

1 tion of the measures taken to address the food security  
2 needs of affected populations during the emergency, any  
3 information or data supporting State agency requests, any  
4 additional measures that States requested that were not  
5 approved, and recommendations for changes to the Sec-  
6 retary’s authority under the Food and Nutrition Act of  
7 2008 to assist the Secretary and States and localities in  
8 preparations for any future health emergencies.

9 **DIVISION C—EMERGENCY FAM-**  
10 **ILY AND MEDICAL LEAVE EX-**  
11 **PANSION ACT**

12 **SEC. 3101. SHORT TITLE.**

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

15 **SEC. 3102. AMENDMENTS TO THE FAMILY AND MEDICAL**  
16 **LEAVE ACT OF 1993.**

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

18 (1) **IN GENERAL.—**Section 102(a)(1) of the  
19 Family and Medical Leave Act of 1993 (29 U.S.C.  
20 2612(a)(1)) is amended by adding at the end the  
21 following:

22 “(F) During the period beginning on the  
23 date the Emergency Family and Medical Leave  
24 Expansion Act takes effect, and ending on De-  
25 cember 31, 2020, because of a qualifying need

1 related to a public health emergency in accord-  
2 ance with section 110.”.

3 (2) PAID LEAVE REQUIREMENT.—Section  
4 102(c) of the Family and Medical Leave Act of 1993  
5 (29 U.S.C. 2612(c)) is amended by striking “under  
6 subsection (a)” and inserting “under subsection (a)  
7 (other than certain periods of leave under subsection  
8 (a)(1)(F))”.

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

12 **“SEC. 110. PUBLIC HEALTH EMERGENCY LEAVE.**

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

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

18 “(A) ELIGIBLE EMPLOYEE.—In lieu of the  
19 definition in sections 101(2)(A) and  
20 101(2)(B)(ii), the term ‘eligible employee’  
21 means an employee who has been employed for  
22 at least 30 calendar days by the employer with  
23 respect to whom leave is requested under sec-  
24 tion 102(a)(1)(F).

1           “(B) EMPLOYER THRESHOLD.—Section  
2           101(4)(A)(i) shall be applied by substituting  
3           ‘fewer than 500 employees’ for ‘50 or more em-  
4           ployees for each working day during each of 20  
5           or more calendar workweeks in the current or  
6           preceding calendar year’.

7           “(C) PARENT.—In lieu of the definition in  
8           section 101(7), the term ‘parent’, with respect  
9           to an employee, means any of the following:

10                   “(i) A biological, foster, or adoptive  
11                   parent of the employee.

12                   “(ii) A stepparent of the employee.

13                   “(iii) A parent-in-law of the employee.

14                   “(iv) A parent of a domestic partner  
15                   of the employee.

16                   “(v) A legal guardian or other person  
17                   who stood in loco parentis to an employee  
18                   when the employee was a child.

19           “(2) ADDITIONAL DEFINITIONS.—In addition to  
20           the definitions described in paragraph (1), the fol-  
21           lowing definitions shall apply with respect to leave  
22           under section 102(a)(1)(F):

23                   “(A) QUALIFYING NEED RELATED TO A  
24                   PUBLIC HEALTH EMERGENCY.—The term  
25                   ‘qualifying need related to a public health emer-

1           gency’, with respect to leave, means the em-  
2           ployee has a need for leave for one of the fol-  
3           lowing:

4                   “(i) To comply with a recommenda-  
5                   tion or order by a public official having ju-  
6                   risdiction or a health care provider on the  
7                   basis that—

8                           “(I) the physical presence of the  
9                           employee on the job would jeopardize  
10                          the health of others because of—

11                                   “(aa) the exposure of the  
12                                   employee to coronavirus; or

13   “(bb) exhibition of symp-  
14   toms of coronavirus by the em-  
15   ployee; and

16                                   “(II) the employee is unable to  
17                                   both perform the functions of the po-  
18                                   sition of such employee and comply  
19                                   with such recommendation or order.

20                           “(ii) To care for a family member of  
21                           an eligible employee with respect to whom  
22                           a public official having jurisdiction or a  
23                           health care provider makes a determina-  
24                           tion that the presence of the family mem-  
25                           ber in the community would jeopardize the

1 health of other individuals in the commu-  
2 nity because of—

3 “(I) the exposure of such family  
4 member to coronavirus; or

5 “(II) exhibition of symptoms of  
6 coronavirus by such family member.

7 “(iii) To care for the son or daughter  
8 under 18 years of age of such employee if  
9 the school or place of care has been closed,  
10 or the child care provider of such son or  
11 daughter is unavailable, due to a public  
12 health emergency.

13 “(B) PUBLIC HEALTH EMERGENCY.—The  
14 term ‘public health emergency’ means an emer-  
15 gency with respect to coronavirus declared by a  
16 Federal, State, or local authority.

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

24 “(D) CORONAVIRUS.—The term  
25 ‘coronavirus’ has the meaning given the term in

1 section 506 of the Coronavirus Preparedness  
2 and Response Supplemental Appropriations  
3 Act, 2020.

4 “(E) SCHOOL.—The term ‘school’ means  
5 an ‘elementary school’ or ‘secondary school’ as  
6 such terms are defined in section 8101 of the  
7 Elementary and Secondary Education Act of  
8 1965 (20 U.S.C. 7801).

9 “(F) FAMILY.—The term ‘family member’,  
10 with respect to an employee, means any of the  
11 following:

12 “(i) A parent of the employee.

13 “(ii) A spouse of the employee.

14 “(iii) A son or daughter, who is under  
15 18 years of age, of the employee.

16 “(iv) An individual who is a pregnant  
17 woman, senior citizen, individual with a  
18 disability, or has access or functional needs  
19 and who is—

20 “(I) a son or daughter of the em-  
21 ployee;

22 “(II) a next of kin of the em-  
23 ployee or a person for whom the em-  
24 ployee is next of kin; or

1                   “(III) a grandparent or grand-  
2                   child of the employee.

3                   “(3) REGULATORY AUTHORITIES.—The Sec-  
4                   retary of Labor shall have the authority to issue reg-  
5                   ulations for good cause under sections 553(b)(B)  
6                   and 553(d)(A) of title 5, United States Code—

7                   “(A) to exclude certain health care pro-  
8                   viders and emergency responders from the defi-  
9                   nition of eligible employee under section  
10                  110(a)(1)(A); and

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

16                  “(b) RELATIONSHIP TO PAID LEAVE.—

17                  “(1) UNPAID LEAVE FOR INITIAL 14 DAYS.—

18                  “(A) IN GENERAL.—The first 14 days for  
19                  which an employee takes leave under section  
20                  102(a)(1)(F) may consist of unpaid leave.

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

1           “(C) EMPLOYER REQUIREMENT.—An em-  
2           ployer may not require an employee to sub-  
3           stitute any leave as described in subparagraph  
4           (B) for leave under section 102(a)(1)(F).

5           “(2) PAID LEAVE FOR SUBSEQUENT DAYS.—

6           “(A) IN GENERAL.—An employer shall  
7           provide paid leave for each day of leave under  
8           section 102(a)(1)(F) that an employee takes  
9           after taking leave under such section for 14  
10          days.

11          “(B) CALCULATION.—Paid leave under  
12          subparagraph (A) for an employee shall be cal-  
13          culated based on—

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

19                 “(ii) the number of hours the em-  
20                 ployee would otherwise be normally sched-  
21                 uled to work (or the number of hours cal-  
22                 culated under subparagraph (C)).

23          “(C) VARYING SCHEDULE HOURS CAL-  
24          CULATION.—In the case of an employee whose  
25          schedule varies from week to week to such an



1 extent that an employer is unable to determine  
2 with certainty the number of hours the em-  
3 ployee would have worked if such employee had  
4 not taken leave under section 102(a)(1)(F), the  
5 employer shall use the following in place of such  
6 number:

7 “(i) Subject to clause (ii), a number  
8 equal to the average number of hours that  
9 the employee was scheduled per day over  
10 the 6-month period ending on the date on  
11 which the employee takes such leave, in-  
12 cluding hours for which the employee took  
13 leave of any type.

14 “(ii) If the employee did not work  
15 over such period, the reasonable expecta-  
16 tion of the employee at the time of hiring  
17 of the average number of hours per day  
18 that the employee would normally be  
19 scheduled to work.

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

25 “(d) RESTORATION TO POSITION.—

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

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

7                   “(A) The employee takes leave under sec-  
8                   tion 102(a)(1)(F).

9                   “(B) The position held by the employee  
10                  when the leave commenced does not exist due to  
11                  economic conditions or other changes in oper-  
12                  ating conditions of the employer—

13                           “(i) that affect employment; and

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

16                  “(C) The employer makes reasonable ef-  
17                  forts to restore the employee to a position  
18                  equivalent to the position the employee held  
19                  when the leave commenced, with equivalent em-  
20                  ployment benefits, pay, and other terms and  
21                  conditions of employment.

22                  “(D) If the reasonable efforts of the em-  
23                  ployer under subparagraph (C) fail, the em-  
24                  ployer makes reasonable efforts during the pe-  
25                  riod described in paragraph (3) to contact the

1 employee if an equivalent position described in  
2 subparagraph (C) becomes available.

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

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

9 “(B) the date that is 12 weeks after the  
10 date on which the employee’s leave under sec-  
11 tion 102(a)(1)(F) commences.”.

12 **SEC. 3103. EMPLOYMENT UNDER MULTI-EMPLOYER 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 section  
18 110(b)(2) of title I of the Family and Medical Leave Act  
19 of 1993, as added by the Families First Coronavirus Re-  
20 sponse Act, by making contributions to a multiemployer  
21 fund, plan, or program based on the paid leave each of  
22 its employees is entitled to under such section while work-  
23 ing under the multiemployer collective bargaining agree-  
24 ment, provided that the fund, plan, or program enables  
25 employees to secure pay from such fund, plan, or program

1 based on hours they have worked under the multiemployer  
2 collective bargaining agreement for paid leave taken under  
3 section 102(a)(1)(F) of title I of the Family and Medical  
4 Leave Act of 1993, as added by the Families First  
5 Coronavirus Response Act.

6 (b) EMPLOYEES.—Employees who work under a mul-  
7 tiemployer collective bargaining agreement into which  
8 their employers make contributions as provided in sub-  
9 section (a) may secure pay from such fund, plan, or pro-  
10 gram based on hours they have worked under the multiem-  
11 ployer collective bargaining agreement for paid leave taken  
12 under section 102(a)(1)(F) of title I of the Family and  
13 Medical Leave Act of 1993, as added by the Families First  
14 Coronavirus Response Act.

15 **SEC. 3104. SPECIAL RULE FOR CERTAIN EMPLOYERS.**

16 An employer under 110(a)(B) shall not be subject to  
17 section 107(a) for a violation of section 102(a)(1)(F) if  
18 the employer does not meet the definition of employer set  
19 forth at Section 101(4)(A)(i).

20 **SEC. 3105. EFFECTIVE DATE.**

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