



# WAYS AND MEANS

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## **H.R. 6201, Families First Coronavirus Response Act**

This remedy answers the growing need for paid family and medical leave by providing the maximum amount of flexibility to the Secretary of the Treasury and the Secretary of Labor to be responsive to the needs of those small businesses that are suffering. In order to do so, this approach makes the mandate optional for businesses 50 and under and makes no mandate or credit for businesses larger than 500, because the vast majority of businesses this size already offer paid sick leave. The provision ensures that no business has a liability larger than the credit it receives and also provides the Secretary with the ability to advance resources to small businesses.

### **Tax Provisions**

#### **[Division G – Tax Credits for Paid Sick and Paid Family and Medical Leave]**

- This division would provide 100 percent refundable tax credits to employers with regard to two categories of paid sick and family leave (described below) that employers must grant to employees under the bill to address employment interruptions related to COVID-19.
- The tax credits would be administered by the IRS and be creditable against employer-side payroll tax liability, with any excess refunded to the employer.
- Refundable tax credits similar in scope and amount would be available to self-employed workers facing the same employment interruptions.
- Payments to employees would be taxable income to the employees and subject to employee-side payroll taxes, but not subject to the employer portion of payroll taxes.
- The provision sunsets on December 31, 2020.
- The bill would provide that Treasury generally make payments to possessions for the costs of these credits.

**Payroll Credit for “Qualified Sick Leave Wages”  
[Division E – Emergency Paid Sick Leave Act]**

- Under the bill, certain employers would be required to provide 80 hours (or 2 weeks) of fully paid leave to full-time employees (pro-rata rules would apply to part-time employees) on top of any other existing paid leave program of the employer to cover employees not working for the following uses:
  - (1) the employee is subject to a Federal, State, or local quarantine or isolation order related to coronavirus;
  - (2) the employee has been advised by health care provider to self-quarantine due to coronavirus;
  - (3) the employee is experiencing symptoms of coronavirus;
  - (4) the employee is caring for an individual who is subject to an order described in (1) or has been advised as described in (2);
  - (5) the employee is care for their child because the school is closed or child care provider is unavailable due to coronavirus; or
  - (6) the employee is experiencing a similar condition specified by Secretary of HHS.
- Employers would be required to pay employees their full wages, not to exceed \$511 per day and \$5,110 in the aggregate, for a use described in (1), (2), or (3) above.
- Employers would be required to pay employees two-thirds of their wages, not to exceed \$200 per day and \$2,000 in the aggregate, for a use described in (4), (5), or (6) above.
- Employers would receive a 100 percent refundable payroll tax credit on the wages required to be paid.
- The requirement to provide the paid leave would apply to all public sector employers and those private sector employers with less than 500 employees. The tax credit eligibility would only apply to those private sector employers with less than 500 employees.

- Secretary of Labor has authority to issue regulations to exempt small businesses with fewer than 50 employees if the above requirements would jeopardize the going concern of the business.

**Payroll Credit for “Qualified Family Leave Wages”**  
**[Division C – Emergency Family and Medical Leave Expansion Act]**

- Employers would also generally be required to provide ten weeks of paid leave. Employers would be required to pay employees two-thirds of their wages, not to exceed \$200 per day and \$10,000 in the aggregate.
- This leave would cover employees who are not working because the employee is caring for their child because the school is closed or child care provider is unavailable due to a public health emergency.
- The requirement to provide the paid leave would apply to all employers with less than 500 employees. Federal, state, and local governments are not eligible for the Credit.
- Employers would receive a 100 percent refundable payroll tax credit for the wages required to be paid.
- Secretary of Labor has authority to issue regulations to:
  - (1) exclude certain health care providers and emergency responders from the definition of eligible employee; and
  - (2) exempt small businesses with fewer than 50 employees if the above requirements would jeopardize the going concern of the business.

**Unemployment Provisions**  
**[Division D – Emergency Unemployment Insurance Stabilization and Access Act of 2020]**

**Section 4101. Short Title.** The short title for the division is the Emergency Unemployment Insurance Stabilization and Access Act of 2020.

**Section 4102. Emergency Transfers for Unemployment Compensation Administration.** This section provides \$1 billion in 2020 for emergency administration grants to states for activities related to processing and paying unemployment insurance (UI) benefits, under certain conditions.

\$500 million would be used to provide immediate additional funding to all states for staffing, technology, systems, and other administrative costs, so long as they

met basic requirements about ensuring access to earned benefits for eligible workers. Those requirements are:

- Require employers to provide notification of potential UI eligibility to laid-off workers.
- Ensure that workers have at least two ways (for example, online and phone) to apply for benefits.
- Notify applicants when an application is received and being processed and if the application cannot be processed, provide information to the applicant about how to ensure successful processing.

States would be required to report on the share of eligible individuals who received UI benefits and the state's efforts to ensure access within one year of receiving the funding. The funding would be distributed in the same proportions as regular UI administrative funding provided through annual appropriations.

\$500 million would be reserved for emergency grants to states which experienced at least a 10 percent increase in unemployment. Those states would be eligible to receive an additional grant, in the same amount as the initial grant, to assist with costs related to the unemployment spike, and would also be required to take steps to temporarily ease eligibility requirements that might be limiting access to UI during the COVID-19 outbreak, like work search requirements, required waiting periods, and requirements to increase employer UI taxes if they have high layoff rates. Depending on the state, those actions might require changes in state law, or might just require changes in state policy. This section also provides temporary federal flexibility regarding those UI restrictions which are also in federal law.

**Section 4103. Temporary Assistance for States with Advances.** This section provides states with access to interest-free loans to help pay regular UI benefits through December 31, 2020, if needed.

**Section 4104. Technical Assistance and Guidance for Short-Time Compensation Programs.** This section requires the Secretary of Labor to provide technical assistance to states that want to set up work-sharing programs, in which employers reduce hours instead of laying employees off, and then employees receive partial unemployment benefits to offset the wage loss.

**Section 4105. Full Federal Funding of Extended Unemployment Compensation for a Limited Period.** For states that experience an increase of 10 percent or more in their unemployment rate (over the previous year) and comply with all the beneficiary access provisions in section 102, this section provides 100 percent federal funding for Extended Benefits, which normally require 50 percent

of funding to come from states. Extended Benefits are triggered when unemployment is high in a state and provide up to an additional 26 weeks after regular UI benefits (usually 26 weeks) are exhausted.

### **Health Provisions** **[Division F— Health Provisions]**

**Section 6001.** No cost sharing or medical management techniques for testing and services related to testing for private health plans.

**Section 6002.** No cost sharing for services related to testing for Medicare plans.

**Section 6003:** No cost sharing or medical management techniques for testing and services related to testing for Medicare Advantage plans.

**Section 6004.** No cost sharing for services related to testing for Medicaid and CHIP plans, with a state option to provide coverage for uninsured through Medicaid.

**Section 6005.** Codifies HHS administrative actions related to temporary liability protections for approved personal respiratory devices under the PREP Act.

**Section 6006.** No cost sharing testing and services related to testing for TRICARE, Veterans' health coverage or for federal civilian workers.

**Section 6007.** No cost sharing testing and services related to testing for Indians receiving purchased and/or referred care.

**Section 6008.** Provides states with a 6.2% Medicaid FMAP increase for all medical services for the duration of the public health emergency.

**Section 6009.** Provides territories with a 6.2% Medicaid FMAP increase for all medical services for the next two fiscal years by adjusting their caps.

**Section 6010.** Technical improvement to Medicare telehealth authority.

*Of note, Title IV of Division A (Second Coronavirus Preparedness and Response Supplemental Appropriations, 2020) appropriates \$1 billion into the Public Health and Social Services Emergency Fund for the National Disaster Medical System to pay provider claims for testing and services related to testing for uninsured individuals.*