

116TH CONGRESS  
2D SESSION

# H. R. 8349

To provide hazard pay to frontline essential workers employed during the COVID–19 pandemic.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2020

Mr. VAN DREW introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Ways and Means, Energy and Commerce, Veterans’ Affairs, Oversight and Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide hazard pay to frontline essential workers employed during the COVID–19 pandemic.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Hazard Pay for Essential Workers Act of 2020”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HAZARD PAY FOR ESSENTIAL WORKERS

- Sec. 101. Definitions.  
 Sec. 102. Pandemic premium pay for essential workers.  
 Sec. 103. COVID–19 Hazard Fund.  
 Sec. 104. COVID–19 Hazard Fund grants.  
 Sec. 105. Enforcement and outreach.  
 Sec. 106. Funding for the Department of the Treasury Office of Inspector General.  
 Sec. 107. Authorization and appropriations.

1           **TITLE I—HAZARD PAY FOR**  
 2                   **ESSENTIAL WORKERS**

3   **SEC. 101. DEFINITIONS.**

4           In this title:

5                   (1) COVID–19 PUBLIC HEALTH EMERGENCY.—

6           The term “COVID–19 Public Health Emergency”  
 7           means the public health emergency first declared on  
 8           January 31, 2020, by the Secretary of Health and  
 9           Human Services under section 319 of the Public  
 10          Health Service Act (42 U.S.C. 247d) with respect to  
 11          COVID–19.

12                  (2) EMPLOYEE.—Except as provided in para-  
 13          graph (3)(C)(iii), the term “employee” means an in-  
 14          dividual (not employed by an entity excluded from  
 15          the definition of the term “employer” for purposes  
 16          of this title under paragraph (3)(B)) who is—

17                   (A) an employee, as defined in section 3(e)  
 18                   of the Fair Labor Standards Act of 1938 (29  
 19                   U.S.C. 203(e)), except that a reference in such  
 20                   section 3(e) to an employer shall be considered

1 to be a reference to an employer described in  
2 clauses (i)(I) and (ii) of paragraph (3)(A);

3 (B) a State employee described in section  
4 304(a) of the Government Employee Rights Act  
5 of 1991 (42 U.S.C. 2000e–16c(a)); or

6 (C) an employee of a Tribal employer.

7 (3) EMPLOYER.—

8 (A) IN GENERAL.—The term “employer”  
9 means, except as provided in subparagraph (B),  
10 a person who is—

11 (i)(I) a covered employer, as defined  
12 in subparagraph (C);

13 (II) an entity employing a State em-  
14 ployee described in section 304(a) of the  
15 Government Employee Rights Act of 1991;  
16 or

17 (III) a Tribal employer; and

18 (ii) engaged in commerce (including  
19 government), or an industry or activity af-  
20 fecting commerce (including government).

21 (B) EXCLUSION OF EXECUTIVE, LEGISLA-  
22 TIVE, AND JUDICIAL ENTITIES.—

23 (i) IN GENERAL.—The term “em-  
24 ployer” does not include—

1 (I) each agency, office, or other  
2 establishment in the executive, legisla-  
3 tive, or judicial branch of the Federal  
4 Government including those listed in  
5 clause (ii), except, only as provided in  
6 section 102(g)(2), the VA Office of  
7 Geriatrics & Extended Care of the  
8 Veterans Health Administration;

9 (II) the United States Postal  
10 Service or the Postal Regulatory Com-  
11 mission; or

12 (III) a nonappropriated fund in-  
13 strumentality under the jurisdiction of  
14 the Armed Forces.

15 (ii) INCLUSIONS.—The agencies, of-  
16 fices, are other establishments listed in this  
17 clause include—

18 (I) each agency, office, or other  
19 establishment in the executive, legisla-  
20 tive, or judicial branch of the Federal  
21 Government, including—

22 (aa) an Executive agency, as  
23 that term is defined in section  
24 105 of title 5, United States  
25 Code;

1 (bb) a military department,  
2 as that term is defined in section  
3 102 of title 5, United States  
4 Code;

5 (cc) the Federal Aviation  
6 Administration;

7 (dd) the Transportation Se-  
8 curity Administration;

9 (ee) the Department of Vet-  
10 erans Affairs; and

11 (ff) the Government Ac-  
12 countability Office;

13 (II) the District of Columbia  
14 courts and the District of Columbia  
15 Public Defender Service; and

16 (III)(aa) an Indian tribe or tribal  
17 organization carrying out a contract  
18 or compact under the Indian Self-De-  
19 termination and Education Assistance  
20 Act (25 U.S.C. 5301 et seq.);

21 (bb) an Indian tribe or tribal or-  
22 ganization that receives a grant under  
23 the Tribally Controlled Schools Act of  
24 1988 (25 U.S.C. 2501 et seq.); and

1           (cc) an urban Indian organiza-  
2           tion that receives a grant or carries  
3           out a contract under title V of the In-  
4           dian Health Care Improvement Act  
5           (25 U.S.C. 1651 et seq.).

6           (C) COVERED EMPLOYER.—

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

9           (I) means any person engaged in  
10           commerce (including government), or  
11           in any industry or activity affecting  
12           commerce (including government),  
13           who employs 1 or more employees;

14           (II) includes—

15           (aa) any person who acts di-  
16           rectly or indirectly in the interest  
17           of (within the meaning of section  
18           3(d) of the Fair Labor Standards  
19           Act of 1938 (29 U.S.C. 203(d)))  
20           an employer in relation to any of  
21           the employees of such employer;  
22           and

23           (bb) any successor in inter-  
24           est of an employer;

1 (III) except as provided in sub-  
2 paragraph (B), includes any public  
3 agency, as defined in section 3(x) of  
4 the Fair Labor Standards Act of  
5 1938 (29 U.S.C. 203(x));

6 (IV) includes any person de-  
7 scribed in subclause (I) who conducts  
8 business as a not-for-profit organiza-  
9 tion;

10 (V) includes—

11 (aa) an entity or person that  
12 contracts directly with a State,  
13 locality, Tribal government, or  
14 the Federal Government, to pro-  
15 vide care (which may include  
16 items and services) through em-  
17 ployees of such entity or person  
18 to individuals under the Medicare  
19 program under title XVIII of the  
20 Social Security Act (42 U.S.C.  
21 1395 et seq.), under a State  
22 Medicaid plan under title XIX of  
23 such Act (42 U.S.C. 1396 et  
24 seq.) or under a waiver of such  
25 plan, or under any other program

1 established or administered by a  
2 State, locality, Tribal govern-  
3 ment, or the Federal Govern-  
4 ment;

5 (bb) a subcontractor of an  
6 entity or person described in item  
7 (aa);

8 (cc) an individual client (or  
9 a representative on behalf of an  
10 individual client), an entity, or a  
11 person, that employs an indi-  
12 vidual to provide care (which may  
13 include items and services) to the  
14 individual client under a self-di-  
15 rected service delivery model  
16 through a program established or  
17 administered by a State, locality,  
18 Tribal government, or the Fed-  
19 eral Government; or

20 (dd) an individual client (or  
21 a representative on behalf of an  
22 individual client) that, on their  
23 own accord, employs an indi-  
24 vidual to provide care (which may  
25 include items and services) to the



1 individual client using the indi-  
2 vidual client's own finances;

3 (VI) includes the United States  
4 Postal Service;

5 (VII) includes a nonappropriated  
6 fund instrumentality under the juris-  
7 diction of the Armed Forces; and

8 (VIII) includes, only with respect  
9 to section 102(g)(2), the VA Office of  
10 Geriatrics & Extended Care of the  
11 Veterans Health Administration.

12 (ii) PUBLIC AGENCY.—For purposes  
13 of this title, a public agency shall be con-  
14 sidered to be a person engaged in com-  
15 merce or in an industry or activity affect-  
16 ing commerce.

17 (iii) DEFINITION OF EMPLOYEE.—For  
18 purposes of clause (i), the term “em-  
19 ployee” has the meaning given such term  
20 in section 3(e), except such term does not  
21 include any individual employed by entity  
22 excluded from the definition of the term  
23 “employer” for purposes of this title under  
24 subparagraph (B).

1 (D) PREDECESSORS.—Any reference in  
2 this paragraph to an employer shall include a  
3 reference to any predecessor of such employer.

4 (E) DEFINITION OF COMMERCE.—For pur-  
5 poses of this paragraph, the terms “commerce”  
6 and “industry or activity affecting com-  
7 merce”—

8 (i) mean any activity, business, or in-  
9 dustry in commerce or in which a labor  
10 dispute would hinder or obstruct commerce  
11 or the free flow of commerce;

12 (ii) include commerce and any indus-  
13 try affecting commerce, as such terms are  
14 defined in paragraphs (1) and (3) of sec-  
15 tion 501 of the Labor Management Rela-  
16 tions Act, 1947 (29 U.S.C. 142(1) and  
17 (3)); and

18 (iii) include commerce, as defined in  
19 section 3(b) of the Fair Labor Standards  
20 Act of 1938 (29 U.S.C. 203(b)) and as de-  
21 scribed in section 2(a) of such Act (29  
22 U.S.C. 202(a)).

23 (4) EMPLOYER PAYROLL TAXES.—The term  
24 “employer payroll taxes” means—

1 (A) taxes imposed under sections 3111(b),  
2 3221(a) (but only to the extent attributable to  
3 the portion of such tax attributable to the tax  
4 imposed by section 3111(b)), 3221(b), and  
5 3301 of the Internal Revenue Code of 1986;  
6 and

7 (B) taxes imposed by a State or local gov-  
8 ernment on an employer with respect to  
9 amounts paid by such employer for work by em-  
10 ployees.

11 (5) ESSENTIAL WORK.—The term “essential  
12 work” means any work that—

13 (A) is performed during the period that be-  
14 gins on January 27, 2020, and ends 60 days  
15 after the last day of the COVID–19 Public  
16 Health Emergency;

17 (B) is not performed while teleworking  
18 from a residence;

19 (C) involves—

20 (i) regular in-person interactions  
21 with—

22 (I) patients;

23 (II) the public; or

24 (III) coworkers of the individual  
25 performing the work; or

1           (ii) regular physical handling of items  
2 that were handled by, or are to be handled  
3 by—

4                   (I) patients;

5                   (II) the public; or

6                   (III) coworkers of the individual  
7 performing the work; and

8 (D) is in any of the following areas:

9           (i) First responder work, in the public  
10 sector or private sector, including services  
11 in response to emergencies that have the  
12 potential to cause death or serious bodily  
13 injury, such as police, fire, emergency med-  
14 ical, protective, child maltreatment, domes-  
15 tic violence, and correctional services (in-  
16 cluding activities carried out by employees  
17 in fire protection activities, as defined in  
18 section 3(y) of the Fair Labor Standards  
19 Act of 1938 (29 U.S.C. 203(y)) and activi-  
20 ties of law enforcement officers, as defined  
21 in section 1204(6) of the Omnibus Crime  
22 Control and Safe Streets Act of 1968 (34  
23 U.S.C. 10284(6)).

24           (ii) Health care work physically pro-  
25 vided in inpatient settings (including hos-

1           pitals and other inpatient post-acute care  
2           settings such as nursing homes, inpatient  
3           rehabilitation facilities, and other related  
4           settings) and other work physically per-  
5           formed in such inpatient settings that sup-  
6           ports or is in furtherance of such health  
7           care work physically provided in inpatient  
8           settings.

9           (iii) Health care work physically pro-  
10          vided in outpatient settings (including at  
11          physician offices, community health cen-  
12          ters, rural health clinics and other clinics,  
13          hospital outpatient departments, free-  
14          standing emergency departments, ambula-  
15          tory surgical centers, and other related set-  
16          tings), and other work physically per-  
17          formed in such inpatient settings that sup-  
18          ports or is in furtherance of such health  
19          care work physically provided in outpatient  
20          settings.

21          (iv) Pharmacy work, physically per-  
22          formed in pharmacies, drug stores, or  
23          other retail facilities specializing in medical  
24          goods and supplies.

1           (v) Any work physically performed in  
2           a facility that performs medical testing and  
3           diagnostic services, including laboratory  
4           processing, medical testing services, or re-  
5           lated activities.

6           (vi) Home and community-based  
7           work, including home health care, residen-  
8           tial care, assistance with activities of daily  
9           living, and any services provided by direct  
10          care workers (as defined in section 799B  
11          of the Public Health Service Act (42  
12          U.S.C. 295p)), personal care aides, job  
13          coaches, or supported employment pro-  
14          viders, and any other provision of care to  
15          individuals in their homes by direct service  
16          providers, personal care attendants, and  
17          home health aides.

18          (vii) Biomedical research regarding  
19          SARS-CoV-2 and COVID-19 that in-  
20          volves the handling of hazardous materials  
21          such as COVID-19 samples.

22          (viii) Behavioral health work requiring  
23          physical interaction with individuals, in-  
24          cluding mental health services and sub-

1 stance use disorder prevention, treatment,  
2 and recovery services.

3 (ix) Nursing care and residential care  
4 work physically provided in a facility.

5 (x) Family care, including child care  
6 services, in-home child care services such  
7 as nanny services, and care services pro-  
8 vided by family members to other family  
9 members.

10 (xi) Social services work, including so-  
11 cial work, case management, social and  
12 human services, child welfare, family serv-  
13 ices, shelter and services for people who  
14 have experienced intimate partner violence  
15 or sexual assault, services for individuals  
16 who are homeless, child services, commu-  
17 nity food and housing services, and other  
18 emergency social services.

19 (xii) Public health work conducted at  
20 State, local, territorial, and Tribal govern-  
21 ment public health agencies, including epi-  
22 demiological activities, surveillance, contact  
23 tracing, data analysis, statistical research,  
24 health education, and other disease detec-  
25 tion, prevention, and response methods.

1 (xiii) Tribal vital services, as defined  
2 by the Commissioner of the Administration  
3 for Native Americans in consultation with  
4 Tribal governments and after conferring  
5 with urban Indian organizations.

6 (xiv) Grocery work physically per-  
7 formed at grocery stores, supermarkets,  
8 convenience stores, corner stores, drug  
9 stores, retail facilities specializing in med-  
10 ical goods and supplies, bodegas, and other  
11 locations where individuals purchase non-  
12 prepared food items.

13 (xv) Restaurant work, including carry-  
14 out, drive-thru, or food delivery work, re-  
15 quiring physical interaction with individ-  
16 uals or food products.

17 (xvi) Food production work involving  
18 the physical interaction with food products,  
19 including all agricultural work, farming,  
20 fishing, forestry, ranching, processing, can-  
21 ning, slaughtering, packaging, baking,  
22 butchering, and other food production  
23 work, such as any service or activity in-  
24 cluded within the provisions of section 3(f)  
25 of the Fair Labor Standards Act of 1938



1 (29 U.S.C. 203(f)), or section 3121(g) of  
2 the Internal Revenue Code of 1986, and  
3 the handling, planting, drying, packing,  
4 packaging, processing, freezing, or grading  
5 prior to delivery for storage of any agricul-  
6 tural or horticultural commodity in its un-  
7 manufactured state.

8 (xvii) Transportation work, includ-  
9 ing—

10 (I) any services in public trans-  
11 portation, as defined in section  
12 5302(14) of title 49, United States  
13 Code;

14 (II) any private transportation of  
15 people, such as transportation pro-  
16 vided by air, rail, bus, taxicab, per-  
17 sonal car or truck, non-motorized ve-  
18 hicle, or otherwise, including all serv-  
19 ices performed by individuals working  
20 in or on such vehicles, vehicle depots,  
21 or transit facilities;

22 (III) any private transportation  
23 of goods in bulk, including transpor-  
24 tation via heavy or light truck, rail,  
25 air, or otherwise;

1 (IV) any public or private trans-  
2 portation of mail or packages;

3 (V) any private transportation of  
4 food or other goods to individuals, in-  
5 cluding in a personal car or truck,  
6 non-motorized vehicle, or otherwise;

7 (VI) any services in passenger  
8 rail transportation, including com-  
9 muter rail, intercity passenger rail, or  
10 Amtrak, including services performed  
11 by employees of contractors of such  
12 entities;

13 (VII) any services in the trans-  
14 portation of persons, property, or mail  
15 by an aircraft of an air carrier con-  
16 ducting operations under part 121 of  
17 title 14, Code of Federal Regulations  
18 (or successor regulations), or a for-  
19 eign air carrier within, to, or from the  
20 United States, either on board an air-  
21 craft or on the ground at an airport,  
22 including services performed by em-  
23 ployees of contractors of air carriers,  
24 or foreign air carriers, as described in

1 section 4111(3) of the CARES Act  
2 (Public Law 116–136);

3 (VIII) any services as an aircraft  
4 mechanic or technician who performs  
5 maintenance, repair, or overhaul work  
6 on an aircraft of an air carrier con-  
7 ducting operations under such part  
8 121 or foreign air carrier within the  
9 United States;

10 (IX) services as maritime work-  
11 ers who qualify as seamen under sec-  
12 tion 10101(3) of title 46, United  
13 States Code, and other maritime em-  
14 ployees including—

15 (aa) longshoremen, harbor  
16 workers, and shipbuilders covered  
17 under section 2(3) of the  
18 Longshore and Harbor Workers’  
19 Compensation Act (33 U.S.C.  
20 902(3)) involved in the transpor-  
21 tation of merchandise or pas-  
22 sengers by water; and

23 (bb) shipbuilders and ship  
24 repairers who are working for an  
25 employer performing shipbuilding

1 or ship repair work under con-  
2 tract or subcontract to the De-  
3 partments of Defense, Energy, or  
4 Homeland Security for military  
5 or other national security pur-  
6 poses; and

7 (X) services as maritime trans-  
8 portation workers supporting or ena-  
9 bling transportation functions, includ-  
10 ing such services as—

11 (aa) barge workers, tug op-  
12 erators, and port and facility se-  
13 curity personnel;

14 (bb) marine dispatchers; and

15 (cc) workers who repair and  
16 maintain marine vessels (includ-  
17 ing the equipment and infra-  
18 structure that enables operations  
19 that encompass movement of  
20 cargo and passengers).

21 (xviii) Work physically performed in a  
22 warehouse or other facility in warehousing  
23 (including all services performed by indi-  
24 viduals picking, sorting, packing, and ship-  
25 ping in warehouses), storage, distribution,

1 or call center support facilities, and other  
2 essential operational support functions that  
3 are necessary to accept, store, and process  
4 goods, and that facilitate the goods' trans-  
5 portation and delivery.

6 (xix) Cleaning work and building  
7 maintenance work physically performed on  
8 the grounds of a facility, including all cus-  
9 todial or janitorial services, security serv-  
10 ices, and repair and maintenance services.

11 (xx) Work in the collection, removal,  
12 transport, storage, or disposal of residen-  
13 tial, industrial, or commercial solid waste  
14 and recycling, including services provided  
15 by individuals who drive waste or recycling  
16 trucks, who pick up waste or recycling  
17 from residential or commercial locations,  
18 or who work at waste or recycling centers  
19 or landfills.

20 (xxi) Work in the gathering, proc-  
21 essing, disseminating, and delivery of news  
22 and information that serves the public in-  
23 terest to the public through mass media,  
24 including television, radio, and newspapers.

1           (xxii) Any work performed by an em-  
2           ployee of a State, locality, or Tribal gov-  
3           ernment, that is determined to be essential  
4           work by the highest authority of such  
5           State, locality, or Tribal government.

6           (xxiii) Educational work, school nutri-  
7           tion work, and other work required to op-  
8           erate a school facility, including early  
9           childhood programs, preschool programs,  
10          elementary and secondary education, and  
11          higher education.

12          (xxiv) Laundry work, including work  
13          in laundromats, laundry service companies,  
14          and dry cleaners.

15          (xxv) Elections work physically per-  
16          formed at polling places or otherwise  
17          amongst the public, including public-sector  
18          elections personnel and private-sector elec-  
19          tions personnel.

20          (xxvi) Hazardous materials manage-  
21          ment, response, and cleanup work associ-  
22          ated with any other essential work covered  
23          under this paragraph, including health  
24          care waste (including medical, pharma-  
25          ceuticals, and medical material produc-

1                   tion), and testing operations (including  
2                   laboratories processing test kits).

3                   (xxxvii) Disinfection work for all facili-  
4                   ties and modes of transportation involved  
5                   in other essential work covered under this  
6                   paragraph.

7                   (xxxviii) Work in critical clinical re-  
8                   search, development, and testing necessary  
9                   for COVID–19 response that involves  
10                  physical interaction with hazardous mate-  
11                  rials, such as samples of COVID–19.

12                  (xxxix) Work in mortuary, funeral, cre-  
13                  mation, burial, cemetery, and related serv-  
14                  ices.

15                  (xxxx) Work requiring physical inter-  
16                  actions with patients in physical therapy,  
17                  occupational therapy, speech-language pa-  
18                  thology, and respiratory therapy and other  
19                  therapy services.

20                  (xxxxi) Dental care work requiring  
21                  physical interaction with patients.

22                  (xxxxii) Work performed by employees  
23                  of the U.S. Postal Service.

1 (xxxiii) Work at hotel and commercial  
2 lodging facilities that are used for COVID-  
3 19 mitigation and containment measures.

4 (xxxiv) Work installing or repairing a  
5 telecommunications line or equipment.

6 (6) ESSENTIAL WORKER.—The term “essential  
7 worker” means an individual, whose work and duties  
8 include essential work, and who is—

9 (A) an employee of an employer; or

10 (B) an individual performing any services  
11 or labor for remuneration for an employer, re-  
12 gardless of whether the individual is classified  
13 as an independent contractor by the employer.

14 (7) ESSENTIAL WORK EMPLOYER.—The term  
15 “essential work employer” means an employer who  
16 employs, or provides remuneration for services or  
17 labor to, an essential worker.

18 (8) FLSA TERMS.—The terms “employ”, “per-  
19 son”, “regular rate”, and “State” have the mean-  
20 ings given the terms in section 3 of the Fair Labor  
21 Standards Act of 1938 (29 U.S.C. 203).

22 (9) HIGHLY-COMPENSATED ESSENTIAL WORK-  
23 ER.—The term “highly-compensated essential work-  
24 er” means an essential worker who is paid the equiv-



1       alent of \$200,000 or more per year by an essential  
2       work employer.

3           (10) LARGE ESSENTIAL WORK EMPLOYER.—

4       The term “large essential work employer” means an  
5       essential work employer who has more than 500 in-  
6       dividuals who are employed by the employer or are  
7       otherwise providing services or labor for remunera-  
8       tion for the employer.

9           (11) SELF-DIRECTED CARE WORKER.—The  
10       term “self-directed care worker” means an indi-  
11       vidual employed to provide care (which may include  
12       items and services) to an individual client—

13           (A) under a self-directed service delivery  
14       model through a program established or admin-  
15       istered by a State, locality, Tribal government,  
16       or the Federal Government; or

17           (B) on the individual client’s own accord  
18       and using the individual client’s own finances.

19           (12) TRIBAL EMPLOYER.—The term “Tribal  
20       employer” means—

21           (A) any Tribal government, a subdivision  
22       of a Tribal government (determined in accord-  
23       ance with section 7871(d) of the Internal Rev-  
24       enue Code), or an agency or instrumentality of  
25       a Tribal government or subdivision thereof;

1 (B) any Tribal organization (as the term  
2 “tribal organization” is defined in section 4(l)  
3 of the Indian Self-Determination and Education  
4 Assistance Act (25 U.S.C. 5304(l)));

5 (C) any corporation if more than 50 per-  
6 cent (determined by vote and value) of the out-  
7 standing stock of such corporation is owned, di-  
8 rectly or indirectly, by any entity described in  
9 subparagraph (A) or (B); or

10 (D) any partnership if more than 50 per-  
11 cent of the value of the capital and profits in-  
12 terests of such partnership is owned, directly or  
13 indirectly, by any entity described in subpara-  
14 graph (A) or (B).

15 (13) TRIBAL GOVERNMENT.—The term “Tribal  
16 government” means the recognized governing body  
17 of any Indian or Alaska Native tribe, band, nation,  
18 pueblo, village, community, component band, or com-  
19 ponent reservation individually identified (including  
20 parenthetically) in the list published most recently as  
21 of the date of enactment of this Act pursuant to sec-  
22 tion 104 of the Federally Recognized Indian Tribe  
23 List Act of 1994 (25 U.S.C. 5131).

1           (14) WORK.—The term “work” means employ-  
2           ment by, or engagement in providing labor or serv-  
3           ices for, an employer.

4 **SEC. 102. PANDEMIC PREMIUM PAY FOR ESSENTIAL WORK-**  
5 **ERS.**

6           (a) IN GENERAL.—Beginning 3 days after an essen-  
7           tial work employer receives a grant under section 104  
8           from the Secretary of the Treasury, the essential work em-  
9           ployer shall—

10           (1) be required to comply with subsections (b)  
11           through (h); and

12           (2) be subject to the enforcement requirements  
13           of section 105.

14           (b) PANDEMIC PREMIUM PAY.—

15           (1) IN GENERAL.—An essential work employer  
16           receiving a grant under section 104 shall, in accord-  
17           ance with this subsection, provide each essential  
18           worker of the essential work employer with premium  
19           pay at a rate equal to \$13 for each hour of work  
20           performed by the essential worker for the employer  
21           from January 27, 2020, until the date that is 60  
22           days after the last day of the COVID–19 Public  
23           Health Emergency.

24           (2) MAXIMUM AMOUNTS.—The total amount of  
25           all premium pay under this subsection that an essen-

1 tial work employer is required to provide to an es-  
2 sential worker, including through any retroactive  
3 payment under paragraph (3), shall not exceed—

4 (A) for an essential worker who is not a  
5 highly-compensated essential worker, \$10,000  
6 reduced by employer payroll taxes with respect  
7 to such premium pay; or

8 (B) for a highly-compensated essential  
9 worker, \$5,000 reduced by employer payroll  
10 taxes with respect to such premium pay.

11 (3) RETROACTIVE PAYMENT.—For all work  
12 performed by an essential worker during the period  
13 from January 27, 2020, through the date on which  
14 the essential work employer of the worker receives a  
15 grant under this title, the essential work employer  
16 shall use a portion of the amount of such grant to  
17 provide such worker with premium pay under this  
18 subsection for such work at the rate provided under  
19 paragraph (1). Such amount shall be provided to the  
20 essential worker as a lump sum in the next paycheck  
21 (or other payment form) that immediately follows  
22 the receipt of the grant by the essential work em-  
23 ployer. In any case where it is impossible for the em-  
24 ployer to arrange for payment of the amount due in  
25 such paycheck (or other payment form), such

1 amounts shall be paid as soon as practicable, but in  
2 no event later than the second paycheck (or other  
3 payment form) following the receipt of the grant by  
4 the essential work employer.

5 (4) NO EMPLOYER DISCRETION.—An essential  
6 work employer receiving a grant under section 104  
7 shall not have any discretion to determine which  
8 portions of work performed by an essential worker  
9 qualify for premium pay under this subsection, but  
10 shall pay such premium pay for any increment of  
11 time worked by the essential worker for the essential  
12 work employer up to the maximum amount applica-  
13 ble to the essential worker under paragraph (2).

14 (c) PROHIBITION ON REDUCING COMPENSATION AND  
15 DISPLACEMENT.—

16 (1) IN GENERAL.—Any payments made to an  
17 essential worker as premium pay under subsection  
18 (b) shall be in addition to all other compensation, in-  
19 cluding all wages, remuneration, or other pay and  
20 benefits, that the essential worker otherwise receives  
21 from the essential work employer.

22 (2) REDUCTION OF COMPENSATION.—An essen-  
23 tial work employer receiving a grant under section  
24 104 shall not, during the period beginning on the  
25 date of enactment of this Act and ending on the

1 date that is 60 days after the last day of the  
2 COVID–19 Public Health Emergency, reduce or in  
3 any other way diminish, any other compensation, in-  
4 cluding the wages, remuneration, or other pay or  
5 benefits, that the essential work employer provided  
6 to the essential worker on the day before the date  
7 of enactment of this Act.

8 (3) DISPLACEMENT.—An essential work em-  
9 ployer shall not take any action to displace an essen-  
10 tial worker (including partial displacement such as a  
11 reduction in hours, wages, or employment benefits)  
12 for purposes of hiring an individual for an equivalent  
13 position at a rate of compensation that is less than  
14 is required to be provided to an essential worker  
15 under paragraph (2).

16 (d) DEMARCATION FROM OTHER COMPENSATION.—  
17 The amount of any premium pay paid under subsection  
18 (b) shall be clearly demarcated as a separate line item in  
19 each paystub or other document provided to an essential  
20 worker that details the remuneration the essential worker  
21 received from the essential work employer for a particular  
22 period of time. If any essential worker does not otherwise  
23 regularly receive any such paystub or other document from  
24 the employer, the essential work employer shall provide  
25 such paystub or other document to the essential worker

1 for the duration of the period in which the essential work  
2 employer provides premium pay under subsection (b).

3 (e) EXCLUSION FROM WAGE-BASED CALCULA-  
4 TIONS.—Any premium pay under subsection (b) paid to  
5 an essential worker under this section by an essential work  
6 employer receiving a grant under section 104 shall be ex-  
7 cluded from the amount of remuneration for work paid  
8 to the essential worker for purposes of—

9 (1) calculating the essential worker’s eligibility  
10 for any wage-based benefits offered by the essential  
11 work employer;

12 (2) computing the regular rate at which such  
13 essential worker is employed under section 7 of the  
14 Fair Labor Standards Act of 1938 (29 U.S.C. 207);  
15 and

16 (3) determining whether such essential worker  
17 is exempt from application of such section 7 under  
18 section 13(a)(1) of such Act (29 U.S.C. 213(a)(1)).

19 (f) ESSENTIAL WORKER DEATH.—

20 (1) IN GENERAL.—In any case in which an es-  
21 sential worker of an essential work employer receiv-  
22 ing a grant under section 104 exhibits symptoms of  
23 COVID–19 and dies, the essential work employer  
24 shall pay as a lump sum to the next of kin of the

1 essential worker for premium pay under subsection  
2 (b)—

3 (A) for an essential worker who is not a  
4 highly-compensated essential worker, the  
5 amount determined under subsection (b)(2)(A)  
6 minus the total amount of any premium pay the  
7 worker received under subsection (b) prior to  
8 the death; or

9 (B) for a highly-compensated essential  
10 worker, the amount determined under sub-  
11 section (b)(2)(B) minus the amount of any pre-  
12 mium pay the worker received under subsection  
13 (b) prior to the death.

14 (2) TREATMENT OF LUMP SUM PAYMENTS.—

15 (A) TREATMENT AS PREMIUM PAY.—For  
16 purposes of this title, any payment made under  
17 this subsection shall be treated as a premium  
18 pay under subsection (b).

19 (B) TREATMENT FOR PURPOSES OF IN-  
20 TERNAL REVENUE CODE OF 1986.—For pur-  
21 poses of the Internal Revenue Code of 1986,  
22 any payment made under this subsection shall  
23 be treated as a payment for work performed by  
24 the essential worker.



1 (g) APPLICATION TO SELF-DIRECTED CARE WORK-  
2 ERS FUNDED THROUGH MEDICAID OR THE VETERAN-DI-  
3 RECTED CARE PROGRAM.—

4 (1) MEDICAID.—In the case of an essential  
5 work employer receiving a grant under section 104  
6 that is a covered employer described in section  
7 101(3)(C)(i)(V) who, under a State Medicaid plan  
8 under title XIX of the Social Security Act (42  
9 U.S.C. 1396 et seq.) or under a waiver of such plan,  
10 has opted to receive items or services using a self-  
11 directed service delivery model, the preceding re-  
12 quirements of this section, including the require-  
13 ments to provide premium pay under subsection (b)  
14 (including a lump sum payment in the event of an  
15 essential worker death under subsection (f)) and the  
16 requirements of sections 104 and 105, shall apply to  
17 the State Medicaid agency responsible for the ad-  
18 ministration of such plan or waiver with respect to  
19 self-directed care workers employed by that em-  
20 ployer. In administering payments made under this  
21 title to such self-directed care workers on behalf of  
22 such employers, a State Medicaid agency shall—

23 (A) exclude and disregard any payments  
24 made under this title to such self-directed work-  
25 ers from the individualized budget that applies

1 to the items or services furnished to the indi-  
2 vidual client employer under the State Medicaid  
3 plan or waiver;

4 (B) to the extent practicable, administer  
5 and provide payments under this title directly  
6 to such self-directed workers through arrange-  
7 ments with entities that provide financial man-  
8 agement services in connection with the self-di-  
9 rected service delivery models used under the  
10 State Medicaid plan or waiver; and

11 (C) ensure that individual client employers  
12 of such self-directed workers are provided notice  
13 of, and comply with, the prohibition under sec-  
14 tion 105(b)(1)(B).

15 (2) VETERAN-DIRECTED CARE PROGRAM.—In  
16 the case of an essential work employer that is a cov-  
17 ered employer described in section 101(3)(C)(i)(V)  
18 who is a veteran participating in the Veteran Di-  
19 rected Care program administered by the VA Office  
20 of Geriatrics & Extended Care of the Veterans  
21 Health Administration, the preceding requirements  
22 of this section and sections 104 and 105, shall apply  
23 to such VA Office of Geriatrics & Extended Care  
24 with respect to self-directed care workers employed  
25 by that employer. Paragraph (1) of this subsection

1 shall apply to the administration by the VA Office  
2 of Geriatrics & Extended Care of payments made  
3 under this title to such self-directed care workers on  
4 behalf of such employers in the same manner as  
5 such requirements apply to State Medicaid agencies.

6 (3) PENALTY ENFORCEMENT.—The Secretary  
7 of Labor shall consult with the Secretary of Health  
8 and Human Services and the Secretary of Veterans  
9 Affairs regarding the enforcement of penalties im-  
10 posed under section 105(b)(2) with respect to viola-  
11 tions of subparagraph (A) or (B) of section  
12 105(b)(1) that involve self-directed workers for  
13 which the requirements of this section and sections  
14 104 and 105 are applied to a State Medicaid agency  
15 under paragraph (1) or the VA Office of Geriatrics  
16 & Extended Care under paragraph (2).

17 (h) INTERACTION WITH STAFFORD ACT.—Nothing  
18 in this section shall nullify, supersede, or otherwise change  
19 a State’s ability to seek reimbursement under section 403  
20 of the Robert T. Stafford Disaster Relief and Emergency  
21 Assistance Act (42 U.S.C. 5170b) for the costs of pre-  
22 mium pay based on pre-disaster labor policies for eligible  
23 employees.

24 (i) CALCULATION OF PAID LEAVE UNDER FFCRA  
25 AND FMLA.—

1           (1) FAMILIES FIRST CORONAVIRUS RESPONSE  
2 ACT.—Section 5110(5)(B) of the Families First  
3 Coronavirus Response Act (29 U.S.C. 2601 note) is  
4 amended by adding at the end the following:

5                   “(iii) PANDEMIC PREMIUM PAY.—  
6                   Compensation received by an employee  
7                   under section 102(b) of the Hazard Pay  
8                   for Essential Workers Act of 2020 shall be  
9                   included as remuneration for employment  
10                  paid to the employee for purposes of com-  
11                  puting the regular rate at which such em-  
12                  ployee is employed.”.

13           (2) FAMILY AND MEDICAL LEAVE ACT OF  
14 1993.—Section 110(b)(2)(B) of the Family and Med-  
15 ical Leave Act of 1993 (29 U.S.C. 2620(b)(2)(B)) is  
16 amended by adding at the end the following:

17                   “(iii) PANDEMIC PREMIUM PAY.—  
18                   Compensation received by an employee  
19                   under section 102(b) of the Hazard Pay  
20                   for Essential Workers Act of 2020 shall be  
21                   included as remuneration for employment  
22                  paid to the employee for purposes of com-  
23                  puting the regular rate at which such em-  
24                  ployee is employed.”.

1 **SEC. 103. COVID-19 HAZARD FUND.**

2 (a) ESTABLISHMENT.—There is established in the  
3 Treasury of the United States a fund to be known as the  
4 “COVID-19 Hazard Fund” (referred to in this section as  
5 the “Fund”), consisting of amounts appropriated to the  
6 fund under section 107.

7 (b) FUND ADMINISTRATION.—The Fund shall be ad-  
8 ministered by the Secretary of the Treasury.

9 (c) USE OF FUNDS.—Amounts in the Fund shall be  
10 available to the Secretary of the Treasury for carrying out  
11 section 104.

12 **SEC. 104. COVID-19 HAZARD FUND GRANTS.**

13 (a) GRANTS.—

14 (1) FOR PANDEMIC PREMIUM PAY.—The Sec-  
15 retary of the Treasury shall, subject to the avail-  
16 ability of amounts provided in this title, award a  
17 grant to each essential work employer that applies  
18 for a grant, in accordance with this section, for the  
19 purpose of providing premium pay to essential work-  
20 ers under section 102(b), including amounts paid  
21 under section 102(f).

22 (2) ELIGIBILITY.—

23 (A) ELIGIBLE EMPLOYERS GENERALLY.—

24 Any essential work employer shall be eligible for  
25 a grant under paragraph (1).

1           (B) SELF-DIRECTED CARE WORKERS.—A  
2 self-directed care worker employed by an essen-  
3 tial work employer other than an essential work  
4 employer described in section 102(g), shall be  
5 eligible to apply for a grant under paragraph  
6 (1) in the same manner as an essential work  
7 employer. Such a worker shall provide premium  
8 pay to himself or herself in accordance with this  
9 section, including the recordkeeping and refund  
10 requirements of this section.

11       (b) AMOUNT OF GRANTS.—

12           (1) IN GENERAL.—The maximum amount avail-  
13 able for making a grant under subsection (a)(1) to  
14 an essential work employer shall be equal to the sum  
15 of—

16           (A) the amount obtained by multiplying  
17 \$10,000 by the number of essential workers the  
18 employer certifies, in the application submitted  
19 under subsection (c)(1), as employing, or pro-  
20 viding remuneration to for services or labor,  
21 who are paid wages or remuneration by the em-  
22 ployer at a rate that is less than the equivalent  
23 of \$200,000 per year; and

24           (B) the amount obtained by multiplying  
25 \$5,000 by the number of highly-compensated

1 essential workers the employer certifies, in the  
2 application submitted under subsection (c)(1),  
3 as employing, or providing remuneration to for  
4 services or labor, who are paid wages or remuneration by the employer at a rate that is equal  
5 to or greater than the equivalent of \$200,000  
6 per year.  
7

8 (2) NO PARTIAL GRANTS.—The Secretary of  
9 the Treasury shall not award a grant under this section in an amount less than the maximum described  
10 in paragraph (1).  
11

12 (c) GRANT APPLICATION AND DISBURSAL.—

13 (1) APPLICATION.—Any essential work employer seeking a grant under subsection (a)(1) shall  
14 submit an application to the Secretary of the Treasury at such time, in such manner, and complete with  
15 such information as the Secretary may require.  
16  
17

18 (2) NOTICE AND CERTIFICATION.—

19 (A) IN GENERAL.—The Secretary of the  
20 Treasury shall, within 15 days after receiving a complete application from an essential work employer eligible for a grant under this section—  
21  
22

23 (i) notify the employer of the Secretary's findings with respect to the requirements for the grant; and  
24  
25

1           (ii)(I) if the Secretary finds that the  
2           essential work employer meets the require-  
3           ments under this section for a grant under  
4           subsection (a), provide a certification to  
5           the employer—

6                   (aa) that the employer has met  
7                   such requirements; or

8                   (bb) of the amount of the grant  
9                   payment that the Secretary has deter-  
10                  mined the employer shall receive  
11                  based on the requirements under this  
12                  section; or

13          (II) if the Secretary finds that the es-  
14          sential work employer does not meet the  
15          requirements under this section for a grant  
16          under subsection (a), provide a notice of  
17          denial stating the reasons for the denial  
18          and provide an opportunity for administra-  
19          tive review by not later than 10 days after  
20          the denial.

21          (B) TRANSFER.—Not later than 7 days  
22          after making a certification under subpara-  
23          graph (A)(ii) with respect to an essential work  
24          employer, the Secretary of the Treasury shall



1           make the appropriate transfer to the employer  
2           of the amount of the grant.

3       (d) USE OF FUNDS.—

4           (1) IN GENERAL.—An essential work employer  
5       receiving a grant under this section shall use the  
6       amount of the grant solely for the following pur-  
7       poses:

8           (A) Providing premium pay under section  
9           102(b) to essential workers in accordance with  
10          the requirements for such payments under such  
11          section, including providing payments described  
12          in section 102(f) to the next of kin of essential  
13          workers in accordance with the requirements  
14          for such payments under such section.

15          (B) Paying employer payroll taxes with re-  
16          spect to premium pay amounts described in  
17          subparagraph (A), including such payments de-  
18          scribed in section 102(f).

19       Each dollar of a grant received by an essential work  
20       employer under this title shall be used as provided  
21       in subparagraph (A) or (B) or returned to the Sec-  
22       retary of the Treasury.

23          (2) NO OTHER USES AUTHORIZED.—An essen-  
24       tial work employer who uses any amount of a grant

1 for a purpose not required under paragraph (1) shall  
2 be—

3 (A) considered to have misused funds in  
4 violation of section 102; and

5 (B) subject to the enforcement and rem-  
6 edies provided under section 105.

7 (3) REFUND.—

8 (A) IN GENERAL.—If an essential work  
9 employer receives a grant under this section  
10 and, for any reason, does not provide every dol-  
11 lar of such grant to essential workers in accord-  
12 ance with the requirements of this title, then  
13 the employer shall refund any such dollars to  
14 the Secretary of the Treasury not later than  
15 June 30, 2021. Any amounts returned to the  
16 Secretary shall be deposited into the Fund and  
17 be available for any additional grants under this  
18 section.

19 (B) REQUIREMENT FOR NOT REDUCING  
20 COMPENSATION.—An essential work employer  
21 who is required to refund any amount under  
22 this paragraph shall not reduce or otherwise di-  
23 minish an eligible worker's compensation or  
24 benefits in response to or otherwise due to such  
25 refund.

1 (e) RECORDKEEPING.—An essential work employer  
2 that receives a grant under this section shall—

3 (1) maintain records, including payroll records,  
4 demonstrating how each dollar of funds received  
5 through the grant were provided to essential work-  
6 ers; and

7 (2) provide such records to the Secretary of the  
8 Treasury or the Secretary of Labor upon the request  
9 of either such Secretary.

10 (f) RECOUPMENT.—In addition to all other enforce-  
11 ment and remedies available under this title or any other  
12 law, the Secretary of the Treasury shall establish a process  
13 under which the Secretary shall recoup the amount of any  
14 grant awarded under subsection (a)(1) if the Secretary de-  
15 termines that the essential work employer receiving the  
16 grant—

17 (1) did not provide all of the dollars of such  
18 grant to the essential workers of the employer;

19 (2) did not, in fact, have the number of essen-  
20 tial workers certified by the employer in accordance  
21 with subparagraphs (A) and (B) of subsection  
22 (b)(1);

23 (3) did not pay the essential workers for the  
24 number of hours the employer claimed to have paid;  
25 or

1           (4) otherwise misused funds or violated this  
2 title.

3           (g) SPECIAL RULE FOR CERTAIN EMPLOYEES OF  
4 TRIBAL EMPLOYERS.—Essential workers of Tribal em-  
5 ployers who receive funds under title II shall not be eligi-  
6 ble to receive funds from grants under this section.

7           (h) TAX TREATMENT.—

8           (1) EXCLUSION FROM INCOME.—For purposes  
9 of the Internal Revenue Code of 1986, any grant re-  
10 ceived by an essential work employer under this sec-  
11 tion shall not be included in the gross income of  
12 such essential work employer.

13           (2) DENIAL OF DOUBLE BENEFIT.—

14           (A) IN GENERAL.—In the case of an essen-  
15 tial work employer that receives a grant under  
16 this section—

17                   (i) amounts paid under subsection (b)  
18 or (f) of section 102 shall not be taken  
19 into account as wages for purposes of sec-  
20 tions 41, 45A, 51, or 1396 of the Internal  
21 Revenue Code of 1986 or section 2301 of  
22 the CARES Act (Public Law 116–136);  
23 and

24                   (ii) any deduction otherwise allowable  
25 under such Code for applicable payments

1           during any taxable year shall be reduced  
2           (but not below zero) by the excess (if any)  
3           of—

4                       (I) the aggregate amounts of  
5                       grants received under this section;  
6                       over

7                       (II) the sum of any amount re-  
8                       funded under subsection (d) plus the  
9                       aggregate amount of applicable pay-  
10                      ments made for all preceding taxable  
11                      years.

12                     (B) APPLICABLE PAYMENTS.—For pur-  
13                     poses of this paragraph, the term “applicable  
14                     payments” means amounts paid as premium  
15                     pay under subsection (b) or (f) of section 102  
16                     and amounts paid for employer payroll taxes  
17                     with respect to such amounts.

18                     (C) AGGREGATION RULE.—Rules similar  
19                     to the rules of subsections (a) and (b) of section  
20                     52 of the Internal Revenue Code of 1986 shall  
21                     apply for purposes of this section.

22                     (3) INFORMATION REPORTING.—The Secretary  
23                     of the Treasury shall submit to the Commissioner of  
24                     Internal Revenue statements containing—

1 (A) the name and tax identification num-  
2 ber of each essential work employer receiving a  
3 grant under this section;

4 (B) the amount of such grant; and

5 (C) any amounts refunded under section  
6 (d)(3).

7 (i) REPORTS.—

8 (1) IN GENERAL.—Not later than 30 days after  
9 obligating the last dollar of the funds appropriated  
10 under this title, the Secretary of the Treasury shall  
11 submit a report, to the Committees of Congress de-  
12 scribed in paragraph (2), that—

13 (A) certifies that all funds appropriated  
14 under this title have been obligated; and

15 (B) indicates the number of pending appli-  
16 cations for grants under this section that will  
17 be rejected due to the lack of funds.

18 (2) COMMITTEES OF CONGRESS.—The Commit-  
19 tees of Congress described in this paragraph are—

20 (A) the Committee on Ways and Means of  
21 the House of Representatives;

22 (B) the Committee on Education and  
23 Labor of the House of Representatives;

24 (C) the Committee on Finance of the Sen-  
25 ate; and

1 (D) the Committee on Health, Education,  
2 Labor, and Pensions of the Senate.

3 **SEC. 105. ENFORCEMENT AND OUTREACH.**

4 (a) DUTIES OF SECRETARY OF LABOR.—The Sec-  
5 retary of Labor shall—

6 (1) have authority to enforce the requirements  
7 of section 102, in accordance with subsections (b)  
8 through (e);

9 (2) conduct outreach as described in subsection  
10 (f); and

11 (3) coordinate with the Secretary of the Treas-  
12 ury as needed to carry out the Secretary of Labor's  
13 responsibilities under this section.

14 (b) PROHIBITED ACTS, PENALTIES, AND ENFORCE-  
15 MENT.—

16 (1) PROHIBITED ACTS.—It shall be unlawful for  
17 a person to—

18 (A) violate any provision of section 102 ap-  
19 plicable to such person; or

20 (B) discharge or in any other manner dis-  
21 criminate against any essential worker because  
22 such essential worker has filed any complaint or  
23 instituted or caused to be instituted any pro-  
24 ceeding under or related to this title, or has tes-

1           tified or is about to testify in any such pro-  
2           ceeding.

3           (2) ENFORCEMENT AND PENALTIES.—

4                   (A) PREMIUM PAY VIOLATIONS.—A viola-  
5           tion described in paragraph (1)(A) shall be  
6           deemed a violation of section 7 of the Fair  
7           Labor Standards Act of 1938 (29 U.S.C. 207)  
8           and unpaid amounts required under this section  
9           shall be treated as unpaid overtime compensa-  
10          tion under such section 7 for the purposes of  
11          sections 15 and 16 of such Act (29 U.S.C. 215  
12          and 216).

13                   (B) DISCHARGE OR DISCRIMINATION.—A  
14          violation of paragraph (1)(B) shall be deemed a  
15          violation of section 15(a)(3) of the Fair Labor  
16          Standards Act of 1938 (29 U.S.C. 215(a)(3)).

17          (c) INVESTIGATION.—

18                   (1) IN GENERAL.—To ensure compliance with  
19          the provisions of section 102, including any regula-  
20          tion or order issued under that section, the Sec-  
21          retary of Labor shall have the investigative authority  
22          provided under section 11(a) of the Fair Labor  
23          Standards Act of 1938 (29 U.S.C. 211(a)). For the  
24          purposes of any investigation provided for in this  
25          subsection, the Secretary of Labor shall have the



1 subpoena authority provided for under section 9 of  
2 such Act (29 U.S.C. 209).

3 (2) STATE AGENCIES.—The Secretary of Labor  
4 may, for the purpose of carrying out the functions  
5 and duties under this section, utilize the services of  
6 State and local agencies in accordance with section  
7 11(b) of the Fair Labor Standards Act of 1938 (29  
8 U.S.C. 211(b)).

9 (d) ESSENTIAL WORKER ENFORCEMENT.—

10 (1) RIGHT OF ACTION.—An action alleging a  
11 violation of paragraph (1) or (2) of subsection (b)  
12 may be maintained against an essential work em-  
13 ployer receiving a grant under section 104 in any  
14 Federal or State court of competent jurisdiction by  
15 one or more essential workers or their representative  
16 for and on behalf of the essential workers, or the es-  
17 sential workers and others similarly situated, in the  
18 same manner, and subject to the same remedies (in-  
19 cluding attorney’s fees and costs of the action), as  
20 an action brought by an employee alleging a viola-  
21 tion of section 7 or 15(a)(3), respectively, of the  
22 Fair Labor Standards Act of 1938 (29 U.S.C. 207,  
23 215(a)(3)).

24 (2) NO WAIVER.—In an action alleging a viola-  
25 tion of paragraph (1) or (2) of subsection (b)

1 brought by one or more essential workers or their  
2 representative for and on behalf of the persons as  
3 described in paragraph (1), to enforce the rights in  
4 section 102, no court of competent jurisdiction may  
5 grant the motion of an essential work employer re-  
6 ceiving a grant under section 104 to compel arbitra-  
7 tion, under chapter 1 of title 9, United States Code,  
8 or any analogous State arbitration statute, of the  
9 claims involved. An essential worker's right to bring  
10 an action described in paragraph (1) or subsection  
11 (b)(2)(A) on behalf of similarly situated essential  
12 workers to enforce such rights may not be subject to  
13 any private agreement that purports to require the  
14 essential workers to pursue claims on an individual  
15 basis.

16 (e) RECORDKEEPING.—An essential work employer  
17 receiving a grant under section 104 shall make, keep, and  
18 preserve records pertaining to compliance with section 102  
19 in accordance with section 11(c) of the Fair Labor Stand-  
20 ards Act of 1938 (29 U.S.C. 211(c)) and in accordance  
21 with regulations prescribed by the Secretary of Labor.

22 (f) OUTREACH AND EDUCATION.—Out of amounts  
23 appropriated to the Secretary of the Treasury under sec-  
24 tion 107 for a fiscal year, the Secretary of the Treasury

1 shall transfer to the Secretary of Labor, \$3,000,000, of  
2 which the Secretary of Labor shall use—

3 (1) \$2,500,000 for outreach to essential work  
4 employers and essential workers regarding the pre-  
5 mium pay under section 102; and

6 (2) \$500,000 to implement an advertising cam-  
7 paign encouraging large essential work employers to  
8 provide the same premium pay provided for by sec-  
9 tion 102 using the large essential work employers'  
10 own funds and without utilizing grants under this  
11 title.

12 (g) CLARIFICATION OF ENFORCING OFFICIAL.—  
13 Nothing in the Government Employee Rights Act of 1991  
14 (42 U.S.C. 2000e–16a et seq.) or section 3(e)(2)(C) of the  
15 Fair Labor Standards Act of 1938 (29 U.S.C.  
16 203(e)(2)(C)) shall be construed to prevent the Secretary  
17 of Labor from carrying out the authority of the Secretary  
18 under this section in the case of State employees described  
19 in section 304(a) of the Government Employee Rights Act  
20 of 1991 (42 U.S.C. 2000e–16c(a)).

21 **SEC. 106. FUNDING FOR THE DEPARTMENT OF THE TREAS-**  
22 **URY OFFICE OF INSPECTOR GENERAL.**

23 There is appropriated, out of money in the Treasury  
24 not otherwise appropriated, to the Office of the Inspector  
25 General of the Department of the Treasury, \$1,000,000

1 to carry out audits, investigations, and other oversight ac-  
2 tivities authorized under the Inspector General Act of  
3 1978 (5 U.S.C. App.) that are related to the provisions  
4 of, and amendments made by, this title, to remain avail-  
5 able until December 31, 2022.

6 **SEC. 107. AUTHORIZATION AND APPROPRIATIONS.**

7       There is authorized to be appropriated, and there is  
8 hereby appropriated, \$180,000,000,000 to carry out this  
9 title, to remain available until expended.

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