



## **U.S. Congressional Actions Regarding COVID-19 Response**

*Prepared for members of the Irrigation Association and the National Ground Water Association*

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The information below outlines the pertinent contents of the two congressional actions relating to the nation's response to COVID-19. This is a general outline, and more resources and information relating to these first two phases and subsequent actions will be added when the information is available.

### **H.R. 6074 – Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Phase I)**

*Enacted on March 6, 2020*

Provides \$8.3 billion in emergency funding for federal agencies to respond to the coronavirus outbreak related to developing a vaccine, medical supplies, grants for public health agencies, small business loans, and assistance for health systems in other countries. Allows for temporarily waiving Medicare restrictions and requirements regarding telehealth services.

#### **Food and Drug Administration**

\$61 million to facilitate the development and review, both pre-market and post-market, of medical countermeasures, devices, therapies, and vaccines to combat the coronavirus.

#### **Small Business Disaster Loans**

Allows \$1 billion in loan subsidies to be made available to help small businesses, small agricultural cooperatives, small aquaculture producers, and nonprofit organizations which have been impacted by financial losses as a result of the coronavirus outbreak.

<https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>

#### **Centers for Disease Control and Prevention**

Provides \$2.2 billion to support federal, state and local public health agencies to prevent, prepare for and respond to the coronavirus.

#### **Vaccines, Therapeutics, and Diagnostics**

Provides more than \$3 billion for research and development of vaccines, therapeutics and diagnostics to prevent or treat the effects of coronavirus.

#### **Emergency Telehealth Waiver**

Allows the Secretary of Health and Human Services (HHS) to waive certain Medicare telehealth restrictions during the coronavirus public health emergency.

### **H.R. 6201 – Families First Coronavirus Response Act (Phase II)**

*Enacted on March 18, 2020*

This bill provides free coronavirus testing, establishes paid leave, enhances unemployment insurance, expands food security initiatives, and increases federal Medicaid funding.

### **Amendments to the Family and Medical Leave Act (FMLA)**

This section provides employees of employers with fewer than 500 employees and government employers, who have been on the job for at least 30 days, with the right take up to 12 weeks of job-protected leave under the Family and Medical Leave Act to be used for any of the following reasons:

- To adhere to a requirement or recommendation to quarantine due to exposure to or symptoms of coronavirus;
- To care for an at-risk family member who is adhering to a requirement or recommendation to quarantine due to exposure to or symptoms of coronavirus; and
- To care for a child of an employee if the child's school or place of care has been closed, or the child-care provider is unavailable, due to a coronavirus.

After the two weeks of paid leave, employees will receive a benefit from their employers that will be no less than two-thirds of the employee's usual pay.

### **The Emergency Paid Sick Leave Act**

This section requires private sector employers with fewer than 500 employees and government employers to provide employees two weeks of paid sick leave, paid at the employee's regular rate, to quarantine or seek a diagnosis or preventive care for coronavirus; or paid at two-thirds the employee's regular rate to care for a family member for such purposes or to care for a child whose school has closed, or child care provider is unavailable, due to the coronavirus.

- Full-time employees are entitled to two weeks (80 hours) and part-time employees are entitled to the typical number of hours that they work in a typical two-week period.
- The bill ensures employees who work under a multiemployer collective agreement and whose employers pay into a multiemployer plan are provided with leave.

The Act, and the requirements under the Act, expire on December 31, 2020.

*Small Business and Other Exemptions: The Secretary of Labor is authorized to issue regulations to exempt health care providers and emergency responders from the definition of employer. In addition, the Secretary may exempt small businesses with fewer than 50 employees from the requirement to offer leave to care for a child when a school is closed when the imposition of paid sick leave would jeopardize the viability of the business as an ongoing concern.*

### **Payroll Credit for Required Paid Sick Leave (see attached document)**

This section provides a refundable tax credit equal to 100 percent of qualified paid sick leave wages paid by an employer for each calendar quarter. The tax credit is allowed against the tax imposed by the employer portion of Social Security taxes. Qualified sick leave wages are wages required to be paid by the Emergency Paid Sick Leave Act.

The section makes a distinction between qualified sick leave wages paid with respect to employees who must self-isolate, obtain a diagnosis, or comply with a self-isolation recommendation with respect to coronavirus. For amounts paid to those employees, the amount of qualified sick leave wages taken into account for each employee is capped at \$511 per day.

For amounts paid to employees caring for a family member or for a child whose school or place of care has been closed, the amount of qualified sick leave wages taken into account for each employee is capped at \$200 per day. The aggregate number of days taken into account per employee may not

exceed the excess of 10 over the aggregate number of days taken into account for all preceding calendar quarters.

### **Implementation of Tax Credits**

Includes \$15 million for the Internal Revenue Service to implement tax credits for paid sick and paid family and medical leave.

### **Credit for Sick Leave for Certain Self-Employed Individuals**

This section provides a refundable tax credit equal to 100 percent of a qualified sick leave equivalent amount for eligible self-employed individuals who must self-isolate, obtain a diagnosis, or comply with a self-isolation recommendation with respect to coronavirus. For eligible self-employed individuals caring for a family member or for a child whose school or place of care has been closed due to coronavirus, the section provides a refundable tax credit equal to 67 percent of a qualified sick leave equivalent amount.

The credit is allowed against income taxes and is refundable. Eligible self-employed individuals are individuals who would be entitled to receive paid leave pursuant to the Emergency Paid Sick Leave Act if the individual was an employee of an employer (other than himself or herself). For eligible self-employed individuals who must self-isolate, obtain a diagnosis, or comply with a self-isolation recommendation, the qualified sick leave equivalent amount is capped at the lesser of \$511 per day or the average daily self-employment income for the taxable year per day. For eligible self-employed individuals caring for a family member or for a child whose school or place of care has been closed due to coronavirus, the qualified sick leave equivalent amount is capped at the lesser of \$200 per day or the average daily self-employment income for the taxable year per day.

### **Employment Under Multi-Employer Bargaining Agreements**

The bill ensures employees, who work under a multiemployer collective agreement and whose employers pay into a multiemployer plan, are provided with leave.

### **Emergency Transfers for Unemployment Compensation Administration**

This section provides \$1 billion in 2020 for emergency grants to states for activities related to processing and paying unemployment insurance (UI) benefits.

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

Requires private health plans to provide coverage for COVID-19 diagnostic testing, including the cost of a provider, urgent care center and emergency room visits in order to receive testing. Coverage must be provided at no cost to the consumer.

### **Food and Nutrition Service**

Includes funding to ensure the domestic nutrition assistance programs have adequate resources to help those impacted by the COVID-19 public health emergency.

### **Coverage of Testing for COVID-19 through the Department of Defense**

Includes \$82 million for the Department of Defense to cover the costs of COVID-19 diagnostic testing for beneficiaries receiving care through the Defense Health Program.

**Coverage of Testing for COVID-19 through the Indian Health Service**

Includes \$64 million for the Indian Health Service to cover the costs of COVID-19 diagnostic testing for Indians receiving care through the Indian Health Service or through an Urban Indian Health Organization.

**Senior Nutrition Program**

Includes \$250 million for the Senior Nutrition program in the Administration for Community Living (ACL) to provide approximately 25 million additional home-delivered and pre-packaged meals to low-income seniors who depend on the Senior Nutrition programs in their communities.

**Reimbursement for Diagnostic Testing and Services for COVID-19 in Uninsured Individuals**

Includes \$1 billion for the National Disaster Medical System to reimburse the costs of COVID-19 diagnostic testing and services provided to individuals without health insurance.

**Coverage of Testing for COVID-19 through the Veterans Health Administration**

Includes \$60 million for the Department of Veterans Affairs to cover the costs of COVID-19 diagnostic testing for veterans receiving care through Medical Services or through Medical Community Care.

**National School Lunch Program Requirement Waivers Addressing COVID-19**

Allows all child and adult care centers to operate as non-congregate (i.e., allows them to take food to go).

**Physical Presence Waiver Under WIC During Certain Public Health Emergencies**

Provides the Secretary of Agriculture with the authority to grant waivers to allow participants to be certified for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) without being physically present at the WIC clinic.

**SNAP Flexibility for Low-Income Jobless Workers**

Suspends the work and work training requirements for SNAP during this crisis.

**H.R. 748 – Coronavirus Aid, Relief, and Economic Security (CARES) Act (Phase III)**

*Passed by Congress on March 27, 2020*

The \$2 trillion economic stimulus package, the largest ever passed by Congress, aims to blunt the economic fallout from the coronavirus pandemic.

Below are highlights of the legislation relevant to our industry.

**Keeping Workers Paid and Employed, Health Care System Enhancements and Economic Stabilization (Division A)****Keeping American Workers Paid and Employed Act (Title I)**

Extends cash flow for small businesses that maintain their payroll during the public health emergency caused by the coronavirus by creating a Paycheck Protection Program to provide 100 percent federally guaranteed loans to employers with fewer than 500 employees, or the applicable size standard for the industry as provided by the Small Business Administration if higher.

The legislation provides \$349 billion to expand the SBA's existing 7(a) loan program to cover payroll support, such as salaries and paid sick leave, through June 30, 2020. The language is retroactive to Feb. 15 to allow employers who have already laid off employees to bring them back onto payroll.

Under the expansion, employers, nonprofits, veterans' organizations and tribal businesses are eligible to receive loans up to \$10 million through SBA-certified lenders, like banks, to supplement payroll, mortgage, debt and other expenses associated with continuing to pay their employees' salaries.

The portion of the loan used to cover preexisting debt, payroll, rent and utilities would be forgiven as long as employees were retained from Feb. 15 through June 30, 2020. The amount forgiven would be reduced in proportion to any reduction in employees retained or in employee pay.

This section also increases the cap on SBA Express loans from \$350,000 to \$1 million through Dec. 31.

The bill also amends the Small Business Reorganization Act to increase for one year the eligibility threshold to file for bankruptcy from \$2,725,625 of debt to \$7,500,000 of debt. It would also exclude coronavirus-related payments from the government from counting as "income" when filing for bankruptcy.

## **Assistance for American Workers, Families and Businesses (Title II)**

### ***Unemployment Insurance***

- Creates a temporary Pandemic Unemployment Assistance program to pay unemployment benefits to those not traditionally eligible for them, such as the self-employed, independent contractors and those with limited work history, who are unable to work as a result of the coronavirus.
- Pays states to reimburse nonprofits, government agencies and Indian tribes for half of the costs they incur through Dec. 31 in paying unemployment benefits.
- Provides an additional \$600 each week to individuals receiving unemployment benefits for up to four months.
- Pays states for the first week of unemployment benefits when they choose to pay recipients as soon as they become unemployed instead of waiting one week before the recipient is eligible.
- Provides states with flexibility to hire temporary staff to process unemployment claims.
- Provides an additional 13 weeks of unemployment benefits, to allow workers to receive up to 39 weeks, through the end of 2020.
- Provides \$100 million in grants to states to establish "short-time compensation" programs, which the government would partially finance, where employers would reduce employee hours instead of laying off workers and the employees with reduced hours would receive a prorated unemployment benefit.
- Waives the seven-day waiting period and enhancing and extending benefits for railroad unemployment insurance to bring that program in line with the rest of the bill.
- Appropriates \$25 million to the Labor Department's inspector general to oversee implementation of these provisions.

### ***Individual Rebates***

Provides every non-dependent U.S. resident with an adjusted gross income of up to \$75,000 (\$150,000 for married couples) with a \$1,200 (\$2,400 for couples) "rebate" payment. They would also be eligible for an additional \$500 per child. The payments would start phasing out for earners above those income

thresholds and would not go to single filers earning more than \$99,000; head-of-household filers with one child, more than \$146,500; and more than \$198,000 for joint filers with no children.

The funds will be delivered electronically using the direct deposit information the IRS has on file since Jan. 1, 2018. The taxpayer would receive a notice by mail detailing when the rebate was issued and what method was used.

If the taxpayer has filed their 2019 tax return, the IRS will use that to calculate the amount of the check. If the taxpayer has not, the IRS will use the taxpayer's 2018 return.

The legislation also

- Extends the tax filing deadline until July 15 and the deadline for estimated tax payments until Oct. 15.
- Removes the 10 percent withdrawal penalty for distributions of up to \$100,000 from qualifying retirement savings accounts for coronavirus-related purposes (a coronavirus diagnosis; a lapse in employment due to the coronavirus, etc.)
- Waives required minimum distribution rules for certain retirement plans and accounts, a move intended to spare seniors from having to sell stock in a down market.
- Allows Americans to deduct up to \$300 of charitable donations, whether they itemize or not.
- Enables employers to offer employees a tax-free student loan repayment benefit, by allowing employees to contribute up to \$5,250 annually toward their student loans pre-tax.

#### ***Business Provisions***

- Provides a refundable payroll tax credit for half of the wages paid by employers who were severely impacted during the pandemic, which would cover employee wages and be applied against the employer's share of payroll taxes. Because the legislation defers employer payroll tax payments, the bill allows businesses to receive advance payments through the Treasury Department.
- Allows employers and self-employed individuals to defer payment of the 6.2 percent employer share of the Social Security tax for up to two years.
- Temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns.
- Allows restaurants, hotels and retail businesses to immediately write off new investment costs associated with improving facilities (rather than doing so over a 39-year period).
- Waives the federal excise tax on any distilled spirits used to make hand sanitizer.

#### **Supporting America's health care system in the fight against the coronavirus (Title III)**

##### ***Labor***

- Caps the amount an employer would pay for paid leave under the Family and Medical Leave Act to \$200 per day and \$10,000 in the aggregate for each employee.
- Limits the amount an employer would pay for emergency paid sick leave under H.R. 6201 (phase II) to: \$511 per day and \$5,110 in the aggregate for each employee who takes leave due to the employee's own coronavirus illness; or \$200 per day and \$2,000 in the aggregate for each employee who takes leave to care for another or who "is experiencing any other substantially similar condition."
- Requires that states ensure that applications for unemployment compensation, and assistance with the application process, are accessible in person, by phone or online.

- Grants the Office of Management and Budget authority to “exclude for good cause” executive branch employees from paid family and sick leave requirements.
- Revises paid leave eligibility requirements for rehired employees.
- Allows employers and self-employed individuals to take an advanced tax credit rather than receiving a refund later.
- Authorizes DOL to postpone certain ERISA filing deadlines for up to a year
- Provides single-employer pension plan companies with more time to meet their funding obligations by delaying the due date for any contribution otherwise due during 2020 until Jan. 1, 2021, at which point contributions would be due with interest.
- Applies cooperative and small employer charity pension plan rules to certain charitable employers whose primary purpose is providing services to mothers and children.
- Authorizes agencies to use federal funds to reimburse federal contractors for the paid leave and paid sick leave of their employees who cannot work due to the coronavirus.

#### **Economic stabilization and assistance to severely distressed sectors of the U.S. economy (Title IV)**

This title provides \$500 billion to the Treasury Department’s Exchange Stabilization Fund for loans, loan guarantees and other investments to eligible businesses, states and municipalities related to losses incurred as a result of coronavirus in the following amounts:

- Up to \$25 billion in direct lending for passenger air carriers and related businesses
- Up to \$4 billion in direct lending for cargo air carriers
- Up to \$17 billion in direct lending for “businesses critical to maintaining national security”
- Up to \$454 billion to back emergency Federal Reserve lending programs for loans, loan guarantees and investments

This title also provides \$32 billion in financial assistance for aviation workers to “exclusively be used for the continuation of payment of employee wages, salaries and benefits,” broken down as follows:

- Up to \$25 billion for passenger air carriers
- Up to \$4 billion for cargo air carriers
- Up to \$3 billion for aviation contractors

#### **Emergency Appropriations for Coronavirus Health Response and Agency Operations (Division B)**

##### **Agriculture-FDA (Title I)**

Provides \$34.9 billion to the Agriculture Department, FDA and related agencies, including:

- \$9.5 billion for USDA’s Office of the Secretary account to support agricultural producers impacted by Covid-19
- Nearly \$146 million for USDA rural development programs, including \$25 million for the Rural Utilities Service to fund its distance learning, telemedicine and broadband programs “to prevent, prepare for, and respond to coronavirus, domestically or internationally, for telemedicine and distance learning services in rural areas,” according to the text
- \$25.06 billion for USDA’s Food and Nutrition Service, including \$15.51 billion for SNAP to cover the waiver authorities granted in H.R. 6201, Congress’ second coronavirus package, and \$8.8 billion for child nutrition programs to help schools feed students flexibly
- \$80 million for FDA to support the development of vaccines, manufacturing for medical products and monitoring of medical product supply chains

### **Energy-Water (Title IV)**

Directs \$221 million to the Interior and Energy departments, as well as the Army Corps of Engineers and other agencies funded via the annual Energy-Water spending bill, including:

- \$70 million to the Army Corps of Engineers to continue operation of projects
- \$21 million to DOI's Bureau of Reclamation to support teleworking and facility disinfection, among other things
- \$128 million to DOE, including \$100 million to support the national laboratory scientific user facilities in research and development efforts surrounding the coronavirus
- Allows DOE to postpone a required sale of petroleum from the Strategic Petroleum Reserve through fiscal 2022

### **Financial Services (Title V)**

Provides an additional \$1.82 billion to the Treasury and Justice departments, as well as the District of Columbia, the Election Assistance Commission and other agencies funded by the annual Financial Services spending bill, including:

- \$250 million to the IRS to support the tax filing-related provisions included in H.R. 6201
- More than \$7 million to the federal judiciary to support remote work and other increased expenses due to the coronavirus spread
- \$5 million to the District of Columbia
- \$400 million to the Election Assistance Commission to provide grants to states to prepare for the 2020 federal election cycle amid the pandemic
- \$200 million to the FCC to boost its telehealth efforts
- \$295 million to the General Services Administration
- \$562 to the Small Business Administration

### **Interior-Environment (Title VII)**

Provides \$2.04 billion for departments and programs funded via the annual Interior-Environment spending bill, including:

- \$453 million for DOI's Bureau of Indian Affairs for aid to tribal governments
- \$158 million for the Interior Department for purchasing equipment and supplies to disinfect and clean buildings and public areas, supporting law enforcement and emergency management operations, biosurveillance of wildlife and environmental persistence studies, employee overtime and special pay expenses and other response, mitigation or recovery activities
- \$7 million for EPA
- \$71 million for the U.S. Forest Service
- \$1.03 billion for the Indian Health Service



## Refundable Tax Credits Will Finance Paid Leave

	Family Leave	Sick Leave
Covered employer	Private sector employers with fewer than 500 workers and government entities	Private sector employers with fewer than 500 workers and government entities
Qualifying circumstances	Caregiving for child younger than 18 whose day care or school closed	Quarantine, medical diagnosis, caregiving for another quarantined individual or for child whose day care or school closed
Length of leave	As many as 12 weeks	Two weeks for full-time workers and similar equivalent for part-time workers
Benefit amount	Unpaid for first 10 days, then at least two-thirds of a worker's normal pay rate, capped at \$200 per day or \$10,000 total.	Normal wage or minimum wage, whichever is greater, capped at \$5,110 for a worker's quarantine or diagnosis. Caregiving benefit would be two-thirds of normal or minimum wage, capped at \$2,000.
Employer tax credit	Covers wages of as much as \$200 per day or \$10,000 total	Covers daily wages of as much as \$511 for affected employee, or as much as \$200 for employee caring for someone else
Self-employed tax credit	The lesser of \$200 per day or 67% of average daily self-employment income	The lesser of \$511 per day or average daily self-employment income for affected individual, or the lesser of \$200 or 67% of average daily self-employment income if caring for someone else

Source: Enacted H.R. 6201

Note: Family leave includes job-protected leave under the Family and Medical Leave Act.

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