

118TH CONGRESS  
1ST SESSION

# H. R. 4009

To establish emergency paid sick leave for individuals impacted by a public health emergency, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2023

Ms. BARRAGÁN (for herself, Ms. TOKUDA, Mr. LYNCH, Mr. CARSON, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Oversight and Accountability, House Administration, the Judiciary, and Ways and Means, 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 establish emergency paid sick leave for individuals impacted by a public health emergency, 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 “Public Health Emer-  
5 gency Response Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

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

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

DIVISION A—PUBLIC HEALTH EMERGENCY FAMILY AND  
MEDICAL LEAVE EXPANSION ACT

- Sec. 101. Short title.
- Sec. 102. Amendments to the Family and Medical Leave Act of 1993.
- Sec. 103. Employment under multiemployer bargaining agreements.
- Sec. 104. Regulatory authority.

DIVISION B—PUBLIC HEALTH EMERGENCY PAID SICK LEAVE  
ACT

- Sec. 201. Short title.
- Sec. 202. Paid sick time requirement.
- Sec. 203. Notice.
- Sec. 204. Prohibited acts.
- Sec. 205. Enforcement.
- Sec. 206. Employment under multiemployer bargaining agreements.
- Sec. 207. Rules of construction.
- Sec. 208. Definitions.
- Sec. 209. Regulatory authority.

DIVISION C—TAX CREDITS FOR REQUIRED PAID PUBLIC HEALTH  
EMERGENCY LEAVE

- Sec. 301. Payroll credit for required paid public health emergency sick leave.
- Sec. 302. Credit for public health emergency sick leave for certain self-employed individuals.
- Sec. 303. Payroll credit for required paid public health emergency family leave.
- Sec. 304. Credit for public health emergency family leave for certain self-employed individuals.
- Sec. 305. Special rule related to tax on employers.

**1 SEC. 3. REFERENCES.**

2       Except as expressly provided otherwise, any reference  
3 to “this Act” contained in any division of this Act shall  
4 be treated as referring only to the provisions of that divi-  
5 sion.

1 **DIVISION A—PUBLIC HEALTH**  
2 **EMERGENCY FAMILY AND**  
3 **MEDICAL LEAVE EXPANSION**  
4 **ACT**

5 **SEC. 101. SHORT TITLE.**

6 This Act may be cited as “Public Health Emergency  
7 Family and Medical Leave Expansion Act”.

8 **SEC. 102. AMENDMENTS TO THE FAMILY AND MEDICAL**  
9 **LEAVE ACT OF 1993.**

10 (a) **PUBLIC HEALTH EMERGENCY LEAVE.—**

11 (1) **IN GENERAL.—**Section 102(a) of the Fam-  
12 ily and Medical Leave Act of 1993 (29 U.S.C.  
13 2612(a)(1)) is amended by adding at the end the  
14 following:

15 “(6) **PUBLIC HEALTH EMERGENCY LEAVE.—**

16 “(A) **IN GENERAL.—**An eligible employee  
17 shall be entitled to the number of workweeks of  
18 leave determined under section 111(b)(3) be-  
19 cause of a qualifying need related to a public  
20 health emergency in accordance with section  
21 111.”.

22 (2) **PAID LEAVE REQUIREMENT.—**Section  
23 102(c) of the Family and Medical Leave Act of 1993  
24 (29 U.S.C. 2612(c)) is amended by striking “under

1 subsection (a)(1)(F)” and inserting “under sub-  
2 sections (a)(1)(F) and (a)(1)(G)”.

3 (b) REQUIREMENTS.—Title I of the Family and Med-  
4 ical Leave Act of 1993 (29 U.S.C. 2611 et seq.) is amend-  
5 ed by adding at the end the following:

6 **“SEC. 111. PUBLIC HEALTH EMERGENCY LEAVE.**

7 “(a) DEFINITIONS.—The following shall apply with  
8 respect to leave under section 102(a)(6):

9 “(1) APPLICATION OF CERTAIN TERMS.—The  
10 definitions in section 101 shall apply, except as fol-  
11 lows:

12 “(A) ELIGIBLE EMPLOYEE.—In lieu of the  
13 definition in sections 101(2)(A) and  
14 101(2)(B)(ii), the term ‘eligible employee’  
15 means an employee who has been employed for  
16 at least 30 calendar days by the employer with  
17 respect to whom leave is requested under sec-  
18 tion 102(a)(6).

19 “(B) EMPLOYER THRESHOLD.—Section  
20 101(4)(A)(i) shall be applied by substituting ‘1  
21 or more employees’ for ‘50 or more employees  
22 for each working day during each of 20 or more  
23 calendar workweeks in the current or preceding  
24 calendar year’.

1           “(2) ADDITIONAL DEFINITIONS.—In addition to  
2           the definitions described in paragraph (1), the fol-  
3           lowing definitions shall apply with respect to leave  
4           under section 102(a)(6):

5                   “(A) QUALIFYING NEED RELATED TO A  
6           PUBLIC HEALTH EMERGENCY.—The term  
7           ‘qualifying need related to a public health emer-  
8           gency’, with respect to leave, means the em-  
9           ployee has a need for leave because the em-  
10          ployee is caring for a child or family member of  
11          such employee due to disruptions to childcare,  
12          school, or caregiver services as a result of a  
13          public health emergency.

14                   “(B) PUBLIC HEALTH EMERGENCY.—The  
15          term ‘public health emergency’ means an emer-  
16          gency with respect to an infectious disease de-  
17          clared by the Secretary of Health and Human  
18          Services on or after January 1, 2022.

19                   “(C) CHILD.—The term ‘child’ means a bi-  
20          ological, foster, or adopted child, a stepchild, a  
21          child of a domestic partner, a legal ward, or a  
22          child of a person standing in loco parentis  
23          under 18 years of age.

1           “(D) FAMILY MEMBER.—The term ‘family  
2 member’, with respect to an employee, means  
3 the following:

4           “(i) A spouse or domestic partner.

5           “(ii) A son or daughter.

6           “(iii) A son-in-law or daughter-in-law.

7           “(iv) A parent.

8           “(v) A parent-in-law.

9           “(vi) A grandchild.

10          “(vii) A sibling.

11          “(viii) An uncle or aunt.

12          “(ix) A nephew or niece.

13          “(x) Any other individual whose close  
14 association is the equivalent of a family re-  
15 lationship with the employee.

16          “(E) DOMESTIC PARTNER.—

17           “(i) IN GENERAL.—The term ‘domes-  
18 tic partner’, with respect to an individual,  
19 means another individual with whom the  
20 individual is in a committed relationship.

21           “(ii) COMMITTED RELATIONSHIP DE-  
22 FINED.—The term ‘committed relationship’  
23 means a relationship between individuals,  
24 each at least 18 years of age, in which  
25 each individual is the other individual’s

1 sole domestic partner and both individuals  
2 share responsibility for a significant meas-  
3 ure of each other’s common welfare. The  
4 term includes any such relationship be-  
5 tween 2 individuals that is granted legal  
6 recognition by a State or political subdivi-  
7 sion of a State as a marriage or analogous  
8 relationship, including a civil union or do-  
9 mestic partnership.

10 “(F) SCHOOL.—The term ‘school’ means  
11 an ‘elementary school’ or ‘secondary school’ as  
12 such terms are defined in section 8101 of the  
13 Elementary and Secondary Education Act of  
14 1965 (20 U.S.C. 7801).

15 “(b) PAID LEAVE.—

16 “(1) AVAILABILITY OF PAID LEAVE.—

17 “(A) IN GENERAL.—An employer shall  
18 provide paid leave for each day of leave under  
19 section 102(a)(6) that an employee takes.

20 “(B) CALCULATION.—Paid leave under  
21 subparagraph (A) for an employee shall be cal-  
22 culated based on—

23 “(i) the employee’s regular rate of pay  
24 (as determined under section 7(e) of the

1 Fair Labor Standards Act of 1938 (29  
2 U.S.C. 207(e)); and

3 “(ii) the number of hours the em-  
4 ployee would otherwise be normally sched-  
5 uled to work (or the number of hours cal-  
6 culated under paragraph (2)).

7 “(C) CLARIFICATION.—In no event shall  
8 such paid leave exceed \$511 per day.

9 “(2) VARYING SCHEDULE HOURS CALCULA-  
10 TION.—In the case of an employee whose schedule  
11 varies from week to week to such an extent that an  
12 employer is unable to determine with certainty the  
13 number of hours the employee would have worked if  
14 such employee had not taken leave under section  
15 102(a)(6), the employer shall use the following in  
16 place of such number:

17 “(A) Subject to subparagraph (B), a num-  
18 ber equal to the average number of hours that  
19 the employee was scheduled per day over the 6-  
20 month period ending on the date on which the  
21 employee takes such leave, including hours for  
22 which the employee took leave of any type.

23 “(B) If the employee did not work over  
24 such period, the reasonable expectation of the  
25 employee at the time of hiring of the average



1           number of hours per day that the employee  
2           would normally be scheduled to work.

3           “(3) LENGTH OF PUBLIC HEALTH EMERGENCY  
4           LEAVE.—The number of workweeks of leave to  
5           which an employee is entitled for the purposes of  
6           this section shall be the greater of—

7                     “(A) 12 workweeks, or

8                     “(B) the number of workweeks determined  
9                     by the Secretary of Labor, in consultation with  
10                    the Director of the Centers for Disease Control  
11                    and Prevention, to be appropriate in relation to  
12                    such public health emergency.

13           “(c) NOTICE.—In any case where the necessity for  
14           leave under section 102(a)(6) for the purpose described  
15           in subsection (a)(2)(A) is foreseeable, an employee shall  
16           provide the employer with such notice of leave as is prac-  
17           ticable.

18           “(d) RESTORATION TO POSITION.—

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

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

1           “(A) The employee takes leave under sec-  
2           tion 102(a)(6).

3           “(B) The position held by the employee  
4           when the leave commenced does not exist due to  
5           economic conditions or other changes in oper-  
6           ating conditions of the employer—

7                   “(i) that affect employment; and

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

10           “(C) The employer makes reasonable ef-  
11           forts to restore the employee to a position  
12           equivalent to the position the employee held  
13           when the leave commenced, with equivalent em-  
14           ployment benefits, pay, and other terms and  
15           conditions of employment.

16           “(D) If the reasonable efforts of the em-  
17           ployer under subparagraph (C) fail, the em-  
18           ployer makes reasonable efforts during the pe-  
19           riod described in paragraph (3) to contact the  
20           employee if an equivalent position described in  
21           subparagraph (C) becomes available.

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

1           “(A) the date on which the qualifying need  
2           related to an infectious disease concludes; or

3           “(B) the date that is a number of weeks  
4           equal to the number of workweeks of leave to  
5           which an employee is entitled under subsection  
6           (b)(3) after the date on which the employee’s  
7           leave under section 102(a)(6) commences.”.

8 **SEC. 103. EMPLOYMENT UNDER MULTIEMPLOYER BAR-**  
9 **GAINING AGREEMENTS.**

10       (a) EMPLOYERS.—An employer signatory to a multi-  
11 employer collective bargaining agreement may, consistent  
12 with its bargaining obligations and its collective bar-  
13 gaining agreement, fulfill its obligations under section  
14 111(b)(2) of title I of the Family and Medical Leave Act  
15 of 1993, as added by the Public Health Emergency Re-  
16 sponse Act, by making contributions to a multiemployer  
17 fund, plan, or program based on the paid leave each of  
18 its employees is entitled to under such section while work-  
19 ing under the multiemployer collective bargaining agree-  
20 ment, provided that the fund, plan, or program enables  
21 employees to secure pay from such fund, plan, or program  
22 based on hours they have worked under the multiemployer  
23 collective bargaining agreement for paid leave taken under  
24 section 102(a)(6) of title I of the Family and Medical

1 Leave Act of 1993, as added by the Public Health Emer-  
2 gency Response Act.

3 (b) EMPLOYEES.—Employees who work under a mul-  
4 tiemployer collective bargaining agreement into which  
5 their employers make contributions as provided in sub-  
6 section (a) may secure pay from such fund, plan, or pro-  
7 gram based on hours they have worked under the multiem-  
8 ployer collective bargaining agreement for paid leave taken  
9 under section 102(a)(6) of title I of the Family and Med-  
10 ical Leave Act of 1993, as added by the Public Health  
11 Emergency Response Act.

12 **SEC. 104. REGULATORY AUTHORITY.**

13 The Secretary of Labor shall have the authority to  
14 issue regulations for good cause under sections 553(b)(B)  
15 and 553(d)(3) of title 5, United States Code, as necessary,  
16 to carry out the purposes of this Act, including to ensure  
17 consistency between this Act and Division B and Division  
18 C of the Public Health Emergency Response Act.

19 **DIVISION B—PUBLIC HEALTH**  
20 **EMERGENCY PAID SICK**  
21 **LEAVE ACT**

22 **SEC. 201. SHORT TITLE.**

23 This Act may be cited as the “Public Health Emer-  
24 gency Paid Sick Leave Act”.

1 **SEC. 202. PAID SICK TIME REQUIREMENT.**

2 (a) IN GENERAL.—An employer shall provide to each  
3 employee employed by the employer paid sick time if the  
4 employ is unable to work (or telework) for any of the fol-  
5 lowing reasons:

6 (1) The employee has been diagnosed with a  
7 covered infectious disease and needs to self-isolate.

8 (2) The employee has been advised or ordered  
9 to isolate or quarantine by a public official having  
10 jurisdiction or a health care provider on the basis  
11 that the physical presence of the employee on the job  
12 would jeopardize the health of others because—

13 (A) the employee has been exposed to a  
14 covered infectious disease; or

15 (B) the employee is exhibiting symptoms of  
16 a covered infectious disease.

17 (3) The employee is experiencing the symptoms  
18 of a covered infectious disease and is seeking diag-  
19 nosis or medical care.

20 (4) The employee is caring for a family member  
21 of the employee who has been diagnosed as described  
22 in paragraph (1) or has been advised or ordered as  
23 described in paragraph (2).

24 (5) The employee is experiencing any other sub-  
25 stantially similar condition specified by the Secretary  
26 of Labor, in consultation with the Secretary of the

1 Treasury and the Secretary of Health and Human  
2 Services.

3 (b) DURATION OF PAID SICK TIME.—

4 (1) IN GENERAL.—An employee shall be enti-  
5 tled to paid sick time for an amount of hours deter-  
6 mined under paragraph (2).

7 (2) AMOUNT OF HOURS.—The amount of hours  
8 of paid sick time to which an employee is entitled  
9 shall be equal to the sum of—

10 (A) the number of weeks of leave, as deter-  
11 mined under paragraph (3), to which an em-  
12 ployee is entitled in relation to a covered infec-  
13 tious disease, multiplied by

14 (B)(i) in the case of a full-time employee,  
15 40 hours per week for which an employee re-  
16 ceives leave under subsection (a), or

17 (ii) in the case of a part-time employees, a  
18 number of hours equal to the number of hours  
19 that such employee works, on average, over a  
20 week.

21 (3) WEEKS OF LEAVE.—The Secretary of  
22 Labor, in consultation with the Director of the Cen-  
23 ters for Disease Control and Prevention, shall deter-  
24 mine the number of weeks of leave to which an em-

1        ployee is entitled in relation to a covered infectious  
2        disease.

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

5        (c) EMPLOYER’S TERMINATION OF PAID SICK  
6        TIME.—Paid sick time provided to an employee under this  
7        Act shall cease beginning with the employee’s next sched-  
8        uled workshift immediately following the termination of  
9        the need for paid sick time under subsection (a).

10        (d) EMPLOYERS WITH EXISTING POLICIES.—With  
11        respect to an employer that provides paid leave on the day  
12        before the date of enactment of this Act—

13            (1) the paid sick time under this Act shall be  
14        made available to employees of the employer in addi-  
15        tion to such paid leave; and

16            (2) the employer may not change such paid  
17        leave on or after such date of enactment to avoid  
18        being subject to paragraph (1).

19        (e) PROHIBITION.—An employer may not require, as  
20        a condition of providing paid sick time under this Act, that  
21        the employee involved search for or find a replacement em-  
22        ployee to cover the hours during which the employee is  
23        using paid sick time.

24        (f) USE OF PAID SICK TIME.—

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

6           (2) SEQUENCING.—

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

10          (B) PROHIBITION.—An employer may not  
11          require an employee to use other paid leave pro-  
12          vided by the employer to the employee before  
13          the employee uses the paid sick time under sub-  
14          section (a).

15 **SEC. 203. NOTICE.**

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

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



1 **SEC. 204. PROHIBITED ACTS.**

2 (a) INTERFERENCE WITH RIGHTS.—

3 (1) EXERCISE OF RIGHTS.—It shall be unlawful  
4 for any employer to interfere with, restrain, or deny  
5 the exercise of, or the attempt to exercise, any right  
6 provided under this Act, including—

7 (A) discharging or discriminating against  
8 (including retaliating against) any individual,  
9 including a job applicant, for exercising, or at-  
10 tempting to exercise, any right provided under  
11 this Act;

12 (B) using the taking of paid sick time or  
13 unpaid sick time under this Act as a negative  
14 factor in an employment action, such as hiring,  
15 promotion, reducing hours or number of shifts,  
16 or a disciplinary action; or

17 (C) counting the paid sick time or unpaid  
18 sick time under a no-fault attendance policy or  
19 any other absence-control policy.

20 (2) DISCRIMINATION.—It shall be unlawful for  
21 any employer to discharge or in any other manner  
22 discriminate against (including retaliating against)  
23 any individual, including a job applicant, for oppos-  
24 ing any practice made unlawful by this Act.

25 (b) INTERFERENCE WITH PROCEEDINGS OR INQUIR-  
26 IES.—It shall be unlawful for any person to discharge or

1 in any other manner discriminate against (including retali-  
2 ating against) any individual, including a job applicant,  
3 because such individual—

4 (1) has filed an action, or has instituted or  
5 caused to be instituted any proceeding, under or re-  
6 lated to this Act;

7 (2) has given, or is about to give, any informa-  
8 tion in connection with any inquiry or proceeding re-  
9 lating to any right provided under this Act; or

10 (3) has testified, or is about to testify, in any  
11 inquiry or proceeding relating to any right provided  
12 under this Act.

13 (c) CONSTRUCTION.—Nothing in this section shall be  
14 construed to state or imply that the scope of the activities  
15 prohibited by section 105 of the Family and Medical Leave  
16 Act of 1993 (29 U.S.C. 2615) is less than the scope of  
17 the activities prohibited by this section.

18 **SEC. 205. ENFORCEMENT.**

19 (a) UNPAID SICK LEAVE.—An employer who violates  
20 section 202 shall—

21 (1) be considered to have failed to pay min-  
22 imum wages in violation of section 6 of the Fair  
23 Labor Standards Act of 1938 (29 U.S.C. 206); and

1           (2) be subject to the penalties described in sec-  
2           tions 16 and 17 of such Act (29 U.S.C. 216; 217)  
3           with respect to such violation.

4           (b) UNLAWFUL TERMINATION.—An employer who  
5           willfully violates section 204 shall—

6           (1) be considered to be in violation of section  
7           15(a)(3) of the Fair Labor Standards Act of 1938  
8           (29 U.S.C. 215(a)(3)); and

9           (2) be subject to the penalties described in sec-  
10          tions 16 and 17 of such Act (29 U.S.C. 216; 217)  
11          with respect to such violation.

12 **SEC. 206. EMPLOYMENT UNDER MULTIEMPLOYER BAR-**  
13 **GAINING AGREEMENTS.**

14          (a) EMPLOYERS.—An employer signatory to a multi-  
15          employer collective bargaining agreement may, consistent  
16          with its bargaining obligations and its collective bar-  
17          gaining agreement, fulfill its obligations under this Act by  
18          making contributions to a multiemployer fund, plan, or  
19          program based on the hours of paid sick time each of its  
20          employees is entitled to under this Act while working  
21          under the multiemployer collective bargaining agreement,  
22          provided that the fund, plan, or program enables employ-  
23          ees to secure pay from such fund, plan, or program based  
24          on hours they have worked under the multiemployer collec-

1 tive bargaining agreement and for the uses specified under  
2 section 202(a).

3 (b) EMPLOYEES.—Employees who work under a mul-  
4 tiemployer collective bargaining agreement into which  
5 their employers make contributions as provided in sub-  
6 section (a) may secure pay from such fund, plan, or pro-  
7 gram based on hours they have worked under the multiem-  
8 ployer collective bargaining agreement for the uses speci-  
9 fied in section 202(a).

10 **SEC. 207. RULES OF CONSTRUCTION.**

11 Nothing in this Act shall be construed—

12 (1) to in any way diminish the rights or bene-  
13 fits that an employee is entitled to under any—

14 (A) other Federal, State, or local law;

15 (B) collective bargaining agreement; or

16 (C) existing employer policy; or

17 (2) to require financial or other reimbursement  
18 to an employee from an employer upon the employ-  
19 ee's termination, resignation, retirement, or other  
20 separation from employment for paid sick time  
21 under this Act that has not been used by such em-  
22 ployee.

23 **SEC. 208. DEFINITIONS.**

24 For purposes of the Act:

1           (1) CHILD.—The term “child” means a biological,  
2 cal, foster, or adopted child, a stepchild, a child of  
3 a domestic partner, a legal ward, or a child of a person  
4 standing in loco parentis under 18 years of age.

5           (2) COVERED INFECTIOUS DISEASE.—The term  
6 “covered infectious disease” means an infectious disease  
7 in relation to which the Secretary of Health and Human  
8 Services has declared a public health emergency.  
9

10          (3) DOMESTIC PARTNER.—

11           (A) IN GENERAL.—The term “domestic partner”,  
12 with respect to an individual, means another individual with  
13 whom the individual is in a committed relationship.  
14

15           (B) COMMITTED RELATIONSHIP DEFINED.—The term  
16 “committed relationship” means a relationship between individuals,  
17 each at least 18 years of age, in which each individual is  
18 the other individual’s sole domestic partner and both individuals  
19 share responsibility for a significant measure of each other’s  
20 common welfare. The term includes any such relationship  
21 between 2 individuals that is granted legal recognition by a  
22 State or political subdivision of a State as a marriage or analogous  
23  
24  
25

1 relationship, including a civil union or domestic  
2 partnership.

3 (4) EMPLOYEE.—The term “employee” means  
4 an individual who is—

5 (A)(i) an employee, as defined in section  
6 3(e) of the Fair Labor Standards Act of 1938  
7 (29 U.S.C. 203(e)), who is not covered under  
8 subparagraph (E) or (F), including such an em-  
9 ployee of the Library of Congress, except that  
10 a reference in such section to an employer shall  
11 be considered to be a reference to an employer  
12 described in clauses (i)(I) and (ii) of paragraph  
13 (5)(A); or

14 (ii) an employee of the Government Ac-  
15 countability Office;

16 (B) a State employee described in section  
17 304(a) of the Government Employee Rights Act  
18 of 1991 (42 U.S.C. 2000e–16c(a));

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

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

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

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

8 (5) EMPLOYER.—

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

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

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

17 (III) an employing office, as defined  
18 in section 101 of the Congressional Ac-  
19 countability Act of 1995;

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

23 (V) an Executive Agency as defined in  
24 section 105 of title 5, United States Code,

1 and including the U.S. Postal Service and  
2 the Postal Regulatory Commission; and

3 (ii) engaged in commerce (including  
4 government), or an industry or activity af-  
5 fecting commerce (including government),  
6 as defined in subparagraph (B)(iii).

7 (B) COVERED EMPLOYER.—

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

10 (I) means any person engaged in  
11 commerce or in any industry or activ-  
12 ity affecting commerce that employs 1  
13 or more employees;

14 (II) includes—

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

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

24 (III) includes any “public agen-  
25 cy”, as defined in section 3(x) of the



1 Fair Labor Standards Act of 1938  
2 (29 U.S.C. 203(x)); and

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

6 (ii) PUBLIC AGENCY.—For purposes  
7 of clause (i)(IV), a public agency shall be  
8 considered to be a person engaged in com-  
9 merce or in an industry or activity affect-  
10 ing commerce.

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

13 (I) COMMERCE.—The terms  
14 “commerce” and “industry or activity  
15 affecting commerce” means any activ-  
16 ity, business, or industry in commerce  
17 or in which a labor dispute would  
18 hinder or obstruct commerce or the  
19 free flow of commerce, and include  
20 “commerce” and any “industry affect-  
21 ing commerce”, as defined in para-  
22 graphs (1) and (3) of section 501 of  
23 the Labor Management Relations Act  
24 of 1947 (29 U.S.C. 142 (1) and (3)).

1 (II) EMPLOYEE.—The term “em-  
2 ployee” has the same meaning given  
3 such term in section 3(e) of the Fair  
4 labor Standards Act of (29 U.S.C.  
5 203(e)).

6 (III) PERSON.—The term “per-  
7 son” has the same meaning given  
8 such term in section 3(a) of the Fair  
9 Labor Standards Act of (29 U.S.C.  
10 203(a)).

11 (6) FAMILY MEMBER.—The term “family mem-  
12 ber”, with respect to an employee, means the fol-  
13 lowing:

14 (A) A spouse or domestic partner.

15 (B) A son or daughter.

16 (C) A son-in-law or daughter-in-law.

17 (D) A parent.

18 (E) A grandchild.

19 (F) A sibling.

20 (G) An uncle or aunt.

21 (H) A nephew or niece.

22 (I) Any other individual whose close asso-  
23 ciation is the equivalent of a family relationship  
24 with the employee.

1           (7) FLSA TERMS.—The terms “employ” and  
2           “State” have the meanings given such terms in sec-  
3           tion 3 of the Fair Labor Standards Act of 1938 (29  
4           U.S.C. 203).

5           (8) HEALTH CARE PROVIDER.—The term  
6           “health care provider” has the meaning given such  
7           term in section 101 of the Family and Medical  
8           Leave Act of 1993 (29 U.S.C. 2611).

9           (9) PAID SICK TIME.—

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

13                   (i) is provided by an employer for use  
14                   during an absence from employment for a  
15                   reason described in any paragraph of sec-  
16                   tion 202(a); and

17                   (ii) is calculated based on the employ-  
18                   ee’s required compensation under subpara-  
19                   graph (B) and the number of hours the  
20                   employee would otherwise be normally  
21                   scheduled to work (or the number of hours  
22                   calculated under subparagraph (C)), except  
23                   that in no event shall such paid sick time  
24                   exceed \$511 per day for a use described in  
25                   section 202(a).

1 (B) REQUIRED COMPENSATION.—Subject  
2 to paragraph (A)(ii), the employee’s required  
3 compensation under this subparagraph shall be  
4 not less than the greater of the following:

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

9 (ii) The minimum wage rate in effect  
10 under section 6(a)(1) of the Fair Labor  
11 Standards Act of 1938 (29 U.S.C.  
12 206(a)(1)).

13 (iii) The minimum wage rate in effect  
14 for such employee in the applicable State  
15 or locality, whichever is greater, in which  
16 the employee is employed.

17 (C) VARYING SCHEDULE HOURS CALCULA-  
18 TION.—In the case of a part-time employee de-  
19 scribed in section 202(b)(2)(B) whose schedule  
20 varies from week to week to such an extent that  
21 an employer is unable to determine with cer-  
22 tainty the number of hours the employee would  
23 have worked if such employee had not taken  
24 paid sick time under section 202(a), the em-

1            employer shall use the following in place of such  
2            number:

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

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

16                   (D) GUIDELINES.—Not later than 15 days  
17                   after the date of the enactment of this Act, the  
18                   Secretary of Labor shall issue guidelines to as-  
19                   sist employers in calculating the amount of paid  
20                   sick time under subparagraph (A).

21                   (E) REASONABLE NOTICE.—After the first  
22                   workday (or portion thereof) an employee re-  
23                   ceives paid sick time under this Act, an em-  
24                   ployer may require the employee to follow rea-

1           sonable notice procedures in order to continue  
2           receiving such paid sick time.

3           (10) PARENT.—The term “parent”, with re-  
4           spect to an employee, means any of the following:

5                   (A) A biological, foster, or adoptive parent  
6                   of the employee.

7                   (B) A stepparent of the employee.

8                   (C) A parent-in-law of the employee.

9                   (D) A parent of a domestic partner of the  
10                  employee.

11                  (E) A legal guardian or other person who  
12                  stood in loco parentis to an employee when the  
13                  employee was a child.

14           (11) PUBLIC HEALTH EMERGENCY.—The term  
15           “public health emergency” means an emergency with  
16           respect to an infectious disease declared by the Sec-  
17           retary of Health and Human Services on or after  
18           January 1, 2022.

19           (12) SPOUSE.—The term “spouse” has the  
20           meaning given such term in section 101 of the Fam-  
21           ily and Medical Leave Act of 1993 (29 U.S.C.  
22           2611), and includes a husband or wife in a common  
23           law marriage.

1 **SEC. 209. REGULATORY AUTHORITY.**

2       The Secretary of Labor shall have the authority to  
3 issue regulations for good cause under sections 553(b)(B)  
4 and 553(d)(3) of title 5, United States Code, as necessary,  
5 to carry out the purposes of this Act, including to ensure  
6 consistency between this Act and Division A and Division  
7 C of the Public Health Emergency Response Act.

8 **DIVISION C—TAX CREDITS FOR**  
9 **REQUIRED PAID PUBLIC**  
10 **HEALTH EMERGENCY LEAVE**

11 **SEC. 301. PAYROLL CREDIT FOR REQUIRED PAID PUBLIC**  
12 **HEALTH EMERGENCY SICK LEAVE.**

13       (a) **IN GENERAL.**—In the case of an employer, there  
14 shall be allowed as a credit against the tax imposed by  
15 section 3111(a) of the Internal Revenue Code of 1986 for  
16 each calendar quarter an amount equal to 100 percent of  
17 the qualified public health emergency sick leave wages  
18 paid by such employer with respect to such calendar quar-  
19 ter. The preceding sentence shall not apply to any em-  
20 ployer for any calendar quarter unless such employer em-  
21 ploys an average of fewer than 500 employees on days dur-  
22 ing such quarter.

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

24           (1) **WAGES TAKEN INTO ACCOUNT.**—The  
25 amount of qualified public health emergency sick  
26 leave wages taken into account under subsection (a)

1 with respect to any individual shall not exceed \$511  
2 for any day (or portion thereof) for which the indi-  
3 vidual is paid qualified sick leave wages.

4 (2) CREDIT LIMITED TO CERTAIN EMPLOYMENT  
5 TAXES.—The credit allowed by subsection (a) with  
6 respect to any calendar quarter shall not exceed the  
7 tax imposed by section 3111(a) of such Code for  
8 such calendar quarter (reduced by any credits al-  
9 lowed under subsections (e) and (f) of section 3111  
10 of such Code for such quarter) on the wages paid  
11 with respect to the employment of all employees of  
12 the employer.

13 (3) REFUNDABILITY OF EXCESS CREDIT.—

14 (A)(i) CREDIT IS REFUNDABLE.—If the  
15 amount of the credit under subsection (a) ex-  
16 ceeds the limitation of paragraph (3) for any  
17 calendar quarter, such excess shall be treated  
18 as an overpayment that shall be refunded under  
19 sections 6402(a) and 6413(b) of such Code.

20 (ii) ADVANCING CREDIT.—In anticipation  
21 of the credit, including the refundable portion  
22 under clause (i), the credit may be advanced,  
23 according to forms and instructions provided by  
24 the Secretary, up to an amount calculated  
25 under subsection (a), subject to the limits under



1 subsection (b), both calculated through the end  
2 of the most recent payroll period in the quarter.

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

9 (c) QUALIFIED PUBLIC HEALTH EMERGENCY SICK  
10 LEAVE WAGES.—For purposes of this section, the term  
11 “qualified public health emergency sick leave wages”  
12 means wages (as defined in section 3121(a) of the Internal  
13 Revenue Code of 1986) paid by an employer which are  
14 required to be paid by reason of the Public Health Emer-  
15 gency Paid Sick Leave Act.

16 (d) SPECIAL RULES.—

17 (1) DENIAL OF DOUBLE BENEFIT.—For pur-  
18 poses of chapter 1 of such Code, the gross income  
19 of the employer, for the taxable year which includes  
20 the last day of any calendar quarter with respect to  
21 which a credit is allowed under this section, shall be  
22 increased by the amount of such credit. No credit  
23 shall be allowed under this section with respect to  
24 wages for which a credit is allowed under section  
25 45S of such Code.

1           (2) ELECTION NOT TO HAVE SECTION APPLY.—

2           This section shall not apply with respect to any em-  
3           ployer for any calendar quarter if such employer  
4           elects (at such time and in such manner as the Sec-  
5           retary of the Treasury (or the Secretary's delegate)  
6           may prescribe) not to have this section apply.

7           (3) CERTAIN TERMS.—Any term used in this  
8           section which is also used in chapter 21 of such  
9           Code shall have the same meaning as when used in  
10          such chapter.

11          (4) STATE AND LOCAL GOVERNMENTS.—This  
12          credit shall not apply to the Government of the  
13          United States, the government of any State or polit-  
14          ical subdivision thereof, or any agency or instrumen-  
15          tality of any of the foregoing.

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

20                 (1) regulations or other guidance to prevent the  
21                 avoidance of the purposes of the limitations and ag-  
22                 gregation rules under this section through the use of  
23                 successor companies or other means,

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

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

8           (4) regulations or other guidance for recap-  
9           turing the benefit of credits determined under this  
10          section in cases where there is a subsequent adjust-  
11          ment to the credit determined under subsection (a).

12          (f) APPLICATION OF SECTION.—This section shall  
13          apply only to wages paid with respect to days after the  
14          date of the enactment of this Act.

15          (g) TRANSFERS TO FEDERAL OLD-AGE AND SUR-  
16          VIVORS INSURANCE TRUST FUND.—There are hereby ap-  
17          propriated to the Federal Old-Age and Survivors Insur-  
18          ance Trust Fund and the Federal Disability Insurance  
19          Trust Fund established under section 201 of the Social  
20          Security Act (42 U.S.C. 401) amounts equal to the reduc-  
21          tion in revenues to the Treasury by reason of this section  
22          (without regard to this subsection). Amounts appropriated  
23          by the preceding sentence shall be transferred from the  
24          general fund at such times and in such manner as to rep-  
25          licate to the extent possible the transfers which would have

1 occurred to such Trust Fund had this section not been  
2 enacted.

3 **SEC. 302. CREDIT FOR PUBLIC HEALTH EMERGENCY SICK**  
4 **LEAVE FOR CERTAIN SELF-EMPLOYED INDI-**  
5 **VIDUALS.**

6 (a) CREDIT AGAINST SELF-EMPLOYMENT TAX.—In  
7 the case of an eligible self-employed individual, there shall  
8 be allowed as a credit against the tax imposed by subtitle  
9 A of the Internal Revenue Code of 1986 for any taxable  
10 year an amount equal to 100 percent of the qualified pub-  
11 lic health emergency sick leave equivalent amount with re-  
12 spect to the individual.

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

16 (1) regularly carries on a trade or business  
17 within the meaning of section 1402 of such Code,  
18 and

19 (2) would be entitled to receive paid leave dur-  
20 ing the taxable year pursuant to the Public Health  
21 Emergency Paid Sick Leave Act if the individual  
22 were an employee of an employer (other than himself  
23 or herself).

1 (c) QUALIFIED PUBLIC HEALTH EMERGENCY SICK  
2 LEAVE EQUIVALENT AMOUNT.—For purposes of this sec-  
3 tion—

4 (1) IN GENERAL.—The term “qualified public  
5 health emergency sick leave equivalent amount”  
6 means, with respect to any eligible self-employed in-  
7 dividual, an amount equal to—

8 (A) the number of days during the taxable  
9 year (but not more than the applicable number  
10 of days) that the individual is unable to per-  
11 form services in the trade or business referred  
12 to in section 1402 of such Code for a reason  
13 with respect to which such individual would be  
14 entitled to receive sick leave as described in  
15 subsection (b), multiplied by

16 (B) the lesser of—

17 (i) \$511, or

18 (ii) the average daily self-employment  
19 income of the individual for the taxable  
20 year.

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

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

3 (B) 260.

4 (3) APPLICABLE NUMBER OF DAYS.—For pur-  
5 poses of this subsection, the term “applicable num-  
6 ber of days” means, with respect to any taxable  
7 year, the number of days during such taxable year  
8 with respect to which the individual would be enti-  
9 tled to receive sick leave as described in subsection  
10 (b).

11 (d) SPECIAL RULES.—

12 (1) CREDIT REFUNDABLE.—

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

17 (B) TREATMENT OF PAYMENTS.—For pur-  
18 poses of section 1324 of title 31, United States  
19 Code, any refund due from the credit deter-  
20 mined under this section shall be treated in the  
21 same manner as a refund due from a credit  
22 provision referred to in subsection (b)(2) of  
23 such section.

24 (2) DOCUMENTATION.—No credit shall be al-  
25 lowed under this section unless the individual main-

1 tains such documentation as the Secretary may pre-  
2 scribe to establish such individual as an eligible self-  
3 employed individual.

4 (3) DENIAL OF DOUBLE BENEFIT.—In the case  
5 of an individual who receives wages (as defined in  
6 section 3121(a) of the Internal Revenue Code of  
7 1986) paid by an employer which are required to be  
8 paid by reason of the Public Health Emergency Paid  
9 Sick Leave Act, the qualified sick leave equivalent  
10 amount otherwise determined under subsection (c)  
11 shall be reduced (but not below zero) in the same  
12 proportion that the number of days for which such  
13 wages are received bears to the number of days de-  
14 scribed in subsection (c)(1)(A).

15 (4) CERTAIN TERMS.—Any term used in this  
16 section which is also used in chapter 2 of the Inter-  
17 nal Revenue Code of 1986 shall have the same  
18 meaning as when used in such chapter.

19 (e) APPLICATION OF SECTION.—Only days after the  
20 date of the enactment of this Act may be taken into ac-  
21 count under subsection (c)(1)(A).

22 (f) APPLICATION OF CREDIT IN CERTAIN POSSES-  
23 SIONS.—

24 (1) PAYMENTS TO POSSESSIONS WITH MIRROR  
25 CODE TAX SYSTEMS.—The Secretary of the Treas-

1       ury shall pay to each possession of the United States  
2       which has a mirror code tax system amounts equal  
3       to the loss (if any) to that possession by reason of  
4       the application of the provisions of this section. Such  
5       amounts shall be determined by the Secretary of the  
6       Treasury based on information provided by the gov-  
7       ernment of the respective possession.

8               (2) PAYMENTS TO OTHER POSSESSIONS.—The  
9       Secretary of the Treasury shall pay to each posses-  
10      sion of the United States which does not have a mir-  
11      ror code tax system amounts estimated by the Sec-  
12      retary of the Treasury as being equal to the aggre-  
13      gate benefits (if any) that would have been provided  
14      to residents of such possession by reason of the pro-  
15      visions of this section if a mirror code tax system  
16      had been in effect in such possession. The preceding  
17      sentence shall not apply unless the respective posses-  
18      sion has a plan, which has been approved by the  
19      Secretary of the Treasury, under which such posses-  
20      sion will promptly distribute such payments to its  
21      residents.

22              (3) MIRROR CODE TAX SYSTEM.—For purposes  
23      of this section, the term “mirror code tax system”  
24      means, with respect to any possession of the United  
25      States, the income tax system of such possession if



1 the income tax liability of the residents of such pos-  
2 session under such system is determined by ref-  
3 erence to the income tax laws of the United States  
4 as if such possession were the United States.

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

10 (g) REGULATIONS.—The Secretary of the Treasury  
11 (or the Secretary’s delegate) shall prescribe such regula-  
12 tions or other guidance as may be necessary to carry out  
13 the purposes of this section, including—

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

16 (2) regulations or other guidance to minimize  
17 compliance and recordkeeping burdens under this  
18 section.

19 **SEC. 303. PAYROLL CREDIT FOR REQUIRED PAID PUBLIC**  
20 **HEALTH EMERGENCY FAMILY LEAVE.**

21 (a) IN GENERAL.—In the case of an employer, there  
22 shall be allowed as a credit against the tax imposed by  
23 section 3111(a) of the Internal Revenue Code of 1986 for  
24 each calendar quarter an amount equal to 100 percent of  
25 the qualified public health emergency family leave wages

1 paid by such employer with respect to such calendar quar-  
2 ter. The preceding sentence shall not apply to any em-  
3 ployer for any calendar quarter unless such employer em-  
4 ploys an average of fewer than 500 employees on days dur-  
5 ing such quarter.

6 (b) LIMITATIONS AND REFUNDABILITY.—

7 (1) WAGES TAKEN INTO ACCOUNT.—The  
8 amount of qualified public health emergency family  
9 leave wages taken into account under subsection (a)  
10 with respect to any individual shall not exceed \$511  
11 for each day (or portion thereof) for which the indi-  
12 vidual is paid qualified public health emergency fam-  
13 ily leave wages.

14 (2) CREDIT LIMITED TO CERTAIN EMPLOYMENT  
15 TAXES.—The credit allowed by subsection (a) with  
16 respect to any calendar quarter shall not exceed the  
17 tax imposed by section 3111(a) of such Code for  
18 such calendar quarter (reduced by any credits al-  
19 lowed under subsections (e) and (f) of section 3111  
20 of such Code, and section 9001 of this Act, for such  
21 quarter) on the wages paid with respect to the em-  
22 ployment of all employees of the employer.

23 (3) REFUNDABILITY OF EXCESS CREDIT.—If  
24 the amount of the credit under subsection (a) ex-  
25 ceeds the limitation of paragraph (2) for any cal-

1       endar quarter, such excess shall be treated as an  
2       overpayment that shall be refunded under sections  
3       6402(a) and 6413(b) of such Code.

4       (c) QUALIFIED FAMILY LEAVE WAGES.—For pur-  
5       poses of this section, the term “qualified family leave  
6       wages” means wages (as defined in section 3121(a) of  
7       such Code) paid by an employer which are required to be  
8       paid by reason of the Public Health Emergency Family  
9       and Medical Leave Expansion Act (including the amend-  
10      ments made by such Act).

11      (d) SPECIAL RULES.—

12           (1) DENIAL OF DOUBLE BENEFIT.—For pur-  
13      poses of chapter 1 of such Code, the gross income  
14      of the employer, for the taxable year which includes  
15      the last day of any calendar quarter with respect to  
16      which a credit is allowed under this section, shall be  
17      increased by the amount of such credit. No credit  
18      shall be allowed under this section with respect to  
19      wages for which a credit is allowed under section  
20      45S of such Code.

21           (2) ELECTION NOT TO HAVE SECTION APPLY.—  
22      This section shall not apply with respect to any em-  
23      ployer for any calendar quarter if such employer  
24      elects (at such time and in such manner as the Sec-

1       retary of the Treasury (or the Secretary's delegate)  
2       may prescribe) not to have this section apply.

3           (3) CERTAIN TERMS.—Any term used in this  
4       section which is also used in chapter 21 of such  
5       Code shall have the same meaning as when used in  
6       such chapter.

7           (4) STATE AND LOCAL GOVERNMENTS.—This  
8       credit shall not apply to the Government of the  
9       United States, the government of any State or polit-  
10      ical subdivision thereof, or any agency or instrumen-  
11      tality of any of the foregoing.

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

16           (1) regulations or other guidance to prevent the  
17      avoidance of the purposes of the limitations and ag-  
18      gregation rules under this section through the use of  
19      successor companies or other means,

20           (2) regulations or other guidance to minimize  
21      compliance and recordkeeping burdens under this  
22      section,

23           (3) regulations or other guidance providing for  
24      waiver of penalties for failure to deposit amounts in

1       anticipation of the allowance of the credit allowed  
2       under this section, and

3           (4) regulations or other guidance for recap-  
4       turing the benefit of credits determined under this  
5       section in cases where there is a subsequent adjust-  
6       ment to the credit determined under subsection (a).

7       (f) APPLICATION OF SECTION.—This section shall  
8       apply only to wages paid with respect to days after the  
9       date of the enactment of this Act.

10       (g) TRANSFERS TO FEDERAL OLD-AGE AND SUR-  
11       VIVORS INSURANCE TRUST FUND.—There are hereby ap-  
12       propriated to the Federal Old-Age and Survivors Insur-  
13       ance Trust Fund and the Federal Disability Insurance  
14       Trust Fund established under section 201 of the Social  
15       Security Act (42 U.S.C. 401) amounts equal to the reduc-  
16       tion in revenues to the Treasury by reason of this section  
17       (without regard to this subsection). Amounts appropriated  
18       by the preceding sentence shall be transferred from the  
19       general fund at such times and in such manner as to rep-  
20       licate to the extent possible the transfers which would have  
21       occurred to such Trust Fund had this section not been  
22       enacted.

1 **SEC. 304. CREDIT FOR PUBLIC HEALTH EMERGENCY FAM-**  
2 **ILY LEAVE FOR CERTAIN SELF-EMPLOYED IN-**  
3 **DIVIDUALS.**

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

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

14 (1) regularly carries on a trade or business  
15 within the meaning of section 1402 of such Code,  
16 and

17 (2) would be entitled to receive paid leave dur-  
18 ing the taxable year pursuant to the Public Health  
19 Emergency Family and Medical Leave Expansion  
20 Act if the individual were an employee of an em-  
21 ployer (other than himself or herself).

22 (c) QUALIFIED PUBLIC HEALTH EMERGENCY FAM-  
23 ILY LEAVE EQUIVALENT AMOUNT.—For purposes of this  
24 section—

25 (1) IN GENERAL.—The term “qualified public  
26 health emergency family leave equivalent amount”

1 means, with respect to any eligible self-employed in-  
2 dividual, an amount equal to the product of—

3 (A) the number of days (not to exceed the  
4 applicable number of days) during the taxable  
5 year that the individual is unable to perform  
6 services in the trade or business referred to in  
7 section 1402 of such Code for a reason with re-  
8 spect to which such individual would be entitled  
9 to receive paid leave as described in subsection  
10 (b), multiplied by

11 (B) the lesser of—

12 (i) the average daily self-employment  
13 income of the individual for the taxable  
14 year, or

15 (ii) \$511.

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

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

23 (B) 260.

24 (3) APPLICABLE NUMBER OF DAYS.—For pur-  
25 poses of this subsection, the term “applicable num-

1       ber of days” means, with respect to any taxable  
2       year, the number of days during such taxable year  
3       with respect to which the individual would be enti-  
4       tled to receive paid leave as described in subsection  
5       (b).

6       (d) SPECIAL RULES.—

7             (1) CREDIT REFUNDABLE.—

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

12               (B) TREATMENT OF PAYMENTS.—For pur-  
13               poses of section 1324 of title 31, United States  
14               Code, any refund due from the credit deter-  
15               mined under this section shall be treated in the  
16               same manner as a refund due from a credit  
17               provision referred to in subsection (b)(2) of  
18               such section.

19             (2) DOCUMENTATION.—No credit shall be al-  
20             lowed under this section unless the individual main-  
21             tains such documentation as the Secretary may pre-  
22             scribe to establish such individual as an eligible self-  
23             employed individual.

24             (3) DENIAL OF DOUBLE BENEFIT.—In the case  
25             of an individual who receives wages (as defined in



1 section 3121(a) of the Internal Revenue Code of  
2 1986) paid by an employer which are required to be  
3 paid by reason of the Public Health Emergency  
4 Family and Medical Leave Expansion Act, the quali-  
5 fied family leave equivalent amount otherwise deter-  
6 mined under subsection (c) shall be reduced (but not  
7 below zero) in the same proportion that the number  
8 of days for which such wages are received bears to  
9 the number of days described in subsection  
10 (c)(1)(A).

11 (4) CERTAIN TERMS.—Any term used in this  
12 section which is also used in chapter 2 of the Inter-  
13 nal Revenue Code of 1986 shall have the same  
14 meaning as when used in such chapter.

15 (5) REFERENCES TO EMERGENCY FAMILY AND  
16 MEDICAL LEAVE EXPANSION ACT.—Any reference in  
17 this section to the Public Health Emergency Paid  
18 Sick Leave Act shall be treated as including a ref-  
19 erence to the amendments made by such Act.

20 (e) APPLICATION OF SECTION.—Only days occurring  
21 after the date of the enactment of this Act may be taken  
22 into account under subsection (c)(1)(A).

23 (f) APPLICATION OF CREDIT IN CERTAIN POSSES-  
24 SIONS.—

1           (1) PAYMENTS TO POSSESSIONS WITH MIRROR  
2           CODE TAX SYSTEMS.—The Secretary of the Treas-  
3           ury shall pay to each possession of the United States  
4           which has a mirror code tax system amounts equal  
5           to the loss (if any) to that possession by reason of  
6           the application of the provisions of this section. Such  
7           amounts shall be determined by the Secretary of the  
8           Treasury based on information provided by the gov-  
9           ernment of the respective possession.

10           (2) PAYMENTS TO OTHER POSSESSIONS.—The  
11           Secretary of the Treasury shall pay to each posses-  
12           sion of the United States which does not have a mir-  
13           ror code tax system amounts estimated by the Sec-  
14           retary of the Treasury as being equal to the aggre-  
15           gate benefits (if any) that would have been provided  
16           to residents of such possession by reason of the pro-  
17           visions of this section if a mirror code tax system  
18           had been in effect in such possession. The preceding  
19           sentence shall not apply unless the respective posses-  
20           sion has a plan, which has been approved by the  
21           Secretary of the Treasury, under which such posses-  
22           sion will promptly distribute such payments to its  
23           residents.

24           (3) MIRROR CODE TAX SYSTEM.—For purposes  
25           of this section, the term “mirror code tax system”

1 means, with respect to any possession of the United  
2 States, the income tax system of such possession if  
3 the income tax liability of the residents of such pos-  
4 session under such system is determined by ref-  
5 erence to the income tax laws of the United States  
6 as if such possession were the United States.

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

12 (e) REGULATIONS.—The Secretary of the Treasury  
13 (or the Secretary’s delegate) shall prescribe such regula-  
14 tions or other guidance as may be necessary to carry out  
15 the purposes of this section, including—

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

18 (2) regulations or other guidance to minimize  
19 compliance and recordkeeping burdens under this  
20 section.

21 **SEC. 305. SPECIAL RULE RELATED TO TAX ON EMPLOYERS.**

22 (a) IN GENERAL.—Any wages required to be paid by  
23 reason of the Public Health Emergency Family and Med-  
24 ical Leave Expansion Act and the Public Health Emer-  
25 gency Paid Sick Leave Act shall not be considered wages

1 for purposes of section 3111(a) of the Internal Revenue  
2 Code of 1986.

3 (b) TRANSFERS TO FEDERAL OLD-AGE AND SUR-  
4 VIVORS INSURANCE TRUST FUND.—There are hereby ap-  
5 propriated to the Federal Old-Age and Survivors Insur-  
6 ance Trust Fund and the Federal Disability Insurance  
7 Trust Fund established under section 201 of the Social  
8 Security Act (42 U.S.C. 401) amounts equal to the reduc-  
9 tion in revenues to the Treasury by reason of this section  
10 (without regard to this subsection). Amounts appropriated  
11 by the preceding sentence shall be transferred from the  
12 general fund at such times and in such manner as to rep-  
13 licate to the extent possible the transfers which would have  
14 occurred to such Trust Fund had this section not been  
15 enacted.

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