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(Original Signature of Member)

116TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To provide support and flexibility for the Federal workforce during the  
COVID–19 pandemic, and for other purposes.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Mr. CONNOLLY introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To provide support and flexibility for the Federal workforce  
during the COVID–19 pandemic, 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 “Federal Workforce  
5 Health and Safety During the Pandemic Act”.

1 **SEC. 2. REIMBURSEMENT FOR CHILD AND FAMILY CARE**  
2 **FOR FEDERAL EMPLOYEES DURING COVID-19**  
3 **PANDEMIC.**

4 (a) **IN GENERAL.**—During the period beginning on  
5 the date of enactment of this Act and ending on December  
6 31, 2020, any employee who is unable to care for a de-  
7 pendent child of the employee or a relative of the employee  
8 who has COVID-19 as a result of the employee being re-  
9 quired to report to their duty station (either permanent  
10 or temporary) or to telework shall be entitled to reim-  
11 bursement for the costs of such care.

12 (b) **APPLICATION.**—

13 (1) **IN GENERAL.**—Any payment provided by  
14 operation of subsection (a) shall be paid on a month-  
15 ly basis, with payments being made to the employee  
16 on the last day of each month.

17 (2) **SUBMISSION OF RECEIPTS.**—For purposes  
18 of determining reimbursement amounts, each em-  
19 ployee shall submit to their employing office receipts  
20 or other documents as the office may require.

21 (3) **LIMIT.**—Reimbursement may not be paid to  
22 any employee under this section for any month in an  
23 amount greater than \$2,000 per child or relative.

24 (c) **DEFINITIONS.**—In this section—

25 (1) the term “employee” means—

1 (A) an employee of the Library of Con-  
2 gress;

3 (B) an employee of the Government Ac-  
4 countability Office;

5 (C) a covered employee as defined in sec-  
6 tion 101 of the Congressional Accountability  
7 Act of 1995 (2 U.S.C. 1301), other than an ap-  
8 plicant for employment;

9 (D) a covered employee as defined in sec-  
10 tion 411(c) of title 3, United States Code;

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

14 (F) any other individual occupying a posi-  
15 tion in the civil service (as that term is defined  
16 in section 2101(1) of title 5, United States  
17 Code); and

18 (2) the terms “dependent child” and “relative”  
19 have the meaning given those terms in paragraphs  
20 (2) and (16), respectively, of section 109 of the Eth-  
21 ics in Government Act of 1978 (5 U.S.C. App.).

22 **SEC. 3. REQUIREMENT TO TELEWORK.**

23 (a) IN GENERAL.—Effective immediately upon the  
24 date of enactment of this Act, the head of any Federal  
25 agency shall require any employee of such agency who is

1 authorized to telework under chapter 65 of title 5, United  
2 States Code, or any other provision of law, to telework  
3 during the period beginning on the date of enactment of  
4 this Act and ending on December 31, 2020.

5 (b) DEFINITIONS.—In this section—

6 (1) the term “employee” has the meaning given  
7 that term in section 2(c)(1); and

8 (2) the term “telework” has the meaning given  
9 that term in section 6501(3) of title 5, United  
10 States Code.

11 **SEC. 4. WEATHER AND SAFETY LEAVE FOR COVID-19.**

12 (a) WEATHER AND SAFETY LEAVE.—

13 (1) IN GENERAL.—Notwithstanding any other  
14 provision of law, including subsection (b) of section  
15 6329e of title 5, United States Code, during the pe-  
16 riod beginning on the date of enactment of this Act  
17 and ending on December 31, 2020, any employee  
18 who is prevented from safely traveling to or per-  
19 forming work at an approved location as a result of  
20 the COVID-19 pandemic, or who is prevented from  
21 performing work in order to care for a child, relative  
22 of the employee, or other individual as a result of  
23 the COVID-19 pandemic, shall be provided weather  
24 and safety leave under such section.

1           (2) RULE OF CONSTRUCTION.—Notwith-  
2 standing subparagraph (B) of subsection (a)(2)(B)  
3 of such section 6329c, intermittent employees de-  
4 scribed in such subparagraph shall be eligible for the  
5 leave provided by paragraph (1) of this subsection.

6           (3) DEFINITION OF EMPLOYEE.—In this sub-  
7 section, the term “employee” has the meaning given  
8 that term in section 2(c)(1).

9           (b) APPROVED LOCATION.—Section 6329c(a) of title  
10 5, United States Code, is amended—

11           (1) by striking “and” at the end of paragraph  
12 (1);

13           (2) by striking the period at the end of para-  
14 graph (2) and inserting “; and”; and

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

16           “(3) the term ‘approved location’ means any lo-  
17 cation at which an employee has been approved to  
18 perform work, including any Federal office, a tele-  
19 working site, or other location as determined by the  
20 head of the agency at which the employee is em-  
21 ployed.”.

1 **SEC. 5. EFFECT OF DEPENDENT CARE ON TELEWORK ELI-**  
2 **GIBILITY.**

3 (a) TITLE 5 EMPLOYEES.—Section 6502(a) of title  
4 5, United States Code, is amended by adding at the end  
5 the following new paragraph:

6 “(3) DEPENDENT CARE.—

7 “(A) IN GENERAL.—The presence of a de-  
8 pendent individual at the location from which  
9 an employee teleworks shall have no effect on  
10 the eligibility of such employee to telework if  
11 such dependent individual is cared for by a  
12 caregiver other than such employee while such  
13 employee is teleworking.

14 “(B) TEMPORARY UNAVAILABILITY OF  
15 CAREGIVER.—The temporary unavailability of a  
16 caregiver described in subparagraph (A) does  
17 not affect the eligibility of the relevant em-  
18 ployee to telework if—

19 “(i) such unavailability is due to un-  
20 usual or extraordinary circumstances; and

21 “(ii) an alternative caregiver is not  
22 reasonably available.

23 “(C) DEPENDENT INDIVIDUAL DE-  
24 FINED.—In this paragraph, the term ‘depend-  
25 ent individual’ means a dependent child or rel-  
26 ative (as such terms are defined in paragraphs

1           (2) and (16), respectively, of section 109 of the  
2           Ethics in Government Act of 1978 (5 U.S.C.  
3           App.)) who is dependent on the employee for  
4           care.”.

5           (b) OTHER APPLICABLE EMPLOYEES.—With respect  
6 to any employee not covered under chapter 65 of title 5,  
7 United States Code, the terms and conditions with respect  
8 to dependent care and teleworking under section  
9 6502(a)(3) of such title (as added by subsection (a)) shall  
10 apply. In this subsection, the term “employee” has the  
11 meaning given that term under section 2(c)(1), but does  
12 not include an employee as defined in section 6501(1) of  
13 such title.

14          (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
15 tion shall alter or otherwise affect the rights, remedies,  
16 and procedures related to dependent care under the terms  
17 of any collective bargaining agreement.

18 **SEC. 6. PRESUMPTION OF ELIGIBILITY FOR WORKERS’**  
19                   **COMPENSATION BENEFITS FOR FEDERAL**  
20                   **EMPLOYEES           DIAGNOSED           WITH**  
21                   **CORONAVIRUS.**

22          (a) IN GENERAL.—An employee who is diagnosed  
23 with COVID–19 during the period described in subsection  
24 (b)(2)(A) shall, with respect to any claim made by or on  
25 behalf of the employee for benefits under subchapter I of

1 chapter 81 of title 5, United States Code, be deemed to  
2 have an injury proximately caused by exposure to  
3 coronavirus arising out of the nature of the employee’s em-  
4 ployment and be presumptively entitled to such benefits,  
5 including disability compensation, medical services, and  
6 survivor benefits.

7 (b) DEFINITIONS.—In this section—

8 (1) the term “coronavirus” means SARS-  
9 CoV-2 or another coronavirus with pandemic poten-  
10 tial; and

11 (2) the term “employee”—

12 (A) means an employee as that term is de-  
13 fined in section 8101(1) of title 5, United  
14 States Code, (including an employee of the  
15 United States Postal Service, the Transpor-  
16 tation Security Administration, or the Depart-  
17 ment of Veterans Affairs, including any indi-  
18 vidual appointed under chapter 73 or 74 of title  
19 38, United States Code) employed in the Fed-  
20 eral service at anytime during the period begin-  
21 ning on January 27, 2020, and ending on Jan-  
22 uary 30, 2022—

23 (i) who carried out duties requiring  
24 contact with patients, members of the pub-  
25 lic, or co-workers; or



1 (ii) whose duties include a risk of ex-  
2 posure to the coronavirus; and  
3 (B) does not include any employee other-  
4 wise covered by subparagraph (A) who is tele-  
5 working on a full-time basis during all of such  
6 period.

7 **SEC. 7. PANDEMIC DUTY DIFFERENTIAL.**

8 (a) DEFINITIONS.—In this section—

9 (1) the term “agency”—

10 (A) means—

11 (i) each agency, office, or other estab-  
12 lishment in the executive, legislative, or ju-  
13 dicial branch of the Federal Government,  
14 including—

15 (I) an Executive agency, as that  
16 term is defined in section 105 of title  
17 5, United States Code;

18 (II) a military department, as  
19 that term is defined in section 102 of  
20 title 5, United States Code;

21 (III) the Federal Aviation Ad-  
22 ministration;

23 (IV) the Transportation Security  
24 Administration;

1 (V) the Department of Veterans  
2 Affairs;

3 (VI) the United States Postal  
4 Service and the Postal Regulatory  
5 Commission; and

6 (VII) the Government Account-  
7 ability Office;

8 (ii) the District of Columbia courts  
9 and the District of Columbia Public De-  
10 fender Service; and

11 (iii)(I) an Indian tribe or tribal orga-  
12 nization carrying out a contract or com-  
13 pact under the Indian Self-Determination  
14 and Education Assistance Act (25 U.S.C.  
15 5301 et seq.);

16 (II) an Indian tribe or tribal organiza-  
17 tion that receives a grant under the Trib-  
18 ally Controlled Schools Act of 1988 (25  
19 U.S.C. 2501 et seq.); and

20 (III) an urban Indian organization  
21 that receives a grant or carries out a con-  
22 tract under title V of the Indian Health  
23 Care Improvement Act (25 U.S.C. 1651 et  
24 seq.); and

1 (B) does not include a nonappropriated  
2 fund instrumentality under the jurisdiction of  
3 the Armed Forces;

4 (2) the term “covered duty”—

5 (A) means duty that requires—

6 (i) an employee to have regular or  
7 routine contact with the public; or

8 (ii) the reporting of an employee to a  
9 worksite at which—

10 (I) social distancing is not pos-  
11 sible, consistent with the regularly as-  
12 signed duties of the position of the  
13 employee; and

14 (II) other preventative measures  
15 with respect to COVID–19 are not  
16 available; and

17 (B) does not include duty that an employee  
18 performs while teleworking from a residence;

19 (3) the term “covered period” means the period  
20 beginning on the date on which the Secretary of  
21 Health and Human Services declared a public health  
22 emergency under section 319 of the Public Health  
23 Service Act (42 U.S.C. 247d) with respect to  
24 COVID–19 and ending on the date that is 60 days

1 after the date on which that public health emergency  
2 terminates;

3 (4) the term “employee”—

4 (A) means an employee of an agency;

5 (B) includes—

6 (i) any employee of an agency who oc-  
7 cupies a position within the General Sched-  
8 ule under subchapter III of chapter 53 of  
9 title 5, United States Code;

10 (ii) any employee of an agency whose  
11 pay is fixed and adjusted from time to  
12 time in accordance with prevailing rates  
13 under subchapter IV of chapter 53 of title  
14 5, United States Code, or by a wage board  
15 or similar administrative authority serving  
16 the same purpose;

17 (iii) an official or employee of an In-  
18 dian tribe, tribal organization, or urban In-  
19 dian organization described in paragraph  
20 (1)(A)(iii);

21 (iv) each employee of the Department  
22 of Veterans Affairs, including an employee  
23 appointed under chapter 74 of title 38,  
24 United States Code, without regard to  
25 whether section 7421(a) of that title, sec-

1                   tion 7425(b) of that title, or any other pro-  
2                   vision of chapter 74 of that title is incon-  
3                   sistent with that inclusion; and

4                   (v) any other individual occupying a  
5                   position in the civil service, as that term is  
6                   defined in section 2101 of title 5, United  
7                   States Code; and

8                   (C) does not include—

9                   (i) a member of the uniformed serv-  
10                  ices, as that term is defined in section  
11                  2101 of title 5, United States Code;

12                  (ii) an employee of an agency who oc-  
13                  cupies a position within the Executive  
14                  Schedule under any of sections 5312  
15                  through 5316 of title 5, United States  
16                  Code;

17                  (iii) an individual in a Senior Execu-  
18                  tive Service position, unless the individual  
19                  is a career appointee, as those terms are  
20                  defined in section 3132(a) of title 5,  
21                  United States Code;

22                  (iv) an individual serving in a position  
23                  of a confidential or policy-determining  
24                  character under Schedule C of subpart C

1 of part 213 of title 5, Code of Federal  
2 Regulations, or any successor regulations;

3 (v) a member of the Senate or House  
4 of Representatives, a Delegate to the  
5 House of Representatives, or the Resident  
6 Commissioner from Puerto Rico; or

7 (vi) an employee of the personal office  
8 of an individual described in clause (v), of  
9 a leadership office of the Senate or the  
10 House of Representatives, of a committee  
11 of the Senate or the House of Representa-  
12 tives, or of a joint committee of Congress;

13 and

14 (5) the term “employer payroll taxes” means—

15 (A) taxes imposed under sections 3111(b),  
16 3221(a) (but only to the extent attributable to  
17 the portion of such tax attributable to the tax  
18 imposed by section 3111(b)), 3221(b), and  
19 3301 of the Internal Revenue Code of 1986;  
20 and

21 (B) taxes imposed by a State or local gov-  
22 ernment on an employer with respect to  
23 amounts paid by such employer for work by em-  
24 ployees.

25 (b) PANDEMIC DUTY DIFFERENTIAL.—

1 (1) IN GENERAL.—There is established a sched-  
2 ule of pay differentials for covered duty as follows:

3 (A) An employee is entitled to pay for that  
4 covered duty at the rate of basic pay, which in-  
5 cludes any differential or other premium pay  
6 paid for regularly scheduled work of the em-  
7 ployee other than the differential established  
8 under this section, of the employee plus pre-  
9 mium pay of \$13 per hour.

10 (B) The total amount of premium pay paid  
11 to an employee under subparagraph (A) shall  
12 be—

13 (i) with respect to an employee whose  
14 annual rate of basic pay is less than  
15 \$200,000, not more than \$10,000 reduced  
16 by employer payroll taxes with respect to  
17 such premium pay; and

18 (ii) with respect to an employee whose  
19 annual rate of basic pay is not less than  
20 \$200,000, not more than \$5,000 reduced  
21 by employer payroll taxes with respect to  
22 such premium pay.

23 (2) PAY.—

24 (A) IN GENERAL.—With respect to the  
25 covered period, an employee is entitled to be

1           paid the applicable differential established  
2           under paragraph (1) for any period, including  
3           any period during the covered period that pre-  
4           cedes the date of enactment of this Act, in  
5           which the employee is carrying out covered  
6           duty, subject to the applicable limitations under  
7           that paragraph.

8           (B) RETROACTIVE PAYMENT.—With re-  
9           spect to a payment earned by an employee  
10          under this subsection for a period during the  
11          covered period that precedes the date of enact-  
12          ment of this Act, the employee shall be paid  
13          that payment in a lump sum payment as soon  
14          as is practicable after that date of enactment.

15          (3) GUIDANCE AND REGULATIONS.—

16                 (A) EXECUTIVE BRANCH.—

17                         (i) IN GENERAL.—The Office of Per-  
18                         sonnel Management shall develop criteria  
19                         for agencies in the executive branch of the  
20                         Federal Government regarding the means  
21                         by which to determine the eligibility of an  
22                         employee in such an agency for the pay  
23                         differential established under this sub-  
24                         section, which shall—

25                                 (I) be based on—



1 (aa) the duties performed by  
2 the employee;

3 (bb) the setting in which the  
4 employee performs the duties de-  
5 scribed in item (aa); and

6 (cc) the interactions with the  
7 public required in order for the  
8 employee to perform the duties  
9 described in item (aa); and

10 (II) apply equally to all such  
11 agencies.

12 (ii) REGULATIONS.—The Office of  
13 Personnel Management may prescribe reg-  
14 ulations implementing the pay differential  
15 under this subsection with respect to em-  
16 ployees in the executive branch of the Fed-  
17 eral Government.

18 (B) OTHER BRANCHES, CERTAIN DC EM-  
19 PLOYEES, AND CERTAIN TRIBAL OFFICIALS.—

20 (i) IN GENERAL.—The employing au-  
21 thority for each agency that is not in the  
22 executive branch of the Federal Govern-  
23 ment—

24 (I) shall develop criteria regard-  
25 ing the means by which to determine

1 the eligibility of an employee in such  
2 an agency for the pay differential es-  
3 tablished under this subsection; and

4 (II) may prescribe regulations  
5 implementing the pay differential  
6 under this subsection with respect to  
7 employees in the applicable agency.

8 (ii) CONSISTENCY WITH OPM GUID-  
9 ANCE AND REGULATIONS.—Any criteria  
10 developed, and regulations prescribed, by  
11 an agency under clause (i) shall, to the ex-  
12 tent practicable, be comparable to any cri-  
13 teria developed and regulations prescribed  
14 by the Office of Personnel Management  
15 under subparagraph (A).

16 (c) LIMITATION ON PREMIUM PAY.—

17 (1) IN GENERAL.—Notwithstanding subsections  
18 (a) and (b) of section 5547 of title 5, United States  
19 Code, or a provision of any other Federal, State, or  
20 Tribal law that imposes a limitation on the amount  
21 of premium pay (including any premium pay paid  
22 under subsection (b) and any overtime pay paid for  
23 covered duty) that may be payable to an employee,  
24 an employee may be paid such premium pay to the  
25 extent that the payment does not cause the aggre-

1 gate of basic pay and such premium pay for service  
2 performed in that calendar year by that employee to  
3 exceed the annual rate of basic pay payable for level  
4 II of the Executive Schedule, as of the end of the  
5 calendar year.

6 (2) APPLICABILITY OF AGGREGATE LIMITATION  
7 ON PAY.—In determining whether a payment to an  
8 employee is subject to the limitation under section  
9 5307(a) of title 5, United States Code, a payment  
10 described in paragraph (1) shall not apply.

11 (3) APPLICABILITY OF CARES ACT.—The au-  
12 thority provided under this subsection shall be con-  
13 sidered to be in addition to, and not a replacement  
14 for, the authority provided under section 18110 of  
15 title VIII of the CARES Act (Public Law 116–136).

16 (4) RETROACTIVE EFFECT.—This subsection  
17 shall take effect as if enacted on the date on which  
18 the covered period began.

19 (d) APPROPRIATION.—

20 (1) APPROPRIATION.—There is hereby appro-  
21 priated, out of any money in the Treasury not other-  
22 wise appropriated, \$10,000,000,000, to remain  
23 available until expended, for the offices and agencies  
24 described in paragraph (2) to carry out subsections

1 (b) and (c) and to make transfers authorized under  
2 paragraph (3) of this subsection.

3 (2) OFFICES AND AGENCIES.—The offices and  
4 agencies described in this paragraph are—

5 (A) the Office of the Sergeant at Arms and  
6 Doorkeeper of the Senate;

7 (B) the Office of the Clerk of the House  
8 of Representatives;

9 (C) the Office of the Sergeant at Arms of  
10 the House of Representatives;

11 (D) the Office of the Chief Administrative  
12 Officer of the House of Representatives;

13 (E) the Office of the Attending Physician;

14 (F) the Capitol Police;

15 (G) the Office of the Architect of the Cap-  
16 itol;

17 (H) the Library of Congress;

18 (I) the Government Publishing Office;

19 (J) the Government Accountability Office;

20 (K) the Office of Personnel Management;

21 (L) the Administrative Office of the United  
22 States Courts;

23 (M) the District of Columbia Courts; and

24 (N) the District of Columbia Public De-  
25 fender Service.

1 (3) TRANSFER AUTHORITY.—

2 (A) OPM.—The Office of Personnel Man-  
3 agement may transfer funds made available  
4 under this subsection to other Federal agencies  
5 within the executive branch to reimburse such  
6 agencies for costs incurred to implement this  
7 section.

8 (B) AOUSC.—The Administrative Office  
9 of the United States Courts may transfer funds  
10 made available under this subsection to other  
11 entities within the judicial branch to reimburse  
12 the entities for costs incurred to implement this  
13 section.

14 (e) COORDINATION WITH OTHER BENEFITS.—

15 (1) DISREGARD FOR PURPOSES OF FEDERAL  
16 AND STATE PROGRAMS.—Any payment provided  
17 under this section shall not be regarded as income  
18 and shall not be regarded as a resource for the  
19 month of receipt and the following 12 months, for  
20 purposes of determining the eligibility of the recipi-  
21 ent (or the recipient's spouse or family) for benefits  
22 or assistance, or the amount or extent of benefits or  
23 assistance, under any Federal program or under any  
24 State or local program financed in whole or in part  
25 with Federal funds.

1           (2) AMOUNTS NOT TAKEN INTO ACCOUNT FOR  
2 PURPOSES OF PREMIUM TAX CREDIT.—

3           (A) IN GENERAL.—For purposes of deter-  
4 mining modified adjusted gross income under  
5 section 36B(d)(2)(B) of the Internal Revenue  
6 Code of 1986, adjusted gross income shall be  
7 reduced by any amounts received by reason of  
8 subsection (b).

9           (B) EXCEPTION.—Subparagraph (A) shall  
10 not apply to the extent such reduction results  
11 in an amount of household income (as defined  
12 in section 36B(d)(2)(A) of such Code) of a tax-  
13 payer that is less than 100 percent of the pov-  
14 erty line (as defined in section 36B(d)(3) of  
15 such Code) for a family of the size involved (as  
16 determined under the rules of section 36B(d)(1)  
17 of such Code).

18           (C) REPORTING.—

19           (i) IN GENERAL.—Any employer that  
20 makes an applicable payment during a cal-  
21 endar year shall include as a separately  
22 stated item on any written statement re-  
23 quired under section 6051 of the Internal  
24 Revenue Code of 1986 or any return or  
25 statement required by the Secretary of the

1 Treasury (or the Secretary's delegate) with  
2 respect to nonemployee compensation the  
3 aggregate amount of each type of applica-  
4 ble payments so made.

5 (ii) APPLICABLE PAYMENTS.—For  
6 purposes of this subparagraph, the term  
7 “applicable payments” means amounts  
8 paid by reason of subsection (b).

9 (3) EMPLOYMENT TAX TREATMENT FOR  
10 AMOUNTS PAID THROUGH GRANTS.—

11 (A) IN GENERAL.—For purposes of section  
12 3111(a) of the Internal Revenue Code of 1986,  
13 any amounts required to be paid by reason of  
14 this section shall not be considered wages.

15 (B) RAILROAD RETIREMENT TAXES.—For  
16 purposes of section 3221(a) of the Internal  
17 Revenue Code of 1986, the amount of tax im-  
18 posed under such section for any calendar year  
19 in which an employer is required to pay  
20 amounts under this section shall be equal to the  
21 sum of—

22 (i) the product of the rate in effect  
23 under section 3111(a) of such Code and  
24 the compensation (reduced by any amounts  
25 required to be paid by reason of this sec-

1           tion) paid during any calendar year by  
2           such employer for services rendered to  
3           such employer; and

4           (ii) the product of the rate in effect  
5           under section 3111(b) of such Code and  
6           the compensation paid during any calendar  
7           year by such employer for services ren-  
8           dered to such employer.

9           (C) SELF-EMPLOYED INDIVIDUALS.—

10           (i) IN GENERAL.—In the case of the  
11           tax imposed by section 1401(a) of the In-  
12           ternal Revenue Code of 1986, the self-em-  
13           ployment income for any taxable year in  
14           which the individual received a payment re-  
15           quired to be made under this section shall  
16           be reduced by 50 percent of the amount of  
17           payments so made.

18           (ii) REGULATORY AUTHORITY.—The  
19           Secretary of the Treasury (or the Sec-  
20           retary's delegate) shall prescribe regula-  
21           tions or other guidance for the application  
22           of sections 164(f) and 1402(a)(12) of the  
23           Internal Revenue Code of 1986 with re-  
24           spect to amounts to which clause (i) ap-  
25           plies.



1           (D) TRANSFERS TO TRUST FUNDS.—There  
2           are hereby appropriated to the Federal Old Age  
3           and Survivors Insurance Trust Fund and the  
4           Federal Disability Insurance Trust Fund estab-  
5           lished under section 201 of the Social Security  
6           Act (42 U.S.C. 401) and the Social Security  
7           Equivalent Benefit Account established under  
8           section 15A(a) of the Railroad Retirement Act  
9           of 1974 (45 U.S.C. 231n-1(a)) amounts equal  
10          to the reduction in revenues to the Treasury by  
11          reason of this paragraph (without regard to this  
12          subparagraph). Amounts appropriated by the  
13          preceding sentence shall be transferred from the  
14          general fund at such times and in such manner  
15          as to replicate to the extent possible the trans-  
16          fers which would have occurred to such Trust  
17          Fund or Account had this subsection not been  
18          enacted.

19          (f) CLARIFICATION OF COORDINATION WITH OTHER  
20          LAWS.—

21           (1) ESSENTIAL WORKERS RIGHTS AND BENE-  
22          FITS.—Nothing in this section shall be construed to  
23          allow noncompliance with or in any way to diminish,  
24          and shall instead be construed to be in addition to,

1 the rights or benefits that an essential worker is en-  
2 titled to under any—

3 (A) Federal, State, or local law, including  
4 regulation;

5 (B) collective bargaining agreement; or

6 (C) employer policy.

7 (2) TITLE 5.—Nothing in this section shall be  
8 construed to affect the application of the provisions  
9 of sections 5343 or 5545 of title 5, United States  
10 Code, with respect to pay differentials for duty in-  
11 volving unusual physical hardship or hazard, or envi-  
12 ronmental differentials.

13 (g) APPLICABILITY OF FAIR LABOR STANDARDS ACT  
14 OF 1938 TO SOVEREIGN TRIBAL EMPLOYERS.—

15 (1) IN GENERAL.—The receipt of any funds  
16 under subsection (b), (c), or (d) by a sovereign Trib-  
17 al employer shall not expand, constrict, or alter the  
18 application of the Fair Labor Standards Act of 1938  
19 (29 U.S.C. 201 et seq.) to such sovereign Tribal em-  
20 ployer.

21 (2) DEFINITIONS.—In this subsection—

22 (A) the term “Tribal employer” means—

23 (i) any Tribal government, a subdivi-  
24 sion of a Tribal government (determined in  
25 accordance with section 7871(d) of the In-

1                   ternal Revenue Code), or an agency or in-  
2                   strumentality of a Tribal government or  
3                   subdivision thereof;

4                   (ii) any Tribal organization (as the  
5                   term “tribal organization” is defined in  
6                   section 4(l) of the Indian Self-Determina-  
7                   tion and Education Assistance Act (25  
8                   U.S.C. 5304(l));

9                   (iii) any corporation if more than 50  
10                  percent (determined by vote and value) of  
11                  the outstanding stock of such corporation  
12                  is owned, directly or indirectly, by any en-  
13                  tity described in subparagraph (A) or (B);  
14                  or

15                  (iv) any partnership if more than 50  
16                  percent of the value of the capital and  
17                  profits interests of such partnership is  
18                  owned, directly or indirectly, by any entity  
19                  described in subparagraph (A) or (B); and

20                  (B) the term “Tribal government” means  
21                  the recognized governing body of any Indian or  
22                  Alaska Native tribe, band, nation, pueblo, vil-  
23                  lage, community, component band, or compo-  
24                  nent reservation individually identified (includ-  
25                  ing parenthetically) in the list published most

1           recently as of the date of enactment of this Act  
2           pursuant to section 104 of the Federally Recog-  
3           nized Indian Tribe List Act of 1994 (25 U.S.C.  
4           5131).