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## **Summary of relevant provisions of HR 6201 (passed House on March 14, 2020)**

***Note: The president signed this legislation on March 18, 2020 – Goes into effect on April 2, 2020***

### **Families First Coronavirus Response Act**

This bill responds to the coronavirus outbreak by providing paid sick leave and free coronavirus testing, expanding food assistance and unemployment benefits, and requiring employers to provide additional protections for health care workers.

Specifically, the bill provides FY2020 supplemental appropriations to the Department of Agriculture (USDA) for nutrition and food assistance programs, including

- the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC);
- the Emergency Food Assistance Program (TEFAP); and
- nutrition assistance grants for U.S. territories.

The bill also provides FY2020 appropriations to the Department of Health and Human Services for nutrition programs that assist the elderly.

The supplemental appropriations provided by the bill are designated as emergency spending, which is exempt from discretionary spending limits.

The bill modifies USDA food assistance and nutrition programs to

- allow certain waivers to requirements for the school meal programs,
- suspend the work requirements for the Supplemental Nutrition Assistance Program (SNAP, formerly known as the food stamp program), and
- allow states to request waivers to provide certain emergency SNAP benefits.

In addition, the bill requires the Occupational Safety and Health Administration to issue an emergency temporary rule that requires certain employers to develop and implement a comprehensive infectious disease exposure control plan to protect health care workers. The bill also includes provisions that:

- **establish a federal emergency paid leave benefits program to provide payments to employees taking unpaid leave due to the coronavirus outbreak,**
- **expand unemployment benefits and provide grants to states for processing and paying claims,**
- **require employers to provide paid sick leave to employees,**
- establish requirements for providing coronavirus diagnostic testing at no cost to consumers,
- treat personal respiratory protective devices as covered countermeasures that are eligible for certain liability protections, and
- temporarily increase the Medicaid federal medical assistance percentage (FMAP).

**Background** - Just after midnight on March 14, 2020, the U.S. House of Representatives passed H.R. 6201, the “Families First Coronavirus Response Act,” as a broad response to many of the challenges caused by the current and impending spread of the novel coronavirus known as COVID-19. H.R. 6201 as passed by the Senate and signed by the President on March 18, 2020 has eight provisions (“Divisions”) intended to provide assistance, and free up the federal government resources to do so, during the public health emergency caused by coronavirus.

## **DIVISION A - SECOND CORONAVIRUS PREPAREDNESS AND RESPONSE**

### **Specific Appropriations Described in HR 6201 include:**

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020:

- Agriculture - “Special Supplemental Nutrition Program for Women, Infants, and Children” \$500,000,000
- Agriculture – “Commodity Assistance Program” for the emergency food assistance program \$400,000,000
- Defense - additional amount for “Defense Health Program” - \$82,000,000
- IRS - additional amount for “Taxpayer Services” - \$15,000,000
- HHS - “Indian Health Services” - \$64,000,000
- HHS - “Aging and Disability Services Programs” - \$250,000,000
- HHS - “Public Health and Social Services Emergency Fund” - \$1,000,000,000
- VA - “Medical Services”, \$30,000,000
- VA - “Medical Community Care” - \$30,000,000

SEC. 1703. Each amount appropriated or made available by this Act is in addition to amounts otherwise appropriated for the fiscal year involved.

### **General Appropriations Cited in HR 6201 include:**

- Labor - the Sect. of Labor shall provide for the making of emergency administration grants in fiscal year 2020 to the accounts of the States in the Unemployment Trust Fund (up to \$1 Billion based upon state funding formulas and consistency of spending with the existing programs).

### **General Note on the Appropriations Described Above & The Likelihood of Additional Funding**

As one commentary noted “small businesses will be bearing the brunt of these costs. While they will be reimbursed for their expenses, the structure of the tax credits presents a serious cashflow problem in the short term, which some businesses may not be able to overcome. The burden being placed on ***smaller firms may require a push for liquidity financing options in a future bill.***” – American Action Forum summary of HR 6201.

Given this broadly shared concern for the viability of both small and large business enterprises, HR 6201 will almost certainly be followed with supplemental funding and appropriations. For example, on March 19, 2020, Sen. Mitch McConnell proposed a “trillion-dollar proposal” for the so-called “Phase 3” coronavirus stimulus package.

## DIVISION B - NUTRITION WAIVERS

The Act contains several provisions to increase funding for familiar benefits, like the Supplemental Nutrition Assistance Program (SNAP) and the Program for Women, Infants and Children (WIC), this summary focuses mainly on the provisions of the Act which affect employers and small businesses.

## DIVISION C - EMERGENCY FAMILY AND MEDICAL LEAVE (FMLA) EXPANSION ACT

**Expanded Coverage and Eligibility** – The Act significantly amends and expands FMLA on a temporary basis. The current employee threshold for FMLA coverage **would change from only covering employers with 50 or more employees** to instead covering those employers with fewer than 500 employees. It also lowers the eligibility requirement such that any employee who has worked for the employer for at least 30 days prior to the designated leave may be eligible to receive paid family and medical leave. As a result, thousands of employers not previously subject to the FMLA may be required to provide job-protected leave to employees for a COVID-19 coronavirus-designated reason. ***However, the Act now includes language allowing the Secretary of Labor to exclude healthcare providers and emergency responders from the definition of employees who are allowed to take such leave, and to exempt small businesses with fewer than 50 employees if the required leave would jeopardize the viability of their business.***

## DIVISION D - EMERGENCY UNEMPLOYMENT INSURANCE STABILIZATION & ACCESS ACT OF 2020

**This section provides \$1 billion in 2020 for emergency grants to states for activities related to unemployment insurance benefit processing and payment, under certain conditions.**

Half of the resources are to be allocated to provide immediate funding to all states for administrative costs so long as they meet some basic requirements, including: (1) requiring employers to provide notification of the availability of unemployment compensation at the time of separation; (2) ensuring applications for unemployment compensation and assistance with the application process are accessible in at least two ways (in-person, by phone, or online); and (3) notifying applicants when their application is received and being processed, as well as providing information about how to ensure successful processing if the application cannot be processed.

The other half would be reserved for emergency grants to states which experience an increase of unemployment compensation claims of at least 10% in comparison to the same quarter in the prior calendar year. Those states would be eligible to receive an additional grant to assist with costs related to such an unemployment spike if they meet additional requirements, including: (1) expressing of commitment to maintain and strengthen access to unemployment compensation; and (2) taking or planning to take steps to ease eligibility requirements and access (like waiving work search requirements and the waiting period). The Act will provide those states that meet these requirements with 100 percent federal funding to provide extended unemployment benefits, up to an additional 26 weeks after the initial 26 weeks (i.e. up to 52 weeks of benefits). Previously, states were required to pay 50% of extended unemployment benefits. This provision will also remain in effect until December 31, 2020.

## **DIVISION E - EMERGENCY PAID SICK LEAVE ACT**

This section requires employers to provide paid sick leave to employees who are unable to work (or telework) due to a need for leave for any of the following reasons:

- (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- (3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- (4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).
- (5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions.
- (6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Full-time employees are entitled to 80 hours of paid sick time. Part-time employees are entitled to the number of hours that such employee works, on average, over a 2-week period.

## **DIVISION F - HEALTH PROVISIONS**

### **Coverage for Testing For COVID-19**

This section requires private health plans (including insured, self-insured, and grandfathered) to provide coverage for COVID-19 diagnostic testing and related services to employees and their covered dependents, without cost sharing (like deductibles, copayments and coinsurance) from enactment of the Act through the end of the national emergency period.

Covered services and related cost waivers apply to diagnostic testing, healthcare provider services (in-person and telehealth), and facility costs (physician office, urgent care center and emergency room) to the extent the costs are related to evaluating the need for, or furnishing, COVID-19 diagnosis and treatment. In addition to coverage and cost waiver provisions, plans shall not require prior authorization or similar medical management requirements as a precondition of COVID-19 testing or services.

## **DIVISION G - TAX CREDITS FOR PAID SICK AND PAID FAMILY AND MEDICAL LEAVE**

This section provides a series of refundable tax credits for employers who are required to provide the Emergency Paid Sick Leave and Emergency Paid Family and Medical Leave described above, including self-employed individuals. Employers are entitled to a refundable tax credit equal to 100% of the qualified sick leave wages paid by employers for each calendar quarter in adherence with the Emergency Paid Sick Leave Act and Emergency Paid Family and Medical Leave Act.

## **DIVISION H - BUDGETARY EFFECTS**

Current Senate and House budget limits and rules are not applicable to this Bill.