PROGRAM REQUIREMENT WAIVERS ADDRESSING COVID-19.**

(a) **NATIONWIDE WAIVER.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary may establish a waiver for all States under section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) due to the COVID-19 pandemic, for purposes of—

(A) providing meals and meal supplements under a qualified program; or

(B) ensuring continuity of program operation under a qualified program.

(2) **STATE ELECTION.**—A waiver established under paragraph (1) shall—

(A) notwithstanding paragraph (2) of section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)), apply automatically to any State that elects to be subject to the waiver without further application; and

(B) not be subject to the requirements under paragraph (3) of such section.

(b) **CHILD AND ADULT CARE FOOD PROGRAM WAIVER.**—Notwithstanding any other provision of law, the Secretary may grant a waiver under section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) to allow non-congregate feeding under a child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) if such waiver is for the purposes of—

(1) providing meals and meal supplements under such child and adult care food program; and

(2) carrying out paragraph (1) with appropriate safety measures with respect to COVID-19, as determined by the Secretary.

(c) **MEAL PATTERN WAIVER.**—Notwithstanding paragraph (4)(A) of section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) the Secretary may grant a waiver under such section that relates to the nutritional content of meals served if the Secretary determines that—

(1) such waiver is necessary to provide meals and meal supplements under a qualified program; and

(2) there is a supply chain disruption with respect to foods served under such a qualified program and such disruption is due to COVID-19.

(d) **REPORTS.**—Each State that receives a waiver under subsection (a), (b), or (c), shall, not later than 1 year after the date such State received such waiver, submit a report to the Secretary that includes a summary of the use of such waiver by the State and eligible service providers.

(e) SUNSET.—

(1) NATIONWIDE WAIVERS.—The authority of the Secretary to establish or grant a waiver under subsection (a) shall expire on September 30, 2022.

(2) WAIVER RESTRICTION.—After June 30, 2022, a waiver established or granted under subsection (a) shall only apply to schools or summer food service program food service sites—

(A) operating—

(i) the qualified program described in subsection (f)(1)(D); or

(ii) the option described in section 13(a)(8) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a)(8)); and

(B) not operating the qualified program described in subsection (f)(1)(A).

(3) OTHER WAIVERS.—

(A) CHILD AND ADULT CARE FOOD PROGRAM WAIVER.—The authority of the Secretary to establish or grant a waiver under subsection (b) shall expire on June 30, 2022.

(B) MEAL PATTERN WAIVER.—The authority of the Secretary to establish or grant a waiver under subsection (c) shall expire on June 30, 2023.

(4) LIMITATIONS.—A waiver authorized by the Secretary under this section shall not be in effect after the date on which the authority of the Secretary to establish or grant that waiver under this subsection expires.

(f) DEFINITIONS.—In this section:

(1) QUALIFIED PROGRAM.—The term “qualified program” means the following:

(A) The school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) The school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(C) The child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766).

(D) The summer food service program for children under section 13 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761).

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(3) STATE.—The term “State” has the meaning given such term in section 12(d)(8) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)(8)).

**SEC. 2203. [42 U.S.C. 1786 note] PHYSICAL PRESENCE WAIVER UNDER WIC DURING CERTAIN PUBLIC HEALTH EMERGENCIES.**

(a) WAIVER AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may grant a request described in paragraph

(2) to—

(A) waive the requirement under section 17(d)(3)(C)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)(C)(i)); and

(B) defer anthropometric and bloodwork requirements necessary to determine nutritional risk.

(2) REQUEST.—A request described in this paragraph is a request made to the Secretary by a State agency to waive, on behalf of the local agencies served by such State agency, the requirements described in paragraph (1) during any portion of the emergency period (as defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b-5(g)) (beginning on or after the date of the enactment of this section).

(b) REPORTS.—

(1) LOCAL AGENCY REPORTS.—Each local agency that uses a waiver pursuant to subsection (a) shall, not later than 1 year after the date such local agency uses such waiver, submit a report to the State agency serving such local agency that includes the following:

(A) A summary of the use of such waiver by the local agency.

(B) A description of whether such waiver resulted in improved services to women, infants, and children.

(2) STATE AGENCY REPORTS.—Each State agency that receives a waiver under subsection (a) shall, not later than 18 months after the date such State agency received such waiver, submit a report to the Secretary that includes the following:

(A) A summary of the reports received by the State agency under paragraph (1).

(B) A description of whether such waiver resulted in improved services to women, infants, and children.

(c) SUNSET.—The authority under this section shall expire on September 30, 2021.

(d) DEFINITIONS.—In this section:

(1) LOCAL AGENCY.—The term “local agency” has the meaning given the term in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).

(2) NUTRITIONAL RISK.—The term “nutritional risk” has the meaning given the term in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).

(3) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(4) STATE AGENCY.—The term “State agency” has the meaning given the term in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).

#### **SEC. 2204. ADMINISTRATIVE REQUIREMENTS WAIVER UNDER WIC.**

(a) WAIVER AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture may, if requested by a State agency (as defined in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b))), modify or waive any qualified administrative requirement with respect to such State agency.

(2) QUALIFIED ADMINISTRATIVE REQUIREMENT.—In this section, the term “qualified administrative requirement” means a regulatory requirement issued under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) that the Secretary of Agriculture determines—

- (A) cannot be met by a State agency due to COVID-19; and
- (B) the modification or waiver of which is necessary to provide assistance under such section.
- (b) **STATE AGENCY REPORTS.**—Each State agency that receives a waiver under subsection (a)(1) shall, not later than 1 year after the date such State agency received such waiver, submit a report to the Secretary of Agriculture that includes the following:
- (1) A summary of the use of such waiver by the State agency.
- (2) A description of whether such waiver resulted in improved services to women, infants, and children.
- (c) **SUNSET.**—The authority under this section shall expire on September 30, 2021.

### **TITLE III—SNAP WAIVERS**

#### **SEC. 2301. SNAP FLEXIBILITY FOR LOW-INCOME JOBLESS WORKERS.**

(a) **[7 U.S.C. 2011 note]** Beginning with the first month that begins after the enactment of this Act and for each subsequent month through the end of the month subsequent to the month a public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) is lifted, eligibility for supplemental nutrition assistance program benefits shall not be limited under section 6(o)(2) of the Food and Nutrition Act of 2008 unless an individual does not comply with the requirements of a program offered by the State agency (as defined in section 3 of the Food and Nutrition Act of 2008) that meets the standards of subparagraphs (B) or (C) of such section 6(o)(2).

(b) Beginning on the month subsequent to the month the public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of COVID-19 is lifted for purposes of section 6(o) of the Food and Nutrition Act of 2008, such State agency shall disregard any period during which an individual received benefits under the supplemental nutrition assistance program prior to such month.

#### **SEC. 2302. [7 U.S.C. 2011 note] ADDITIONAL SNAP FLEXIBILITIES IN A PUBLIC HEALTH EMERGENCY.**

(a) In the event of a public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) and the issuance of an emergency or disaster declaration by a State based on an outbreak of COVID-19, the Secretary of Agriculture—

- (1) shall provide, at the request of a State agency (as defined in section 3 of the Food and Nutrition Act of 2008) that provides sufficient data (as determined by the Secretary through guidance) supporting such request, for emergency allotments to households participating in the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 to address temporary food needs not greater than the ap-

plicable maximum monthly allotment for the household size; and

(2) may adjust, at the request of State agencies or by guidance in consultation with one or more State agencies, issuance methods and application and reporting requirements under the Food and Nutrition Act of 2008 to be consistent with what is practicable under actual conditions in affected areas. (In making this adjustment, the Secretary shall consider the availability of offices and personnel in State agencies, any conditions that make reliance on electronic benefit transfer systems described in section 7(h) of the Food and Nutrition Act of 2008 impracticable, any disruptions of transportation and communication facilities, and any health considerations that warrant alternative approaches.)

(b) Not later than 10 days after the date of the receipt or issuance of each document listed in paragraphs (1), (2), or (3) of this subsection, the Secretary of Agriculture shall make publicly available on the website of the Department the following documents:

(1) Any request submitted by State agencies under subsection (a).

(2) The Secretary's approval or denial of each such request.

(3) Any guidance issued under subsection (a)(2).

(c) REPORT.—Not later than June 30, 2022, the Secretary of Agriculture shall submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the following information:

(1) A description of any information or data supporting State agency requests under this section and any additional measures that State agencies requested that were not approved by the Secretary of Agriculture;

(2) An evaluation of the use of all waivers, adjustments, and other flexibilities in the operation of the supplemental nutrition assistance program (as defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012)), in effect under this Act, the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), or any other Act, to respond to the COVID-19 public health emergency; and

(3) A recommendation of any additional waivers or flexibilities needed in the operation of the supplemental nutrition assistance program to respond to public health emergencies with pandemic potential.

(d) SUNSET.—The authority under subsection (a)(1) shall expire after the issuance of February 2023 benefits under that subsection.

## **DIVISION C—EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT**

### **SEC. 3101. [29 U.S.C. 2601 note] SHORT TITLE.**

This Act may be cited as “Emergency Family and Medical Leave Expansion Act”.

**SEC. 3102. AMENDMENTS TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.****(a) PUBLIC HEALTH EMERGENCY LEAVE.—**

(1) **IN GENERAL.**—Section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) is amended by adding at the end the following:

“(F) During the period beginning on the date the Emergency Family and Medical Leave Expansion Act takes effect, and ending on December 31, 2020, because of a qualifying need related to a public health emergency in accordance with section 110.”.

(2) **PAID LEAVE REQUIREMENT.**—Section 102(c) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(c)) is amended by striking “under subsection (a)” and inserting “under subsection (a) (other than certain periods of leave under subsection (a)(1)(F))”.

(b) **REQUIREMENTS.**—Title I of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.) is amended by adding at the end the following:

**“SEC. 110. [29 U.S.C. 2620] PUBLIC HEALTH EMERGENCY LEAVE**

“(a) **DEFINITIONS.**—The following shall apply with respect to leave under section 102(a)(1)(F):

“(1) **APPLICATION OF CERTAIN TERMS.**—The definitions in section 101 shall apply, except as follows:

“(A) **ELIGIBLE EMPLOYEE.**—In lieu of the definition in sections 101(2)(A) and 101(2)(B)(ii), the term ‘eligible employee’ means an employee who has been employed for at least 30 calendar days by the employer with respect to whom leave is requested under section 102(a)(1)(F).

“(B) **EMPLOYER THRESHOLD.**—Section 101(4)(A)(i) shall be applied by substituting ‘fewer than 500 employees’ for ‘50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year’.

“(2) **ADDITIONAL DEFINITIONS.**—In addition to the definitions described in paragraph (1), the following definitions shall apply with respect to leave under section 102(a)(1)(F):

“(A) **QUALIFYING NEED RELATED TO A PUBLIC HEALTH EMERGENCY.**—The term ‘qualifying need related to a public health emergency’, with respect to leave, means the employee is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.

“(B) **PUBLIC HEALTH EMERGENCY.**—The term ‘public health emergency’ means an emergency with respect to COVID-19 declared by a Federal, State, or local authority.

“(C) **CHILD CARE PROVIDER.**—The term ‘child care provider’ means a provider who receives compensation for providing child care services on a regular basis, including an ‘eligible child care provider’ (as defined in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n)).

“(D) SCHOOL.—The term ‘school’ means an ‘elementary school’ or ‘secondary school’ as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

“(3) REGULATORY AUTHORITIES.—The Secretary of Labor shall have the authority to issue regulations for good cause under sections 553(b)(B) and 553(d)(A) of title 5, United States Code—

“(A) to exclude certain health care providers and emergency responders from the definition of eligible employee under section 110(a)(1)(A); and

“(B) to exempt small businesses with fewer than 50 employees from the requirements of section 102(a)(1)(F) when the imposition of such requirements would jeopardize the viability of the business as a going concern.

“(b) RELATIONSHIP TO PAID LEAVE.—

“(1) UNPAID LEAVE FOR INITIAL 10 DAYS.—

“(A) IN GENERAL.—The first 10 days for which an employee takes leave under section 102(a)(1)(F) may consist of unpaid leave.

“(B) EMPLOYEE ELECTION.—An employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for unpaid leave under section 102(a)(1)(F) in accordance with section 102(d)(2)(B).

“(2) PAID LEAVE FOR SUBSEQUENT DAYS.—

“(A) IN GENERAL.—An employer shall provide paid leave for each day of leave under section 102(a)(1)(F) that an employee takes after taking leave under such section for 10 days.

“(B) CALCULATION.—

“(i) IN GENERAL.—Subject to clause (ii), paid leave under subparagraph (A) for an employee shall be calculated based on—

“(I) an amount that is not less than two-thirds of an employee’s regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)); and

“(II) the number of hours the employee would otherwise be normally scheduled to work (or the number of hours calculated under subparagraph (C)).

“(ii) CLARIFICATION.—In no event shall such paid leave exceed \$200 per day and \$10,000 in the aggregate.

“(C) VARYING SCHEDULE HOURS CALCULATION.—In the case of an employee whose schedule varies from week to week to such an extent that an employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken leave under section 102(a)(1)(F), the employer shall use the following in place of such number:

“(i) Subject to clause (ii), a number equal to the average number of hours that the employee was scheduled per day over the 6-month period ending on



the date on which the employee takes such leave, including hours for which the employee took leave of any type.

“(ii) If the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

“(c) NOTICE.—In any case where the necessity for leave under section 102(a)(1)(F) for the purpose described in subsection (a)(2)(A)(iii) is foreseeable, an employee shall provide the employer with such notice of leave as is practicable.

“(d) RESTORATION TO POSITION.—

“(1) IN GENERAL.—Section 104(a)(1) shall not apply with respect to an employee of an employer who employs fewer than 25 employees if the conditions described in paragraph (2) are met.

“(2) CONDITIONS.—The conditions described in this paragraph are the following:

“(A) The employee takes leave under section 102(a)(1)(F).

“(B) The position held by the employee when the leave commenced does not exist due to economic conditions or other changes in operating conditions of the employer—

“(i) that affect employment; and

“(ii) are caused by a public health emergency during the period of leave.

“(C) The employer makes reasonable efforts to restore the employee to a position equivalent to the position the employee held when the leave commenced, with equivalent employment benefits, pay, and other terms and conditions of employment.

“(D) If the reasonable efforts of the employer under subparagraph (C) fail, the employer makes reasonable efforts during the period described in paragraph (3) to contact the employee if an equivalent position described in subparagraph (C) becomes available.

“(3) CONTACT PERIOD.—The period described under this paragraph is the 1-year period beginning on the earlier of—

“(A) the date on which the qualifying need related to a public health emergency concludes; or

“(B) the date that is 12 weeks after the date on which the employee’s leave under section 102(a)(1)(F) commences.”.

**SEC. 3103. [29 U.S.C. 2620 note] EMPLOYMENT UNDER MULTI-EMPLOYER BARGAINING AGREEMENTS.**

(a) EMPLOYERS.—An employer signatory to a multiemployer collective bargaining agreement may, consistent with its bargaining obligations and its collective bargaining agreement, fulfill its obligations under section 110(b)(2) of title I of the Family and Medical Leave Act of 1993, as added by the Families First Coronavirus Response Act, by making contributions to a multiemployer fund, plan, or program based on the paid leave each of its employees is entitled to under such section while working under the multiemployer collective bargaining agreement, provided that the fund, plan, or pro-

gram enables employees to secure pay from such fund, plan, or program based on hours they have worked under the multiemployer collective bargaining agreement for paid leave taken under section 102(a)(1)(F) of title I of the Family and Medical Leave Act of 1993, as added by the Families First Coronavirus Response Act.

(b) **EMPLOYEES.**—Employees who work under a multiemployer collective bargaining agreement into which their employers make contributions as provided in subsection (a) may secure pay from such fund, plan, or program based on hours they have worked under the multiemployer collective bargaining agreement for paid leave taken under section 102(a)(1)(F) of title I of the Family and Medical Leave Act of 1993, as added by the Families First Coronavirus Response Act.

**SEC. 3104. [29 U.S.C. 2620 note] SPECIAL RULE FOR CERTAIN EMPLOYERS.**

An employer under section 110(a)(1)(B) of the Family and Medical Leave Act of 1993 shall not be subject to section 107(a) of such Act for a violation of section 102(a)(1)(F) of such Act if the employer does not meet the definition of employer set forth in section 101(4)(A)(i) of such Act.

**SEC. 3105. [29 U.S.C. 2620 note] SPECIAL RULE FOR HEALTH CARE PROVIDERS AND EMERGENCY RESPONDERS.**

An employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of the provisions in the amendments made under of section 3102 of this Act.

**SEC. 3106. [29 U.S.C. 2620 note] EFFECTIVE DATE.**

This Act shall take effect not later than 15 days after the date of enactment of this Act.

## **DIVISION D—EMERGENCY UNEMPLOYMENT INSURANCE STABILIZATION AND ACCESS ACT OF 2020**

**SEC. 4101. [42 U.S.C. 1305 note] SHORT TITLE.**

This division may be cited as the “Emergency Unemployment Insurance Stabilization and Access Act of 2020”.

**SEC. 4102. EMERGENCY TRANSFERS FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION.**

(a) Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

“Emergency Transfers in Fiscal Year 2020 for Administration

“(h)(1)(A) In addition to any other amounts, the Secretary of Labor shall provide for the making of emergency administration grants in fiscal year 2020 to the accounts of the States in the Unemployment Trust Fund, in accordance with succeeding provisions of this subsection.

“(B) The amount of an emergency administration grant with respect to a State shall, as determined by the Secretary of Labor, be equal to the amount obtained by multiplying

\$1,000,000,000 by the same ratio as would apply under subsection (a)(2)(B) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1)) that would have been subject to transfer to State accounts, as of October 1, 2019, under the provisions of subsection (a).

“(C) Of the emergency administration grant determined under subparagraph (B) with respect to a State—

“(i) not later than 60 days after the date of enactment of this subsection, 50 percent shall be transferred to the account of such State upon a certification by the Secretary of Labor to the Secretary of the Treasury that the State meets the requirements of paragraph (2); and

“(ii) only with respect to a State in which the number of unemployment compensation claims has increased by at least 10 percent over the same quarter in the previous calendar year, the remainder shall be transferred to the account of such State upon a certification by the Secretary of Labor to the Secretary of the Treasury that the State meets the requirements of paragraph (3).

“(2) The requirements of this paragraph with respect to a State are the following:

“(A) The State requires employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment. Such notification may be based on model notification language issued by the Secretary of Labor.

“(B) The State ensures that applications for unemployment compensation, and assistance with the application process, are accessible in at least two of the following: in-person, by phone, or online.

“(C) The State notifies applicants when an application is received and is being processed, and in any case in which an application is unable to be processed, provides information about steps the applicant can take to ensure the successful processing of the application.

“(3) The requirements of this paragraph with respect to a State are the following:

“(A) The State has expressed its commitment to maintain and strengthen access to the unemployment compensation system, including through initial and continued claims.

“(B) The State has demonstrated steps it has taken or will take to ease eligibility requirements and access to unemployment compensation for claimants, including waiving work search requirements and the waiting week, and non-charging employers directly impacted by COVID-19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers.

“(4) Any amount transferred to the account of a State under this subsection may be used by such State only for the administration of its unemployment compensation law, including by taking such steps as may be necessary to ensure adequate resources in periods of high demand.

“(5) Not later than 1 year after the date of enactment of the Emergency Unemployment Insurance Stabilization and Access Act

of 2020, each State receiving emergency administration grant funding under paragraph (1)(C)(i) shall submit to the Secretary of Labor, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a report that includes—

“(A) an analysis of the reciprocity rate for unemployment compensation in the State as such rate has changed over time;

“(B) a description of steps the State intends to take to increase such reciprocity rate.

“(6)(A) Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of making the transfers described in paragraph (1)(C).

“(B) There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.”.

(b) <sup>1</sup> [26 U.S.C. 3304 note] **EMERGENCY FLEXIBILITY.**—Notwithstanding any other law, if a State modifies its unemployment compensation law and policies with respect to work search, waiting week, good cause, employer experience rating, or, subject to the succeeding sentence, personnel standards on a merit basis on an emergency temporary basis as needed to respond to the spread of COVID-19, such modifications shall be disregarded for the purposes of applying section 303 of the Social Security Act and section 3304 of the Internal Revenue Code of 1986 to such State law. The emergency flexibility for personnel standards on a merit basis shall only apply through March 14, 2021, and is limited to engaging of temporary staff, rehiring of retirees or former employees on a non-competitive basis, and other temporary actions to quickly process applications and claims.

(c) [42 U.S.C. 1103 note] **REGULATIONS.**—The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a).

#### **SEC. 4103. TEMPORARY ASSISTANCE FOR STATES WITH ADVANCES.**

Section 1202(b)(10)(A) of the Social Security Act (42 U.S.C. 1322(b)(10)(A)) is amended by striking “beginning on the date of enactment of this paragraph and ending on December 31, 2010” and inserting “beginning on the date of enactment of the Emergency Unemployment Insurance Stabilization and Access Act of 2020 and ending on December 31, 2020”.

[Section 2111(d) of division A of Public Law 116-136 provides for an amendment to strike section 4104 of the “Emergency Unemployment Stabilization and Access Act of 2020”. Such amendment should have referenced the “Emergency Unemployment Insurance

<sup>1</sup> Section 2106 of division A of Public Law 116-136 provides for amendments to the “Emergency Unemployment Stabilization and Access Act of 2020”. Such amendments should have referenced the “Emergency Unemployment Insurance Stabilization and Access Act of 2020”; however, they were carried out above to reflect the probable intent of Congress.

Stabilization and Access Act of 2020”; however, it was carried out to reflect the probable intent of Congress]

**SEC. 4105. [26 U.S.C. 3304 note] FULL FEDERAL FUNDING OF EXTENDED UNEMPLOYMENT COMPENSATION FOR A LIMITED PERIOD.**

(a) **IN GENERAL.**—In the case of sharable extended compensation and sharable regular compensation paid for weeks of unemployment beginning after the date of the enactment of this section and before September 6, 2021 (and only with respect to States that receive emergency administration grant funding under clauses (i) and (ii) of section 903(h)(1)(C) of the Social Security Act (42 U.S.C. 1102(h)(1)(C))), section 204(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) shall be applied by substituting “100 percent of” for “one-half of”.

(b) **TEMPORARY FEDERAL MATCHING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR STATES WITH NO WAITING WEEK.**—With respect to weeks of unemployment beginning after the date of the enactment of this Act and before September 6, 2021, subparagraph (B) of section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) shall not apply.

(c) **DEFINITIONS.**—For purposes of this section—

(1) the terms “sharable extended compensation” and “sharable regular compensation” have the respective meanings given such terms under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970; and

(2) the term “week” has the meaning given such term under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(d) **REGULATIONS.**—The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section.

## **DIVISION E—EMERGENCY PAID SICK LEAVE ACT**

**SEC. 5101. [29 U.S.C. 2601 note] SHORT TITLE.**

This Act may be cited as the “Emergency Paid Sick Leave Act”.

**SEC. 5102. [29 U.S.C. 2601 note] PAID SICK TIME REQUIREMENT.**

(a) **IN GENERAL.**—An employer shall provide to each employee employed by the employer paid sick time to the extent that the employee is unable to work (or telework) due to a need for leave because:

(1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.

(2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

(3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

(4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).

(5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.

(6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor. Except that an employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of this subsection.

(b) DURATION OF PAID SICK TIME.—

(1) IN GENERAL.—An employee shall be entitled to paid sick time for an amount of hours determined under paragraph (2).

(2) AMOUNT OF HOURS.—The amount of hours of paid sick time to which an employee is entitled shall be as follows:

(A) For full-time employees, 80 hours.

(B) For part-time employees, a number of hours equal to the number of hours that such employee works, on average, over a 2-week period.

(3) CARRYOVER.—Paid sick time under this section shall not carry over from 1 year to the next.

(c) EMPLOYER'S TERMINATION OF PAID SICK TIME.—Paid sick time provided to an employee under this Act shall cease beginning with the employee's next scheduled workshift immediately following the termination of the need for paid sick time under subsection (a).

(d) PROHIBITION.—An employer may not require, as a condition of providing paid sick time under this Act, that the employee involved search for or find a replacement employee to cover the hours during which the employee is using paid sick time.

(e) USE OF PAID SICK TIME.—

(1) IN GENERAL.—The paid sick time under subsection (a) shall be available for immediate use by the employee for the purposes described in such subsection, regardless of how long the employee has been employed by an employer.

(2) SEQUENCING.—

(A) IN GENERAL.—An employee may first use the paid sick time under subsection (a) for the purposes described in such subsection.

(B) PROHIBITION.—An employer may not require an employee to use other paid leave provided by the employer to the employee before the employee uses the paid sick time under subsection (a).

(f) LIMITATIONS.—An employer shall not be required to pay more than either—

(1) \$511 per day and \$5,110 in the aggregate for each employee, when the employee is taking leave for a reason described in paragraph (1), (2), or (3) of section 5102(a); or

(2) \$200 per day and \$2,000 in the aggregate for each employee, when the employee is taking leave for a reason described in paragraph (4), (5), or (6) of section 5102(a).

**SEC. 5103. [29 U.S.C. 2601 note] NOTICE.**

(a) **IN GENERAL.**—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees are customarily posted, a notice, to be prepared or approved by the Secretary of Labor, of the requirements described in this Act.

(b) **MODEL NOTICE.**—Not later than 7 days after the date of enactment of this Act, the Secretary of Labor shall make publicly available a model of a notice that meets the requirements of subsection (a).

**SEC. 5104. [29 U.S.C. 2601 note] PROHIBITED ACTS.**

It shall be unlawful for any employer to discharge, discipline, or in any other manner discriminate against any employee who—

- (1) takes leave in accordance with this Act; or
- (2) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act (including a proceeding that seeks enforcement of this Act), or has testified or is about to testify in any such proceeding.

**SEC. 5105. [29 U.S.C. 2601 note] ENFORCEMENT.**

(a) **UNPAID SICK LEAVE.**—An employer who violates section 5102 shall—

- (1) be considered to have failed to pay minimum wages in violation of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206); and
- (2) be subject to the penalties described in sections 16 and 17 of such Act (29 U.S.C. 216; 217) with respect to such violation.

(b) **UNLAWFUL TERMINATION.**—An employer who willfully violates section 5104 shall—

- (1) be considered to be in violation of section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)); and
- (2) be subject to the penalties described in sections 16 and 17 of such Act (29 U.S.C. 216; 217) with respect to such violation.

(c) **INVESTIGATIONS AND COLLECTION OF DATA.**—The Secretary of Labor or his designee may investigate and gather data to ensure compliance with this Act in the same manner as authorized by sections 9 and 11 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209; 211).

**SEC. 5106. [29 U.S.C. 2601 note] EMPLOYMENT UNDER MULTI-EMPLOYER BARGAINING AGREEMENTS.**

(a) **EMPLOYERS.**—An employer signatory to a multiemployer collective bargaining agreement may, consistent with its bargaining obligations and its collective bargaining agreement, fulfill its obligations under this Act by making contributions to a multiemployer fund, plan, or program based on the hours of paid sick time each of its employees is entitled to under this Act while working under the multiemployer collective bargaining agreement, provided that the fund, plan, or program enables employees to secure pay from such fund, plan, or program based on hours they have worked under the multiemployer collective bargaining agreement and for the uses specified under section 5102(a).

(b) **EMPLOYEES.**—Employees who work under a multiemployer collective bargaining agreement into which their employers make contributions as provided in subsection (a) may secure pay from such fund, plan, or program based on hours they have worked under the multiemployer collective bargaining agreement for the uses specified in section 5102(a).

**SEC. 5107. [29 U.S.C. 2601 note] RULES OF CONSTRUCTION.**

Nothing in this Act shall be construed—

(1) to in any way diminish the rights or benefits that an employee is entitled to under any—

- (A) other Federal, State, or local law;
- (B) collective bargaining agreement; or
- (C) existing employer policy; or

(2) to require financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for paid sick time under this Act that has not been used by such employee.

**SEC. 5108. [29 U.S.C. 2601 note] EFFECTIVE DATE.**

This Act, and the requirements under this Act, shall take effect not later than 15 days after the date of enactment of this Act.

**SEC. 5109. [29 U.S.C. 2601 note] SUNSET.**

This Act, and the requirements under this Act, shall expire on December 31, 2020.

**SEC. 5110. [29 U.S.C. 2601 note] DEFINITIONS.**

For purposes of the Act:

(1) **EMPLOYEE.**—The term “employee” means an individual who is—

(A)(i) an employee, as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who is not covered under subparagraph (E) or (F), including such an employee of the Library of Congress, except that a reference in such section to an employer shall be considered to be a reference to an employer described in clauses (i)(I) and (ii) of paragraph (2)(A); or

(ii) an employee of the Government Accountability Office;

(B) a State employee described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16c(a));

(C) a covered employee, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301), other than an applicant for employment;

(D) a covered employee, as defined in section 411(c) of title 3, United States Code;

(E) a Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code; or

(F) any other individual occupying a position in the civil service (as that term is defined in section 2101(1) of title 5, United States Code).

(2) **EMPLOYER.**—



(A) IN GENERAL.—The term “employer” means a person who is—

(i)(I) a covered employer, as defined in subparagraph (B), who is not covered under subclause (V);

(II) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(III) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(IV) an employing office, as defined in section 411(c) of title 3, United States Code; or

(V) an Executive Agency as defined in section 105 of title 5, United States Code, and including the U.S. Postal Service and the Postal Regulatory Commission; and

(ii) engaged in commerce (including government), or an industry or activity affecting commerce (including government), as defined in subparagraph (B)(iii).

(B) COVERED EMPLOYER.—

(i) IN GENERAL.—In subparagraph (A)(i)(I), the term “covered employer”—

(I) means any person engaged in commerce or in any industry or activity affecting commerce that—

(aa) in the case of a private entity or individual, employs fewer than 500 employees; and

(bb) in the case of a public agency or any other entity that is not a private entity or individual, employs 1 or more employees;

(II) includes—

(aa) includes any person acting directly or indirectly in the interest of an employer in relation to an employee (within the meaning of such phrase in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)); and

(bb) any successor in interest of an employer;

(III) includes any “public agency”, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)); and

(IV) includes the Government Accountability Office and the Library of Congress.

(ii) PUBLIC AGENCY.—For purposes of clause (i)(III), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(iii) DEFINITIONS.—For purposes of this subparagraph:

(I) COMMERCE.—The terms “commerce” and “industry or activity affecting commerce” means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and in-

clude “commerce” and any “industry affecting commerce”, as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act of 1947 (29 U.S.C. 142 (1) and (3)).

(II) EMPLOYEE.—The term “employee” has the same meaning given such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

(III) PERSON.—The term “person” has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(3) FLSA TERMS.—The terms “employ” and “State” have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(4) FMLA TERMS.—The terms “health care provider” and “son or daughter” have the meanings given such terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(5) PAID SICK TIME.—

(A) IN GENERAL.—The term “paid sick time” means an increment of compensated leave that—

(i) is provided by an employer for use during an absence from employment for a reason described in any paragraph of section 2(a); and

(ii) is calculated based on the employee’s required compensation under subparagraph (B) and the number of hours the employee would otherwise be normally scheduled to work (or the number of hours calculated under subparagraph (C)), except that in no event shall such paid sick time exceed—

(I) \$511 per day and \$5,110 in the aggregate for a use described in paragraph (1), (2), or (3) of section 5102(a); and

(II) \$200 per day and \$2,000 in the aggregate for a use described in paragraph (4), (5), or (6) of section 5102(a).

(B) REQUIRED COMPENSATION.—

(i) IN GENERAL.—Subject to subparagraph (A)(ii), the employee’s required compensation under this subparagraph shall be not less than the greater of the following:

(I) The employee’s regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)).

(II) The minimum wage rate in effect under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(III) The minimum wage rate in effect for such employee in the applicable State or locality, whichever is greater, in which the employee is employed.

(ii) SPECIAL RULE FOR CARE OF FAMILY MEMBERS.—Subject to subparagraph (A)(ii), with respect to

any paid sick time provided for any use described in paragraph (4), (5), or (6) of section 5102(a), the employee's required compensation under this subparagraph shall be two-thirds of the amount described in clause (B)(i).

(C) VARYING SCHEDULE HOURS CALCULATION.—In the case of a part-time employee described in section 5102(b)(2)(B) whose schedule varies from week to week to such an extent that an employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken paid sick time under section 2(a), the employer shall use the following in place of such number:

(i) Subject to clause (ii), a number equal to the average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes the paid sick time, including hours for which the employee took leave of any type.

(ii) If the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

(D) GUIDELINES.—Not later than 15 days after the date of the enactment of this Act, the Secretary of Labor shall issue guidelines to assist employers in calculating the amount of paid sick time under subparagraph (A).

(E) REASONABLE NOTICE.—After the first workday (or portion thereof) an employee receives paid sick time under this Act, an employer may require the employee to follow reasonable notice procedures in order to continue receiving such paid sick time.

**SEC. 5111. [29 U.S.C. 2601 note] REGULATORY AUTHORITIES.**

The Secretary of Labor shall have the authority to issue regulations for good cause under sections 553(b)(B) and 553(d)(3) of title 5, United States Code—

(1) to exclude certain health care providers and emergency responders from the definition of employee under section 5110(1) including by allowing the employer of such health care providers and emergency responders to opt out;

(2) to exempt small businesses with fewer than 50 employees from the requirements of section 5102(a)(5) when the imposition of such requirements would jeopardize the viability of the business as a going concern; and

(3) as necessary, to carry out the purposes of this Act, including to ensure consistency between this Act and Division C and Division G of the Families First Coronavirus Response Act.

**SEC. 5112. [29 U.S.C. 2601 note] AUTHORITY TO EXCLUDE CERTAIN EMPLOYEES.**

The Director of the Office of Management and Budget shall have the authority to exclude for good cause from the definition of employee under section 5110(1) certain employees described in sub-

paragraphs (E) and (F) of such section, including by exempting certain United States Government employers covered by section 5110(2)(A)(i)(V) from the requirements of this title with respect to certain categories of Executive Branch employees.

## DIVISION F—HEALTH PROVISIONS

### SEC. 6001. [42 U.S.C. 1320b-5 note] COVERAGE OF TESTING FOR COVID-19.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering group or individual health insurance coverage (including a grandfathered health plan (as defined in section 1251(e) of the Patient Protection and Affordable Care Act)) shall provide coverage, and shall not impose any cost sharing (including deductibles, copayments, and coinsurance) requirements or prior authorization or other medical management requirements, for the following items and services furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b-5(g)) beginning on or after the date of the enactment of this Act:

(1) An in vitro diagnostic test defined in section 809.3 of title 21, Code of Federal Regulations (or successor regulations) for the detection of SARS-CoV-2 or the diagnosis of the virus that causes COVID-19, and the administration of such a test, that—

(A) is approved, cleared, or authorized under section 510(k), 513, 515, or 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k), 360c, 360e, 360bbb-3);

(B) the developer has requested, or intends to request, emergency use authorization under section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb-3), unless and until the emergency use authorization request under such section 564 has been denied or the developer of such test does not submit a request under such section within a reasonable timeframe;

(C) is developed in and authorized by a State that has notified the Secretary of Health and Human Services of its intention to review tests intended to diagnose COVID-19; or

(D) other test that the Secretary determines appropriate in guidance.

(2) Items and services furnished to an individual during health care provider office visits (which term in this paragraph includes in-person visits and telehealth visits), urgent care center visits, and emergency room visits that result in an order for or administration of an in vitro diagnostic product described in paragraph (1), but only to the extent such items and services relate to the furnishing or administration of such product or to the evaluation of such individual for purposes of determining the need of such individual for such product.

(b) ENFORCEMENT.—The provisions of subsection (a) shall be applied by the Secretary of Health and Human Services, Secretary of Labor, and Secretary of the Treasury to group health plans and

health insurance issuers offering group or individual health insurance coverage as if included in the provisions of part A of title XXVII of the Public Health Service Act, part 7 of the Employee Retirement Income Security Act of 1974, and subchapter B of chapter 100 of the Internal Revenue Code of 1986, as applicable.

(c) IMPLEMENTATION.—The Secretary of Health and Human Services, Secretary of Labor, and Secretary of the Treasury may implement the provisions of this section through sub-regulatory guidance, program instruction or otherwise.

(d) TERMS.—The terms “group health plan”; “health insurance issuer”; “group health insurance coverage”, and “individual health insurance coverage” have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91), section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b), and section 9832 of the Internal Revenue Code of 1986, as applicable.

**SEC. 6002. WAIVING COST SHARING UNDER THE MEDICARE PROGRAM FOR CERTAIN VISITS RELATING TO TESTING FOR COVID-19.**

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1)—

(A) by striking “and” before “(CC)”; and

(B) by inserting before the period at the end the following: “, and (DD) with respect to a specified COVID-19 testing-related service described in paragraph (1) of subsection (cc) for which payment may be made under a specified outpatient payment provision described in paragraph (2) of such subsection, the amounts paid shall be 100 percent of the payment amount otherwise recognized under such respective specified outpatient payment provision for such service,”;

(2) in subsection (b), in the first sentence—

(A) by striking “and” before “(10)”; and

(B) by inserting before the period at the end the following: “, and (11) such deductible shall not apply with respect to any specified COVID-19 testing-related service described in paragraph (1) of subsection (cc) for which payment may be made under a specified outpatient payment provision described in paragraph (2) of such subsection”; and

(3) by adding at the end the following new subsection:

“(cc) SPECIFIED COVID-19 TESTING-RELATED SERVICES.—For purposes of subsection (a)(1)(DD):

“(1) DESCRIPTION.—

“(A) IN GENERAL.—A specified COVID-19 testing-related service described in this paragraph is a medical visit that—

“(i) is in any of the categories of HCPCS evaluation and management service codes described in subparagraph (B);

“(ii) is furnished during any portion of the emergency period (as defined in section 1135(g)(1)(B)) (be-

ginning on or after the date of enactment of this subsection);

“(iii) results in an order for or administration of a clinical diagnostic laboratory test described in section 1852(a)(1)(B)(iv)(IV); and

“(iv) relates to the furnishing or administration of such test or to the evaluation of such individual for purposes of determining the need of such individual for such test.

“(B) CATEGORIES OF HCPCS CODES.—For purposes of subparagraph (A), the categories of HCPCS evaluation and management services codes are the following:

“(i) Office and other outpatient services.

“(ii) Hospital observation services.

“(iii) Emergency department services.

“(iv) Nursing facility services.

“(v) Domiciliary, rest home, or custodial care services.

“(vi) Home services.

“(vii) Online digital evaluation and management services.

“(2) SPECIFIED OUTPATIENT PAYMENT PROVISION.—A specified outpatient payment provision described in this paragraph is any of the following:

“(A) The hospital outpatient prospective payment system under subsection (t).

“(B) The physician fee schedule under section 1848.

“(C) The prospective payment system developed under section 1834(o).

“(D) Section 1834(g), with respect to an outpatient critical access hospital service.

“(E) The payment basis determined in regulations pursuant to section 1833(a)(3) for rural health clinic services.”.

(b) **[42 U.S.C. 1395l note] CLAIMS MODIFIER.**—The Secretary of Health and Human Services shall provide for an appropriate modifier (or other identifier) to include on claims to identify, for purposes of subparagraph (DD) of section 1833(a)(1), as added by subsection (a), specified COVID-19 testing-related services described in paragraph (1) of section 1833(cc) of the Social Security Act, as added by subsection (a), for which payment may be made under a specified outpatient payment provision described in paragraph (2) of such subsection.

(c) **[42 U.S.C. 1395l note] IMPLEMENTATION.**—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement the provisions of, including amendments made by, this section through program instruction or otherwise.

**SEC. 6003. COVERAGE OF TESTING FOR COVID-19 AT NO COST SHARING UNDER THE MEDICARE ADVANTAGE PROGRAM.**

(a) **IN GENERAL.**—Section 1852(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w-22(a)(1)(B)) is amended—

(1) in clause (iv)—

(A) by redesignating subclause (IV) as subclause (VI);

and

(B) by inserting after subclause (III) the following new subclauses:

“(IV) Clinical diagnostic laboratory test administered during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) beginning on or after the date of the enactment of the Families First Coronavirus Response Act for the detection of SARS-CoV-2 or the diagnosis of the virus that causes COVID-19 and the administration of such test.

“(V) Specified COVID-19 testing-related services (as described in section 1833(cc)(1)) for which payment would be payable under a specified outpatient payment provision described in section 1833(cc)(2).”;

(2) in clause (v), by inserting “, other than subclauses (IV) and (V) of such clause,” after “clause (iv)”; and

(3) by adding at the end the following new clause:

“(vi) PROHIBITION OF APPLICATION OF CERTAIN REQUIREMENTS FOR COVID-19 TESTING.—In the case of a product or service described in subclause (IV) or (V), respectively, of clause (iv) that is administered or furnished during any portion of the emergency period described in such subclause beginning on or after the date of the enactment of this clause, an MA plan may not impose any prior authorization or other utilization management requirements with respect to the coverage of such a product or service under such plan.”.

(b) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement the amendments made by this section by program instruction or otherwise.

**SEC. 6004. COVERAGE AT NO COST SHARING OF COVID-19 TESTING UNDER MEDICAID AND CHIP.**

(a) MEDICAID.—

(1) IN GENERAL.—Section 1905(a)(3) of the Social Security Act (42 U.S.C. 1396d(a)(3)) is amended—

(A) by striking “other laboratory” and inserting “(a) other laboratory”;

(B) by inserting “and” after the semicolon; and

(C) by adding at the end the following new subparagraph:

“(B) in vitro diagnostic products (as defined in section 809.3(a) of title 21, Code of Federal Regulations) administered during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) beginning on or after the date of the enactment of this subparagraph for the detection of SARS-CoV-2 or the diagnosis of the virus that causes COVID-19 that are approved, cleared, or authorized under section 510(k), 513, 515 or 564 of the Federal Food, Drug, and Cosmetic Act, and the administration of such in vitro diagnostic products;”.

(2) NO COST SHARING.—

(A) IN GENERAL.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are each amended—

(i) in subparagraph (D), by striking “or” at the end;

(ii) in subparagraph (E), by striking “; and” and inserting a comma; and

(iii) by adding at the end the following new subparagraphs:

“(F) any in vitro diagnostic product described in section 1905(a)(3)(B) that is administered during any portion of the emergency period described in such section beginning on or after the date of the enactment of this subparagraph (and the administration of such product), or

“(G) COVID-19 testing-related services for which payment may be made under the State plan; and”.

(B) APPLICATION TO ALTERNATIVE COST SHARING.—Section 1916A(b)(3)(B) of the Social Security Act (42 U.S.C. 1396o-1(b)(3)(B)) is amended by adding at the end the following new clause:

“(xi) Any in vitro diagnostic product described in section 1905(a)(3)(B) that is administered during any portion of the emergency period described in such section beginning on or after the date of the enactment of this clause (and the administration of such product) and any visit described in section 1916(a)(2)(G) that is furnished during any such portion.”.

(C) [42 U.S.C. 1396o note] CLARIFICATION.—The amendments made this paragraph shall apply with respect to a State plan of a territory in the same manner as a State plan of one of the 50 States.

(3) STATE OPTION TO PROVIDE COVERAGE FOR UNINSURED INDIVIDUALS.—

(A) IN GENERAL.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended—

(i) in subparagraph (A)(ii)—

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

(II) in subclause (XXII), by adding “or” at the end; and

(III) by adding at the end the following new subclause:

“(XXIII) during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) beginning on or after the date of the enactment of this subclause, who are uninsured individuals (as defined in subsection (ss));”; and

(ii) in the matter following subparagraph (G)—

(I) by striking “and (XVII)” and inserting “, (XVII)”; and

(II) by inserting after “instead of through subclause (VIII)” the following: “, and (XVIII) the medical assistance made available to an uninsured individual (as defined in subsection (ss))”



who is eligible for medical assistance only because of subparagraph (A)(ii)(XXIII) shall be limited to medical assistance for any in vitro diagnostic product described in section 1905(a)(3)(B) that is administered during any portion of the emergency period described in such section beginning on or 134 STAT. 206 after the date of the enactment of this subclause (and the administration of such product) and any visit described in section 1916(a)(2)(G) that is furnished during any such portion”.

(B) RECEIPT AND INITIAL PROCESSING OF APPLICATIONS AT CERTAIN LOCATIONS.—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended, in the matter preceding subparagraph (A), by striking “or (a)(10)(A)(ii)(IX)” and inserting “(a)(10)(A)(ii)(IX), or (a)(10)(A)(ii)(XXIII)”.

(C) UNINSURED INDIVIDUAL DEFINED.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

“(ss) UNINSURED INDIVIDUAL DEFINED.—For purposes of this section, the term ‘uninsured individual’ means, notwithstanding any other provision of this title, any individual who is—

“(1) not described in subsection (a)(10)(A)(i); and

“(2) not enrolled in a Federal health care program (as defined in section 1128B(f)), a group health plan, group or individual health insurance coverage offered by a health insurance issuer (as such terms are defined in section 2791 of the Public Health Service Act), or a health plan offered under chapter 89 of title 5, United States Code.”.

(D) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by adding at the end the following new sentence: “Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be 100 per centum with respect to (and, notwithstanding any other provision of this title, available for) medical assistance provided to uninsured individuals (as defined in section 1902(ss)) who are eligible for such assistance only on the basis of section 1902(a)(10)(A)(ii)(XXIII) and with respect to expenditures described in section 1903(a)(7) that a State demonstrates to the satisfaction of the Secretary are attributable to administrative costs related to providing for such medical assistance to such individuals under the State plan.”.

(b) CHIP.—

(1) IN GENERAL.—Section 2103(c) of the Social Security Act (42 U.S.C. 1397cc(c)) is amended by adding at the end the following paragraph:

“(10) CERTAIN IN VITRO DIAGNOSTIC PRODUCTS FOR COVID-19 TESTING.—The child health assistance provided to a targeted low-income child shall include coverage of any in vitro diagnostic product described in section 1905(a)(3)(B) that is administered during any portion of the emergency period described

in such section beginning on or after the date of the enactment of this subparagraph (and the administration of such product).”.

(2) **COVERAGE FOR TARGETED LOW-INCOME PREGNANT WOMEN.**—Section 2112(b)(4) of the Social Security Act (42 U.S.C. 1397ll(b)(4)) is amended by inserting “under section 2103(c)” after “same requirements”.

(3) **PROHIBITION OF COST SHARING.**—Section 2103(e)(2) of the Social Security Act (42 U.S.C. 1397cc(e)(2)) is amended—

(A) in the paragraph header, by inserting “, covid-19 testing,” before “or pregnancy-related assistance”; and

(B) by striking “category of services described in subsection (c)(1)(D) or” and inserting “categories of services described in subsection (c)(1)(D), in vitro diagnostic products described in subsection (c)(10) (and administration of such products), visits described in section 1916(a)(2)(G), or”.

**SEC. 6005. TREATMENT OF PERSONAL RESPIRATORY PROTECTIVE DEVICES AS COVERED COUNTERMEASURES.**

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

(1) in subparagraph (B), by striking “or” at the end;

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

(3) by adding at the end the following new subparagraph:

“(D) a personal respiratory protective device that is—

“(i) approved by the National Institute for Occupational Safety and Health under part 84 of title 42, Code of Federal Regulations (or successor regulations);

“(ii) subject to the emergency use authorization issued by the Secretary on March 2, 2020, or subsequent emergency use authorizations, pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (authorizing emergency use of personal respiratory protective devices during the COVID-19 outbreak); and

“(iii) used during the period beginning on January 27, 2020, and ending on October 1, 2024, in response to the public health emergency declared on January 31, 2020, pursuant to section 319 as a result of confirmed cases of 2019 Novel Coronavirus (2019-nCoV).”.

**SEC. 6006. APPLICATION WITH RESPECT TO TRICARE, COVERAGE FOR VETERANS, AND COVERAGE FOR FEDERAL CIVILIANS.**

(a) **[10 U.S.C. 1074 note] TRICARE.**—The Secretary of Defense may not require any copayment or other cost sharing under chapter 55 of title 10, United States Code, for in vitro diagnostic products described in paragraph (1) of section 6001(a) (or the administration of such products) or visits described in paragraph (2) of such section furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b-5(g)) beginning on or after the date of the enactment of this Act.

(b) **[38 U.S.C. 1701 note] VETERANS.**—The Secretary of Veterans Affairs may not require any copayment or other cost sharing under chapter 17 of title 38, United States Code, for in vitro diagnostic products described in paragraph (1) of section 6001(a) (or the administration of such products) or visits described in paragraph (2) of such section furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b-5(g)) beginning on or after the date of the enactment of this Act.

(c) **[5 U.S.C. 8904 note] FEDERAL CIVILIANS.**—No copayment or other cost sharing may be required for any individual occupying a position in the civil service (as that term is defined in section 2101(1) of title 5, United States Code) enrolled in a health benefits plan, including any plan under chapter 89 of title 5, United States Code, or for any other individual currently enrolled in any plan under chapter 89 of title 5 for in vitro diagnostic products described in paragraph (1) of section 6001(a) (or the administration of such products) or visits described in paragraph (2) of such section furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b-5(g)) beginning on or after the date of the enactment of this Act.

**SEC. 6007. [25 U.S.C. 1621q note] COVERAGE OF TESTING FOR COVID-19 AT NO COST SHARING FOR INDIANS RECEIVING PURCHASED/REFERRED CARE.**

The Secretary of Health and Human Services shall cover, without the imposition of any cost sharing requirements, the cost of providing any COVID-19 related items and services as described in paragraph (1) of section 6001(a) (or the administration of such products) or visits described in paragraph (2) of such section furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b-5(g)) beginning on or after the date of the enactment of this Act to Indians (as defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)) receiving health services through the Indian Health Service, including through an Urban Indian Organization, regardless of whether such items or services have been authorized under the purchased/referred care system funded by the Indian Health Service or is covered as a health service of the Indian Health Service.

**SEC. 6008. [42 U.S.C. 1396d note] TEMPORARY INCREASE OF MEDICAID FMAP.**

(a) **IN GENERAL.**—

(1) **TEMPORARY FMAP INCREASE.**—Subject to subsections (b) and (f), for each calendar quarter occurring during the period beginning on the first day of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b-5(g)) and ending on December 31, 2023, the Federal medical assistance percentage determined for each State, including the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the United States Virgin Islands, under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))

shall be increased by the applicable number of percentage points for the quarter (as determined in paragraph (2)).

(2) **APPLICABLE NUMBER OF PERCENTAGE POINTS.**—For purposes of paragraph (1), the applicable number of percentage points for a calendar quarter is the following:

(A) For each calendar quarter that occurs during the portion of the period described in paragraph (1) that ends on March 31, 2023, 6.2 percentage points.

(B) For the calendar quarter that begins on April 1, 2023, and ends on June 30, 2023, 5 percentage points.

(C) For the calendar quarter that begins on July 1, 2023, and ends on September 30, 2023, 2.5 percentage points.

(D) For the calendar quarter that begins on October 1, 2023, and ends on December 31, 2023, 1.5 percentage points.

(b) **REQUIREMENT FOR ALL STATES.**—A State described in subsection (a)(1) may not receive the increase described in such subsection in the Federal medical assistance percentage for such State, with respect to a quarter, if—

(1) eligibility standards, methodologies, or procedures under the State plan of such State under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or section 1115 of such Act (42 U.S.C. 1315)) are more restrictive during such quarter than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on January 1, 2020;

(2) the amount of any premium imposed by the State pursuant to section 1916 or 1916A of such Act (42 U.S.C. 1396o, 1396o-1) during such quarter exceeds the amount of such premium as of January 1, 2020;

(3) the State fails to provide that an individual who is enrolled for benefits under such plan (or waiver) as of March 18, 2020, or enrolls for benefits under such plan (or waiver) during the period beginning on March 18, 2020, and ending March 31, 2023, shall be treated as eligible for such benefits through March 31, 2023, unless the individual requests a voluntary termination of eligibility or the individual ceases to be a resident of the State; or

(4) the State does not provide coverage under such plan (or waiver), without the imposition of cost sharing, during such quarter for any testing services and treatments for COVID-19, including vaccines, specialized equipment, and therapies.

(c) **REQUIREMENT FOR CERTAIN STATES.**—Section 1905(cc) of the Social Security Act (42 U.S.C. 1396d(cc)) is amended by striking the period at the end of the subsection and inserting “and section 6008 of the Families First Coronavirus Response Act, except that in applying such treatments to the increases in the Federal medical assistance percentage under section 6008 of the Families First Coronavirus Response Act, the reference to ‘December 31, 2009’ shall be deemed to be a reference to ‘March 11, 2020’.”

(d) **DELAY IN APPLICATION OF PREMIUM REQUIREMENT.**—During the 30 day period beginning on the date of enactment of this Act, a State shall not be ineligible for the increase to the Federal med-

ical assistance percentage of the State described in subsection (a) on the basis that the State imposes a premium that violates the requirement of subsection (b)(2) if such premium was in effect on the date of enactment of this Act.

(e) APPLICATION TO TITLE IV-E PAYMENTS.—If the District of Columbia receives the increase described in subsection (a) in the Federal medical assistance percentage for the District of Columbia with respect to a quarter, the Federal medical assistance percentage for the District of Columbia, as so increased, shall apply to payments made to the District of Columbia under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) for that quarter, and the payments under such part shall be deemed to be made on the basis of the Federal medical assistance percentage applied with respect to such District for purposes of title XIX of such Act (42 U.S.C. 1396 et seq.) and as increased under subsection (a).

(f) ELIGIBILITY REDETERMINATIONS DURING TRANSITION PERIOD.—

(1) IN GENERAL.— For each calendar quarter occurring during the portion of the period described in subsection (a)(1) that begins on April 1, 2023, and ends on December 31, 2023 (such portion to be referred to in this subsection as the “transition period”), if a State described in such subsection satisfies the conditions of subsection (b) and paragraph (2) of this subsection, the State shall receive the increase to the Federal medical assistance percentage of the State applicable under subsection (a). Nothing in this subsection shall be construed as prohibiting a State, following the expiration of the condition described in paragraph (3) of subsection (b), from initiating renewals, post-enrollment verifications, and redeterminations over a 12-month period for all individuals who are enrolled in such plan (or waiver) as of April 1, 2023.

(2) CONDITIONS FOR FMAP INCREASE DURING TRANSITION PERIOD.—The conditions of this paragraph with respect to a State and the transition period are the following:

(A) COMPLIANCE WITH FEDERAL REQUIREMENTS.—The State conducts eligibility redeterminations under title XIX of the Social Security Act in accordance with all Federal requirements applicable to such redeterminations, including renewal strategies authorized under section 1902(e)(14)(A) of the Social Security Act (42 U.S.C. 1396a(e)(14)(A)) or other alternative processes and procedures approved by the Secretary of Health and Human Services.

(B) MAINTENANCE OF UP-TO-DATE CONTACT INFORMATION.—The State, using the National Change of Address Database Maintained by the United States Postal Service, State health and human services agencies, or other reliable sources of contact information, attempts to ensure that it has up-to-date contact information (including a mailing address, phone number, and email address) for each individual for whom the State conducts an eligibility redetermination.

(C) REQUIREMENT TO ATTEMPT TO CONTACT BENEFICIARIES PRIOR TO DISENROLLMENT.—The State does not

disenroll from the State plan or waiver any individual who is determined ineligible for medical assistance under the State plan or waiver pursuant to such a redetermination on the basis of returned mail unless the State first undertakes a good faith effort to contact the individual using more than one modality.

(g) APPLICABLE QUARTERS.—A State that ceases to meet the requirements of subsection (b) or (f) (as applicable) shall not qualify for the increase described in subsection (a) in the Federal medical assistance percentage for such State for the calendar quarter in which the State ceases to meet such requirements.

**SEC. 6009. INCREASE IN MEDICAID ALLOTMENTS FOR TERRITORIES.**

Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B)—

- (i) in clause (i), by striking “and” at the end;
- (ii) in clause (ii), by striking “for each of fiscal years 2020 through 2021, \$126,000,000;” and inserting “for fiscal year 2020, \$128,712,500; and”; and
- (iii) by adding at the end the following new clause: “(iii) for fiscal year 2021, \$127,937,500;”;

(B) in subparagraph (C)—

- (i) in clause (i), by striking “and” at the end;
- (ii) in clause (ii), by striking “for each of fiscal years 2020 through 2021, \$127,000,000;” and inserting “for fiscal year 2020, \$130,875,000; and”; and
- (iii) by adding at the end the following new clause: “(iii) for fiscal year 2021, \$129,712,500;”;

(C) in subparagraph (D)—

- (i) in clause (i), by striking “and” at the end;
- (ii) in clause (ii), by striking “for each of fiscal years 2020 through 2021, \$60,000,000; and” and inserting “for fiscal year 2020, \$63,100,000; and”; and
- (iii) by adding at the end the following new clause: “(iii) for fiscal year 2021, \$62,325,000; and”;

(D) in subparagraph (E)—

- (i) in clause (i), by striking “and” at the end;
- (ii) in clause (ii), by striking “for each of fiscal years 2020 through 2021, \$84,000,000.” and inserting “for fiscal year 2020, \$86,325,000; and”; and
- (iii) by adding at the end the following new clause: “(iii) for fiscal year 2021, \$85,550,000.”; and

(2) in paragraph (6)(A)—

- (A) in clause (i), by striking “\$2,623,188,000” and inserting “\$2,716,188,000”; and
- (B) in clause (ii), by striking “\$2,719,072,000” and inserting “\$2,809,063,000”.

**SEC. 6010. CLARIFICATION RELATING TO SECRETARIAL AUTHORITY REGARDING MEDICARE TELEHEALTH SERVICES FURNISHED DURING COVID-19 EMERGENCY PERIOD.**

Paragraph (3)(A) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b-5(g)) is amended to read as follows:

“(A) furnished to such individual, during the 3-year period ending on the date such telehealth service was furnished, an item or service that would be considered covered under title XVIII if furnished to an individual entitled to benefits or enrolled under such title; or”.

## **DIVISION G—TAX CREDITS FOR PAID SICK AND PAID FAMILY AND MEDICAL LEAVE**

### **SEC. 7001. [26 U.S.C. 3111 note] PAYROLL CREDIT FOR REQUIRED PAID SICK LEAVE.**

(a) **IN GENERAL.**—In the case of an employer, there shall be allowed as a credit against the tax imposed by section 3111(a) or 3221(a) of the Internal Revenue Code of 1986 for each calendar quarter an amount equal to 100 percent of the qualified sick leave wages paid by such employer with respect to such calendar quarter.

(b) **LIMITATIONS AND REFUNDABILITY.**—

(1) **WAGES TAKEN INTO ACCOUNT.**—The amount of qualified sick leave wages taken into account under subsection (a) with respect to any individual shall not exceed \$200 (\$511 in the case of any day any portion of which is paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act) for any day (or portion thereof) for which the individual is paid qualified sick leave wages.

(2) **OVERALL LIMITATION ON NUMBER OF DAYS TAKEN INTO ACCOUNT.**—The aggregate number of days taken into account under paragraph (1) for any calendar quarter shall not exceed the excess (if any) of—

(A) 10, over

(B) the aggregate number of days so taken into account for all preceding calendar quarters.

(3) **CREDIT LIMITED TO CERTAIN EMPLOYMENT TAXES.**—The credit allowed by subsection (a) with respect to any calendar quarter shall not exceed the tax imposed by section 3111(a) or 3221(a) of such Code for such calendar quarter (reduced by any credits allowed under subsections (e) and (f) of section 3111 of such Code, and section 303(d) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, for such quarter) on the wages paid with respect to the employment of all employees of the employer.

(4) **REFUNDABILITY OF EXCESS CREDIT.**—

(A)(i) **CREDIT IS REFUNDABLE.**—If the amount of the credit under subsection (a) exceeds the limitation of paragraph (3) for any calendar quarter, such excess shall be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b) of such Code.

(ii)<sup>3</sup> ADVANCING CREDIT In anticipation of the credit, including the refundable portion under clause (i), the credit may be advanced, according to forms and instructions provided by the Secretary, up to an amount calculated under subsection (a), subject to the limits under subsection (b), both calculated through the end of the most recent payroll period in the quarter.

(B) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, any amounts due to an employer under this paragraph shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(c) QUALIFIED SICK LEAVE WAGES.—For purposes of this section, the term “qualified sick leave wages” means wages (as defined in section 3121(a) of the Internal Revenue Code of 1986, determined without regard to paragraphs (1) through (22) of section 3121(b) of such Code and section 7005(a) of this Act),<sup>4</sup> and compensation (as defined in section 3231(e) of the Internal Revenue Code, determined without regard to the sentence in paragraph (1) thereof which begins “Such term does not include remuneration” and without regard to section 7005(a) of this Act) paid by an employer—

(1) which are required to be paid by reason of the Emergency Paid Sick Leave Act, or

(2) both—

(A) which would be so required to be paid if such Act were applied—

(i) by substituting “March 31, 2021” for “December 31, 2020” in section 5109 thereof, and

(ii) without regard to section 5102(b)(3) thereof, and

(B) with respect to which all requirements of such Act (other than subsections (a) and (b) of section 5105 thereof, and determined by substituting “To be compliant with section 5102, an employer may not” for “It shall be unlawful for any employer to” in section 5104 thereof) which would apply if so required are satisfied.

(d) ALLOWANCE OF CREDIT FOR CERTAIN HEALTH PLAN EXPENSES.—

(1) IN GENERAL.—The amount of the credit allowed under subsection (a) shall be increased by so much of the employer’s qualified health plan expenses as are properly allocable to the qualified sick leave wages for which such credit is so allowed.

(2) QUALIFIED HEALTH PLAN EXPENSES.—For purposes of this subsection, the term “qualified health plan expenses” means amounts paid or incurred by the employer to provide and maintain a group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986), but only to

<sup>3</sup> Margin of clause (ii) is so in law. See amendment made by section 3606(a)(1)(B) of division A of Public Law 116–136.

<sup>4</sup> A comma and close parenthesis is so in law. See amendments made by section 288(a) and (b) of division N of Public Law 116–260.



the extent that such amounts are excluded from the gross income of employees by reason of section 106(a) of such Code.

(3) **ALLOCATION RULES.**—For purposes of this section, qualified health plan expenses shall be allocated to qualified sick leave wages in such manner as the Secretary of the Treasury (or the Secretary's delegate) may prescribe. Except as otherwise provided by the Secretary, such allocation shall be treated as properly made if made on the basis of being pro rata among covered employees and pro rata on the basis of periods of coverage (relative to the time periods of leave to which such wages relate).

(e) **SPECIAL RULES.**—

(1) **DENIAL OF DOUBLE BENEFIT.**—For purposes of chapter 1 of such Code, the gross income of the employer, for the taxable year which includes the last day of any calendar quarter with respect to which a credit is allowed under this section, shall be increased by the amount of such credit. Any wages taken into account in determining the credit allowed under this section shall not be taken into account for purposes of determining the credit allowed under section 45S of such Code.

(2) **ELECTION NOT TO HAVE SECTION APPLY.**—This section shall not apply with respect to any employer for any calendar quarter if such employer elects (at such time and in such manner as the Secretary of the Treasury (or the Secretary's delegate) may prescribe) not to have this section apply.

(3) **CERTAIN TERMS.**—Except as otherwise provided in this section, any term used in this section which is also used in chapter 21 of such Code shall have the same meaning as when used in such chapter.

(4)<sup>5</sup> **CERTAIN GOVERNMENTAL EMPLOYERS.**—This credit shall not apply to the Government of the United States, the government of any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing.

(4)<sup>5</sup> **REFERENCES TO RAILROAD RETIREMENT TAX.**—Any reference in this section to the tax imposed by section 3221(a) of the Internal Revenue Code of 1986 shall be treated as a reference to so much of such tax as is attributable to the rate in effect under section 3111(a) of such Code.

(f) **REGULATIONS.**—The Secretary of the Treasury (or the Secretary's delegate) shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

(1) regulations or other guidance to prevent the avoidance of the purposes of the limitations under this section,

(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section,

(3) regulations or other guidance providing for waiver of penalties for failure to deposit amounts in anticipation of the allowance of the credit allowed under this section,

(4) regulations or other guidance for recapturing the benefit of credits determined under this section in cases where

<sup>5</sup> There are two paragraph (4)s<sup>5</sup> in law. The second paragraph (4) was added by section 288(c) of division N of Public Law 116–260.

there is a subsequent adjustment to the credit determined under subsection (a),

(5) regulations or other guidance to ensure that the wages taken into account under this section conform with the paid sick time required to be provided under the Emergency Paid Sick Leave Act, and

(6) regulations or other guidance to permit the advancement of the credit determined under subsection (a).

(g) APPLICATION OF SECTION.—This section shall apply only to wages paid with respect to the period beginning on a date selected by the Secretary of the Treasury (or the Secretary's delegate) which is during the 15-day period beginning on the date of the enactment of this Act, and ending on March 31, 2021.

(h) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(a)) amounts equal to the reduction in revenues to the Treasury by reason of this section (without regard to this subsection). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund or Account had this section not been enacted.

(i) TREATMENT OF DEPOSITS.—The Secretary of the Treasury (or the Secretary's delegate) shall waive any penalty under section 6656 of the Internal Revenue Code of 1986 for any failure to make a deposit of the tax imposed by section 3111(a) or 3221(a) of such Code if the Secretary determines that such failure was due to the anticipation of the credit allowed under this section.

**SEC. 7002. [26 U.S.C. 1401 note] CREDIT FOR SICK LEAVE FOR CERTAIN SELF-EMPLOYED INDIVIDUALS.**

(a) CREDIT AGAINST SELF-EMPLOYMENT TAX.—In the case of an eligible self-employed individual, there shall be allowed as a credit against the tax imposed by subtitle A of the Internal Revenue Code of 1986 for any taxable year an amount equal to the qualified sick leave equivalent amount with respect to the individual.

(b) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—For purposes of this section, the term “eligible self-employed individual” means an individual who—

(1) regularly carries on any trade or business within the meaning of section 1402 of such Code, and

(2) either—

(A) would be entitled to receive paid leave during the taxable year pursuant to the Emergency Paid Sick Leave Act if the individual were an employee of an employer (other than himself or herself), or

(B) would be so entitled if—

(i) such Act were applied by substituting “March 31, 2021” for “December 31, 2020” in section 5109 thereof, and

(ii) the individual were an employee of an employer (other than himself or herself).

(c) **QUALIFIED SICK LEAVE EQUIVALENT AMOUNT.**—For purposes of this section—

(1) **IN GENERAL.**—The term “qualified sick leave equivalent amount” means, with respect to any eligible self-employed individual, an amount equal to—

(A) the number of days during the taxable year (but not more than the applicable number of days) that the individual is unable to perform services in any trade or business referred to in section 1402 of such Code for a reason with respect to which such individual would be entitled to receive sick leave as described in subsection (b), multiplied by

(B) the lesser of—

(i) \$200 (\$511 in the case of any day of paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act), or

(ii) 67 percent (100 percent in the case of any day of paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act) of the average daily self-employment income of the individual for the taxable year.

(2) **AVERAGE DAILY SELF-EMPLOYMENT INCOME.**—For purposes of this subsection, the term “average daily self-employment income” means an amount equal to—

(A) the net earnings from self-employment of the individual for the taxable year, divided by

(B) 260.

(3) **APPLICABLE NUMBER OF DAYS.**—For purposes of this subsection, the term “applicable number of days” means, with respect to any taxable year, the excess (if any) of 10 days over the number of days taken into account under paragraph (1)(A) in all preceding taxable years.

(4) **ELECTION TO USE PRIOR YEAR NET EARNINGS FROM SELF-EMPLOYMENT INCOME.**—In the case of an individual who elects (at such time and in such manner as the Secretary, or the Secretary’s delegate, may provide) the application of this paragraph, paragraph (2)(A) shall be applied by substituting “the prior taxable year” for “the taxable year”.

(d) **SPECIAL RULES.**—

(1) **CREDIT REFUNDABLE.**—

(A) **IN GENERAL.**—The credit determined under this section shall be treated as a credit allowed to the taxpayer under subpart C of part IV of subchapter A of chapter 1 of such Code.

(B) **TREATMENT OF PAYMENTS.**—For purposes of section 1324 of title 31, United States Code, any refund due from the credit determined under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(2) **DOCUMENTATION.**—No credit shall be allowed under this section unless the individual maintains such documentation as the Secretary of the Treasury (or the Secretary’s dele-

gate) may prescribe to establish such individual as an eligible self-employed individual.

(3) DENIAL OF DOUBLE BENEFIT.—In the case of an individual who receives wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) or compensation (as defined in section 3231(e) of the Internal Revenue Code) paid by an employer which are required to be paid by reason of the Emergency Paid Sick Leave Act, the qualified sick leave equivalent amount otherwise determined under subsection (c) shall be reduced (but not below zero) to the extent that the sum of the amount described in such subsection and in section 7001(b)(1) exceeds \$2,000 (\$5,110 in the case of any day any portion of which is paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act).

(4) CERTAIN TERMS.—Any term used in this section which is also used in chapter 2 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such chapter.

(e) APPLICATION OF SECTION.—Only days occurring during the period beginning on a date selected by the Secretary of the Treasury (or the Secretary's delegate) which is during the 15-day period beginning on the date of the enactment of this Act, and ending on March 31, 2021, may be taken into account under subsection (c)(1)(A).

(f) APPLICATION OF CREDIT IN CERTAIN POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary of the Treasury (or the Secretary's delegate) shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section. Such amounts shall be determined by the Secretary of the Treasury (or the Secretary's delegate) based on information provided by the government of the respective possession.

(2) PAYMENTS TO OTHER POSSESSIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury (or the Secretary's delegate) as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan, which has been approved by the Secretary of the Treasury (or the Secretary's delegate), under which such possession will promptly distribute such payments to its residents.

(3) MIRROR CODE TAX SYSTEM.—For purposes of this section, the term “mirror code tax system” means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(4) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(g) REGULATIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

- (1) regulations or other guidance to effectuate the purposes of this Act, and
- (2) regulations or other guidance to minimize compliance and record-keeping burdens under this section.

**SEC. 7003. [26 U.S.C. 3111 note] PAYROLL CREDIT FOR REQUIRED PAID FAMILY LEAVE.**

(a) IN GENERAL.—In the case of an employer, there shall be allowed as a credit against the tax imposed by section 3111(a) or 3221(a) of the Internal Revenue Code of 1986 for each calendar quarter an amount equal to 100 percent of the qualified family leave wages paid by such employer with respect to such calendar quarter.

(b) LIMITATIONS AND REFUNDABILITY.—

(1) WAGES TAKEN INTO ACCOUNT.—The amount of qualified family leave wages taken into account under subsection (a) with respect to any individual shall not exceed—

(A) for any day (or portion thereof) for which the individual is paid qualified family leave wages, \$200, and

(B) in the aggregate with respect to all calendar quarters, \$10,000.

(2) CREDIT LIMITED TO CERTAIN EMPLOYMENT TAXES.—The credit allowed by subsection (a) with respect to any calendar quarter shall not exceed the tax imposed by section 3111(a) or 3221(a) of such Code for such calendar quarter (reduced by any credits allowed under subsections (e) and (f) of section 3111 of such Code, section 7001 of this Act, and section 303(d) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, for such quarter) on the wages paid with respect to the employment of all employees of the employer.

(3) REFUNDABILITY OF EXCESS CREDIT.—(A) CREDIT IS REFUNDABLE.—If the amount of the credit under subsection (a) exceeds the limitation of paragraph (2) for any calendar quarter, such excess shall be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b) of such Code.

(B)<sup>6</sup> ADVANCING CREDIT.—In anticipation of the credit, including the refundable portion under subparagraph (A), the credit may be advanced, according to forms and instructions provided by the Secretary, up to an amount calculated under subsection (a), subject to the limits under subsection (b), both calculated through the end of the most recent payroll period in the quarter.

<sup>6</sup>Margin of subparagraph (B) is so in law. See amendment made by section 3606(b)(1)(B) of division A of Public Law 116–136.

(c) **QUALIFIED FAMILY LEAVE WAGES.**—For purposes of this section, the term “qualified family leave wages” means wages (as defined in section 3121(a) of such Code<sup>7</sup>) and compensation (as defined in section 3231(e) of the Internal Revenue Code, determined without regard to the sentence in paragraph (1) thereof which begins “Such term does not include remuneration” and without regard to section 7005(a) of this Act) paid by an employer—

(1) which are required to be paid by reason of the Emergency Family and Medical Leave Expansion Act (including the amendments made by such Act), or

(2) both—

(A) which would be so required to be paid if section 102(a)(1)(F) of the Family and Medical Leave Act of 1993, as amended by the Emergency Family and Medical Leave Expansion Act, were applied by substituting “March 31, 2021” for “December 31, 2020”, and

(B) with respect to which all requirements of the Family and Medical Leave Act of 1993 (other than section 107 thereof, and determined by substituting “To be compliant with section 102(a)(1)(F), an employer may not” for “It shall be unlawful for any employer to” each place it appears in subsection (a) of section 105 thereof, by substituting “made unlawful in this title or described in this section” for “made unlawful by this title” in paragraph (2) of such subsection, and by substituting “To be compliant with section 102(a)(1)(F), an employer may not” for “It shall be unlawful for any person to” in subsection (b) of such section) which relate to such section 102(a)(1)(F), and which would apply if so required, are satisfied.

(d) **ALLOWANCE OF CREDIT FOR CERTAIN HEALTH PLAN EXPENSES.**—

(1) **IN GENERAL.**—The amount of the credit allowed under subsection (a) shall be increased by so much of the employer’s qualified health plan expenses as are properly allocable to the qualified family leave wages for which such credit is so allowed.

(2) **QUALIFIED HEALTH PLAN EXPENSES.**—For purposes of this subsection, the term “qualified health plan expenses” means amounts paid or incurred by the employer to provide and maintain a group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986), but only to the extent that such amounts are excluded from the gross income of employees by reason of section 106(a) of such Code.

(3) **ALLOCATION RULES.**—For purposes of this section, qualified health plan expenses shall be allocated to qualified family leave wages in such manner as the Secretary of the Treasury (or the Secretary’s delegate) may prescribe. Except as otherwise provided by the Secretary, such allocation shall be

<sup>7</sup> Section 288(a)(1)(A) and (b)(1) of division N of Public Law 116–260 provides for amendments by inserting “, determined without regard to paragraphs (1) through (22) of section 3121(b) of such Code and section 7005(a) of this Act,” after “as defined in section 3121(a) of the Internal Revenue Code of 1986”. The amendment was not executed because the phrase where the new language is to be inserted does not appear in law. Also, had the amendments been able to be executed it would have resulted in “,)”.

treated as properly made if made on the basis of being pro rata among covered employees and pro rata on the basis of periods of coverage (relative to the time periods of leave to which such wages relate).

(e) SPECIAL RULES.—

(1) DENIAL OF DOUBLE BENEFIT.—For purposes of chapter 1 of such Code, the gross income of the employer, for the taxable year which includes the last day of any calendar quarter with respect to which a credit is allowed under this section, shall be increased by the amount of such credit. Any wages taken into account in determining the credit allowed under this section shall not be taken into account for purposes of determining the credit allowed under section 45S of such Code.

(2) ELECTION NOT TO HAVE SECTION APPLY.—This section shall not apply with respect to any employer for any calendar quarter if such employer elects (at such time and in such manner as the Secretary of the Treasury (or the Secretary's delegate) may prescribe) not to have this section apply.

(3) CERTAIN TERMS.—Except as otherwise provided in this section, any term used in this section which is also used in chapter 21 of such Code shall have the same meaning as when used in such chapter.

(4)<sup>8</sup> CERTAIN GOVERNMENTAL EMPLOYERS.—This credit shall not apply to the Government of the United States, the government of any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing.

(4)<sup>8</sup> REFERENCES TO RAILROAD RETIREMENT TAX.—Any reference in this section to the tax imposed by section 3221(a) of the Internal Revenue Code of 1986 shall be treated as a reference to so much of such tax as is attributable to the rate in effect under section 3111(a) of such Code.

(f) REGULATIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

(1) regulations or other guidance to prevent the avoidance of the purposes of the limitations under this section,

(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section,

(3) regulations or other guidance providing for waiver of penalties for failure to deposit amounts in anticipation of the allowance of the credit allowed under this section,

(4) regulations or other guidance for recapturing the benefit of credits determined under this section in cases where there is a subsequent adjustment to the credit determined under subsection (a),

(5) regulations or other guidance to ensure that the wages taken into account under this section conform with the paid leave required to be provided under the Emergency Family and Medical Leave Expansion Act (including the amendments made by such Act), and

<sup>8</sup>There are two paragraph (4)s<sup>8</sup> in law. The second paragraph (4) was added by section 288(c) of division N of Public Law 116–260.

(6) regulations or other guidance to permit the advancement of the credit determined under subsection (a).

(g) APPLICATION OF SECTION.—This section shall apply only to wages paid with respect to the period beginning on a date selected by the Secretary of the Treasury (or the Secretary's delegate) which is during the 15-day period beginning on the date of the enactment of this Act, and ending on March 31, 2021.

(h) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(a)) amounts equal to the reduction in revenues to the Treasury by reason of this section (without regard to this subsection). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund or Account had this section not been enacted.

(i) TREATMENT OF DEPOSITS.—The Secretary of the Treasury (or the Secretary's delegate) shall waive any penalty under section 6656 of the Internal Revenue Code of 1986 for any failure to make a deposit of the tax imposed by section 3111(a) or 3221(a) of such Code if the Secretary determines that such failure was due to the anticipation of the credit allowed under this section.

**SEC. 7004. [26 U.S.C. 1401 note] CREDIT FOR FAMILY LEAVE FOR CERTAIN SELF-EMPLOYED INDIVIDUALS.**

(a) CREDIT AGAINST SELF-EMPLOYMENT TAX.—In the case of an eligible self-employed individual, there shall be allowed as a credit against the tax imposed by subtitle A of the Internal Revenue Code of 1986 for any taxable year an amount equal to 100 percent of the qualified family leave equivalent amount with respect to the individual.

(b) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—For purposes of this section, the term “eligible self-employed individual” means an individual who—

(1) regularly carries on any trade or business within the meaning of section 1402 of such Code, and

(2) either—

(A) would be entitled to receive paid leave during the taxable year pursuant to the Emergency Family and Medical Leave Expansion Act if the individual were an employee of an employer (other than himself or herself), or

(B) would be so entitled if—

(i) section 102(a)(1)(F) of the Family and Medical Leave Act of 1993, as amended by the Emergency Family and Medical Leave Expansion Act, were applied by substituting “March 31, 2021” for “December 31, 2020”, and

(ii) the individual were an employee of an employer (other than himself or herself).

(c) QUALIFIED FAMILY LEAVE EQUIVALENT AMOUNT.—For purposes of this section—



(1) IN GENERAL.—The term “qualified family leave equivalent amount” means, with respect to any eligible self-employed individual, an amount equal to the product of—

(A) the number of days (not to exceed 50) during the taxable year that the individual is unable to perform services in any trade or business referred to in section 1402 of such Code for a reason with respect to which such individual would be entitled to receive paid leave as described in subsection (b), multiplied by

(B) the lesser of—

(i) 67 percent of the average daily self-employment income of the individual for the taxable year, or

(ii) \$200.

(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME.—For purposes of this subsection, the term “average daily self-employment income” means an amount equal to—

(A) the net earnings from self-employment income of the individual for the taxable year, divided by

(B) 260.

(4)<sup>9</sup> ELECTION TO USE PRIOR YEAR NET EARNINGS FROM SELF-EMPLOYMENT INCOME.—In the case of an individual who elects (at such time and in such manner as the Secretary, or the Secretary’s delegate, may provide) the application of this paragraph, paragraph (2)(A) shall be applied by substituting “the prior taxable year” for “the taxable year”.

(d) SPECIAL RULES.—

(1) CREDIT REFUNDABLE.—

(A) IN GENERAL.—The credit determined under this section shall be treated as a credit allowed to the taxpayer under subpart C of part IV of subchapter A of chapter 1 of such Code.

(B) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, any refund due from the credit determined under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(2) DOCUMENTATION.—No credit shall be allowed under this section unless the individual maintains such documentation as the Secretary of the Treasury (or the Secretary’s delegate) may prescribe to establish such individual as an eligible self-employed individual.

(3) DENIAL OF DOUBLE BENEFIT.—In the case of an individual who receives wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) or compensation (as defined in section 3231(e) of the Internal Revenue Code) paid by an employer which are required to be paid by reason of the Emergency Family and Medical Leave Expansion Act, the qualified family leave equivalent amount otherwise described in subsection (c) shall be reduced (but not below zero) to the extent that the sum of the amount described in such subsection and in section 7003(b)(1) exceeds \$10,000.

<sup>9</sup>There is no paragraph (3) in law.

(4) CERTAIN TERMS.—Any term used in this section which is also used in chapter 2 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such chapter.

(5) REFERENCES TO EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT.—Any reference in this section to the Emergency Family and Medical Leave Expansion Act shall be treated as including a reference to the amendments made by such Act.

(e) APPLICATION OF SECTION.—Only days occurring during the period beginning on a date selected by the Secretary of the Treasury (or the Secretary's delegate) which is during the 15-day period beginning on the date of the enactment of this Act, and ending on March 31, 2021, may be taken into account under subsection (c)(1)(A).

(f) APPLICATION OF CREDIT IN CERTAIN POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary of the Treasury (or the Secretary's delegate) shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section. Such amounts shall be determined by the Secretary of the Treasury (or the Secretary's delegate) based on information provided by the government of the respective possession.

(2) PAYMENTS TO OTHER POSSESSIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury (or the Secretary's delegate) as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan, which has been approved by the Secretary of the Treasury (or the Secretary's delegate), under which such possession will promptly distribute such payments to its residents.

(3) MIRROR CODE TAX SYSTEM.—For purposes of this section, the term “mirror code tax system” means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(4) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(e) REGULATIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

(1) regulations or other guidance to prevent the avoidance of the purposes of this Act, and

(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section.

**SEC. 7005. [26 U.S.C. 3111 note] SPECIAL RULE RELATED TO TAX ON EMPLOYERS.**

(a) **IN GENERAL.**—Any wages required to be paid by reason of the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act (or, in the case of wages paid after December 31, 2020, and before April 1, 2021, with respect to which a credit is allowed under section 7001 or 7003) shall not be considered wages for purposes of section 3111(a) of the Internal Revenue Code of 1986 or compensation for purposes of section 3221(a) of such Code. Any reference in this subsection to the tax imposed by section 3221(a) of such Code shall be treated as a reference to so much of the tax as is attributable to the rate in effect under section 3111(a) of such Code.

(b) **ALLOWANCE OF CREDIT FOR HOSPITAL INSURANCE TAXES.**—

(1) **IN GENERAL.**—The credit allowed by section 7001 and the credit allowed by section 7003 shall each be increased by the amount of the tax imposed by section 3111(b) of the Internal Revenue Code of 1986 and so much of the taxes imposed under section 3221(a) of such Code as are attributable to the rate in effect under section 3111(b) of such Code on qualified sick leave wages, or qualified family leave wages, for which credit is allowed under such section 7001 or 7003 (respectively).

(2) **DENIAL OF DOUBLE BENEFIT.**—For denial of double benefit with respect to the credit increase under paragraph (1), see sections 7001(e)(1) and 7003(e)(1).

(c) **TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.**—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(a)) amounts equal to the reduction in revenues to the Treasury by reason of this section (without regard to this subsection). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund or Account had this section not been enacted.

## **DIVISION H—BUDGETARY EFFECTS**

**SEC. 8001. BUDGETARY EFFECTS.**

(a) **STATUTORY PAYGO SCORECARDS.**—The budgetary effects of division B and each succeeding 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 division B and each succeeding 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)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985, the budgetary effects of division B and each succeeding division shall not be estimated—

- (1) for purposes of section 251 of such Act; and
- (2) for purposes of paragraph (4)(C) of section 3 of the Statutory Pay-As-You-Go Act of 2010 as being included in an appropriation Act.