



May 14, 2020

Analysis of Economic Provisions in HEROES Act

On May 12, House Democrats unveiled the Health and Economic Recovery Omnibus Emergency Solutions Act (HEROES) Act. Democratic leadership intends to bring the legislation to the floor for a vote on Friday. The bill is the starting point for negotiations on the next COVID-19 economic stimulus package.

At a high level, the bill includes the following priorities:

- \$875 billion in state and local funding.
- \$100 billion in grants for hospitals and other health care providers.
- Expansions to the Employee Retention Tax Credit (ERTC) and other tax changes
- Incentives for working families, including expansions of the Child Tax Credit, the Child and Dependent Care Tax Credit; Dependent Care Flexible Spending Accounts; and the Earned Income Tax Credit.
- Increases to Economic Stimulus Payments.
- Elimination of the \$10,000 state and local tax deduction cap through 2021.
- Changes to the Paycheck Protection Program, including a repeal of the requirement that 75% of loan proceeds be spent on payroll expenses in order to qualify for loan forgiveness.
- Changes to retirement benefits.
- Expansion of Unemployment Insurance benefits, including an extension of the \$600 benefit under the Federal Pandemic Unemployment Compensation program from July 31, 2020 to Jan. 31, 2021.
- Funding for various education priorities.
- Various workforce provisions, including changes to eligibility requirements for the Job Corps and YouthBuild programs.

The bill is unlikely to be taken up by the Senate—it has been dismissed by Senate Majority Leader Mitch McConnell (R-KY) as “aspirational.” McConnell has indicated the Senate will take its time to consider its priorities for the next stimulus bill. The upper chamber does not currently intend to release a package immediately in response to the HEROES Act.

Below is a summary of select provisions in the bill.

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Division B: Revenue Provisions

Title I—Economic Stimulus

SUBTITLE A – 2020 RECOVERY REBATE IMPROVEMENTS

Sec. 20101: Dependents Taken Into Account in Determining Credit and Rebates.

- Makes all dependents eligible for the \$500 qualifying child amount in the Economic Impact Payments made under the CARES Act, previously only applicable to children below age 17. This means households with dependents who are full-time students below age 24 and adult dependents may receive the \$500 amount for each dependent.
- This provision is effective retroactive to the date of enactment of the CARES Act.
- Impact. Households with dependents over the age of 17, including all adult dependents, are now eligible to receive a \$500 economic impact payment for each dependent. Given the retroactive impact, those households that already received their stimulus payments will receive an additional \$500 for each dependent who previously did not qualify.

Sec. 20102: Individuals Providing Taxpayer Identification Numbers Taken Into Account in Determining Credit and Rebates.

- Allows Economic Impact Payments under the CARES Act (Subtitle B –\$2201) to be made to all taxpayers who provide a Taxpayer Identification Number, rather than a Social Security number. This provision is effective retroactive to the date of enactment of the CARES Act.
- Impact. Individuals who lack a Social Security number but nevertheless file tax returns (including non-resident aliens, U.S. resident aliens not eligible for a Social Security number based on days present in the U.S., a dependent or spouse of a U.S. citizen/resident alien, and a dependent or spouse of a non-resident alien visa holder) are now eligible to receive the Economic Impact Payments under the CARES Act.

Sec. 20103: 2020 Recovery Rebates Not Subject to Reduction or Offset With Respect to Past-Due Support.

- Exempts Economic Impact Payments from reduction or offset with respect to past-due child support. Originally, under the CARES Act, Economic Impact Payments made to eligible noncustodial parents who owed past-due child support and who are subject to intercept under the Federal Income Tax Refund Offset Program are offset by the amount of past-due child support.
- Impact. Noncustodial parents who receive an Economic Impact Payment under this Act are entitled to retain such payment without any potential offset under the Federal Income Tax Refund Offset Program. This does not have retroactive effect however to those payments received under the CARES Act.

Sec. 20104: Protection of 2020 Economic Impact Payments.

- Protects Economic Impact Payments from any form of transfer, assignment, execution, levy, attachment, garnishment, legal process, bankruptcy or insolvency law, and any other means of capture prohibited for payments made under §207 of the Social Security Act.
- Impact. Any person affected by levy, attachment, garnishment, bankruptcy or insolvency proceedings may retain the Economic Impact Payment without being subject to the effects of the aforementioned proceedings. This provision does not have retroactive effect, however, to those payments received under the CARES Act.

Sec. 20105: Payments to Representative Payees and Fiduciaries.

- Amends the CARES Act to clarify that, for an individual whose Economic Impact Payment was paid based on a Social Security Benefit Statement or Social Security Equivalent Benefit Statement, any Economic Impact Payment made to a representative payee or fiduciary shall only be used for the benefit of the person for whom the payment was intended. This provision is effective retroactive to the date of enactment of the CARES Act.
- Impact. Any representative payee or fiduciary who receives an Economic Impact Payment on behalf of an applicant claiming eligibility on the basis of social security benefits may not retain any portion of such payment. Instead, the payment must be remitted to the beneficiary in its entirety. Under this provision, to be retroactively applied, any representative payee or fiduciary who misused any Economic Impact Payments would presumably be subject to any applicable civil and/or criminal liability.

Sec. 20106: Application to Taxpayers with Respect to Whom Advance Payment Has Already Been Made.

- Amends the Economic Impact Payments under the CARES Act such that if an eligible individual now qualifies to receive a greater amount in light of the provisions of this Act, Treasury shall issue a rebate equal to the taxpayers' redetermined rebate less the previously issued rebate.
- Impact. Any eligible recipient of an Economic Impact Payment under the CARES Act who is entitled to a greater amount as a result of any provisions of this Act will receive an additional rebate equal to the full amount of what the payee is entitled to less the amount of the previously issued rebate.

SUBTITLE B – ADDITIONAL RECOVERY REBATES TO INDIVIDUALS

Sec. 20111: Additional Recovery Rebates to Individuals.

- Provides a \$1,200 refundable tax credit for each family member that shall be paid out in advance payments, similar to the Economic Impact Payments in the CARES Act. The credit is \$1,200 for a single taxpayer (\$2,400 for joint filers), in addition to \$1,200 per dependent up to a maximum of three dependents. The credit phases out starting at \$75,000 of modified adjusted gross income (\$112,500 for head of household filers and \$150,000 for joint filers) at a rate of \$5 per \$100 of income.
- Treasury shall issue this credit as an advance payment based on the information on 2019 tax returns, or 2018 returns if the 2019 return has not already been filed (subsection 5).
- Taxpayers receiving an advance payment that exceeds their maximum eligible credit based on 2020 information will not be required to repay any amount of the payment to Treasury. If the credit based on 2020 information exceeds the amount of the advance payment, taxpayers can claim the difference on their 2020 tax returns.
- Impact. The additional recovery rebates provide another round of relief payments of up to \$1,200 to individuals and \$2,400 for married couples who file jointly. These relief payments are computed and made according to the same income limits for qualification under the CARES Act, which is based on 2018 or 2019 tax returns (whichever was filed most recently): \$150,000 for joint filers, \$112,500 for heads of household, and \$75,000 for single filers.

SUBTITLE C – EARNED INCOME TAX CREDIT

Sec. 20121: Strengthening the Earned Income Tax Credit for Individuals with No Qualifying Children for 2020.

- Expands the eligibility for the credit by reducing the minimum age for the childless EITC from 25 to 19 (excludes full-time students) and increasing the age limit to 66 from 65.
- Increases the earned income amount to \$9,720 and the phaseout amount to \$11,490.
- Impact. A greater number of taxpayers will now be eligible to claim the credit as well as the increase in the maximum credit

amount from \$538 to \$1,487.

Sec. 20122: Taxpayer Eligible for Childless Earned Income Credit in Case of Qualifying Children Who Fail to Meet Certain Identification Requirements.

- Repeals provision which prohibited taxpayers with qualifying children (who do not meet the identification requirements) from claiming the childless EITC.
- Impact. Taxpayers with qualifying children without a Social Security number may now claim the childless EITC for taxable years after the date of enactment of the bill.

Sec. 20123: Credit Allowed in Case of Certain Separated Spouses.

- Treats a married but separated individual not filing a joint return as unmarried, allowing the credit to be claimed on that individual's tax return so long as a qualifying child has lived in the taxpayer's home for more than half the year and the home is not the same abode as the spouse, or a separation decree or agreement has been executed by the end of the taxable year.
- Impact. Aligns the eligibility requirements for the credit with current family law practice.

Sec. 20124: Elimination of Disqualified Investment Income Test.

- Eliminates the disqualified investment income test, such as taxable and tax-exempt interest, dividends, net income from rents and royalties, net capital gains and net passive income.
- Impact. Taxpayers who would not have qualified for the credit as a result investment income may now be able to qualify, provided all other requirements are met.

Sec. 20125: Application of Earned Income Tax Credit in Possessions of the United States.

- Directs Treasury to make payments to taxpayers within U.S. territories.
- Impact. Expands the credit to additional taxpayers in the territories.

Sec. 20126: Temporary Special Rule for Determining Earned Income for Purposes of Earned Income Tax Credit.

- Provides taxpayers in 2021 the election of substituting their 2019 earned income for their 2020 earned income in the event their 2020 earned income is less than their 2019 income.
- Impact. Allows taxpayers to claim a larger credit, and also allows taxpayers to qualify for the credit, who otherwise would not have qualified due to little or no earned income.

SUBTITLE D – CHILD TAX CREDIT

Sec. 20131. Child Tax Credit Improvements for 2020.

- Increases the credit amount of the Child Tax Credit (CTC) from \$1,000 per qualifying child to \$3,000. For children under 6, the credit is \$3,600.
- Raises the age limit to qualify for the credit to 17.
- Makes the credit fully refundable for 2020.
- Requires the secretary of the Treasury to establish a program for making advance payments of the credit effective Dec. 31, 2019. The advance payments are reduced by \$50 for each \$1,000 by which the taxpayer's adjusted gross income exceeds the threshold amount—\$110,000 in the case of a joint return and \$75,000 in the case of an individual who is not married.
- Impact. Provides families with children with an additional income boost to help cover the costs associated with dependents under the age of 18. It also provides an additional \$600 for families with young children. The advance payment of the credit also serves as a loan for families that need fast access to cash, providing an alternative to high-interest financial products.

Sec. 20132. Application of Child Tax Credit in Possessions.

- Expands eligibility for the CTC to "mirror code" territories and covers the cost of the territories' CTC.
- This amount is determined by the secretary of the Treasury based on information provided by the territorial governments.
- Puerto Rico, which does not have a mirror code, will receive the refundable CTC by having its residents file for the CTC with the IRS.
- Impact. Allows taxpayers in the territories to benefit from the CTC.

SUBTITLE E – DEPENDENT CARE ASSISTANCE

Sec. 20141: Refundability and Enhancement of Child and Dependent Care Tax Credit for 2020.

- Makes the child and dependent care tax credit (CDCTC) fully refundable for 2020 and increases the maximum credit rate to 50%.
- Doubles the amount of child and dependent care expenses that are eligible for the credit to \$6,000 for one qualifying individual and \$12,000 for two or more qualifying individuals.
- Amends the phaseout threshold to begin at \$120,000 instead of \$15,000.
- Makes the provision not applicable to possessions, whether the possession has a mirror tax code or not, if such possession allows its own credit against taxes paid.
- Impact. This provision greatly enhances the value of the CDCTC for working families.

Sec. 20142: Increase in Exclusion for Employer-Provided Dependent Care Assistance for 2020.

- Increases the exclusion from \$5,000 to \$10,500 (from \$2,500 to \$5,250 for married individuals filing separately) for employer-provided dependent care assistance for 2020.
- Allows cafeteria plans and dependent care flexible spending arrangements to be amended by the end of 2020 with these provisions applied retroactively.
- Impact. This provision more than doubles employer-provided dependent care assistance for working families.

SUBTITLE F – FLEXIBILITY FOR CERTAIN EMPLOYEE BENEFITS

Sec. 20151: Increase in Carryover for Health Flexible Spending Arrangements in 2020.

- Permits cafeteria plans and health flexible spending arrangements to allow participants to carry over up to \$2,750 of unused benefits or contributions from 2020 to 2021.
- Impact. This provision allows individuals having a health flexible spending arrangement to carry over amounts up to \$2,750 (increased from \$500) from 2020 to 2021.

Sec. 20152: Carryover for Dependent Care Flexible Spending Arrangements in 2020.

- Permits cafeteria plans and dependent care flexible spending arrangements to allow participants to carry over up to \$10,500 of unused benefits or contributions from 2020 to 2021.
- Impact. This provision allows individuals having a dependent care flexible spending arrangement to carry over amounts up to \$10,500 (increased from \$5,000) from 2020 to 2021.

Sec. 20153: Carryover of Paid Time Off in 2020.

- Permits cafeteria plans to allow participants to carry over unused paid time off benefits from 2020 to 2021.
- Impact. This provision allows individuals to carry over unused paid time off from 2020 to 2021.

Sec. 20154: Change in Election Amount in 2020.

- Permits cafeteria plans and health flexible spending arrangements to allow participants to make one-time elections to a health FSA or to the amount of paid time off.
- The one-time election is permitted between the date of enactment and Dec. 31, 2020.
- Impact. This provision allows participants in health FSAs and paid time off cafeteria plans the flexibility to adjust their elections one time during 2020.

Sec. 20155: Extension of Grace Periods, Etc.

- Permits cafeteria plans, health flexible spending arrangements and dependent care flexible spending arrangements to provide for an extension of the grace period for up to 12 months after the end of the 2020 plan year. Extending the grace period will allow participants to use benefits or contributions from these plans or arrangements for expenses for the time of the grace period extension.
- This provision also allows cafeteria plans, health flexible spending arrangements and dependent care flexible spending arrangements to be amended to permit participants who have ceased participation in the plans, during calendar year

2020, to continue receiving reimbursements from these plans or arrangements for expenses for the remainder of 2020 and during the grace period extension.

- **Impact.** This provision allows both current and former participants to have flexibility in fully utilizing their cafeteria plan, health FSA and dependent care FSA benefits and contributions for expenses incurred in 2020 and 2021.

Sec. 20156: Plan Amendments.

- Allows cafeteria plans, health flexible spending arrangements and dependent care flexible spending arrangements to be amended by the end of 2020 with these provisions applied retroactively.
- **Impact.** This provision greatly increases the flexibility for employers to assist their employees and former employees in managing their cafeteria, health FSA and dependent care FSA benefits.

SUBTITLE G – DEDUCTION OF STATE AND LOCAL TAXES

Sec. 20161: Elimination for 2020 and 2021 of Limitation on Deduction of State and Local Taxes.

- Eliminates the limitation on the deduction for state and local taxes for taxable years beginning on or after Jan. 1, 2020, and on or before Dec. 31, 2021, that was imposed by the Tax Cuts and Jobs Act of 2017 (TCJA).
- **Impact.** A temporary moratorium on the \$10,000 SALT deduction cap imposed by the TCJA.

Title II—Additional Relief For Workers

SUBTITLE A – ADDITIONAL RELIEF

Sec. 20201: Increase in Above-the-Line Deduction for Certain Expenses of Elementary and Secondary School Teachers.

- Increases the above-the-line deduction from \$250 to \$500 for certain expenses of elementary and secondary school teachers. The relief will apply to taxable years beginning after Dec. 31, 2019.
- **Impact.** This will allow elementary and secondary school teachers to take up to \$500 for out-of-pocket expenses.

Sec. 20202: Above-the-line Deduction Allowed for Certain Expenses of First Responders.

- Provides for an above-the-line deduction for certain expenses incurred by first responders related to tuition or uniforms up to \$500. The relief will apply to taxable years beginning after Dec. 31, 2019.
- First responders are defined as any employee who provides 1,000 hours of service during the year as a law enforcement officer, firefighter, paramedic or emergency medical technician. The provision is indexed for inflation.
- **Impact.** Allows first responders to take a deduction for tuition and uniforms up to \$500.

Sec. 20203: Temporary Above-the-Line Deduction for Supplies and Equipment of First Responders and COVID-19 Front-Line Employees.

- Provides for a \$500 above-the-line deduction for first responders and COVID-19 frontline employees for uniforms, supplies and equipment. A COVID-19 frontline employee includes any individual who performs 1,000 hours of essential work. The relief will apply to taxable years beginning after Dec. 31, 2019.
- **Impact.** Allows first responders to take a deduction for uniforms, supplies and equipment up to \$500.

Sec. 20204: Payroll Credit for Certain Pandemic-Related Employee Benefit Expenses Paid by Employers.

- Provides a 30% payroll tax credit equal to the percentage of qualified pandemic-related employee benefit expenses. The credit goes up to 50% in the case of qualified pandemic-related employee benefit expenses paid with respect to an essential employee, defined by the COVID-19 Heroes Fund.
- The employee benefit expenses may not exceed \$5,000 for any calendar quarter per employee. The credit is limited to certain employment taxes but not reduced by §§7001 and 7003 of the Families First Coronavirus Response Act (FFCRA) and §2301 of the CARES Act. Any excess payment of the credit will be refunded. The benefit will be reduced by any government grants from the federal, state and local levels.
- Qualified pandemic-related employee benefit expenses mean any amount paid to or for the benefit of an employee of the employer if the amount is excludable from income because of a disaster relief payment and the employer elects to treat it

as a qualified pandemic-related expense.

- The credit is not applicable in a manner that discriminates in favor of highly compensated individuals. An employer may apply this provision separately to essential employees versus other employees. The credit is not allowed for so much of qualified pandemic-related employee benefit expenses equal to the credit.
- **Impact.** Helps employers cover the cost of qualified pandemic-related employee benefit expenses; also helps employers cover expenses paid to employees if a substantial portion of the services is essential work.

SUBTITLE B – TAX CREDITS TO PREVENT BUSINESS INTERRUPTION

Sec. 20211: Improvements to Employee Retention Credit.

- Applied retroactively to the enactment date of the CARES Act, this provision increases the applicable percentage of qualified wages for the CARES Act employee retention credit (ERTC) from 50% to 80%.
- Increases the ERTC \$10,000 employee cap to \$15,000 per employee, per quarter, and \$45,000 per employee overall.
- Removes the ERTC distinction between companies with over 100 average full-time employees, and instead distinguishes between “large employers” and those who are not. Large employers are those companies in 2019 that had over 1,500 average full-time employees and gross receipts of over \$41,500,000.
- Adds a phase-in so that businesses with at least a 10% quarterly reduction in gross receipts can qualify for the credit (as opposed to a 50% reduction as required by the CARES Act for a significant decline in gross receipts).
- Allows 501(c)(1) tax-exempt government entities to qualify for the credit (unlike the CARES Act) for wages paid while operations are suspended (but not for a significant decline in gross receipts).
- Clarifies that group health plan expenses can be considered qualified wages even when no other wages are paid to the employee.
- **Impact.** This provision increases the number of businesses eligible for the ERTC, and also increases the incentives for employers to retain their employees during the COVID-19 emergency.

Sec. 20212: Payroll Credit for Certain Fixed Expenses of Employers Subject to Closure by Reason of COVID-19.

- Provides eligible employers a refundable payroll tax credit for 50% of qualified fixed expenses paid or accrued after March 12, 2020, and before Jan. 1, 2021.
- Eligible employers are those employers carrying on a trade or business during 2020 that had either (1) no more than 1,500 full-time equivalent employees in 2019, or (2) no more than \$41,500,000 of gross receipts in 2019, and were partially or fully suspended due to COVID-19 orders or experienced a significant decline in gross receipts.
- The credit is limited each quarter to the least of (1) qualified fixed expenses paid in the same quarter of 2019, (2) \$50,000, and (3) the greater of (i) 25% of wages (including certain health plan expenses) paid in the quarter, or (ii) 6.25% of 2019 calendar year gross receipts. Note, for employers with a significant decline in gross receipts, there is a phase-in of the credit when gross receipts have not declined by at least 50%.
- Qualified fixed expenses means the payment or accrual of any “covered mortgage obligation,” “covered rent obligation,” or “covered utility payment,” as defined in the CARES Act, but does not include prepayments covering more than one month unless the payment for such period is customarily paid in advance.
- **Impact.** This provision assists employers in making rent, mortgage and utility payments.

Sec. 20213: Business Interruption Credit for Certain Self-Employed Individuals.

- Provides a 90% refundable individual income tax credit, up to \$45,000, for self-employed individuals who have experienced more than a 10% reduction in self-employment income from 2019 to 2020 in the conduct of a trade or business.
- The credit may be claimed on “qualified self-employment income,” which is the loss in gross income for self-employment that exceeds a 10% reduction from 2019 to 2020, scaled using the ratio of net earnings from self-employment to gross income from self-employment in 2019.
- The credit is reduced by 50% of the taxpayer’s modified adjusted gross income as exceeds \$60,000 (\$120,000 for joint filers).
- **Impact.** This provision assists self-employed individuals who have experienced more than a 10% reduction in self-employment income.

SUBTITLE C – CREDITS FOR PAID SICK AND FAMILY LEAVE

Sec. 20221: Extension of Credits.

- Extends the payroll tax credits for emergency paid sick leave provided by employers and for certain self-employed individuals and for emergency paid family leave provided by employers and for certain self-employed individuals through Dec. 31, 2021.
- The effective date of this provision is as though it were included in the FFCRA (April 1, 2020).
- Impact. This provision extends the payroll tax credits for paid sick and emergency paid family leave by one year.

Sec. 20222: Repeal of Reduced Rate of Credit for Certain Leave.

- Repeals the reduced \$200/day credit for emergency paid sick leave for caregivers of individuals subject to a coronavirus-related stay-at-home order and parents providing care for children affected by a coronavirus-related school closure. This is replaced by a \$511/day refundable tax credit, making the emergency paid sick leave tax credit amount consistent with the higher amount provided for other coronavirus-related emergency paid sick leave.
- The effective date of this provision is for emergency paid sick leave days occurring on or after the date of enactment.
- Impact. This provision equalizes all of the refundable emergency paid sick leave tax credits at \$511/day.

Sec. 20223: Increase in Limitations on Credits for Paid Family Leave.

- Allows employers to claim up to \$12,000 in refundable emergency paid family leave credits, rather than \$10,000. This increase allows individuals to receive the emergency paid family leave benefit for a maximum of 60, rather than 50 days.
- The effective date of this provision is as though it were included in the FFCRA (April 1, 2020).
- Impact. This provision provides a longer emergency paid family leave benefit for employees and a larger refundable tax credit for employers.

Sec. 20224: Election to Use Prior Year Net Earnings from Self-Employment in Determining Average Daily Self-Employment Income.

- Allows self-employed individuals to elect to use their 2019 net earnings from self-employment to determine the average daily self-employment income for purposes of calculating the paid sick and emergency paid family leave tax credit.
- The effective date of this provision is as though it were included in the FFCRA (April 1, 2020).
- Impact. This provision allows self-employed individuals to elect to use a larger average daily self-employment amount from 2019, which will result in a larger tax credit.

Sec. 20225: Federal, State and Local Governments Allowed Tax Credits for Paid Sick and Paid Family and Medical Leave.

- Allows federal, state and local governments, and agencies and instrumentalities to avail themselves of the tax credits if they provide paid sick and emergency paid family leave.
- The effective date of this provision is as though it were included in the FFCRA (April 1, 2020).
- Impact. This provision expands the paid sick and emergency paid family leave to include federal, state and local governmental entities.

Sec. 20226: Certain Technical Improvements.

- Makes technical changes coordinating the definition of qualified wages for emergency paid sick and emergency paid family leave. Clarifies that such leave is excluded from employer OASDI.
- The effective date of this provision is as though it were included in the FFCRA (April 1, 2020).
- Impact. This provision makes coordinating changes to the definition of qualified wages and clarifies that such wages are excluded from OASDI.

Sec. 20227: Credits Not Allowed for Certain Large Employers.

- Provides that employers with 500 or more employees, as applicable large employers, are not eligible for payroll tax credits for providing emergency paid sick or emergency paid family leave.
- Excludes federal, state and local governments from the definition of applicable large employers.
- This provision applies to wages paid after the date of enactment.
- Impact. This provision clarifies that applicable large employers are not eligible for payroll tax credits, even if paid sick and

emergency paid family leave is paid.

SUBTITLE D – OTHER RELIEF

Sec. 20231: Payroll Tax Deferral Allowed for Recipients of Certain Loan Forgiveness.

- Provides businesses a payroll tax deferral if receiving loan forgiveness under the Payroll Protection Program of the CARES Act.
- Impact. Allows those receiving the Paycheck Protection Program a payroll tax deferral.

Sec. 20232: Emergency Financial Aid Grants.

- Provides that emergency financial aid grants will not be included in income.
- Emergency financial aid grant is defined as an emergency financial aid grant in §3504 of the CARES Act, any emergency financial aid grant from a higher education institution under §18004 of the CARES Act, and any other emergency financial aid grant from a federal agency, state, Indian tribe, institution of higher education, or scholarship granting organization, as defined in §3502(a)(4) of the CARES Act.
- The provision does not apply to teaching, research or services required as a condition for receiving aid.
- Impact. Provides relief for those receiving emergency financial aid grants to not include aid received in income for tax purposes.

Sec. 20233: Certain Loan Forgiveness and Other Business Financial Assistance under the CARES Act Not Includable in Gross Income.

- Provides that certain loan forgiveness by the Small Business Administration, EIDL grants, and certain loan payments laid out in §1109(d)(2)(D) of the CARES Act will not be included in income for tax purposes.
- Impact. Provides relief to those receiving certain loan forgiveness in the CARES Act by not including forgiveness in income.

Sec. 20234: Authority to Waive Certain Information Reporting Requirements.

- The secretary of the Treasury may waive the requirements to file an information return for any amount excluded from gross income, loan forgiveness provided by the CARES Act for the two sections prior: emergency financial aid grants and certain loan forgiveness.
- Impact. Permits the secretary of the Treasury to waive the requirement to file information returns on emergency financial aid grants and certain loan forgiveness.

Sec. 20235: Clarification of Treatment of Expenses Paid or Incurred with Proceeds from Certain Grants and Loans.

- Clarifies that no amount of expenses paid or incurred with proceeds from certain grants and loans under the CARES Act should be included in gross income. This includes expenses or proceeds from the Payment Protection Program and certain loan forgiveness by the Small Business Administration, EIDL grants, and certain loan payments not covered in §233 of this Act.
- Impact. Clarifies §1106(i) of the CARES Act should not include expenses paid or incurred with certain grants and loans in tax liability.

Sec. 20236: Reinstatement of Certain Protections for Taxpayer Returns Information.

- Reinstates certain taxpayer protections under §6103 modified by the CARES Act, and applies the effective date of this section to disclosures made after the enactment of the Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act.
- Impact. Reinstates taxpayer protections under §6103 for disclosures made after the enactment of the FUTURE Act.

Title III—Net Operating Losses

Sec. 20301: Limitation on Excess Business Losses of Non-Corporate Taxpayers Restored and Made Permanent.

- This provision reinstates the \$250,000 (\$500,000 for joint return) limitation on excess business losses for pass-through businesses and sole proprietors that had been suspended by the CARES Act for tax years 2018, 2019 and 2020.

- This provision also removes I.R.C. §461(j) (which the CARES Act had suspended from Jan. 1, 2018, through Dec. 31, 2025), which provides that for taxpayers other than C corporations receiving an “applicable subsidy,” excess farm losses are disallowed as a deduction against non-farm income.
- Impact. Non-C corporation taxpayers will be subject to the excess business loss limitations for 2018, 2019 and 2020, which may delay their ability to use such losses.

Sec. 20302: Certain Taxpayers Allowed Carryback of Net Operating Losses Arising in 2019 and 2020.

- This section provides that net operating losses for tax years 2019 and 2020 may only be carried back to 2018 (instead of the five-year carryback provided in the CARES Act).
- The 2019 and 2020 carryback is not allowed for (1) taxpayers with excessive compensation under 162(m) or golden parachute payments under 280G, or (2) certain corporations with excessive distributions or stock buybacks.
- Impact. This provision is detrimental to taxpayers as it will limit their ability to carry back losses to offset taxable income.

Division D: Retirement Provisions

Title I—Relief for Multiemployer Pension Plans

Sec. 40101: Special Partition Relief.

- In a partition, the Pension Benefit Guaranty Corporation (PBGC) takes on the financial responsibility of some of the benefits of an eligible plan so that the plan can stay solvent. Because the COVID-19 crisis has caused investment losses to pension plan assets and resulted in a decreased number of hours worked by employees, plan funding may decrease over time, resulting in more troubled pension plans.
- Sec. 101 amends the Employee Retirement Income Security Act of 1974 (ERISA), as previously amended, to create a special partition program that would expand PBGC’s existing authority, increase the number of eligible plans, and simplify the application process.
 - Eligible multiemployer plans would include plans in critical and declining status in any plan year beginning in 2020 through 2024; plans with significant underfunding with more retirees than active workers; plans that, as of the date of enactment, have suspended benefits; and plans that became insolvent after Dec. 16, 2014, and have not been terminated as of the date of enactment.
 - The special partition program would provide a plan with enough financial assistance to keep it solvent and well-funded for 30 years with no cuts to the earned benefits of participants and beneficiaries and with the funded status of the plan (disregarding partitioned benefits) at the end of the 30-year period projected to be 80%.
 - Plans that previously cut benefits would have to restore those benefits to the retirees who earned them.
 - Each plan receiving financial assistance would have to comply with certain conditions and would be required to file regular comprehensive reports to the PBGC and the congressional committees of jurisdiction.
 - Applications for special partition assistance would have to be submitted no later than Dec. 31, 2026, and revised applications would have to be submitted no later than Dec. 31, 2027.
- Also includes important accountability and transparency provisions pursuant to which the PBGC would be required to annually report to Congress, and the Government Accountability Office (GAO) would be required to regularly evaluate PBGC’s implementation and administration of the special partition relief program.
- Impact. Would broaden the PBGC’s powers and resources to assist troubled pension plans and protect retirees and their earned benefits while helping businesses avoid debilitating liabilities.

Sec. 40102: Repeal of Benefit Suspensions for Multiemployer Plans in Critical and Declining Status.

- Amends §432(e) and §305 of ERISA so that plans are no longer permitted to apply or be approved for a suspension of benefits under the Multiemployer Pension Reform Act (MPRA).
- Impact. Participants and beneficiaries in multiemployer pension plans would no longer suffer cuts to their accrued benefits under MPRA.

Sec. 40103: Temporary Delay of Designation of Multiemployer Plans as in Endangered, Critical, or Critical and Declining Status.

- If a plan elects application of this section, then for purposes of §432 and ERISA §305, the funding zone status of the plan as

of the first plan year beginning during the period beginning on March 1, 2020, and ending on Feb. 28, 2021, or the succeeding plan year (as designated in the election) will be the same as the status of the plan for the plan year preceding the designated plan year.

- Any plan in endangered or critical status for the plan year preceding the designated plan year would not have to update its plan or schedules until the plan year following the designated plan year.
- Impact. Would provide plans with flexibility and administrative ease given the current economic and financial turmoil resulting from the COVID-19 public health crisis.

Sec. 40104: Temporary Extension of the Funding Improvement and Rehabilitation Periods for Multiemployer Pension Plans in Critical and Endangered Status for 2020 or 2021.

- A plan in endangered or critical status for a plan year beginning in 2020 or 2021 could elect to extend its rehabilitation period by five years.
- This provision would be effective for plan years beginning after Dec. 31, 2019.
- Impact. Would provide a plan in endangered or critical status additional time to improve contribution rates, limit benefit accruals and maintain plan funding.

Sec. 40105: Adjustments to Funding Standard Account Rules.

- Amends §431 and ERISA §304 to provide that pension plans, which satisfy the solvency test as of Feb. 29, 2020, can elect to use a 30-year amortization base for investment losses in plan years beginning in 2019 and 2020 to spread out those losses over time.
- This provision is effective for plan years ending on or after Feb. 29, 2020.
- Impact. Would provide pension plans more stability and a longer period over which to pay for long-term liabilities to assist plans in getting through the current financial downturn related to COVID-19.

Sec. 40106: PBGC Guarantee for Participants in Multiemployer Plans.

- Amends ERISA § 4022A to double the pension benefits under a multiemployer pension plan guaranteed by the PBGC from (i) 100% of the first \$11 of the monthly benefit rate, plus 75% of the next \$33 of the monthly benefit rate, multiplied by the participant's years of credited service to (ii) 100% of the first \$15 in monthly benefits per year of service and 75% of the next \$70 in monthly benefits per year of service, multiplied by the participant's years of credited service, and indexes it thereafter.
- All plans receiving financial assistance beginning Dec. 16, 2014, would have the benefit of the increased guarantee.
- Impact. This would increase the benefits guaranteed by the PBGC to the benefit of plan participants and beneficiaries.

Title II—Relief for Single Employer Pension Plans

Sec. 40201: Extended Amortization for Single Employer Plans.

- Amends §430 and ERISA §303 to provide that:
 - All shortfall amortization bases for all plan years beginning after Dec. 31, 2019 (and all shortfall amortization installments determined with respect to such bases), would be reduced to zero; and
 - All shortfalls would be amortized over 15 years, rather than seven years.
- This would be effective for plan years beginning after Dec. 31, 2019.
- Impact. Would provide single employer pension plans more stability and a longer period over which to pay for long-term liabilities to assist those plans in getting through the current COVID-19-related financial conditions.

Sec. 40202: Extension of Pension Funding Stabilization Percentages for Single Employer Plans.

- In 2012, 2014 and 2015, Congress provided for pension interest rate smoothing to address concerns that historically low interest rates were creating inflated pension funding obligations and were diverting corporate assets away from jobs and business recovery. The smoothed interest rates would begin phasing out in 2021.
- Amends §430 and ERISA §303 so that:
 - The 10% interest rate corridor would be reduced to 5%, effective in 2020.
 - The phaseout of the 5% corridor would be delayed until 2026, at which point the corridor would, consistent with

- current law, increase by five percentage points each year until it attains 30% in 2030, where it would remain.
- A 5% floor would be put on the 25-year interest rate averages to establish stability and predictability on a longer-term basis and to prevent interest rate variations and excessive volatility.
- This provision is effective for plan years beginning after Dec. 31, 2019.
- Impact. Would extend the interest rate smoothing to preserve stabilization for single employer pension plans.

Title III—Other Retirement Related Provisions

Sec. 40301: Waiver of Required Minimum Distributions for 2019.

- Expands the temporary waiver of the required minimum distribution rules for certain retirement plans as enacted under §2203 of the CARES Act to include payments made in calendar year 2019 in addition to calendar year 2020.
- No minimum distribution is required for calendar years 2019 and 2020 from (i) defined contribution plans, as described in §401(a), 403(a) or 403(b), (ii) §457(b) eligible deferred compensation plans maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, and (iii) IRAs and other individual retirement plans.
- Amounts paid in 2019 and 2020 that otherwise would be required minimum distributions are eligible for rollover treatment and thus can remain tax deferred.
- Calendar years 2019 and 2020 are disregarded for purposes of determining the five-year post-death period in which full distribution must be made to beneficiaries who are not designated beneficiaries.
- Plan amendment deadline in §2203 of the CARES Act continues to apply (that is, related plan amendments generally required by the last day of the first plan year beginning on or after Jan. 1, 2022, two-year extended amendment deadline for governmental plans).
- Impact. Allows older individuals to preserve more of their retirement funds and protects them from having taxable distributions in 2019 and 2020 when their entire account is sharply decreased due to poor market performance in 2020.

Sec. 40302: Waiver of 60-Day Rule in Case of Rollover of Otherwise Required Minimum Distributions in 2019 and 2020.

- Amounts paid to individuals in 2019 and 2020 that otherwise would be required minimum distributions (RMDs) can be deposited into an eligible retirement plan or IRA without regard to the otherwise applicable (i) 60-day rollover requirement or (ii) once-per-year restriction on an individual's IRAs in the aggregate, if the deposit is made before Dec. 1, 2020.
- Impact. Allows individuals to continue to defer taxation in 2019 and 2020 on payments that otherwise would have been RMDs. This will save individuals from having to seek a waiver of the 60-day requirement through (i) the self-certification and audit process or (ii) a private letter ruling request.

Sec. 40303: Employee Certification as to Eligibility for Increased CARES Act Loan Limits from Employer Plan.

- Amends §2202(b) of the CARES Act to allow a qualified employer plan to be able to rely on a participant's self-certification that the participant is a "coronavirus affected individual" within the meaning of §2202(a)(4)(A)(ii) of the CARES Act.
- Impact. Adds a technical correction so that, in a manner similar to the self-certification process applicable to coronavirus-related distributions, participants can self-certify that they are eligible to (i) apply for coronavirus-related loans (up to the lesser of \$100,000 or 100% of the vested accrued benefit) and (ii) delay the loan repayment and loan term by up to one year.

Sec. 40304: Exclusion of Benefits Provided to Volunteer Firefighters and Emergency Medical Responders Made Permanent.

- Permanently reinstates the exclusion from gross income of "qualified state or local tax benefits" and "qualified reimbursement payments" provided to members of qualified volunteer emergency response organizations (QVERO).
 - "Qualified state or local tax benefits" are rebates or refunds of state or local income taxes, state or local real property taxes, and state or local personal property taxes provided by state or local governments on account of services performed by individuals as members of a QVERO.
 - "Qualified reimbursement payments" are payments (whether reimbursement or otherwise) provided by a state or political division of a state on account of the performance of services as a member of a QVERO, limited to a maximum of \$50 multiplied by the number of months during the year the taxpayer performs QVERO-related services.
- Applies to taxable years beginning after Dec. 31, 2020.

- Impact. Allows volunteer fire and emergency medical services personnel to receive recruitment and retention incentives without those incentives being considered as taxable income.

Sec. 40305: Application of Special Rules to Money Purchase Pension Plans.

- Clarifies that the coronavirus-related distribution and loan provisions provided under §2202 of the CARES Act also applies to money purchase pension plans.
- Impact. Adds a technical correction so that participants in qualified defined contribution plans that are money purchase pension plans are eligible for coronavirus-related distributions and loans, if the plan is amended to add these benefits.

Sec. 40306: Grants to Assist Low-Income Women and Survivors of Domestic Violence in Obtaining Qualified Domestic Relations Orders.

- Awards grants of at least \$250,000 to established community-based organizations on a competitive basis to assist low-income women and survivors of domestic violence in obtaining qualified domestic relations orders (QDROs) to ensure that these women actually obtain the retirement benefits to which they are entitled through those orders.
- Authorizes appropriations of \$100 million for fiscal year 2020 and each succeeding fiscal year.
- Impact. Helps low-income women and survivors of domestic violence who are “alternate payees” to secure benefits from participants in tax-qualified plans.

Sec. 40307: Modification of Special Rules for Minimum Funding Standards for Community Newspaper Plans.

- Expands the minimum funding relief provided under §115 of the SECURE Act to additional types of community newspapers.
- Impact. Allows additional community newspapers to stretch out their required pension plan contributions over a longer time period.

Sec. 40308: Minimum Rate of Interest for Certain Determinations Related to Life Insurance Contracts.

- Revises the interest rate assumptions under §7702 for determining whether permanent life insurance policies qualify as a life insurance contract for tax purposes.
- Specifically, ties the interest rates to either a floating rate prescribed in the National Association of Insurance Commissioners’ Standard Valuation Law or a floating rate based on the average applicable federal midterm rates over a 60-month period.
- Impact. Updates §7702 to reflect the then-current interest rate environment to ensure that the rates appropriately reflect economic conditions.

Division E: Continued Assistance to Unemployed Workers

Sec. 50001: Extension of Federal Pandemic Unemployment Compensation (FPUC).

- Extends the \$600 per week FPUC supplement to state and federal unemployment benefits under the CARES Act through Jan. 31, 2021.
- For individuals whose eligibility for regular state unemployment benefits begins before Jan. 31, 2021, the FPUC supplement continues, but the FPUC supplement will end no later than March 31, 2021.
- FPUC benefits will not be considered as income when determining eligibility for benefits or assistance, and will be excluded from resource limits for nine months following receipt.
- Impact. This provision expands the duration of the \$600 additional FPUC payments until Jan. 31, 2021 (and under certain circumstances until March 31, 2021), and excludes the payments from eligibility for benefits and assistance calculations.

Sec. 50002: Extension and Benefits Phaseout Rule for Pandemic Unemployment Assistance (PUA).

- Extends the PUA benefits for individuals who otherwise do not qualify for regular unemployment compensation under the CARES Act through Jan. 31, 2021.
- For individuals whose eligibility for benefits begins before Jan. 31, 2021, the PUA continues, but will end no later than March 31, 2021.
- Impact. This provision expands the duration of the PUA benefit payments until Jan. 31, 2021 (and under certain circumstances until March 31, 2021).

Sec. 50003: Extension and Benefit Phaseout Rule for Pandemic Extended Unemployment Compensation (PEUC).

- Extends the PEUC benefits, consisting of an additional 13 weeks of unemployment benefits under the CARES Act for those who have exhausted their regular state unemployment benefits, through Jan. 31, 2021.
- For individuals whose eligibility for benefits begins before Jan. 31, 2021, the PEUC continues, but will end no later than March 31, 2021.
- Impact. This provision expands the duration of the PEUC benefit payments until Jan. 31, 2021 (and under certain circumstances until March 31, 2021).

Sec. 50004: Extension of Full Federal Funding for the First Week of Compensable Regular Unemployment for States with No Waiting Week.

- Extends the application of §2105 of the CARES Act, providing federal reimbursement for states that waive the first week waiting period for unemployment compensation, from Dec. 31, 2020, until Jan. 31, 2021.
- Impact. This provision extends the full federal funding for one month.

Sec. 50005: Extension of Emergency Relief and Technical Corrections for Governmental Entities and Nonprofit Organizations.

- Amends §2103 of the CARES Act, providing federal funding to states for amounts that eligible governmental entities and nonprofits would be required to pay.
- Extends the application of §2103 from Dec. 31, 2020, until Jan. 31, 2021.
- Impact. This provision provides technical corrections to and extends financial relief for one month for certain governmental entities and nonprofit organizations.

Sec. 50006: Reduction of State Administrative Burden in Determination of Amount of Pandemic Unemployment Assistance (PUA).

- Amends §2102 of the CARES Act to provide states with flexibility for verifying sources of income for PUA applicants, including from electronic data sources.
- Impact. This provision provides flexibility in verifying sources of income for PUA applicants.

Sec. 50007: Extension of Temporary Assistance to States with Advances.

- Families First Coronavirus Response Act provided states with interest-free loans to assist with the payment of unemployment compensation benefits through Dec. 31, 2020. This provision extends that duration through June 30, 2021.
- Impact. Given that unemployment numbers are expected to remain high through the end of 2021, this provides states with additional resources to help pay unemployment compensation benefits to those who have been furloughed or laid off due to COVID-19.

Sec. 50008: Extension of Full Federal Funding of Extended Unemployment Compensation.

- Families First Coronavirus Response Act increased federal reimbursement for extended unemployment compensation from 50% to 100% for states that experience a 10% or higher unemployment rate compared to the previous year and comply with other beneficiary access requirements through Dec. 31, 2020. This section extends the 100% reimbursement to cover benefits paid through June 30, 2021.
- Impact. Given that unemployment numbers are expected to remain high through the end of 2021, this provides states experiencing particularly high unemployment rates with additional resources to help pay benefits to those who have been furloughed or laid off due to COVID-19.

Sec. 50009: Extension of Temporary Financing of Short-Time Compensation Payments to States with Programs in Law.

- Families First Coronavirus Response Act provided funding to support existing state “short-time compensation” (STC) programs, where employers reduce employees’ hours instead of laying off workers and the employees with reduced hours receive a pro-rated unemployment benefit. The federal government pays 100% of the costs incurred by the states in providing STC through Dec. 31, 2020.
- This section would extend the period in which payments under STC programs in state law were 100% federally reimbursable through Jan. 31, 2021.
- Impact. Provides a fully federally funded “bridge” compensation for employees where employers keep employees on the payroll but reduced their hours. This encourages states to continue to participate in these STC arrangements.

Sec. 50010: Extension of Temporary Financing of Short-Time Compensation Payments.

- Families First Coronavirus Response Act permitted states to enter into an agreement with the Department of Labor to enact a STC plan if they did not already have such plans. It provided funding to support these states by covering 50% of the costs a state incurs in administering STC through Dec. 31, 2020.
- This section would extend the 50% reimbursement for STC payments not made under a state law through Jan. 31, 2021.
- Impact. Provides a fully federally funded “bridge” compensation for employees where employers keep employees on the payroll but reduced their hours. This encourages states to participate in these STC arrangements

Sec. 50011: Grace Period for Full Financing of New Short-time Compensation Programs.

- This provision ensures that any states that enact a STC program will receive full federal financing for all agreements in place after March 29, 2020 even if agreement began before a new state STC law became effective.
- Impact. This provides states with additional time to qualify for 100% federal financing of STC programs.

Division I: Small Business Provisions

Sec. 90001: Amendments to the Paycheck Protection Program.

- Extends the Paycheck Protection Program (PPP) from June 30, 2020, to Dec. 31, 2020.
- Expands eligibility for tribal business concerns, nonprofit organizations that are critical access hospitals even if it is a debtor in bankruptcy proceedings, any 501(c) (not just 501(c)(3)) nonprofit organizations regardless of employee size, and local news media outlets.
- Sets aside 25% of funds for businesses with 10 or fewer employees and sets aside 25% of funds for nonprofits (with 12.5% to go to nonprofits with 500 employees or less).
- Sets aside 25% or \$10 billion of remaining PPP funds for loans to be issued by community financial institutions. Provides \$1 billion in technical assistance for community financial institutions with consolidated assets of less than \$10 billion.
- Amends the maximum maturity of the loan to five years (from 10 originally).
- Returned loan amounts must go to businesses with 10 employees or less.
- Impact. Makes significant changes to the duration of the PPP and the eligible businesses while also seeking to ensure funds are specifically allocated to very small businesses, nonprofits and community financial institutions.

Sec. 90002: Commitments for Paycheck Protection Program.

- PPP funding levels will remain at \$659 billion through Dec. 31, 2020.
- Note that although the PPP did not receive additional funding, the EIDL grant program would receive \$10 billion in additional funds and also provides \$75 billion for SBA 7(a) loans (up from \$30 billion).
- Impact. The HEROES Act does not increase PPP funding. However, it does extend the duration of the PPP through the end of the year, instead of through June 30, 2020.

Sec. 90003: Inclusion of SCORE and Veteran Business Outreach Centers in Entrepreneurial Development Programs.

- Provides \$10 million for Veteran Business Outreach Centers and \$10 million for the Service Corps of Retired Executives Association to be included in entrepreneurial development programs through already appropriated funds.
- Impact. Increases the types of entities eligible to receive funds for entrepreneurial development programs.

Sec. 90004: Amendments to Paycheck Protection Plan Loan Forgiveness.

- Extends the loan forgiveness period to 24 weeks after such date of origination or Dec. 31, 2020.
- Extends the period to rehire employees to Dec. 31, 2020, and holds employers harmless from a forgiveness reduction if they are unable to rehire employees.
- Expands expenditures eligible for forgiveness to interest on any other debt obligations that were incurred before Feb. 15, 2020, and the amounts of EIDL loans that were refinanced.
- Restricts the administrator from limiting forgiveness amounts.
- Impact. Creates more flexibility for loan forgiveness by extending the forgiveness period, broadening forgivable costs, addressing instances where employers may have trouble rehiring employees due to enhanced unemployment benefits and would get rid of the 75/25 payroll costs rule that SBA put in place.

Sec. 90005: Improved Coordination Between Paycheck Protection Program and Employee Retention Tax Credit.

- Clarifies that eligible entities may enjoy both the ERTC and the PPP and directs the secretary of the Treasury to provide guidance on how this impacts forgiven amounts.
- Impact. Provides more certainty to entities that want to utilize the ERTC and also receive a PPP loan.

Sec. 90006: Taxability of Subsidy for Certain Loan Payments.

- Clarifies that principal and interest are not taxable as interest for small businesses.
- Impact. Would not make PPP principal and interest taxable as income.

Sec. 90007: Prohibiting Conflicts of Interest for Small Business Programs under the CARES Act.

- Amends §4019 of the CARES Act to ensure that conflict of interest standards are also applied to PPP loans.
- Impact. Clarifies that conflict of interest standards will apply to PPP loans.

Sec. 90008: Flexibility in Deferral of Payments of 7(a) Loans.

- Lenders must provide payment deferral of at least one year on principal and interest payments, and allows lenders flexibility for longer deferral periods. SBA may purchase the loan if an investor declines a lender request for deferral.
- Impact. Gives lenders more flexibility in deferring payments on certain 7(a) loans and provides that SBA has the authority to buy those loans to ensure the borrower may receive deferral.

Sec. 90009: Certain Criminal Violations and Disaster Loan Applications.

- Makes clear that juvenile criminal records will not impact an application for an EIDL loan.
- Impact. Provides clarity that small-business owners with juvenile criminal histories will not be excluded from SBA disaster loans.

Sec. 90010: Temporary Fee Reductions.

- Temporarily waives or reduces SBA 7(a) and 504 loan program fees for borrowers and lenders, including the Community Advantage and Export loan programs.
- Impact. Increases accessibility to core SBA programs through lowering the cost of certain SBA loans.

Sec. 90011: Guarantee Amounts.

- Increases the guarantee up to 90% on 7(a) loans and for 504 loans through Sept. 30, 2021. Also increases the guarantee on Express Loan amounts to 90% on loans up to \$350,000 and 75% on loans greater than \$350,000 until Jan. 1, 2021.
- Impact. Intends to increase lender participation in loan programs and increase access to funds for small-business borrowers.

Sec. 90012: Maximum Loan Amount for 7(a) Loans.

- Sets the maximum loan amount for a 7(a) loan at \$10 million until Sept. 30, 2021.
- Impact. Sets the maximum loan amount across the 7(a) program equal to the maximum loan amount of the PPP loan program.

Sec. 90013: Maximum Loan Amount for 504 Loans.

- Sets a temporary maximum loan amount for 504 loans to \$10 million until Sept. 30, 2021, and permanently increases the loan amount to \$10 million for small manufacturers. Also improves the terms for 504 loan refinancing and allows the SBA to utilize up to \$7.5 billion for refinancing.
- Impact. Sets the maximum loan amount across the 504 program equal to the maximum loan amount of the PPP loan program and allows for more favorable debt refinancing.

Sec. 90014: Recovery Assistance Under the Microloan Program.

- Provides set asides for microloan intermediaries as well as additional authority regarding microloans, increases loan amounts from \$6 million to \$10 million, and gives borrowers an extra two years to repay.
- Impact. Enhances the microloan program in an effort to reach underserved communities.

Sec. 90015: Cybersecurity Awareness Reporting.

- Requires strengthening and reporting on cybersecurity initiatives by the SBA.
- Impact. This provision would address reports that applicants' personally identifiable information was potentially compromised through the EIDL application portal.

Sec. 90016: Reporting on Small Business Programs under the CARES Act.

- Would require reporting on SBA lending programs to the House and Senate committees of jurisdiction, including daily and weekly reporting of the CARES Act lending programs.
- Impact. Increased congressional oversight of SBA lending programs is expected.

Sec. 90017: Funding for Resources and Services in Languages Other than English.

- Would direct \$25 million in unobligated salary and other expense costs authorized for SBA be re-obligated to provide funding to access populations where English is not a primary language.
- Impact. Requires SBA to redirect existing funds to serve non-English-speaking communities.

Sec. 90018: Direct Appropriations.

- Provides for \$500 million to carry out the 7(a) loan fee waivers, increased guarantees, and increased maximum loan amounts.
- Provides for \$7 million to carry out the requirements of §90014 and another \$50 million for technical assistance grants for microloans.
- Impact: Provides funding for to administer 7(a) loan and microloan programs.

Division L: Families, Workers and Community Support

Title I—Amendments to Emergency Family and Medical Leave Expansion Act and Emergency Paid Sick Leave Act

SUBTITLE A — EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT AMENDMENTS

Sec. 120101: References.

- References are to the Family and Medical Leave Act of 1993, as amended by the Emergency Family and Medical Leave Expansion Act.
- Impact. Reference provision.

Sec. 120102: Employee Eligibility and Employer Clarification.

- Creates an alternative category of eligible employee during the COVID-19 public health emergency by temporarily suspending, from the date of enactment until Dec. 31, 2022, application of the Family and Medical Leave Act (FMLA)'s current 1,250-hour eligibility requirement and reducing the FMLA's tenure eligibility requirement from 12 months to 90 days.
- Clarifies that public agencies are covered under the Family and Medical Leave Act of 1993, regardless of the number of employees.
- Impact. This provision ensures that rampant unemployment and furloughs do not leave workers unable to qualify for FMLA benefits in the near future.

Sec. 120103: Emergency Leave Extension.

- Extends the availability of the Emergency Family and Medical Leave Expansion Act benefits to Dec. 31, 2021.
- Impact. This provision extends the Emergency Family and Medical Leave Expansion Act by one year.

Sec. 120104: Emergency Leave Definitions.

- Provides private sector and public sector employees who have been on the job for at least 30 calendar days with the right to take up to 12 weeks of job-protected paid leave under the FMLA, regardless of the size of their employers.

- Defines qualifying need related to a public health emergency as an employee needing leave/unable to work for the following reasons: (1) self-isolating because the employee is diagnosed with COVID-19; (2) experiencing COVID-19 or seeking a medical diagnosis; (3) complying with an order to self-isolate; (4) caring for a family member who is self-isolating; (5) caring for a child whose school has closed or day care is unavailable due to COVID-19; or (6) caring for a senior citizen or disabled family member whose place of care or direct care provider is unavailable.
- Impact. This section provides clarifying definitions.

Sec. 120105: Regulatory Authorities.

- Amends the Emergency Family and Medical Leave Expansion Act by repealing §110(a)(3), removing the secretary of Labor's authority to issue regulations to exempt employers with fewer than 50 employees from the requirements of that Act and to exempt health care providers and emergency responders from the right to paid leave.
- Impact. This provision would expand the number of employees who are entitled to emergency paid family leave.

Sec. 120106: Paid Leave.

- Provides that the 12 weeks of emergency paid family leave does not count toward an employee's 12 weeks of unpaid FMLA leave.
- Repeals the requirement that the first 10 days of emergency paid family leave runs concurrently with the paid sick leave and is unpaid.
- Provides that only the employee can elect to take the emergency paid family leave concurrently with any other paid leave (e.g., vacation, personal leave, other medical or sick leave).
- Impact. This provision provides the employee with the choice of how other available paid leaves will run concurrently with emergency paid family leave.

Sec. 120107: Wage Rate.

- Provides that the wage rate for emergency paid family leave will be no less than 2/3 of the employee's usual pay, up to \$200/day, and no less than the applicable minimum wage in the area.
- Increases the aggregate per employee from \$10,000 to \$12,000, reflecting an increase from 50 days to 60 days.
- Impact. This provision clarifies the wage rate for emergency paid family leave and increases the aggregate per employee from \$10,000 to \$12,000.

Sec. 120108: Notice.

- Requires employees who are requesting emergency paid family leave during the COVID-19 public health emergency to give notice to their employers as soon as is practicable.
- Impact. This provision requires notice from employees as soon as is practicable.

Sec. 120109: Intermittent Leave.

- Clarifies that an employee can take emergency paid family leave intermittently or on a reduced work schedule, regardless of any prior agreement between the employer and employee.
- Impact. This provision provides employees with additional flexibility during the COVID-19 public health emergency.

Sec. 120110: Certification.

- Permits employers to require documentation to support requests for emergency paid family leave.
- Such documentation cannot be required before five weeks after the employee has started such leave.
- Impact. This provision allows for certification and documentation but in a flexible manner.

Sec. 120111: Authority of the Director of the Office of Management and Budget to Exclude Certain Employees.

- Repeals §3604 of the CARES Act, that allowed the director of OMB to exclude certain federal employees from the emergency paid family leave provisions.
- Impact. This provision allows all federal employees to receive emergency paid family leave.

Sec. 120112: Technical Amendments.

- Provides technical corrections.

- Impact. No impact, clarifying language of a technical nature.

Sec. 120113: Amendments to the Emergency Family and Medical Leave Expansion Act.

- Clarifies that employees who work under a multiemployer collective bargaining agreement, and whose employers pay into a multiemployer plan, are provided with emergency paid family leave.
- Repeals §3104 of Families First Coronavirus Response Act, eliminating the provision that restricts employees from exercising a private right of action against employers who have fewer than 50 employees.
- Repeals §3105 of FFCRA, allowing employers of health care providers and emergency responders their ability to exclude their employees from emergency paid family leave.
- Impact. This provision makes conforming changes to the Emergency Family and Medical Leave Expansion Act.

SUBTITLE B—EMERGENCY PAID SICK LEAVE ACT AMENDMENTS

Sec. 120114: References.

- References are to Division E of Families First Coronavirus Response Act.
- Impact. Reference provision.

Sec. 120115: Paid Sick Time Requirement.

- Allows eligible employees to use emergency paid sick leave for the same qualifying reasons related to a public emergency as set forth in §120104, above.
- For each 12-month period, eligible full-time employees are entitled to two workweeks (80 hours) of emergency paid sick leave. For each 12-month period, eligible part-time workers are entitled to hours of emergency paid sick leave that equal the typical number of hours that they work in a typical two-week work period.
- For employers with paid leave policies in place on the day before enactment, the emergency paid sick leave under FFCRA is in addition to the paid leave already provided.
- Clarifies that an employee can take emergency paid sick leave intermittently or on a reduced work schedule, regardless of any prior agreement between the employer and employee.
- Permits employers to require documentation from employees who are taking permitted leave, but only (1) when employees take at least three consecutive days off, and (2) after the employee has returned to work for at least seven workdays.
- Requires employees who are requesting emergency paid sick leave during the COVID-19 public health emergency to give notice to their employers as soon as is practicable.
- Clarifies that a covered employee entitled to leave with a previous employer is entitled to full emergency paid sick leave when they begin employment with a new employer.
- This provision disallows any employer retaliation for taking leave, by requiring that an employee who returns from leave be restored to their position or an equivalent position (considering benefits, pay and terms of employment).
- Impact. This provision adds employee protections so as not to discourage taking emergency paid sick leave.

Sec. 120116: Sunset.

- Extends the availability of Emergency Paid Sick Leave Act benefits provided by the Families First Coronavirus Response Act to Dec. 31, 2021.
- Impact. This provision extends the Emergency Paid Sick Leave Act by one year.

Sec. 120117: Definitions.

- Modifies the definition of covered employer by removing the large employer exception, and clarifies that nonprofit organizations are considered covered employers.
- Repeals the reduced \$200/day limit for certain types of paid emergency sick leave and replaces this with a \$511/day emergency paid sick leave amount.
- Impact: Companies with 500 or more employees will now be required to comply with the emergency paid sick leave requirements.

Sec. 120118: Emergency Paid Sick Leave for Employees of the Department of Veteran Affairs and the Transportation Security Administration for Purposes Relating to COVID-19.

- Extends the emergency paid sick leave to employees of the Department of Veterans Affairs and the Transportation Security Administration.
- Impact. This provision broadens the emergency paid sick leave to include the Department of Veterans Affairs and the Transportation Security Administration.

Sec. 120119: Authority of the Director of the Office of Management and Budget to Exclude Certain Employees.

- Repeals §3604 of the CARES Act, that allowed the director of OMB to exclude certain federal employees from the emergency paid sick leave provisions.
- Impact. This provision allows all federal employees to receive emergency paid sick leave.

Sec. 120120: Regulatory Authorities.

- Amends the Families First Coronavirus Response Act by repealing §5111, removing the secretary of Labor's authority to issue regulations to exempt employers with fewer than 50 employees from the requirements of that Act and to exempt health care providers and emergency responders from the right to paid leave.
- Impact. This provision would expand the number of employees who are entitled to emergency paid sick leave, and makes conforming changes to carry out divisions C, E and G of the FFCRA. Any regulation issued under such former authority has no force or effect.

Title II—COVID-19 Workforce Development Response Activities

Sec. 120201: Definitions and Special Rule.

- Defines various terms including apprenticeship as a Registered Apprenticeship program, and clarifies that any funds for apprenticeships under this bill can only be used for registered apprenticeships. Also defines coronavirus, COVID-19 national emergency, and "Secretary" as the secretary of Labor.
- Impact. This section provides clarifying definitions.

Sec. 120202: Job Corps Response to the COVID-19 National Emergency.

- Expands age eligibility for Job Corps participation from ages 16 to 24 to individuals who turn 25 during the COVID-19 emergency.
- Expands enrollment length from 18 months to a period of up to two years.
- Continued access to counseling, job placement and assessment services for those whose enrollment was interrupted by the COVID-19 emergency; those who graduated from the Job Corps on or after Jan. 1, 2020; or those who graduate from Job Corps no later than three months after the COVID-19 emergency.
- Supports cleaning and improvements needed for Job Corps Centers to safely operate, and for stipends for students whose participation has been interrupted due to COVID-19.
- Impact. Makes key changes to the Job Corps program to provide necessary flexibilities for participants.

Sec. 120203: Native American Programs Responding to the COVID-19 National Emergency.

- Authorizes a one-year extension on the four-year grant cycle for Native American programs due to COVID-19.
- Impact. Native American programs under the Workforce Innovation and Opportunity Act provide employment and training services to tribes, tribal organizations, Alaska Native entities, Indian controlled organizations, and Native Hawaiian organizations serving unemployed and low-income Native Americans, Alaska Natives and Native Hawaiians.

Sec. 120204: Migrant and Seasonal Farmworker (MSFW) Program Response.

- Authorizes a one-year extension on the four-year grant cycle due to COVID-19, and expands eligibility to individuals not exceeding 150% of the poverty line.
- Impact. MSFW programs under the Workforce Innovation and Opportunity Act provide employment and training grants, as well as housing grants. The extension of the grant cycle will help provide stability through the COVID-19 emergency for farmworkers who already experience high rates of unemployment and underemployment.

Sec. 120205: YouthBuild Activities Responding to the COVID-19 National Emergency.

- Expands eligibility for individuals who turned 25 during the COVID-19 emergency, and expands enrollment length beyond two years for individuals participating in the program during the COVID-19 emergency.
- Impact. YouthBuild is a community-based pre-apprenticeship program that provides job training and educational opportunities for at-risk youth ages 16 to 24 who have previously dropped out of high school. This provision expands eligibility to provide stability through the COVID-19 crisis for program participants.

Sec. 120206: Apprenticeship Support During the COVID-19 National Emergency.

- Authorizes funds to be used to support virtual and online learning and training for states and intermediaries who are assisting employers that are participating in apprenticeship programs.
- Impact. Provides resources to help employers continue to provide job training for eligible participants.

Title IV—Community and Family Support

Sec. 120403: Use of Low Income Home Energy Assistance Plan (LIHEAP) Supplemental Appropriations.

- Provides that each state, territory and Indian tribe receiving funds from a LIHEAP shall accept proof of job loss or severe income loss occurring after Feb. 29, 2020, as sufficient to demonstrate lack of income for an individual or household.
- Impact. Expands energy assistance for low-income families while reducing barriers for program participation.

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