

BGOV Bill Summary: H.R. 6201, Coronavirus Aid Deal
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Individuals affected by the novel coronavirus could receive paid leave, food assistance and unemployment insurance would be expanded, and Medicaid funding to states would be increased under the version of H.R. 6201 sent to the Senate.

The measure would provide tax credits to employers to offset the costs of providing emergency paid leave. It also would require insurers, Medicare, Medicaid, and other federal health programs to fully cover testing and related services for the virus.

The measure would provide emergency funding for several nutrition programs, including the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), as well as various federal health programs. The funds provided under the measure would be designated as emergency requirements and wouldn't count against the discretionary spending cap for fiscal 2020.

The measure represents an agreement between House Democrats and the White House, negotiated by Speaker Nancy Pelosi (D-Calif.) and Treasury Secretary Steven Mnuchin. President Donald Trump tweeted his support for the measure.

Lawmakers plan to work on a third emergency response measure that could provide hundreds of billions more for industries and individuals. This third measure will originate in the Senate—and indeed is already being written. This third measure may amend the bills that have passed the House (summarized below) to create one large package, which will then need to go back to the House for a vote before the President can sign it into law.

Prospects

The Senate could consider the bill as soon as March 17. It is extremely likely that the Senate will amend the measure with a close to trillion-dollar package being negotiated right now. Any change would require the bill to go back to the House for further action.

The following bill summary reflects both the base text of HR 6201 and the changes made after House passage by H. Res. 904, which the House adopted by unanimous consent on March 16.

Emergency Family Leave

The measure would create an emergency paid leave program to directly respond to the coronavirus. Private sector employers with fewer than 500 workers and government entities would have to provide as many as 12 weeks of job-protected leave under the Family and Medical Leave Act (FMLA) for employees who are unable to work or telework because they have to care for a child younger than 18 whose school or day care has closed because of the coronavirus.

The first 10 days of leave could be unpaid, though a worker could choose to use accrued vacation days, personal leave, or other available paid leave for unpaid time off. Following the 10-day period, workers would receive a benefit from their employers that will be at least two-thirds of their normal pay rate. Leave assistance to workers would be capped at \$200 per day or \$10,000 total.

Before the changes in H. Res. 904 were made, the measure would have allowed leave to be taken to comply with recommendations for self-quarantine or to care for a sick family member.

The FMLA provisions would run through Dec. 31, 2020.

The Labor Department would be authorized to issue regulations to:

- Exclude certain health-care providers and emergency responders from paid leave benefits.
- Exempt small businesses with fewer than 50 employees from the paid leave requirements.

Employers could also choose to exempt health-care providers and emergency responders from the paid leave benefits.

The measure would exempt employers with fewer than 25 workers from requirements to restore an employee's original position if it no longer exists because of economic conditions or changes to operations due to the public health emergency. The employer would have to have made reasonable efforts to restore the employee to an equivalent position.

Workers under a multiemployer collective bargaining agreement and whose employers pay into a pension plan would have access to paid leave.

Emergency Sick Leave

Private sector employers with fewer than 500 workers and government entities would have to provide employees who are unable to work or telework with immediate paid sick time off to:

- Comply with a federal, state, or local quarantine or isolation order.
- Self-quarantine per a health-care provider's advice.
- Obtain a medical diagnosis for coronavirus.
- Care for an individual who is in quarantine or for a child whose school or day care has closed due to coronavirus.

Full-time employees would receive 80 hours of sick leave under the new emergency leave program and part-time workers would be granted time off that's equivalent to their scheduled or normal work hours in a two-week period. Paid sick time wouldn't carry over from year to year.

Workers would have to be paid at least their normal wage or the federal, state, or local minimum wage, whichever is greater. They would be paid, however, at two-thirds of wages for providing caregiving to another individual or child.

Leave assistance would be capped at \$5,110 for a worker's quarantine or diagnosis and at \$2,000 to provide care for another individual or child.

An employer couldn't require a worker to use any other available paid leave before using the sick time.

Employers would be prohibited from:

- Requiring a worker to find a replacement to cover their hours during time off.
- Discharging or discriminating against workers for requesting paid sick leave or filing a complaint against the employer.

An employer could be subject to civil penalties for a violation of paid sick leave requirements.

The Labor Department would be authorized to issue regulations to:

- Exclude certain health-care providers and emergency responders from the paid leave benefits, including by allowing their employers to opt out of the requirements.
- Exempt small businesses with fewer than 50 employees from the paid leave requirements.

Workers under a multiemployer collective bargaining agreement and whose employers pay into a pension plan would have access to paid emergency leave.

Employer Tax Credits

The measure would provide refundable tax credits to employers to cover wages paid to employees while they are taking time off under the bill's sick leave and family leave programs. Credits would be against employers' payroll or railroad retirement tax payments.

The sick leave credit for each employee would be for wages of as much as \$511 per day while the employee is receiving paid sick leave because they are quarantined, or \$200 if they are caring for someone else who is quarantined or their child's school is closed. The limit would be the excess of 10 days over the aggregate number of days taken into account for all preceding calendar quarters.

The family leave credit for each employee would be for wages of as much as \$200 per day while the employee is receiving paid leave, or an aggregate of \$10,000.

Beyond the wage limits set out in the bill, both the paid sick leave and family leave credits would be increased to include amounts employers pay for the employee's health plan coverage while they are on leave.

Wages paid under the paid sick leave and family leave programs wouldn't be subject to the employer payroll tax or railroad retirement tax. The credits would also be increased to cover employers' 1.45% Medicare tax.

Employers couldn't receive the credit if they're also receiving a credit for the employee's wages under the paid family and medical leave program established by the 2017 tax overhaul (Public Law 115-97).

They would have to include the credit in their gross income.

Government entities couldn't receive the credit. *I believe this means means all public water utilities would be ineligible for the credit.*

The credit would be in effect for wages through the end of 2020.

The Treasury Department would have to issue regulations or guidance to ensure employers don't manipulate the credit, to minimize compliance and record-keeping burdens, to waive penalties for underpayments in anticipation of the credit, and to establish a process to recapture credits when there's an adjustment.

The measure would authorize the transfer of amounts equal to the credit, as well as lost revenue from wages that are exempt from payroll tax and railroad retirement tax, to the Social Security and disability insurance trust funds or the Social Security Equivalent Benefit Account from the general fund.

HHS Funding & Health-Care Provisions

Nutrition: The measure would appropriate \$250 million for HHS programs that aid elderly Americans, divided as follows:

- \$160 million for home-delivered nutrition services.
- \$80 million for congregate nutrition services that provide food in group settings, such as adult day care centers and meal sites.
- \$10 million for nutrition services for American Indians.

State matching requirements wouldn't apply to funds provided under the bill.

It also would provide \$64 million to the Indian Health Service for items and services related to Covid-19.

Medicaid Funding: States would be eligible for a 6.2 percentage point increase in their federal medical assistance percentages (FMAP). They would have to provide coverage of coronavirus testing without cost sharing and meet other criteria, such as not imposing more stringent eligibility standards or additional premiums.

States could cover tests for uninsured people through their Medicaid programs and receive a 100% FMAP to cover the cost.

Medicaid funding for U.S. territories would be increased.

Test Coverage: Insurers would be required to cover coronavirus tests and related services, such as provider visits for testing, without cost-sharing or prior authorization requirements. The cost-sharing prohibition would also apply to Medicaid, Medicare, TRICARE, veterans' health programs, the Indian Health Service, and coverage provided to federal civilian employees.

The bill would appropriate \$1 billion to allow the National Disaster Medical System to reimburse provider costs associated with testing uninsured individuals.

Major insurance companies — including BlueCross BlueShield Association companies, Humana Inc., and UnitedHealth Group Inc. — have committed to waiving coronavirus test co-pays, according to Vice President Mike Pence.

Medicare currently covers testing without any patient cost-sharing. The Centers for Medicare and Medicaid Services wrote in March 12 guidance that states can modify their Medicaid plans to eliminate cost-sharing for certain services, such as Covid-19 tests, as long as their policy applies regardless of the diagnosis. The emergency declaration will also give states more flexibility in their programs.

The administration is also examining ways to provide free tests to the uninsured, CDC Director Robert Redfield said March 12.

Mask Liability: The measure would make personal respiratory protective devices a covered countermeasure under the Public Readiness and Emergency Preparedness Act (Public Law 109-148). The law allows HHS to provide liability protections for certain emergency response products.

Nutrition Assistance

Funding: The measure would provide:

\$500 million in emergency funding for the WIC program.

\$400 million for the Commodity Assistance Program for the emergency food assistance program (TEFAP), \$100 million of which could be used for costs related to the distribution of goods.

\$100 million for grants to the Northern Mariana Islands, Puerto Rico, and American Samoa for nutrition assistance provided in response to the virus.

SNAP Benefits for Kids: If a school is closed for at least five consecutive days because of a coronavirus-related public health emergency, states could adjust their Supplemental Nutrition Assistance Programs (SNAP) to provide additional aid to households with children eligible for free or reduced price school meals.

Additional benefits would have to be equal to the value of the meals for each eligible child in a household. Benefits could be distributed through an electronic benefits transfer card system. The Agriculture Department could purchase food commodities to ensure it can distribute them in areas where a public health emergency has been declared. "Such amounts as are necessary" would be appropriated for the meal provisions.

SNAP Work Requirements: The measure would waive federal work requirements for SNAP eligibility. The waiver would begin the first full month after the bill is enacted and terminate at the end of the first full month after a federal coronavirus-related emergency declaration is lifted. State-imposed work requirements wouldn't be changed, but a person's participation in SNAP during the emergency couldn't be counted for determining compliance with work requirements.

Other SNAP Benefits: States that make their own emergency or disaster declarations related to Covid-19 could request emergency allotments of food aid to support increased participation in SNAP and address temporary food needs. The provision wouldn't change the maximum monthly allotment for any household size. States would have to provide data sufficient to demonstrate the need for additional aid.

Meal Program Waivers: The package would allow USDA to waive statutory requirements for several food programs to ensure that meals can be provided during the emergency and to implement safety measures related to preventing the spread of Covid-19. It would allow nationwide waivers of eligible National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, and Summer Food Service Program requirements.

The department could waive nutritional content requirements and rules to provide meals through the Child and Adult Care Food Program in group settings.

Waivers related to Covid-19 that increase the cost to the federal government for school meals would be allowed.

USDA granted waivers to all 50 states, Puerto Rico, and Washington, D.C., to allow school systems to continue serving meals during prolonged coronavirus-related closures.

WIC Waivers: The measure would allow states to request waivers for the requirement that WIC recipients certify their eligibility in person and for deferring biometric and bloodwork requirements. USDA could also modify or waive WIC administrative requirements that a state can't meet due to the Covid-19 outbreak.

Self-Employed Tax Credit

The measure would provide a similar refundable credit against self-employment tax.

The sick leave credit would be for the lesser of \$511 per day or an individual's average daily self-employment income if quarantining themselves. It would be for the lesser of 67% of their average daily self-employment income or \$200 if they were caring for someone else.

The credit would be available for 10 days over the number of days taken into account in preceding years.

Self-employed individuals could receive a family leave credit for as many as 50 days for the lesser of \$200 or 67% of their average daily self-employment income.

Self-employed individuals would have to submit documentation, as required by the Treasury Department.

The measure would establish alternate requirements for self-employed individuals who also receive sick-leave pay from an employer. It would also establish rules for the credits to be provided in U.S. territories.

Unemployment Insurance

Emergency Transfers: The measure would provide as much as \$1 billion for emergency transfers to states in fiscal 2020 to process and pay unemployment benefits.

Each state would receive a proportional amount based on the share of federal unemployment taxes paid by its employers.

States would receive half of their allocation within 60 days of the bill's enactment if they certify that they meet certain requirements, such as ensuring that workers can apply for benefits online or by phone.

States would receive the remaining funds if their unemployment claims increased by at least 10% over the same quarter in the previous year. They would have to waive certain eligibility rules for claimants and charges for employers affected by Covid-19.

States could modify certain unemployment policies, including rules related to job searches and initial payment waiting periods, on an emergency temporary basis to address the effects of Covid-19.

The Labor Department announced guidance March 12 to clarify that states can make other changes to their unemployment policies to cover affected workers. For instance, current law allows states to pay benefits when workers are quarantined, or when they leave their jobs due to a risk of exposure or to care for a family member, the department said.

Extended Benefits: Eligible laid-off workers can receive regular unemployment benefits for as long as 26 weeks in most states.

After exhausting those benefits, individuals in states with rising unemployment can qualify for an additional 13 weeks of benefits — or 20 weeks in some states — through the Extended Benefits (EB) program.

The bill would waive a state matching requirement and provide full federal funding for the EB program for the rest of 2020. To qualify, states would need to experience a 10% spike in unemployment claims over the past year and qualify for a full emergency funding transfer under the measure.

Interest-Free Loans: The bill would waive interest payments that states owe for the rest of 2020 on federal advances to their unemployment accounts.

Other Agencies

The measure also would provide:

- \$82 million to the Defense Department for Covid-19-related items and services through the Defense Health Program.
- \$60 million for the Veterans Affairs Department.
- \$15 million to the Internal Revenue Service to carry out the bill's provisions.

Revenue Effects

The tax credit provisions would reduce revenue by \$104.9 billion in fiscal 2020 and 2021, according to a March 16 estimate from the Joint Committee on Taxation of the version of the bill being sent to the Senate.