117TH CONGRESS
2D SESSION

H. R. ______

To provide employment protection and paid emergency leave to workers
impacted by certain climate disasters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. BUSH introduced the following bill; which was referred to the Committee
on ______________________

A BILL

To provide employment protection and paid emergency leave
to workers impacted by certain climate disasters, 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. TABLE OF CONTENTS.
4  The table of contents for this Act is as follows:

Sec.  1. Table of contents.
Sec.  2. Paid emergency time.
Sec.  3. Employment protection during climate disaster.
Sec.  4. Employer requirements.
Sec.  5. Prohibited acts.
Sec.  6. Enforcement.
Sec.  7. Definitions.
Sec.  8. Regulatory authorities.
SEC. 2. PAID EMERGENCY TIME.

(a) IN GENERAL.—An employer shall provide to each employee employed by the employer paid emergency time to the extent that the employee is unable to work (or telework) due to an applicable climate disaster, including—

(1) a need to relocate for safety;

(2) recovery efforts relating to economic stability and community safety—

(A) in the community in which the employee resides;

(B) at the workplace of the employee; and

(C) at the home of the employee;

(3) a need to care for family members resulting from the closure of schools or other facilities;

(4) an injury or illness affecting either the employee or their immediate family; and

(5) disruptions of public transit services or commuter routes.

(b) DURATION OF PAID EMERGENCY TIME.—

(1) IN GENERAL.—An employee shall be entitled to paid emergency time for a number of hours determined under paragraph (2).
(2) NUMBER OF HOURS.—The number of hours of paid emergency time to which an employee is entitled during an applicable climate disaster period shall be as follows:

(A) For full-time employees, 80 hours.

(B) For part-time employees, a number of hours equal to the number of hours that such employee works, on average, over a 2-week period.

c) PROHIBITION.—An employer may not require, as a condition of providing paid emergency time under this Act, that the employee involved search for or find a replacement employee to cover the hours during which the employee is using paid emergency time.

d) AVAILABILITY OF PAID EMERGENCY TIME.—The paid emergency time under subsection (a) shall be available for immediate use by the employee for the purposes described in such subsection, regardless of how long the employee has been employed by an employer.

e) PROHIBITION ON SUBSTITUTION OF LEAVE TIME.—An employer may not require an employee to substitute any of the accrued paid vacation leave, personal leave, or family leave of such employee for paid emergency time provided under subsection (a).

(f) AMOUNT OF PAID EMERGENCY TIME.—
(1) IN GENERAL.—The amount of paid emergency time provided to an employee under this section shall be calculated based on the employee’s required compensation under paragraph (2) and the number of hours the employee would otherwise be normally scheduled to work (or the number of hours calculated under paragraph (3)), except that in no event shall the amount of such paid emergency time paid per day exceed—

(A) for calendar year 2022, $511; and

(B) for any calendar year after 2022, an amount equal to the product of—

(i) $511, multiplied by

(ii) the quotient obtained by dividing—

(I) the Consumer Price Index for Urban Wage Earners and Clerical Workers (as published by the Bureau of Labor Statistics) for the calendar year immediately preceding such calendar year; by

(II) the Consumer Price Index for calendar year 2021.

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

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

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

(C) The minimum wage rate in effect for such employee in the applicable State or locality, whichever is greater, in which the employee is employed.

(3) **VARYING SCHEDULE HOURS CALCULATION.**—In the case of a part-time employee described in subsection (b)(2)(B) whose schedule varies from week to week to such an extent that an employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken paid emergency time under subsection (a), the employer shall use the following in place of such number:

(A) Subject to subparagraph (B), a number equal to the average number of hours that the employee was scheduled per week over the
6-month period ending on the date on which the
employee takes the paid emergency time, in-
cluding hours for which the employee took leave
of any type.

(B) If the employee did not work over such
period, the reasonable expectation of the em-
ployee at the time of hiring of the average num-
ber of hours per week that the employee would
normally be scheduled to work.

(4) GUIDELINES.—Not later than 120 days
after the date of enactment of this Act, the Sec-
retary of Labor shall issue guidelines to assist em-
ployers in calculating the amount of paid emergency
time under paragraph (1).

(5) REASONABLE AND PRACTICABLE NOTICE.—
After the first workday (or portion thereof) an em-
ployee receives paid emergency time under this Act,
an employer may require the employee to follow rea-
sonable and practicable notice procedures in order to
continue receiving such paid emergency time.

(6) PUBLICATION OF PAY LIMITATION.—Not
later than December 1 of each year, the Secretary
of Labor shall publish the amount determined under
paragraph (1)(B) that will be in effect for the fol-
lowing calendar year.
SECTION 3. EMPLOYMENT PROTECTION DURING CLIMATE DISASTER.

(a) Restoration to Position.—Any eligible employee who uses paid emergency time under section 2 for the intended purpose of the paid emergency time shall be entitled, on return from using paid emergency time—

(1) to be restored by the employer to the position of employment held by the employee when the use of paid emergency time commenced; or

(2) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(b) Loss of Benefits.—The use of paid emergency time shall not result in the loss of any employment benefit accrued prior to the date on which the use of paid emergency time commenced.

(c) Limitations.—Nothing in this section shall be construed to entitle any restored employee to—

(1) the accrual of any seniority or employment benefits during any period during which such restored employee uses paid emergency time; or

(2) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not used paid emergency time.
(d) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an employer from requiring an employee to report periodically to the employer on the status and intention of the employee to return to work.

SEC. 4. EMPLOYER REQUIREMENTS.

(a) MONITORING FOR APPLICABLE CLIMATE DISASTER.—

(1) IN GENERAL.—An employer shall monitor for, using the tools identified by the Secretary of Labor pursuant to paragraph (3), and notify an employee of the existence of, applicable climate disasters.

(2) EXCLUSION FOR REMOTE EMPLOYEES.—

(A) IN GENERAL.—An employer is not required to monitor for applicable climate disasters affecting remote employees.

(B) EXCLUSION FOR REMOTE EMPLOYERS.—An employer who employs only remote employees shall monitor for, and notify an employee of the existence of, applicable climate disasters affecting the area where the largest concentration of such remote employees reside.

(3) MONITORING GUIDELINES.—Not later than one year after the date of enactment of this Act, the Secretary of Labor shall issue guidelines that iden-
(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees are customarily posted, a notice, to be prepared or approved by the Secretary of Labor, of the requirements described in this Act.

(2) MODEL NOTICE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor shall make publicly available a model of a notice that meets the requirements of paragraph (1).

SEC. 5. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

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

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this Act.
(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this Act;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this Act; or

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

SEC. 6. ENFORCEMENT.

(a) UNPAID EMERGENCY LEAVE TIME.—An employer who violates section 2 shall—

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

(2) be subject to the penalties described in sections 16 and 17 of such Act (29 U.S.C. 216; 217) with respect to such violation, except that no person shall be imprisoned under such sections for a violation of section 2 of this Act.
(b) UNLAWFUL ACTION AGAINST EMPLOYEE.—An employer who willfully violates section 5 shall—

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

(2) be subject to the penalties described in sections 16 and 17 of such Act (29 U.S.C. 216; 217) with respect to such violation, except that no person shall be imprisoned under such sections for a violation of section 2 of this Act.

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) EMPLOYEE.—The term “employee” means any individual employed by an employer.

(2) EMPLOYER.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “employer”—

(i) means any individual who employs an employee;

(ii) includes any individual acting directly or indirectly in the interest of an employer in relation to an employee.

(B) EXCLUSION OF PUBLIC EMPLOYERS.—

The term “employer” does not include—
(i) the government of the United States;

(ii) the government of any State; or

(iii) any unit of local government, department, agency, or instrumentality thereof.

(3) FLSA TERMS.—The terms “employ” and “State” have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(4) APPLICABLE CLIMATE DISASTER.—

(A) IN GENERAL.—The term “applicable climate disaster” means, with respect to an employee, a climate disaster determined by the Secretary to affect or be likely to affect such employee.

(B) CLIMATE DISASTER.—The term “climate disaster” means a weather or climate event (including an earthquake, flood, heat event, hurricane, severe blizzard, superstorm, tornado, tsunami, utility failure, volcanic explosion, or wildfire) with the potential to cause great damage or loss of life.
SEC. 8. REGULATORY AUTHORITIES.

The Secretary of Labor shall have the authority to
issue regulations for good cause under sections 553(b)(B)
and 553(d)(A) of title 5, United States Code—

(1) to exempt small businesses with fewer than
50 employees from the requirements of paragraphs
(3) and (4) of section 2(a) when the imposition of
such requirements would jeopardize the viability of
the business as a going concern; and

(2) as necessary, to carry out the purposes of
this Act.

SEC. 9. RULES OF CONSTRUCTION.

Nothing in this Act shall be construed—

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

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

(B) collective bargaining agreement; or

(C) existing employer policy; or

(2) to require financial or other reimbursement
to an employee from an employer upon the employ-
ee’s termination, resignation, retirement, or other
separation from employment for paid emergency
leave time under this Act that has not been used by
such employee.
SEC. 10. EFFECTIVE DATE.

This Act, and the requirements under this Act, shall take effect not later than 180 days after the date of enactment of this Act.