

Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020

[Public Law 116–123]

[This law has not been amended]

【Currency: This publication is a compilation of the text of Public Law 116–123. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT Making emergency supplemental appropriations for the fiscal year ending September 30, 2020, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020”.

SEC. 2. REFERENCES. Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

DIVISION A—CORONAVIRUS PREPAREDNESS AND RESPONSE SUPPLEMENTAL APPROPRIATIONS ACT, 2020

SEC. THE FOLLOWING SUMS ARE HEREBY ARE APPROPRIATED, OUT OF ANY MONEY IN THE TREASURY NOT OTHERWISE APPROPRIATED, FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2020, AND FOR OTHER PURPOSES, NAMELY:

TITLE I

DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. FOOD AND DRUG ADMINISTRATION.SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$61,000,000, to remain available until expended, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including the development of necessary medical countermeasures and vaccines, advanced manufacturing for medical products, the monitoring of medical product supply chains, and related

administrative activities: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE II

SMALL BUSINESS ADMINISTRATION

SEC. DISASTER LOANS PROGRAM ACCOUNT.(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for the “Disaster Loans Program Account” for administrative expenses to carry out the disaster loan program authorized by section 7(b) of the Small Business Act, \$20,000,000, to remain available until expended: *Provided*, That such amounts may be transferred to and merged with “Small Business Administration—Salaries and Expenses”: *Provided further*, That for purposes of section 7(b)(2)(D) of the Small Business Act, coronavirus shall be deemed to be a disaster and amounts available under “Disaster Loans Program Account” for the cost of direct loans in any fiscal year may be used to make economic injury disaster loans under such section in response to the coronavirus: *Provided further*, That none of the funds provided under this heading in this Act may be used for indirect administrative expenses: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That amounts repurposed under this heading that were previously designated by the Congress as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE III

DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. CENTERS FOR DISEASE CONTROL AND PREVENTION.CDC-WIDE ACTIVITIES AND PROGRAM SUPPORT

(INCLUDING TRANSFER OF FUNDS)For an additional amount for “CDC-Wide Activities and Program Support”, \$2,200,000,000, to remain available until September 30, 2022, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That not less than \$950,000,000 of the amount provided shall be for grants to or cooperative agreements with States, localities, territories, tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes, to carry out surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications, and other preparedness and response activities: *Provided further*, That \$475,000,000 of the funds made available in the preceding proviso shall be allocated within 30 days of the date of enactment of this Act: *Provided further*,

That every grantee that received a Public Health Emergency Preparedness grant for fiscal year 2019 shall receive not less than 90 percent of that grant level from funds provided in the first proviso under this heading in this Act, and not less than \$40,000,000 of such funds shall be allocated to tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes: *Provided further*, That the Director of the Centers for Disease Control and Prevention ("CDC") may satisfy the funding thresholds outlined in the preceding two provisos by making awards through other grant or cooperative agreement mechanisms: *Provided further*, That each grantee described in the third proviso under this heading in this Act shall submit a spend plan to the CDC not later than 45 days after the date of enactment of this Act: *Provided further*, That of the amount provided under this heading in this Act, not less than \$300,000,000 shall be for global disease detection and emergency response: *Provided further*, That of the amount provided under this heading in this Act, \$300,000,000 shall be transferred to and merged with amounts in the Infectious Diseases Rapid Response Reserve Fund ("Reserve Fund"), established by section 231 of division B of Public Law 115-245: *Provided further*, That the Secretary of Health and Human Services, in consultation with the Director of the CDC, shall provide a report to the Committees on Appropriations of the House of Representatives and the Senate every 14 days, for one year from the date from any such declaration or determination described in the third proviso of section 231 of division B of Public Law 115-245, that details commitment and obligation information for the Reserve Fund during the prior two weeks, as long as such report would detail obligations in excess of \$5,000,000, and upon the request by such Committees: *Provided further*, That funds appropriated under this heading in this Act may be used for grants for the construction, alteration, or renovation of non-Federally owned facilities to improve preparedness and response capability at the State and local level: *Provided further*, That funds may be used for purchase and insurance of official motor vehicles in foreign countries: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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SEC. 301. (INCLUDING TRANSFER OF FUNDS). (a) Funds appropriated in this title may be made available to restore amounts, either directly or through reimbursement, for obligations incurred by agencies of the Department of Health and Human Services to prevent, prepare for, and respond to coronavirus, domestically or internationally, prior to the date of enactment of this Act. This subsection shall not apply to obligations incurred by the Infectious Diseases Rapid Response Reserve Fund.

(b) Grants or cooperative agreements with States, localities, territories, tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes, under this title, to

carry out surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications, and other preparedness and response activities to prevent, prepare for, and respond to coronavirus shall include amounts to reimburse costs for these purposes incurred between January 20, 2020, and the date of enactment of this Act.

(c) If any funds have been reprogrammed or transferred from an appropriation, as described in the notification submitted by the Secretary of Health and Human Services to the Committees on Appropriations of the House of Representatives and the Senate on February 2, 2020, prior to the date of enactment of this Act, such amounts shall be reprogrammed or transferred back to that appropriation within 45 days of the date of enactment of this Act.

SEC. 302. Funds appropriated by this title may be used by the Secretary of the Health and Human Services to appoint, without regard to the provisions of sections 3309 through 3319 of title 5 of the United States Code, candidates needed for positions to perform critical work relating to coronavirus for which—

- (1) public notice has been given; and
- (2) the Secretary has determined that such a public health threat exists.

SEC. 303. Funds made available by this title may be used to enter into contracts with individuals for the provision of personal services (as described in section 104 of part 37 of title 48, Code of Federal Regulations (48 CFR 37.104)) to support the prevention of, preparation for, or response to coronavirus, domestically and internationally, subject to prior notification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That such individuals may not be deemed employees of the United States for the purpose of any law administered by the Office of Personnel Management: *Provided further*, That the authority made available pursuant to this section shall expire on September 30, 2024.

SEC. 304. Funds appropriated by this title may be transferred to, and merged with, other appropriation accounts under the headings “Centers for Disease Control and Prevention”, “Public Health and Social Services Emergency Fund”, and “National Institutes of Health” to prevent, prepare for, and respond to coronavirus, domestically or internationally, following consultation with the Office of Management and Budget: *Provided*, That the Committees on Appropriations of the House of Representatives and the Senate shall be notified 10 days in advance of any such transfer: *Provided further*, That upon a determination that all or part of the funds transferred from an appropriation by this title are not necessary, such amounts may be transferred back to that appropriation: *Provided further*, That none of the funds made available by this title may be transferred pursuant to the authority in section 205 of division A of Public Law 116-94 or section 241(a) of the Public Health Service Act.

SEC. 305. Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall provide a detailed spend plan of anticipated uses of funds made available to the Department of Health and Human Services in this Act, including estimated personnel and administrative costs, to the

Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That such plan shall be updated and submitted to such Committees every 60 days until September 30, 2024: *Provided further*, That the spend plans shall be accompanied by a listing of each contract obligation incurred that exceeds \$5,000,000 which has not previously been reported, including the amount of each such obligation.

SEC. 306. Of the funds appropriated by this title under the heading **“Public Health and Social Services Emergency Fund”**, up to \$2,000,000 shall be transferred to, and merged with, funds made available under the heading **“Office of the Secretary, Office of Inspector General”**, and shall remain available until expended, for oversight of activities supported with funds appropriated to the Department of Health and Human Services in titles I and III: *Provided*, That the Inspector General of the Department of Health and Human Services shall consult with the Committees on Appropriations of the House of Representatives and the Senate prior to obligating such funds: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority provided by law.

TITLE IV

DEPARTMENT OF STATE

SEC. ADMINISTRATION OF FOREIGN AFFAIRS.DIPLOMATIC PROGRAMS

For an additional amount for “Diplomatic Programs”, \$264,000,000, to remain available until September 30, 2022, for necessary expenses to prevent, prepare for, and respond to coronavirus, including for maintaining consular operations, reimbursement of evacuation expenses, and emergency preparedness: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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SEC. 401. Funds appropriated by this title shall only be made available for obligation subject to the regular notification procedures of the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That the requirement of this section shall not apply to funds appropriated by this title under the heading **“International Disaster Assistance”**.

SEC. 402. (a) Funds appropriated by this title under the heading **“Diplomatic Programs”** may be transferred to, and merged with, funds available under the “Consular and Border Security Programs” account to maintain consular operations impacted by coronavirus.

(b) Of the funds appropriated by this title under the heading **“Economic Support Fund”**, up to \$7,000,000 may be transferred to, and merged with, funds appropriated under the heading **“Operating Expenses”** in Acts making appropriations for the Department of State, foreign operations, and related programs to prevent, prepare for, and respond to coronavirus.

(c) Funds appropriated by this title under the headings “Global Health Programs”, “International Disaster Assistance”, and “Economic Support Fund” may be transferred to, and merged with, funds appropriated by this title under such headings to prevent, prepare for, and respond to coronavirus.

(d) The transfer authorities of this section are in addition to any other transfer authority provided by law.

(e) Upon a determination that all or part of the funds transferred pursuant to the authorities provided by this section are not necessary for such purposes, such amounts may be transferred back to such appropriations.

(f) No funds shall be transferred pursuant to this section unless at least 5 days prior to making such transfer the Secretary of State or the Administrator of the United States Agency for International Development, as appropriate, notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the details of any such transfer.

SEC. 403. Paragraph (6)(B) under the heading “**Administration of Foreign Affairs, Diplomatic Programs**” of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2020 (division G of Public Law 116-94) is amended by striking “, not to exceed \$10,000,000” and inserting in lieu thereof “for Worldwide Security Protection, not to exceed \$100,000,000” and by adding the following before the period at the end: “: Provided, That no amounts may be transferred from amounts that were designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985”: *Provided*, That the exercise of the authority provided by such paragraph shall be subject to prior consultation with the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 404. Funds appropriated by this title under the headings “Global Health Programs” and “Economic Support Fund” may be made available as contributions to international organizations to prevent, prepare for, and respond to coronavirus, following consultation with the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 405. Funds appropriated by this title under the headings “Diplomatic Programs”, “Global Health Programs”, “International Disaster Assistance”, and “Economic Support Fund” may be used to reimburse accounts administered by the Department of State and the United States Agency for International Development for obligations incurred to prevent, prepare for, and respond to coronavirus prior to the date of enactment of this Act: *Provided*, That this section shall not apply to obligations incurred by the Emergency Reserve Fund, established pursuant to section 7058(c)(1) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2017 (division J of Public Law 115-31).

SEC. 406. (a) STRATEGY.—Not later than 15 days after the date of enactment of this Act, the Secretary of State and the Administrator of the United States Agency for International Development, following consultation with the heads of other relevant Federal

agencies, shall jointly submit to the Committees on Appropriations of the House of Representatives and the Senate a strategy to prevent, prepare for, and respond to coronavirus abroad.

(b) **REPORTING REQUIREMENT.**—Not later than 30 days after enactment of this Act, the Secretary of State and the Administrator of the United States Agency for International Development shall jointly submit to the Committees on Appropriations of the House of Representatives and the Senate a report on the proposed uses of funds appropriated by this title on a country and project basis: *Provided*, That such report shall be updated and submitted to such Committees every 60 days thereafter until September 30, 2022, and every 180 days thereafter until all funds have been expended, and shall include information detailing how estimates and assumptions contained in previous reports have changed, including obligations and expenditures on a country and project basis.

TITLE V

GENERAL PROVISIONS—THIS ACT

SEC. 501. Each amount appropriated or made available by this Act is in addition to amounts otherwise appropriated for the fiscal year involved.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. Unless otherwise provided for by this Act, the additional amounts appropriated by this Act to appropriations accounts shall be available under the authorities and conditions applicable to such appropriations accounts for fiscal year 2020.

SEC. 504. (a) Subject to subsection (b), and notwithstanding any other provision of law, funds made available in this Act, or transferred pursuant to authorization granted in this Act, may only be used to prevent, prepare for, and respond to coronavirus.

(b) Subsection (a) shall not apply to section 301(c) of this Act, or to reimbursements made pursuant to authority in this Act, or to funds made available in this Act for the Emergency Reserve Fund, established pursuant to section 7058(c)(1) of division J of Public Law 115-31, or to funds made available in this Act for the Infectious Diseases Rapid Response Reserve Fund, established pursuant to section 231 of division B of Public Law 115-245.

SEC. 505. Not later than 60 days after the date of enactment of this Act, the Comptroller General of the United States shall consult with the Committees on Appropriations of the House of Representatives and the Senate on oversight of activities supported with funds appropriated by this Act.

SEC. 506. In this Act, the term “coronavirus” means SARS-CoV-2 or another coronavirus with pandemic potential.

SEC. 507. Each amount designated in this Act by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be available (or rescinded or transferred, if applicable) only if the President subsequently so designates all such amounts and transmits such designations to the Congress.

SEC. 508. Any amount appropriated by this Act, designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 and subsequently so designated by the President, and transferred pursuant to transfer authorities provided by this Act shall retain such designation.

SEC. THIS DIVISION MAY BE CITED AS THE “CORONAVIRUS PREPAREDNESS AND RESPONSE SUPPLEMENTAL APPROPRIATIONS ACT, 2020”.

DIVISION B—TELEHEALTH SERVICES DURING CERTAIN EMERGENCY PERIODS

SEC. 101. [42 U.S.C. 1305 note] SHORT TITLE.

This division may be cited as the “Telehealth Services During Certain Emergency Periods Act of 2020”.

SEC. 102. SECRETARIAL AUTHORITY TO TEMPORARILY WAIVE OR MODIFY APPLICATION OF CERTAIN MEDICARE REQUIREMENTS WITH RESPECT TO TELEHEALTH SERVICES FURNISHED DURING CERTAIN EMERGENCY PERIODS.

(a) IN GENERAL.—

(1) **WAIVER AUTHORITY.**—The first sentence of section 1135(b) of the Social Security Act (42 U.S.C. 1320b-5(b)) is amended—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7), by striking the period at the end and inserting “; and”; and

(C) by inserting after paragraph (7) the following new paragraph:

“(8) in the case of a telehealth service (as defined in paragraph (4)(F) of section 1834(m)) furnished in any emergency area (or portion of such an area) during any portion of any emergency period to an individual by a qualified provider (as defined in subsection (g)(3))—

“(A) the requirements of paragraph (4)(C) of such section, except that a facility fee under paragraph (2)(B)(i) of such section may only be paid to an originating site that is a site described in any of subclauses (I) through (IX) of paragraph (4)(C)(ii) of such section; and

“(B) the restriction on use of a telephone described in the second sentence of section 410.78(a)(3) of title 42, Code of Federal Regulations (or a successor regulation), but only if such telephone has audio and video capabilities that are used for two-way, real-time interactive communication.”.

(2) **DEFINITION OF QUALIFIED PROVIDER.**—Section 1135(g) of the Social Security Act (42 U.S.C. 1320b-5(g)) is amended by adding at the end the following new paragraph:

“(3) **QUALIFIED PROVIDER.**—The term ‘qualified provider’ means, with respect a telehealth service (as defined in paragraph (4)(F) of section 1834(m)) furnished to an individual, a physician or practitioner (as defined in paragraph (4)(D) or (4)(E), respectively, of such section) who—

“(A) furnished to such individual an item or service for which payment was made under title XVIII during the 3-year period ending on the date such telehealth service was furnished; or

“(B) is in the same practice (as determined by tax identification number) of a physician or practitioner (as so defined) who furnished such an item or service to such individual during such period.”.

(3) IMPLEMENTATION.—The Secretary of Health and Human Services may implement the amendments made by this subsection by program instruction or otherwise.

(b) **[42 U.S.C. 1320b-5 note] CLARIFICATION OF DEFINITIONS OF EMERGENCY AREA AND EMERGENCY PERIOD.**—Paragraph (1) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b-5(g)) is amended to read as follows:

“(1) EMERGENCY AREA; EMERGENCY PERIOD.—

“(A) IN GENERAL.—Subject to subparagraph (B), an ‘emergency area’ is a geographical area in which, and an ‘emergency period’ is the period during which, there exists—

“(i) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

“(ii) a public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act.

“(B) EXCEPTION.—For purposes of subsection (b)(8), an ‘emergency area’ is a geographical area in which, and an ‘emergency period’ is the period during which, there exists—

“(i) the public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act on January 31, 2020, entitled ‘Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus’; and

“(ii) any renewal of such declaration pursuant to such section 319.”.

SEC. 103. BUDGETARY EFFECTS.

(a) **STATUTORY PAYGO SCORECARDS.**—The budgetary effects of this division shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) **SENATE PAYGO SCORECARDS.**—The budgetary effects of this division shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

(c) **CLASSIFICATION OF BUDGETARY EFFECTS.**—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217 and section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985, the budgetary effects of this division shall not be estimated—

- (1) for purposes of section 251 of such Act; and
- (2) for purposes of paragraph (4)(C) of section 3 of the Statutory Pay-As-You-Go Act of 2010 as being included in an appropriation Act.