

118TH CONGRESS
1ST SESSION

S. 2159

To clarify the classification of service provider payees as employees or independent contractors in Federal law.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2023

Mr. LEE (for himself and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To clarify the classification of service provider payees as employees or independent contractors in Federal law.

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 “21st Century Worker
5 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.

TITLE I—CLASSIFICATION OF SERVICE PROVIDER PAYEES

Sec. 101. Definitions.

Sec. 102. Classification.

- Sec. 103. Mandatory independent contractor classification.
- Sec. 104. Mandatory employee classification.
- Sec. 105. Elective classification service provider payees.
- Sec. 106. Change in classification; periodic classification review.

TITLE II—APPLICATION TO OTHER LAWS

- Sec. 201. Fair Labor Standards Act of 1938.
- Sec. 202. National Labor Relations Act.
- Sec. 203. Tax classification.
- Sec. 204. GAO study on changes needed to other Federal laws.

1 **TITLE I—CLASSIFICATION OF** 2 **SERVICE PROVIDER PAYEES**

3 **SEC. 101. DEFINITIONS.**

4 In this title:

5 (1) BONA FIDE SOLE PROPRIETOR.—The term
6 “bona fide sole proprietor” means a service provider
7 payee who—

8 (A) has entered into a written contract
9 governing the terms of the goods or services
10 provided to a service recipient payor and the
11 contract is not an employment by agreement;

12 (B) is not required to provide the goods or
13 services exclusively for the service recipient
14 payor; and

15 (C) has not had a substantial economic re-
16 lationship or employment by agreement with
17 the service recipient payor as described in sec-
18 tion 104 during the previous calendar year.

19 (2) BUSINESS ENTITY.—The term “business
20 entity”—

(A) means a corporation, limited liability company, limited partnership, limited liability partnership, limited liability limited partnership, statutory business trust, or a similar entity formed under the laws of the United States, under the law of a State or United States territory (including the District of Columbia), or under the laws of a foreign country; and

(B) includes a general partnership not described in subparagraph (A) that has registered to do business under State or local law.

(3) COMPENSATION.—

(A) IN GENERAL.—The term “compensation”—

(i) means consideration paid by a service recipient payor to a service provider payee for goods or services provided; and

(ii) includes payments in money, payments in property, wages, salaries, benefits, and other types of payment.

(B) FAIR MARKET VALUE.—For purposes of determining the amount of compensation, the value of payments in a form other than legal tender shall be determined by the fair market value of the payment on the date of payment.

1 (4) DIRECT SALES SERVICE PROVIDER
 2 PAYEE.—The term “direct sales service provider
 3 payee” means a service provider payee who is a di-
 4 rect seller, as defined in section 3508(b) of the In-
 5 ternal Revenue Code of 1986.

6 (5) ELECTIVE CLASSIFICATION SERVICE PRO-
 7 VIDER PAYEE.—The term “elective classification
 8 service provider payee” means a service provider
 9 payee who is not classified as either—

10 (A) a mandatory independent contractor
 11 under section 103; or

12 (B) a mandatory employee under section
 13 104.

14 (6) EMPLOYEE.—The term “employee” means
 15 an individual who—

16 (A) is a service provider payee; and

17 (B) is—

18 (i) classified as a mandatory employee
 19 under section 104; or

20 (ii) classified as an employee under
 21 section 105.

22 (7) EMPLOYER.— The term “employer” means
 23 a service recipient payor—

24 (A) that is in a substantial economic rela-
 25 tionship with a service provider payee who is

1 classified as an employee under section 104
2 with respect to the service recipient payor;

3 (B) that has entered into employment by
4 agreement under section 104 with a service pro-
5 vider payee; or

6 (C) for whom a service recipient payee has
7 elected to be classified as an employee under
8 section 105.

9 (8) EMPLOYMENT BY AGREEMENT.—The term
10 “employment by agreement” means an agreement,
11 whether written or otherwise, between a service re-
12 cipient payor and a service provider payee that de-
13 monstrably expresses their mutual intent to form an
14 employer-employee relationship.

15 (9) FORMAL BONA FIDE CONTRACTOR.—The
16 term “formal bona fide contractor”, when used with
17 respect to a service provider payee providing goods
18 or services to a service recipient payor, means a
19 service provider payee who—

20 (A) is recognized as a contractor under ap-
21 plicable State law; or

22 (B) is not required to provide the goods or
23 services exclusively for the service recipient
24 payor and has—

1 (i) entered into a written contract
2 governing the terms of the goods or serv-
3 ices provided to the service recipient payor
4 that is not designated as an employment
5 by agreement;

6 (ii) incurred unreimbursed expenses
7 related to providing the goods or services
8 to the service recipient payor annually that
9 exceed 5 percent of the total compensation
10 made to the service provider payee by the
11 service recipient payor; and

12 (iii) not had a substantial economic
13 relationship or employment by agreement
14 with the service recipient payor as de-
15 scribed in section 104 during the previous
16 calendar year.

17 (10) INDEPENDENT CONTRACTOR.—The term
18 “independent contractor” means a service provider
19 payee who—

20 (A) is classified as a mandatory inde-
21 pendent contractor under section 103; or

22 (B) is classified as an independent con-
23 tractor under section 105.

24 (11) LICENSED PROFESSION, TRADE, OR OCCU-
25 PATION.—The term “licensed profession, trade, or

1 occupation” means a profession, trade, or occupation
 2 that may not be lawfully engaged in unless a license
 3 from a Federal, State, or local government is ob-
 4 tained.

5 (12) LIMITED ECONOMIC RELATIONSHIP.—The
 6 term “limited economic relationship” means an eco-
 7 nomic relationship between a service recipient payor
 8 and a service provider payee under which—

9 (A) the compensation to the service pro-
 10 vider payee by the service recipient payor is
 11 based on a period of time worked;

12 (B) the period of time worked for which
 13 the service provider payee is compensated by
 14 the service recipient payor is less than 30 days
 15 per calendar quarter; and

16 (C) the service provider payee is not re-
 17 quired to provide the goods or services exclu-
 18 sively for the service recipient payor.

19 (13) PERIOD OF TIME WORKED.—The term
 20 “period of time worked” includes any specified pe-
 21 riod of time worked, including hourly, daily, weekly,
 22 bi-weekly, bi-monthly, monthly, quarterly, or annu-
 23 ally periods of time.

1 (14) MONEY.—The term “money” means any
2 legal tender as defined in section 5103 of title 31,
3 United States Code.

4 (15) SALES COMMISSION.—The term “sales
5 commission” means compensation based on sales
6 made by the service provider payee or by individuals
7 managed, supervised, advised, or recruited by the
8 service provider payee.

9 (16) SECRETARY.—The term “Secretary”
10 means the Secretary of Labor.

11 (17) SERVICE PROVIDER PAYEE.—The term
12 “service provider payee” means an individual pro-
13 viding goods or services to a service recipient payor
14 in return for compensation paid to the individual by
15 the service recipient payor.

16 (18) SERVICE RECIPIENT PAYOR.—The term
17 “service recipient payor” means a person receiving
18 goods or services from a service provider payee in re-
19 turn for compensation paid by the person to the
20 service provider payee.

21 (19) SUBSTANTIAL ECONOMIC RELATION-
22 SHIP.—The term “substantial economic relation-
23 ship” means an economic relationship between a
24 service recipient payor and a service provider payee
25 where—

1 (A) the service provider payee is a natural
2 person;

3 (B) more than 75 percent of the com-
4 pensation to the service provider payee by the
5 service recipient payor is based on a period of
6 time worked;

7 (C) the service recipient payor determines
8 the hours of work; and

9 (D) the service recipient payor requires the
10 service provider payee to work substantially
11 full-time for the service recipient payor for a
12 period of 4 consecutive weeks or more.

13 (20) SUBSTANTIALLY FULL-TIME.—The term
14 “substantially full-time” means an average of 30 or
15 more hours per week during the relevant period of
16 time worked.

17 (21) WRITTEN CONTRACT.—The term “written
18 contract” means writing sufficient to indicate that a
19 contract has been made between the parties that is
20 legally enforceable in the jurisdiction or jurisdictions
21 where the services by the service provider payee are
22 performed or to be performed.

23 **SEC. 102. CLASSIFICATION.**

24 (a) BIFURCATED CLASSIFICATION.—For purposes of
25 this title, a service provider payee shall be classified as

1 either an employee or an independent contractor in ac-
2 cordance with the following:

3 (1) MANDATORY INDEPENDENT CONTRAC-
4 TORS.—A service provider payee meeting the re-
5 quirements of section 103 shall be classified as an
6 independent contractor.

7 (2) MANDATORY EMPLOYEE CLASSIFICATION.—
8 A service provider payee meeting the requirements
9 of section 104 shall be classified as an employee.

10 (3) ELECTIVE CLASSIFICATION SERVICE PRO-
11 VIDER PAYEES.—A service provider payee that meets
12 neither the requirements of section 103 nor the re-
13 quirements of section 104 shall be classified as the
14 service provider payee elects in accordance with sec-
15 tion 105.

16 (b) RESPONSIBILITY FOR INITIAL DETERMINA-
17 TION.—

18 (1) GENERAL RULE.—Subject to paragraph (2),
19 the service recipient payor is responsible for deter-
20 mining whether a service provider payee is properly
21 classified as a mandatory independent contractor, a
22 mandatory employee, or an elective classification
23 service provider payee, for purposes of subsection
24 (a).

1 (2) EXCEPTIONS.—The service provider payee
2 is responsible for determining whether the service
3 provider payee is properly classified as a mandatory
4 independent contractor if the classification of the
5 service provider payee as an independent contractor
6 is based on meeting the requirements of—

7 (A) section 103(2)(A) (relating to licensed
8 professions, trades, or occupations);

9 (B) section 103(2)(B) (relating to business
10 entities);

11 (C) section 103(2)(E) (relating to bona
12 fide sole proprietors); or

13 (D) section 103(2)(F) (relating to formal
14 bona fide contractors).

15 (3) TIMING.—The classification determination
16 of a service provider payee shall be made by the
17 service recipient payor or service provider payee (as
18 required under this subsection) immediately upon
19 entering into an economic relationship between the
20 service recipient payor and the service provider
21 payee.

22 (c) RECLASSIFICATIONS AND PERIODIC REVIEW.—A
23 service provider payee or a service recipient payor, as ap-
24 plicable, shall reclassify or review the classification deter-

1 mination under this section in accordance with section
2 106.

3 **SEC. 103. MANDATORY INDEPENDENT CONTRACTOR CLAS-**
4 **SIFICATION.**

5 A service provider payee shall be classified as an inde-
6 pendent contractor if the service provider payee—

7 (1) is not classified as an employee pursuant to
8 section 104; and

9 (2) meets one or more of the following require-
10 ments:

11 (A) LICENSED PROFESSION, TRADE, OR
12 OCCUPATION.—The service provider payee—

13 (i) is engaged in a licensed profession,
14 trade, or occupation; and

15 (ii) holds himself or herself out as
16 providing services to the public.

17 (B) BUSINESS ENTITY.—The service pro-
18 vider payee is a business entity.

19 (C) LIMITED ECONOMIC RELATIONSHIP.—
20 The economic relationship between a service re-
21 cipient payor and a service provider payee is a
22 limited economic relationship.

23 (D) DIRECT SALES.—The service provider
24 payee is a direct sales service provider payee.

1 (E) BONA FIDE SOLE PROPRIETOR.—The
 2 service provider payee is a bona fide sole propri-
 3 etor.

4 (F) FORMAL BONA FIDE CONTRACTOR.—
 5 The service provider payee is a formal bona fide
 6 contractor.

7 **SEC. 104. MANDATORY EMPLOYEE CLASSIFICATION.**

8 A service provider payee shall be classified as an em-
 9 ployee if the service provider payee meets one or more of
 10 the following requirements:

11 (1) SUBSTANTIAL ECONOMIC RELATIONSHIP.—

12 The economic relationship between a service recipi-
 13 ent payor and a service provider payee is a substan-
 14 tial economic relationship.

15 (2) EMPLOYMENT BY AGREEMENT.—There is
 16 employment by agreement.

17 **SEC. 105. ELECTIVE CLASSIFICATION SERVICE PROVIDER**
 18 **PAYEES.**

19 (a) ELECTIVE CLASSIFICATION SERVICE PROVIDER
 20 PAYEES; ELECTION REQUIRED.—A service provider payee
 21 that does not meet either of the requirements of section
 22 103 or section 104 is an elective classification service pro-
 23 vider payee. Each elective classification service provider
 24 payee shall elect whether to be classified as an employee

1 or an independent contractor in accordance with this sec-
 2 tion.

3 (b) METHOD OF ELECTION.—The elective classifica-
 4 tion service provider payee shall make the election re-
 5 quired by this section in writing upon entering into an
 6 economic relationship with a service recipient payor. Sub-
 7 ject to subsection (c), the election need not be in any par-
 8 ticular form as long as the election—

9 (1) clearly indicates the service provider payee's
 10 intent regarding whether to be classified as an inde-
 11 pendent contractor or an employee;

12 (2) is dated;

13 (3) is signed by the elective classification service
 14 provider payee; and

15 (4) is countersigned by the service recipient
 16 payor.

17 (c) SERVICE RECIPIENT PAYOR COUNTER SIGNA-
 18 TURE REQUIRED.—The elective classification service pro-
 19 vider payee shall secure the counter-signature of the serv-
 20 ice recipient payor acknowledging that the service recipi-
 21 ent payor knows the classification election made by the
 22 service provider payee. The election required under sub-
 23 section (a) is not effective until the counter-signature of
 24 the service recipient payor is secured, subject to subsection
 25 (f).

1 (d) TIMING OF ELECTION.—The election required
2 under subsection (a) shall be made by the elective classi-
3 fication service provider payee upon entering into an eco-
4 nomic relationship with a service recipient payor. Failure
5 by the elective classification service provider payee to
6 make the election required by subsection (a) within 14
7 days of entering into an economic relationship with a serv-
8 ice recipient payor shall be subject to a penalty under sub-
9 section (g)(1), subject to subsection (f).

10 (e) RECORD-KEEPING RETENTION REQUIREMENT.—
11 Both the elective classification service provider payee and
12 the service recipient payor are required to maintain a copy
13 of the countersigned election required under subsection (b)
14 for a period of 3 years following its countersignature. Fail-
15 ure by the elective classification service provider payee or
16 the service recipient payor to maintain a copy of the
17 countersigned election required by this section shall be
18 subject to a penalty under subsection (g)(2).

19 (f) ABSENCE OF COUNTERSIGNATURE; DEFAULT
20 RULE.—In the event that an elective classification service
21 provider payee makes the election required under sub-
22 section (a) except that the elective classification service
23 provider payee requests, but does not receive, the counter-
24 signature required by subsection (c) within 14 days of en-
25 tering into an economic relationship with a service recipi-

1 ent payor, the elective classification service provider payee
 2 shall be classified as an independent contractor and shall
 3 not be in violation of subsection (g)(1).

4 (g) PENALTIES.—

5 (1) PENALTY FOR FAILURE TO MAKE ELEC-
 6 TION.—The Secretary shall impose a penalty not to
 7 exceed \$100 on an elective classification service pro-
 8 vider payee who fails to make the election required
 9 by subsection (a) within 14 days of entering into an
 10 economic relationship with a service recipient payor.

11 (2) PENALTY FOR FAILURE TO KEEP RECORDS
 12 RELATING TO ELECTION.—The Secretary shall im-
 13 pose a penalty not to exceed \$100 on elective classi-
 14 fication service provider payees or service recipient
 15 payors who fail to maintain the records required by
 16 subsection (e).

17 (3) WILLFUL OR RECKLESS
 18 MISCLASSIFICATION.—The Secretary shall impose a
 19 penalty on a service recipient payor or service pro-
 20 vider payee responsible for a classification deter-
 21 mination under this section who willfully or reck-
 22 lessly misclassifies a service provider payee as an
 23 independent contractor in an amount equal to 15
 24 percent of the compensation paid to the independent
 25 contractor.

1 (h) NO REQUIREMENT TO ENTER INTO ECONOMIC
 2 RELATIONSHIP.—Nothing in this title shall be read as a
 3 requirement by a service provider payee or a service recipi-
 4 ent payor to enter into an economic relationship.

5 **SEC. 106. CHANGE IN CLASSIFICATION; PERIODIC CLASSI-**
 6 **FICATION REVIEW.**

7 (a) MAJOR CHANGE IN THE NATURE OF THE ECO-
 8 NOMIC RELATIONSHIP.—

9 (1) IN GENERAL.—If there is a major change in
 10 the nature of the economic relationship between a
 11 service provider payee and a service recipient payor,
 12 then a new classification determination shall be
 13 made by the service recipient payor or service pro-
 14 vider payee responsible for classification determina-
 15 tion pursuant to section 102(b) upon the major
 16 change in the nature of the economic relationship.

17 (2) MAJOR CHANGE DESCRIBED.—For purposes
 18 of this section, a major change in the nature of the
 19 economic relationship means an increase or decrease
 20 of 25 percent or more in the hours worked by, or the
 21 compensation paid to, the service provider payee by
 22 the service recipient payor in the most recent cal-
 23 endar quarter compared to the previous calendar
 24 quarter.

1 (3) EFFECTIVE DATE.—If a reclassification de-
 2 termination is made, it shall be effective beginning
 3 on the first day of the first month that immediately
 4 follows the determination.

5 (b) CHANGE IN CLASSIFICATION FOR OTHER REA-
 6 SONS.—

7 (1) IN GENERAL.—If there is a change in the
 8 nature of the economic relationship between a serv-
 9 ice provider payee and a service recipient payor
 10 other than a major change in the nature of the eco-
 11 nomic relationship described in subsection (a) that a
 12 reasonable person should anticipate could change the
 13 classification of a service provider payee, then the
 14 service recipient payor or service provider payee re-
 15 sponsible for classification determination pursuant to
 16 section 102(b) shall make a classification determina-
 17 tion upon the change in the nature of the economic
 18 relationship.

19 (2) EXAMPLES.—Changes in the nature of the
 20 economic relationship included under paragraph (1)
 21 include, without limitation—

22 (A) the loss of a license by a service recipi-
 23 ent payee;

24 (B) the forfeiture of a business entity
 25 charter by a service recipient payee;

1 (C) a change in the relative importance of
 2 sales commissions in compensating a direct
 3 sales service provider payee; or

4 (D) a change in the requirement, or lack
 5 thereof, to perform services exclusively for the
 6 service recipient payor.

7 (3) RECLASSIFICATION TIMING.—If a reclassi-
 8 fication determination is made, then it shall be made
 9 effective with respect to the calendar quarter that
 10 begins immediately after the date on which the event
 11 giving rise to the change in the nature of the eco-
 12 nomic relationship occurred.

13 (c) PERIODIC REVIEW REQUIREMENT; FRE-
 14 QUENCY.—

15 (1) IN GENERAL.—The service recipient payor
 16 or service provider payee responsible for a classifica-
 17 tion determination under subsection (a) or (b) shall
 18 make annual determinations for any continuing eco-
 19 nomic relationships with service recipient payors or
 20 service provider payees, as the case may be. These
 21 periodic reviews shall be completed by January 31
 22 with respect to continuing economic relationships as
 23 of December 31 of the previous calendar year.

24 (2) EFFECTIVE DATE OF DETERMINATION
 25 CHANGES.—If a reclassification determination is

1 made as a result of this review, it shall be made ef-
 2 fective beginning on the first day of the first month
 3 that immediately follows the determination.

4 (d) EXEMPTION.—For purposes of this section, if a
 5 service provider payee does not have more than 100 hours
 6 worked or been compensated more than a total of \$10,000
 7 during a calendar quarter in which the reclassification de-
 8 termination is made, then the service provider payor or
 9 service provider payee, as the case may be, is exempt from
 10 the requirements of this section.

11 **TITLE II—APPLICATION TO** 12 **OTHER LAWS**

13 **SEC. 201. FAIR LABOR STANDARDS ACT OF 1938.**

14 Section 3 of the Fair Labor Standards Act of 1938
 15 (29 U.S.C. 203) is amended—

16 (1) by striking subsection (d) and inserting the
 17 following:

18 “(d) ‘Employer’—

19 “(1) has the meaning given the term in section
 20 101 of the 21st Century Worker Act;

21 “(2) includes any person (including a public
 22 agency) acting directly or indirectly in the interest
 23 of an employer in relation to an employee; and

24 “(3) does not include any labor organization
 25 (other than when acting as an employer) or anyone

1 acting in the capacity of officer or agent of such
2 labor organization.”;

3 (2) by striking paragraph (1) of subsection (e)
4 and inserting the following:

5 “(1) Except as provided in paragraphs (2), (3),
6 and (4), the term ‘employee’ has the meaning given
7 the term ‘employee’ in section 101 of the 21st Cen-
8 tury Worker Act.”; and

9 (3) by striking subsection (g) and inserting the
10 following:

11 “(g)(1) ‘Employ’ includes to suffer or permit to work
12 under a substantial economic relationship (as defined in
13 section 101 of the 21st Century Worker Act) between an
14 employer and employee.

15 “(2) ‘Employment’ means the provision of goods or
16 services by an employee for an employer.”.

17 **SEC. 202. NATIONAL LABOR RELATIONS ACT.**

18 Section 2 of the National Labor Relations Act (29
19 U.S.C. 152) is amended—

20 (1) by striking paragraph (2) and inserting the
21 following:

22 “(2) The term ‘employer’—

23 “(A) has the meaning given the term in
24 section 101 of the 21st Century Worker Act;

1 “(B) includes any person acting as an
2 agent of an employer, directly or indirectly; and

3 “(C) does not include the United States or
4 any wholly owned Government corporation, or
5 any Federal Reserve Bank, or any State or po-
6 litical subdivision thereof, or any person subject
7 to the Railway Labor Act, as amended from
8 time to time, or any labor organization (other
9 than when acting as an employer), or anyone
10 acting in the capacity of officer or agent of such
11 labor organization.”;

12 (2) in paragraph (3), by striking “shall include
13 any employee, and shall not be limited to the em-
14 ployees of a particular employer, unless the Act ex-
15 plicitly states otherwise, and shall” and inserting
16 “has the meaning given the term ‘employee’ in sec-
17 tion 101 of the 21st Century Worker Act. The term
18 shall include any employee, and shall not be limited
19 to the employees of a particular employer. The term
20 shall”;

21 (3) by redesignating paragraphs (4) through
22 (14) as paragraphs (5) through (15), respectively;
23 and

24 (4) by inserting after paragraph (3) the fol-
25 lowing:

1 “(4) The term ‘employment’ means the provi-
 2 sion of goods or services by an employee for an em-
 3 ployer.”.

4 **SEC. 203. TAX CLASSIFICATION.**

5 (a) EMPLOYEE.—Section 7701(a)(20) of the Internal
 6 Revenue Code of 1986 is amended to read as follows:

7 “(20) The term ‘employee’ has the meaning
 8 given the term in section 101 of the 21st Century
 9 Worker Act.”.

10 (b) EMPLOYER.—Section 7701(a) of the Internal
 11 Revenue Code of 1986 is amended by adding at the end
 12 the following new paragraph:

13 “(51) The term ‘employer’ has the meaning
 14 given the term in section 101 of the 21st Century
 15 Worker Act.”.

16 (c) EMPLOYMENT.—Section 3121(b) of the Internal
 17 Revenue Code of 1986 is amended to read as follows:

18 “(b) The term ‘employment’ means any services per-
 19 formed by an employee for an employer.”.

20 (d) CONFORMING AMENDMENTS.—

21 (1) Section 3121 of the Internal Revenue Code
 22 of 1986 is amended by striking subsection (d).

23 (2) Section 3306(a) of such Code is amended
 24 by striking paragraph (3).

1 (e) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years beginning after
 3 the date of the enactment of this Act.

4 **SEC. 204. GAO STUDY ON CHANGES NEEDED TO OTHER**
 5 **FEDERAL LAWS.**

6 (a) IN GENERAL.—Not later than 2 years after the
 7 date of enactment of this Act, the Comptroller General
 8 of the United States shall prepare and submit to Congress
 9 a report that identifies—

10 (1) all covered Federal laws that utilize the
 11 terms “employee”, “employer”, “employ”, and “em-
 12 ployment” in ways that do not correspond with the
 13 definitions of the terms “employee” and “employer”
 14 under section 101 of this Act; and

15 (2) how harmonizing the definitions of “em-
 16 ployee”, “employer”, “employ”, and “employment”
 17 across all covered Federal laws would alter each cov-
 18 ered Federal law.

19 (b) DEFINITION OF COVERED FEDERAL LAW.—In
 20 this section, the term “covered Federal law” means each
 21 of the following:

22 (1) The Age Discrimination in Employment Act
 23 of 1967 (29 U.S.C. 621 et seq.), including sub-
 24 sections (b) and (f) of section 11, and section 15(a),

1 of such Act (29 U.S.C. 630(b) and (f); 29 U.S.C.
2 633a(a)).

3 (2) The Americans with Disabilities Act of
4 1990 (42 U.S.C. 12101 et seq.), including para-
5 graphs (4) and (5) of section 101, and section 510,
6 of such Act (42 U.S.C. 12111(4) and (5); 42 U.S.C.
7 12209).

8 (3) Title VII of the Civil Rights Act of 1964
9 (42 U.S.C. 2000e et seq.), including subsections (b)
10 and (f) of section 701, and section 717(a), of such
11 title (42 U.S.C. 2000e(b) and (f); 42 U.S.C. 2000e–
12 16(a)).

13 (4) Section 304(a) of the Civil Rights Act of
14 1991 (42 U.S.C. 2000e–16c(a)).

15 (5) The Congressional Accountability Act of
16 1995 (2 U.S.C. 1301 et seq.), including section 201
17 of such Act (2 U.S.C. 1311).

18 (6) The Employee Polygraph Protection Act of
19 1988 (29 U.S.C. 2001 et seq.), including section
20 2(2) of such Act (29 U.S.C. 2001(2)).

21 (7) The Employee Retirement Income Security
22 Act of 1974 (29 U.S.C. 1001 et seq.), including
23 paragraphs (5) and (6) of section 3 of such Act (29
24 U.S.C. 1002(5), (6)) and part 6 of subtitle B of title

1 I of such Act (relating to health insurance continu-
2 ation by employees) (29 U.S.C. 1161 et seq.).

3 (8) The Family and Medical Leave Act of 1993
4 (29 U.S.C. 2601 et seq.), including paragraphs (3)
5 and (4) of section 101 of such Act (29 U.S.C.
6 2611(3) and (4)).

7 (9) The Fair Credit Reporting Act (15 U.S.C.
8 1681 et seq.), including section 603(h) of such Act
9 (15 U.S.C. 1681a(h)).

10 (10) Title II of the Genetic Information Non-
11 discrimination Act of 2008 (42 U.S.C. 2000ff et
12 seq.), including section 201(2) of such Act (42
13 U.S.C. 2000ff(2)).

14 (11) The Government Employee Rights Act of
15 1991 (42 U.S.C. 2000e16–a et seq.).

16 (12) The Immigration and Nationality Act (8
17 U.S.C. 1101 et seq.).

18 (13) The Labor–Management Reporting and
19 Disclosure Act of 1959 (29 U.S.C. 401 et seq.), in-
20 cluding subsections (e) and (f) of section 3 of such
21 Act (29 U.S.C. 402(e) and (f)).

22 (14) The Occupational Safety and Health Act
23 of 1970 (29 U.S.C. 651 et seq.), including para-
24 graphs (5) and (6) of section 3 of such Act (29
25 U.S.C. 652(5) and (6)).

1 (15) Subtitle B of title I of the Patient Protec-
2 tion and Affordable Care Act (42 U.S.C. 18001 et
3 seq.).

4 (16) The Rehabilitation Act of 1973 (29 U.S.C.
5 701 et seq.), including section 501 of such Act (29
6 U.S.C. 791).

7 (17) The Worker Adjustment and Retraining
8 Notification Act (29 U.S.C. 2101 et seq.), including
9 section 2(a) of such Act (29 U.S.C. 2101(a)).

10 (18) Section 1977A of the Revised Statutes.

11 (19) Section 411 of title 3, United States Code.

12 (20) Chapter 81 of title 5, United States Code
13 (commonly known as the “Federal Employees’ Com-
14 pensation Act”), including paragraphs (1) and (12)
15 of section 8101 of such title.

16 (21) Subchapter IV of chapter 31 of title 40,
17 United States Code (commonly known as the
18 “Davis-Bacon Act”).

19 (22) Chapter 43 of title 38, United States Code
20 (commonly known as the “Uniformed Services Em-
21 ployment and Reemployment Rights Act”), including
22 paragraphs (3) and (4) of section 4303 of such title.

23 (23) Chapter 37 of title 40, United States Code
24 (commonly known as the “Contract Work Hours and

1 Safety Standards Act”), including section
2 3701(b)(2) of such title.

3 (24) Chapter 67 of title 41, United States Code
4 (commonly known as the “McNamara-O’Hara Serv-
5 ice Contract Act”), including section 6701(3) of
6 such title.

7 (25) Chapter 81 of title 41, United States Code
8 (commonly referred to as the “Drug-Free Workplace
9 Act”), including section 8101(a)(6) of such title.

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