

116TH CONGRESS
2D SESSION

H. R. 7671

To provide for the establishment of a COVID–19 Small Business Recovery Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2020

Mr. VELA (for himself and Mr. GOODEN) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To provide for the establishment of a COVID–19 Small Business Recovery Fund, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Come-
5 back Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions apply:

8 (1) **APPLICANT.**—The term “applicant” means
9 a business filing an application for recovery com-
10 pensation under this Act.

1 (2) BUSINESS.—The term “business” is in-
2 tended broadly to refer to any type of for-profit busi-
3 ness concern, nonprofit organization, veteran’s orga-
4 nization, or Tribal business concern, and shall in-
5 clude individuals who operate under a sole propri-
6 etorship or as an independent contractor, and eligi-
7 ble self-employed individuals.

8 (3) COLLATERAL SOURCE.—The term “collat-
9 eral source” means all compensation received by the
10 applicant as a result of the losses for which the ap-
11 plicant is seeking compensation under this Act, in-
12 cluding payments by Federal, State, or local govern-
13 ments, related to losses arising from the COVID–19
14 pandemic.

15 (4) COVID–19 PANDEMIC.—The term
16 “COVID–19 pandemic” means the national emer-
17 gency proclaimed by the President on March 13,
18 2020.

19 (5) ELIGIBLE APPLICANTS.—The term “eligible
20 applicants” means any type of for-profit business
21 concern, nonprofit organization, veteran’s organiza-
22 tion, or Tribal business concern, and shall include
23 individuals who operate under a sole proprietorship
24 or as an independent contractor, and eligible self-
25 employed individuals.

1 (6) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—
2 The term “eligible self-employed individual” has the
3 meaning given the term in section 7002(b) of the
4 Families First Coronavirus Response Act (Public
5 Law 116–127).

6 (7) FINANCIAL INSTITUTION.—The term “fi-
7 nancial institution” means any institution the busi-
8 ness of which is engaging in financial activities as
9 described in section 4(k) of the Bank Holding Com-
10 pany Act (12 U.S.C. 1843(k)).

11 (8) LOW-TO-MODERATE INCOME COMMUNITY.—
12 The term “low-to-moderate income community”
13 means a census tract where the annualized family
14 income of the households or residents in the census
15 tract are below 80 percent of the HUD median in-
16 come for the county where the census tract is lo-
17 cated.

18 (9) MINORITY-OWNED BUSINESS.—The term
19 “minority-owned business” shall have the same
20 meaning given the term under section 342(g)(4) of
21 the Dodd-Frank Wall Street Reform and Consumer
22 Protection Act (12 U.S.C. 5452(g)(4)).

23 (10) SECRETARY.—The term “Secretary”
24 means the Secretary of the Treasury.

1 (11) SPECIAL ADMINISTRATOR.—The term
2 “Special Administrator” means the Special Adminis-
3 trator appointed under this Act.

4 (12) STATE.—The term “State” means any
5 State of the United States, the Commonwealth of
6 Puerto Rico, the District of Columbia, the Common-
7 wealth of the Northern Mariana Islands, American
8 Samoa, Guam, each of the United States Virgin Is-
9 lands, and any territory or possession of the United
10 States.

11 (13) UNITED STATES.—The term “United
12 States” means the several States and includes the
13 territorial sea and the continental shelf of the
14 United States, as those terms are defined in the Vio-
15 lent Crime Control and Law Enforcement Act of
16 1994 (18 U.S.C. 2280, 2281).

17 (14) WOMEN-OWNED BUSINESS.—The term
18 “women-owned business” shall have the same mean-
19 ing given the term under section 342(g)(6) of the
20 Dodd-Frank Wall Street Reform and Consumer Pro-
21 tection Act (12 U.S.C. 5452(g)(6)).

22 **SEC. 3. PURPOSE.**

23 (a) It is the purpose of this Act to ensure domestic
24 economic recovery from the COVID–19 pandemic by en-
25 suring that businesses in impaired sectors can resume

1 their function as strong engines of the economy and em-
2 ployers by—

3 (1) offsetting operating expenses for businesses
4 that are partially or completely shut down as a re-
5 sult of COVID–19 related closures, and supporting
6 employers’ ability to retain employees and rehire em-
7 ployees laid off as a result of the COVID–19 pan-
8 demic;

9 (2) encourage businesses to reopen by providing
10 them the necessary assistance and resources to sur-
11 vive the COVID–19 pandemic;

12 (3) assisting employees of eligible employers
13 who have contracted or have been exposed during
14 their employment to COVID–19, who are unable to
15 work and who would otherwise not be eligible for as-
16 sistance;

17 (4) providing support for small businesses and
18 women- and minority-owned businesses; and

19 (5) providing assistance in a manner that com-
20 plements the assistance programs established under
21 the Coronavirus Aid, Relief, and Economic Security
22 Act (Public Law 116–136).

23 (b) Any funds paid to an applicant under this Act
24 shall be used exclusively for the purpose of domestic eco-
25 nomic recovery as set forth in subsection (a).

1 (c) PRIORITIZATION.—The Special Administrator
2 shall prioritize compensation payments under this Act,
3 based on—

4 (1) the level of impairment a business is experi-
5 encing as a result of the COVID–19 pandemic;

6 (2) whether the business operates in a rural or
7 low-to-moderate income community, as determined
8 by the Special Administrator;

9 (3) whether the business is a women-owned
10 business or a minority-owned business; and

11 (4) whether the business is a small business, in-
12 cluding an independently owned franchise, as deter-
13 mined by the Special Administrator.

14 **SEC. 4. ADMINISTRATION.**

15 (a) IN GENERAL.—The Secretary shall appoint a
16 Special Administrator on the basis of integrity and dem-
17 onstrated ability in accounting, auditing, financial anal-
18 ysis, law, management analysis, or public administration,
19 and acting through such Special Administrator, shall—

20 (1) administer the recovery compensation pro-
21 gram established under this Act;

22 (2) promulgate all procedural and substantive
23 rules for the administration of this Act; and

1 (3) employ and supervise hearing officers and
2 other administrative personnel to perform the duties
3 of the Special Administrator under this Act.

4 (b) RECOVERY COMPENSATION SERVICES.—To the
5 extent the Special Administrator determines is necessary
6 to implement the provisions of this Act in a timely man-
7 ner, the Special Administrator is authorized to contract
8 with third parties to review business applications, rec-
9 ommend compensation determinations, arrange payments,
10 and perform audits on behalf of the Special Administrator.
11 Any third party contracting to provide recovery compensa-
12 tion services pursuant to this subsection shall be com-
13 pensated on a cost basis pursuant to guidelines established
14 by the Special Administrator in consultation with the
15 Oversight Board.

16 (c) LIMITATION OF LIABILITY.—

17 (1) The provisions of this Act and the services
18 provided under subsection (b) shall be enforced by
19 the Secretary. Any party contracting with the Spe-
20 cial Administrator to assist in recovery compensation
21 services pursuant to subsection (b) shall not bear
22 any liability for the performance of such duties ex-
23 cept for gross negligence, willful misconduct, or
24 fraud.

1 (2) There shall be no liability imposed on any
2 party for not contracting with the Special Adminis-
3 trator as described in paragraph (1). Any financial
4 institution not contracting with the Special Adminis-
5 trator that provides assistance or information to an
6 applicant with respect to the compensation program
7 established under this Act without receiving com-
8 pensation for providing such assistance or informa-
9 tion shall not bear any liability for the provision of
10 such assistance or information except for gross neg-
11 ligence, willful misconduct, or fraud, provided that
12 nothing in this subsection shall be construed to alter
13 any duty or obligation owed by such party to an ap-
14 plicant under otherwise applicable State or Federal
15 law or by agreement with the applicant.

16 (3) State laws or regulations conflicting with
17 the directions of the Special Administrator pursuant
18 to subsection (b) are preempted to the extent of
19 such actual or implied conflict.

20 (4) GOVERNING LAW AND JURISDICTION.—The
21 district courts of the United States shall have origi-
22 nal and exclusive jurisdiction over any action arising
23 out of a contract described in subsection (b).

24 (d) CONFIDENTIALITY.—

1 (1) RETENTION OF PRIVILEGE.—The submis-
2 sion of any nonpublicly available data and informa-
3 tion by an applicant to the Special Administrator
4 under this Act shall not constitute a waiver of, or
5 otherwise affect, any privilege arising under Federal
6 or State law (including the rules of any Federal or
7 State court) to which the data or information is oth-
8 erwise subject.

9 (2) CONTINUED APPLICATION OF PRIOR CON-
10 FIDENTIALITY AGREEMENTS.—Any requirement
11 under Federal or State law to the extent otherwise
12 applicable, or any requirement pursuant to a written
13 agreement in effect between an applicant and any
14 third party which provides an applicant's nonpublicly
15 available data or information to the Special Adminis-
16 trator, regarding the privacy or confidentiality of
17 any data or information in the possession of the
18 third party, shall continue to apply to such data or
19 information after the data or information has been
20 provided to the Special Administrator under this
21 Act.

22 (3) The Special Administrator, and any third
23 party which obtains an applicant's nonpublicly avail-
24 able data or information, is prohibited from sharing
25 or selling such information except as required by

1 law. The Special Administrator or third party may
2 share information as necessary to meet the obliga-
3 tions under this Act, so long as the third party
4 agrees in writing to maintain the confidentiality of
5 the information.

6 (e) AUDIT AUTHORITY.—

7 (1) IN GENERAL.—The Secretary, and the Spe-
8 cial Inspector General established by this Act, shall
9 have access, for purposes of audit, to the records
10 and other pertinent documents of the Special Ad-
11 ministrator, any third party described in subsection
12 (b), and any applicant, including with respect to col-
13 lateral source records and documents, used in car-
14 rying out this Act.

15 (f) REPORTS.—

16 (1) IN GENERAL.—The Special Administrator
17 shall submit weekly reports to Congress that shall
18 include—

19 (A) a listing of the eligible businesses re-
20 ceiving recovery compensation under this Act;

21 (B) a listing of each contract the Special
22 Administrator made with third-party service
23 providers under subsection (b), including infor-
24 mation with respect to the services being pro-
25 vided under such contracts;

1 (C) a listing of all outstanding appeals of
2 compensation determinations; and

3 (D) an estimate of the total amount of re-
4 covery compensation payments made under this
5 Act that is current as of the date on which the
6 report is submitted.

7 (2) TIMING.—The reports required under this
8 subsection shall be submitted not later than 7 cal-
9 endar days after the date that recovery compensa-
10 tion is first paid under this Act, and every 7 cal-
11 endar days thereafter.

12 (g) SPECIAL ADMINISTRATOR.—The Special Admin-
13 istrator shall be subject to the prohibition on acts affecting
14 personal financial interest under section 208 of title 18,
15 United States Code, and shall be subject to limitations on
16 outside employment and outside income pursuant to title
17 V of the Ethics in Government Act of 1978 (5 U.S.C.
18 App.).

19 (h) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated such sums as may be
21 necessary to pay the administrative and support costs for
22 the Special Administrator (including the contracts de-
23 scribed in subsection (b)) in carrying out this Act.

1 **SEC. 5. DETERMINATION OF ELIGIBILITY FOR RECOVERY**
2 **COMPENSATION.**

3 (a) **FILING OF APPLICATION FOR RECOVERY COM-**
4 **PENSATION CLAIM.—**

5 (1) **IN GENERAL.**—An applicant may file an ap-
6 plication for recovery compensation under this Act
7 with the Special Administrator. Except as provided
8 under paragraph (3), the application for recovery
9 compensation shall be on the form developed under
10 paragraph (2) and shall state the factual basis for
11 eligibility for recovery compensation and the amount
12 of recovery compensation sought.

13 (2) **APPLICATION FORM.—**

14 (A) **IN GENERAL.—**

15 (i) The Special Administrator shall
16 develop an application form that shall be
17 simple to file and audit for fraud that ap-
18 plicants shall use when submitting applica-
19 tions under paragraph (1).

20 (ii) The Special Administrator shall
21 ensure that the form described in clause (i)
22 can be filed electronically, if determined to
23 be practicable.

24 (B) **MULTIPLE LANGUAGES.**—The form
25 developed under subparagraph (A) shall be
26 made available in English and Spanish, and the

1 Special Administrator may prioritize translation
2 of the form into additional languages in order
3 to serve the broadest pool of applicants.

4 (C) CONTENTS.—The form developed
5 under subparagraph (A) shall require that an
6 applicant disclose all known collateral com-
7 pensation, and shall request information on the
8 applicant’s impairment that the Special Admin-
9 istrator deems necessary, including information
10 relating to the applicant’s expenses, payroll,
11 and loss of revenue due to the COVID–19 pan-
12 demic.

13 (D) EXPENSES, PAYROLL, AND LOST REV-
14 ENUE.—In developing the contents of the form
15 under subparagraph (C), the Special Adminis-
16 trator may consider requiring information on
17 payroll, operating expenses, lost revenue, and
18 payments to employees with potential COVID–
19 19-related illness. Such information required
20 may include—

21 (i) the average total monthly pay-
22 ments by the applicant for payroll, payroll
23 support (including paid sick, medical, or
24 family leave, and costs related to the con-
25 tinuation of group health care benefits dur-

1 ing those periods of leave) during the 18-
2 month period before March 13, 2020, ex-
3 cept that, in the case of an applicant that
4 is a seasonal employer, as determined by
5 the Special Administrator, the average
6 total monthly payments for payroll and
7 payroll support shall be for the period be-
8 ginning March 1, 2019, and ending June
9 30, 2019;

10 (ii) the average total monthly pay-
11 ments by the applicant for mortgage pay-
12 ments, rent payments, utilities, insurance
13 payments, and payments on any debt obli-
14 gations incurred prior to July 1, 2020,
15 during the 18-month period before July 1,
16 2020;

17 (iii) to the extent that the Special Ad-
18 ministrator is making available recovery
19 compensation for lost revenue, the average
20 monthly revenue, including unpaid ac-
21 counts receivable, that does not include net
22 profits for the applicant during the 18-
23 month period before the date on which the
24 application for recovery compensation is
25 submitted; and

1 (iv) the wages, salary, or other pay-
2 ments made to employees who are unable
3 to work because they tested positive for or
4 were exposed to COVID–19.

5 (E) CONFIDENTIAL BUSINESS INFORMA-
6 TION.—To the extent the information in the ap-
7 plication is non-public information, the contents
8 shall be deemed Confidential Business Informa-
9 tion not subject to disclosure.

10 (3) INTERIM APPLICATION FILING.—During the
11 period beginning on the date of enactment of this
12 Act and ending on the date on which regulations are
13 promulgated under this Act, an applicant may file
14 with the Special Administrator an interim applica-
15 tion for immediate relief without the use of an ap-
16 proved form, provided the application includes infor-
17 mation described in subparagraph (C) of paragraph
18 (2) of this subsection.

19 (4) LIMITATION.—No application may be filed
20 under paragraph (1), or paid by the Special Admin-
21 istrator, with respect to losses accrued after the ter-
22 mination of the national emergency proclaimed by
23 the President on March 13, 2020. Within a reason-
24 able time after such termination, and subject to the
25 provisions of this Act, the Special Administrator

1 shall notify Congress of the expected closure of the
2 program established under this Act, while ensuring
3 that all applications filed prior to the termination of
4 the national emergency receive due consideration.

5 (5) NEW BUSINESSES.—The Special Adminis-
6 trator shall provide guidelines on how applicants
7 that are operating new entities before March 13,
8 2020, shall substantiate their Expenses, Payroll, and
9 Lost Revenue.

10 (b) REVIEW AND DETERMINATION.—

11 (1) REVIEW.—The Special Administrator shall
12 review an application submitted under subsection
13 (a)(1) and determine—

14 (A) whether the applicant is an eligible ap-
15 plicant under subsection (c); and

16 (B) the amount of recovery compensation
17 the eligible applicant shall receive, on a monthly
18 basis, based on what is necessary to maintain
19 continuity of operations for the applicant with
20 respect to paying expenses and payroll and
21 compensating for lost revenue as described in
22 subparagraph (D) of subsection (a)(2); provided
23 that—

24 (i) the amount of recovery compensa-
25 tion the eligible applicant receives shall be

1 adjusted each month to take into account
2 increases or decreases in such applicant's
3 revenue over the previous month;

4 (ii) the total amount of recovery com-
5 pensation to which the applicant is entitled
6 based on this subparagraph shall take into
7 account the amount of any interim com-
8 pensation awarded to the applicant pursu-
9 ant to paragraph (2); and

10 (iii) the maximum amount of recovery
11 compensation to which an eligible applicant
12 may be entitled shall be the lesser of—

13 (I) the applicant's average total
14 monthly expense payments, as deter-
15 mined under subparagraph (C), for a
16 period not to exceed 4 months in ag-
17 gregate; and

18 (II) \$50,000,000.

19 (C) AVERAGE TOTAL MONTHLY EXPENSE
20 PAYMENTS.—For purposes of clause (iii) of
21 subparagraph (B), an applicant's average total
22 monthly expense payments shall be the average
23 monthly payments by the applicant during the
24 1 year prior to the date on which an application
25 is made (or in the case of a seasonal business

1 or new business, a period determined by the
2 Special Administrator), for—

3 (i) payroll costs;

4 (ii) costs related to the continuation
5 of group health care benefits during peri-
6 ods of paid sick, medical, or family leave;

7 (iii) any insurance premiums;

8 (iv) employee salaries, commissions, or
9 similar compensations, except that recovery
10 compensation may not be used for the
11 compensation of an individual employee in
12 excess of an annual salary of \$100,000, as
13 prorated for the relevant compensation pe-
14 riod;

15 (v) payments of interest on any mort-
16 gage obligation (which shall not include
17 any prepayment of or payment of principal
18 on a mortgage obligation);

19 (vi) rent (including rent under a lease
20 agreement);

21 (vii) utilities;

22 (viii) loan repayment obligations in-
23 curred by the applicant pursuant to section
24 1102 of the Coronavirus Aid, Relief, and

1 Economic Security Act (Public Law 116–
2 136);

3 (ix) loan repayment obligations in-
4 curred by the applicant pursuant to a dis-
5 aster loan authorized under section 7(b) of
6 the Small Business Act (15 U.S.C.
7 636(b));

8 (x) interest on any other debt obliga-
9 tions that were incurred before March 1,
10 2020; and

11 (xi) State and local tax obligations.

12 (2) INTERIM APPLICATIONS REVIEW.—The Spe-
13 cial Administrator shall review an interim applica-
14 tion submitted under subsection (a)(3) and deter-
15 mine—

16 (A) whether the applicant is an eligible ap-
17 plicant under subsection (c); and

18 (B) with respect to an applicant deter-
19 mined to be an eligible applicant, the amount of
20 interim compensation to which an eligible appli-
21 cant is entitled under subparagraph (C).

22 (C) INTERIM COMPENSATION AMOUNT.—
23 An eligible applicant under this paragraph shall
24 be entitled to interim compensation in such
25 amounts as determined by the Special Adminis-

trator not to exceed, as calculated under subparagraph (C) of paragraph (1)—

(i) in the case of an applicant with average monthly payments in excess of \$1,000,000, 25 percent of such payments;

(ii) in the case of an applicant with average monthly payments in excess of \$100,000 but less than \$1,000,000, 50 percent of such payments; and

(iii) in the case of an applicant with average monthly payments of \$100,000 or less, 75 percent of such payments.

(3) DETERMINATIONS.—A determination under this subsection shall be final and not subject to judicial review.

(A) As soon as practicable, and for applications given priority by the Special Administrator under this Act, not later than 30 calendar days after that date on which an application is filed under subsection (a)(1), the Special Administrator shall either request more information from the applicant or complete a review and make a determination pursuant to paragraph (1) of this subsection, and provide written notice to the applicant, with respect to the

1 matters that were the subject of the application
2 for recovery compensation under review. If the
3 Special Administrator requests additional infor-
4 mation pursuant to this subparagraph, the Spe-
5 cial Administrator shall absent exigent cir-
6 cumstances make its determination pursuant to
7 paragraph (1) of this subsection within 30 cal-
8 endar days of receiving a response to its request
9 for more information.

10 (B) Not later than 15 calendar days after
11 the date on which an interim application is filed
12 under subsection (a)(3), the Special Adminis-
13 trator shall complete a review and make a de-
14 termination on interim compensation pursuant
15 to paragraph (2) of this subsection, and provide
16 written notice to the applicant with respect to
17 that determination.

18 (4) COLLATERAL SOURCES.—In determining
19 the amount of recovery compensation to be paid to
20 an applicant under paragraph (1)(B) the Special Ad-
21 ministrator shall consider the amount of the collat-
22 eral source compensation the applicant received or
23 the value of collateral source compensation the appli-
24 cant is reasonably certain to receive as a result of
25 the COVID–19 pandemic.

1 (5) APPEALS.—The Special Administrator shall
2 promulgate regulations establishing a procedure by
3 which an applicant may appeal directly to the Spe-
4 cial Administrator an eligibility or compensation de-
5 termination with respect to such applicant made
6 under this Act. The United States Court of Federal
7 Claims shall have exclusive jurisdiction of an appeal
8 from a final determination by the Special Adminis-
9 trator under this Act.

10 (6) RIGHTS OF AN APPLICANT.—In all matters
11 related to its application, an applicant shall have the
12 right to be represented by an attorney. Notwith-
13 standing any contract, a representative of an appli-
14 cant may not charge, for services rendered in con-
15 nection with an application under this Act, more
16 than 10 percent of the difference between—

17 (A) the initial amount of recovery com-
18 pensation awarded to such applicant as deter-
19 mined by the Special Administrator under para-
20 graph (3); and

21 (B) the final amount of recovery com-
22 pensation awarded to such applicant after any
23 appeal of such determination.

24 (c) ELIGIBILITY.—

1 (1) IN GENERAL.—An applicant shall be deter-
2 mined to be an eligible applicant for purposes of this
3 subsection if the Special Administrator determines
4 that such applicant—

5 (A) is a business or organization in an im-
6 paired sector as defined by the Special Adminis-
7 trator, including 501c(6) organizations;

8 (B) is a business or organization that is
9 created or organized in the United States or
10 under the laws of the United States and has
11 significant operations in, and a majority of its
12 employees based in, the United States;

13 (C) is not eligible for loans or loan guaran-
14 tees under subsection (b)(1), (b)(2), or (b)(3) of
15 section 4003 of the Coronavirus Aid, Relief,
16 and Economic Security Act (Public Law 116–
17 136);

18 (D) in the case of an applicant that has re-
19 ceived a loan under section 1102 of the
20 Coronavirus Aid, Relief, and Economic Security
21 Act (Public Law 116–136), has complied with
22 all applicable borrower repayment obligations
23 under such loan;

24 (E) is not registered with the Securities
25 and Exchange Commission as a Family Office

1 pursuant to section 275.202(a)(11)(G)–1 of
2 title 17, Code of Federal Regulations;

3 (F) to the extent not otherwise eligible
4 under this paragraph, any business utilizing
5 business format franchising as a franchisor or
6 franchisee under part 436 of title 16, Code of
7 Federal Regulations or a business concern oper-
8 ating as a franchisor or franchisee that is as-
9 signed a franchise identifier code by the Small
10 Business Administration; and

11 (G) meets the requirements of paragraph
12 (2).

13 (2) REQUIREMENTS.—

14 (A) An applicant shall not be determined
15 to be an eligible applicant by the Special Ad-
16 ministrator unless the applicant—

17 (i) was in operation on March 1,
18 2020;

19 (ii) was not a debtor concerning which
20 an active case under title 11, United
21 States Code, had been commenced prior to
22 March 1, 2020; and

23 (iii) to the extent the applicant is
24 seeking recovery compensation for payroll
25 and payroll support as described in this

1 Act, had employees for whom the applicant
2 paid salaries or wages, and payroll taxes.

3 (B) An applicant requesting recovery com-
4 pensation for losses described under this Act
5 shall not be eligible for such compensation un-
6 less the applicant continued to pay salaries or
7 wages to such employees, or will otherwise pro-
8 vide relief received under subsection (a)(2)(D)
9 to such employees, who—

10 (i) tested positive for COVID–19; or

11 (ii) were exposed to COVID–19 in the
12 workplace.

13 (C) SINGLE APPLICATION.—Not more than
14 one application may be submitted under this
15 Act by an applicant, except that, for purposes
16 of this subparagraph—

17 (i) an eligible applicant that submitted
18 an interim application under subsection
19 (a)(3) shall remain eligible to file an appli-
20 cation for recovery compensation under
21 subsection (a)(1);

22 (ii) in the event the Secretary notifies
23 Congress of a renewed COVID–19 threat
24 under this Act, an eligible applicant shall
25 remain eligible to file a renewal or updated

1 version of a previously filed application;
2 and
3 (iii) pursuant to guidelines to be es-
4 tablished by the Special Administrator, re-
5 lated entities may submit a joint applica-
6 tion.

7 **SEC. 6. PAYMENTS TO ELIGIBLE APPLICANTS.**

8 (a) IN GENERAL.—As soon as practicable, but not
9 later than 5 calendar days after the date on which a deter-
10 mination is made by the Special Administrator regarding
11 the amount of recovery compensation or interim com-
12 pensation due to an applicant under this Act, the Special
13 Administrator shall authorize payment to such applicant
14 of the amount determined with respect to the applicant.

15 (b) ALLOWABLE USES OF RECOVERY COMPENSA-
16 TION.—

17 (1) IN GENERAL.—An eligible applicant may
18 use recovery compensation proceeds only for—

19 (A) payroll costs;

20 (B) costs related to the continuation of
21 group health care benefits during periods of
22 paid sick, medical, or family leave;

23 (C) any insurance premiums;

24 (D) employee salaries, commissions, or
25 similar compensations, except that recovery

1 compensation may not be used for the com-
2 pensation of an individual employee in excess of
3 an annual salary of \$100,000, as prorated for
4 the relevant compensation period;

5 (E) payments of interest on any mortgage
6 obligation (which shall not include any prepay-
7 ment of or payment of principal on a mortgage
8 obligation);

9 (F) rent (including rent under a lease
10 agreement);

11 (G) utilities;

12 (H) loan repayment obligations incurred by
13 the applicant pursuant to section 1102 of the
14 Coronavirus Aid, Relief, and Economic Security
15 Act (Public Law 116–136);

16 (I) loan repayment obligations incurred by
17 the applicant pursuant to a disaster loan au-
18 thorized under section 7(b) of the Small Busi-
19 ness Act (15 U.S.C. 636(b));

20 (J) interest on any other debt obligations
21 that were incurred before March 1, 2020; and

22 (K) Federal, State, and local tax obliga-
23 tions.

24 (2) CERTIFICATION ON USE OF FUNDS.—As a
25 condition for receipt of recovery compensation under

1 this Act, an eligible applicant shall make a good-
2 faith certification that—

3 (A) the uncertainty of economic conditions
4 as of the date of the application makes nec-
5 essary the recovery compensation request to
6 support the ongoing operations of the applicant;

7 (B) the funds the applicant receives will be
8 used to retain at least 90 percent of the appli-
9 cant’s workforce as of the date of application,
10 at full compensation and benefits, for the period
11 that they receive compensation;

12 (C) the applicant intends to restore com-
13 pensation and benefits to not less than 75 per-
14 cent of the workforce of the applicant that ex-
15 isted as of March 1, 2020, no later than 4
16 months after the termination date of the public
17 health emergency declared by the Secretary of
18 Health and Human Services on January 31,
19 2020, under section 319 of the Public Health
20 Service Act (42 U.S.C. 247d) in response to
21 COVID-19;

22 (D) the applicant is an entity or business
23 that is created or organized in the United
24 States or under the laws of the United States
25 and has significant operations in, and a major-

1 ity of its employees based in, the United States;
2 and

3 (E) the funds the applicant receives will
4 not be used for a restricted purpose under sub-
5 section (c).

6 (c) RESTRICTIONS.—The Special Administrator shall
7 make a payment of recovery compensation to an applicant
8 only if such applicant agrees—

9 (1) until the date 12 months after the date on
10 which the payment is made, not to repurchase an
11 equity security that is listed on a national securities
12 exchange of the applicant or any parent company of
13 the applicant, except to the extent required under a
14 contractual obligation that is in effect as of the date
15 of enactment of this Act;

16 (2) until the date 12 months after the date on
17 which the payment is made, not to pay dividends or
18 make other capital distributions with respect to the
19 common stock of the applicant, during the eligible
20 period a recipient that is an S corporation or pass-
21 through entity may provide a distribution to pay tax
22 obligations; and

23 (3) no funds received by the applicant may be
24 used for payment of an expense to a foreign person
25 which is a related party of the applicant to which a

1 deduction is allowable under chapter 1 of the Inter-
2 nal Revenue Code of 1986.

3 (d) FINAL NETTING.—

4 (1) IN GENERAL.—Not later than 6 months
5 after the end of an eligible applicant's covered pe-
6 riod, an eligible applicant shall report, pursuant to
7 rules prescribed by the Special Administrator, a final
8 accounting of all eligible operating costs incurred
9 during the covered period, and all eligible revenue
10 received during the covered period.

11 (2) REVIEW.—The Special Administrator shall
12 determine, based on a report submitted under para-
13 graph (1), whether an applicant received any excess
14 recovery compensation under this title during the
15 covered period.

16 (3) OVERPAYMENTS.—To the extent an eligible
17 applicant received excess recovery compensation as
18 determined by the Special Administrator, an eligible
19 applicant shall return such excess recovery com-
20 pensation to the Treasury in a manner prescribed by
21 the Special Administrator.

22 (e) PAYMENT AUTHORITY.—This Act constitutes
23 budget authority in advance of appropriations Acts and
24 represents the obligation of the Federal Government to

1 provide for the payment of amounts for compensation
2 under this Act.

3 **SEC. 7. REGULATIONS.**

4 Not later than 30 calendar days after the date of en-
5 actment of this Act, the Secretary, in consultation with
6 the Special Administrator, shall promulgate regulations to
7 carry out this Act, including regulations with respect to—

8 (1) forms to be used in submitting applications
9 under this Act;

10 (2) the information to be included in such
11 forms;

12 (3) procedures to assist an applicant in filing
13 and pursuing applications under this Act;

14 (4) the amount of the fee paid by the Special
15 Administrator for services provided under this Act;
16 and

17 (5) other matters determined appropriate by
18 the Secretary.

19 **SEC. 8. PROGRAM RENEWAL FOR RESURGENCE OF**
20 **CORONAVIRUS THREAT.**

21 In the event that the Secretary determines that a re-
22 surgence of the COVID–19 threat has resulted in eco-
23 nomic conditions that warrant an extension or renewal of
24 recovery compensation assistance to businesses under this
25 Act, the Secretary shall—

1 (1) notify Congress of such determination no
2 later than 2 calendar days after making such deter-
3 mination; and

4 (2) direct the Special Administrator to accept
5 new and updated applications for recovery com-
6 pensation under this Act.

7 **SEC. 9. SPECIAL INSPECTOR GENERAL FOR COVID-19 RE-**
8 **COVERY FUNDS.**

9 (a) OFFICE OF INSPECTOR GENERAL.—There is
10 hereby established within the Department of the Treasury
11 the Office of the Special Inspector General for COVID–
12 19 Recovery Funds.

13 (b) APPOINTMENT OF INSPECTOR GENERAL; RE-
14 MOVAL.—

15 (1) IN GENERAL.—The head of the Office of
16 the Special Inspector General for COVID–19 Recov-
17 ery Funds shall be the Special Inspector General for
18 COVID–19 Recovery Funds (referred to in this sec-
19 tion as the “Special Inspector General”), who shall
20 be appointed by the President, by and with the ad-
21 vice and consent of the Senate.

22 (2) NOMINATION.—The nomination of the Spe-
23 cial Inspector General shall be made on the basis of
24 integrity and demonstrated ability in accounting, au-
25 diting, financial analysis, law, management analysis,

1 public administration, or investigations. The nomina-
2 tion of an individual as Special Inspector General
3 shall be made within 30 calendar days of enactment
4 of this Act.

5 (3) REMOVAL.—The Special Inspector General
6 shall be removable from office in accordance with
7 the provisions of section 3(b) of the Inspector Gen-
8 eral Act of 1978 (5 U.S.C. App.), provided that such
9 removal is made in concurrence with the Congres-
10 sional Oversight Board established under this Act.

11 (4) POLITICAL ACTIVITY.—For purposes of sec-
12 tion 7324 of Act 5, United States Code, the Special
13 Inspector General shall not be considered an em-
14 ployee who determines policies to be pursued by the
15 United States in the nationwide administration of
16 Federal law.

17 (5) BASIC PAY.—The annual rate of basic pay
18 of the Special Inspector General shall be the annual
19 rate of basic pay for an Inspector General under sec-
20 tion 3(e) of the Inspector General Act of 1978 (5
21 U.S.C. App.).

22 (c) DUTIES.—

23 (1) IN GENERAL.—It shall be the duty of the
24 Special Inspector General to, in accordance with sec-
25 tion 4(b)(1) of the Inspector General Act of 1978 (5

1 U.S.C. App.), conduct, supervise, and coordinate au-
2 dits and investigations of the payment of recovery
3 compensation by the Special Administrator under
4 this Act, and the administration of the provisions of
5 this Act by the Special Administrator, including by
6 collecting and summarizing the following informa-
7 tion:

8 (A) A listing of the eligible businesses re-
9 ceiving recovery compensation under this Act.

10 (B) An explanation of the reasons the Spe-
11 cial Administrator determined it to be appro-
12 priate to make each recovery compensation de-
13 termination.

14 (C) A listing of each contract the Special
15 Administrator made with third-party service
16 providers under this Act, including information
17 with respect to the fees and the services being
18 provided under such contracts.

19 (D) A current, as of the date on which the
20 information is collected, estimate of the total
21 amount of recovery compensation payments
22 made under this Act.

23 (2) MAINTENANCE OF SYSTEMS.—The Special
24 Inspector General shall establish, maintain, and
25 oversee such systems, procedures, and controls as

1 the Special Inspector General considers appropriate
2 to discharge the duties of the Special Inspector Gen-
3 eral under paragraph (1).

4 (3) TESTIMONY.—The Special Inspector Gen-
5 eral shall make reasonable efforts to comply with
6 any request to appear before a Committee of Con-
7 gress for purposes of providing testimony relating to
8 the compensation program established under this
9 Act.

10 (4) ADDITIONAL DUTIES AND RESPONSIBIL-
11 ITIES.—In addition to the duties described, the Spe-
12 cial Inspector General shall also have the duties and
13 responsibilities of inspectors general under the In-
14 spector General Act of 1978 (5 U.S.C. App.).

15 (d) POWERS AND AUTHORITIES.—

16 (1) IN GENERAL.—In carrying out the duties of
17 the Special Inspector General under subsection (c),
18 the Special Inspector General shall have the authori-
19 ties provided in section 6 of the Inspector General
20 Act of 1978 (5 U.S.C. App.).

21 (2) TREATMENT OF OFFICE.—The Office of the
22 Special Inspector General for COVID Recovery
23 Funds shall be considered to be an office described
24 in section 6(f)(3) of the Inspector General Act of
25 1978 (5 U.S.C. App.) and shall be exempt from an

1 initial determination by the Attorney General under
2 section 6(f)(2) of that Act.

3 (e) PERSONNEL, FACILITIES, AND OTHER RE-
4 SOURCES.—

5 (1) APPOINTMENT OF OFFICERS AND EMPLOY-
6 EES.—The Special Inspector General may select, ap-
7 point, and employ such officers and employees as
8 may be necessary for carrying out the duties of the
9 Special Inspector General, subject to the provisions
10 of title 5, United States Code, governing appoint-
11 ments in the competitive service, and the provisions
12 of chapter 51 and subchapter III of chapter 53 of
13 that title, relating to classification and General
14 Schedule pay rates.

15 (2) EXPERTS AND CONSULTANTS.—The Special
16 Inspector General may obtain services as authorized
17 under section 3109 of title 5, United States Code,
18 at daily rates not to exceed the equivalent rate pre-
19 scribed for grade GS–15 of the General Schedule by
20 section 5332 of that title.

21 (3) CONTRACTS.—The Special Inspector Gen-
22 eral may enter into contracts and other arrange-
23 ments for audits, studies, analyses, and other serv-
24 ices with public agencies and with private persons

1 and make such payments as may be necessary to
2 carry out the duties of the Inspector General.

3 (4) REQUESTS FOR INFORMATION.—

4 (A) IN GENERAL.—Upon request of the
5 Special Inspector General for information or as-
6 sistance from any department, agency, or other
7 entity of the Federal Government, the head of
8 that department, agency, or entity shall, to the
9 extent practicable and not in contravention of
10 any existing law, furnish that information or
11 assistance to the Special Inspector General, or
12 an authorized designee.

13 (B) REFUSAL TO PROVIDE REQUESTED IN-
14 FORMATION.—Whenever information or assist-
15 ance requested by the Special Inspector General
16 is, in the judgment of the Special Inspector
17 General, unreasonably refused or not provided,
18 the Special Inspector General shall report the
19 circumstances to the appropriate committees of
20 Congress without delay.

21 (f) REPORTS.—

22 (1) QUARTERLY REPORTS.—

23 (A) IN GENERAL.—Not later than 60 cal-
24 endar days after the date on which the Special
25 Inspector General is confirmed, and once every

1 calendar quarter thereafter, the Special Inspec-
2 tor General shall submit to the appropriate
3 committees of Congress a report summarizing
4 the activities of the Special Inspector General
5 during the 3-month period ending on the date
6 on which the Special Inspector General submits
7 the report.

8 (B) CONTENTS.—Each report submitted
9 under subparagraph (A) shall include, for the
10 period covered by the report, a detailed state-
11 ment of all recovery compensation payments
12 made under this Act, as well as the information
13 collected under subsection (c)(1).

14 (2) RULE OF CONSTRUCTION.—Nothing in this
15 subsection may be construed to authorize the public
16 disclosure of information that is—

17 (A) specifically prohibited from disclosure
18 by any other provision of law;

19 (B) specifically required by Executive order
20 to be protected from disclosure in the interest
21 of national defense or national security or in
22 the conduct of foreign affairs; or

23 (C) a part of an ongoing criminal inves-
24 tigation.

1 (g) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to pay the administrative and support costs for
4 the Special Inspector General to carry out this section.

5 (h) TERMINATION.—The Office of the Special Inspec-
6 tor General shall terminate on the date that is 1 year after
7 the closure of the Fund by the Special Administrator
8 under this Act.

9 (i) COUNCIL OF THE INSPECTORS GENERAL ON IN-
10 TEGRITY AND EFFICIENCY.—The Special Inspector Gen-
11 eral shall be a member of the Council of the Inspectors
12 General on Integrity and Efficiency established under sec-
13 tion 11 of the Inspector General Act of 1978 (5 U.S.C.
14 App.) until the date of termination of the Office of the
15 Special Inspector General.

16 (j) CORRECTIVE RESPONSES TO AUDIT PROB-
17 LEMS.—The Secretary shall—

18 (1) take action to address deficiencies identified
19 by a report or investigation of the Special Inspector
20 General; or

21 (2) with respect to a deficiency identified under
22 paragraph (1), certify to the Committee on Banking,
23 Housing, and Urban Affairs of the Senate, the Com-
24 mittee on Finance of the Senate, the Committee on
25 Financial Services of the House of Representatives,

1 and the Committee on Ways and Means of the
2 House of Representatives that no action is necessary
3 or appropriate.

4 **SEC. 10. CONGRESSIONAL OVERSIGHT BOARD.**

5 (a) ESTABLISHMENT.—There is hereby established
6 the Congressional Oversight Board (hereafter in this sec-
7 tion referred to as the “Oversight Board”) as an establish-
8 ment in the legislative branch.

9 (b) DUTIES.—

10 (1) IN GENERAL.—The Oversight Board shall—

11 (A) conduct oversight of the implementa-
12 tion of this Act by the Department of the
13 Treasury, including efforts of the Special Ad-
14 ministrator to provide economic support for
15 businesses as a result of the coronavirus disease
16 2019 (COVID–19) pandemic of 2020;

17 (B) submit to Congress reports under
18 paragraph (2); and

19 (C) review the implementation of this Act
20 by the Federal Government.

21 (2) REGULAR REPORTS.—

22 (A) IN GENERAL.—Reports of the Over-
23 sight Board shall include the following:

24 (i) The use by the Special Adminis-
25 trator of authority under this Act, includ-

1 ing with respect to the use of contracting
2 authority and administration of the provi-
3 sions of this Act.

4 (ii) The impact of recovery compensa-
5 tion made under this Act on the financial
6 well-being of the people of the United
7 States and the United States economy.

8 (iii) The extent to which the Special
9 Administrator has prioritized compensation
10 under this Act.

11 (iv) The effectiveness of recovery com-
12 pensation made under this Act of mini-
13 mizing long-term costs to the taxpayers
14 and maximizing the benefits for taxpayers.

15 (B) TIMING.—The reports required under
16 this paragraph shall be submitted not later
17 than 30 calendar days after the appointment of
18 the Special Administrator and every 30 cal-
19 endar days thereafter.

20 (3) AUDITING.—The Oversight Board shall con-
21 tract with a public accounting firm registered by the
22 Public Company Accounting Oversight Board under
23 section 101(c) of the Sarbanes-Oxley Act (15 U.S.C.
24 7211(c)) to conduct independent audits of the recov-

1 ery compensation program established under this
2 Act.

3 (c) MEMBERSHIP.—

4 (1) IN GENERAL.—The Oversight Board shall
5 consist of 5 members as follows:

6 (A) One member appointed by the Speaker
7 of the House of Representatives.

8 (B) One member appointed by the minor-
9 ity leader of the House of Representatives.

10 (C) One member appointed by the majority
11 leader of the Senate.

12 (D) One member appointed by the minor-
13 ity leader of the Senate.

14 (E) One member appointed as Chairperson
15 by the Speaker of the House of Representatives
16 and the majority leader of the Senate, after
17 consultation with the minority leader of the
18 Senate and the minority leader of the House of
19 Representatives.

20 (2) PAY.—Each member of the Oversight
21 Board shall be paid at a rate equal to the daily
22 equivalent of the annual rate of basic pay for level
23 I of the Executive Schedule for each day (including
24 travel time) during which such member is engaged
25 in the actual performance of duties vested in the

1 Oversight Board. Each member shall be subject to
2 the prohibition on acts affecting personal financial
3 interest under section 208 of title 18, United States
4 Code, and shall be subject to limitations on outside
5 employment and outside income pursuant to title V
6 of the Ethics in Government Act of 1978 (5 U.S.C.
7 App.).

8 (3) PROHIBITION OF COMPENSATION OF FED-
9 ERAL EMPLOYEES.—Members of the Oversight
10 Board who are full-time officers or employees of the
11 United States may not receive additional pay, allow-
12 ances, or benefits by reason of their service on the
13 Oversight Board.

14 (4) TRAVEL EXPENSES.—Each member shall
15 receive travel expenses, including per diem in lieu of
16 subsistence, in accordance with applicable provisions
17 under subchapter I of chapter 57 of title 5, United
18 States Code.

19 (5) QUORUM.—Four members of the Oversight
20 Board shall constitute a quorum, but a lesser num-
21 ber may hold hearings.

22 (6) VACANCIES.—A vacancy on the Oversight
23 Board shall be filled in the manner in which the
24 original appointment was made.

1 (7) MEETINGS.—The Oversight Board shall
2 meet at the call of the Chairperson or a majority of
3 its members.

4 (d) STAFF.—

5 (1) IN GENERAL.—The Oversight Board may
6 appoint and fix the pay of any personnel as the
7 Oversight Board considers appropriate.

8 (2) EXPERTS AND CONSULTANTS.—The Over-
9 sight Board may procure temporary and intermit-
10 tent services under section 3109(b) of title 5, United
11 States Code.

12 (3) STAFF OF AGENCIES.—Upon request of the
13 Oversight Board, the head of any Federal depart-
14 ment or agency may detail, on a reimbursable basis,
15 any of the personnel of that department or agency
16 to the Oversight Board to assist it in carrying out
17 its duties under this Act.

18 (e) POWERS.—

19 (1) HEARINGS AND EVIDENCE.—The Oversight
20 Board, or any subcommittee or member thereof,
21 may, for the purpose of carrying out this section
22 hold hearings, sit and act at times and places, take
23 testimony, and receive evidence as the Oversight
24 Board considers appropriate and may administer

1 oaths or affirmations to witnesses appearing before
2 it.

3 (2) CONTRACTING.—The Oversight Board may,
4 to such extent and in such amounts as are provided
5 in appropriation Acts, enter into contracts to enable
6 the Oversight Board to discharge its duties under
7 this section.

8 (3) POWERS OF MEMBERS AND AGENTS.—Any
9 member or agent of the Oversight Board may, if au-
10 thorized by the Oversight Board, take any action
11 which the Oversight Board is authorized to take by
12 this section.

13 (4) OBTAINING OFFICIAL DATA.—The Over-
14 sight Board may secure directly from any depart-
15 ment or agency of the United States information
16 necessary to enable it to carry out this section. Upon
17 request of the Chairperson of the Oversight Board,
18 the head of that department or agency shall furnish
19 that information to the Oversight Board.

20 (5) REPORTS.—The Oversight Board shall re-
21 ceive and consider all reports required to be sub-
22 mitted to the Oversight Board under this Act.

23 (f) TERMINATION.—The Oversight Board shall ter-
24minate on the date that is 1 year after the closure of the

1 Fund by the Special Administrator under subsection
2 (a)(4) of this Act.

3 (g) FUNDING FOR EXPENSES.—

4 (1) AUTHORIZATION OF APPROPRIATIONS.—

5 There is authorized to be appropriated to the Over-
6 sight Board such sums as may be necessary for any
7 fiscal year, half of which shall be derived from the
8 applicable account of the House of Representatives,
9 and half of which shall be derived from the contin-
10 gent fund of the Senate.

11 (2) REIMBURSEMENT OF AMOUNTS.—An
12 amount equal to the expenses of the Oversight
13 Board shall be promptly transferred by the Sec-
14 retary and the Board of Governors of the Federal
15 Reserve System, from time to time upon the present-
16 ment of a statement of such expenses by the Chair-
17 person of the Oversight Board, from funds made
18 available to the Secretary under this Act to the ap-
19 plicable fund of the House of Representatives and
20 the contingent fund of the Senate, as appropriate, as
21 reimbursement for amounts expended from such ac-
22 count and fund under paragraph (1).

○