

PUBLIC LAW 116-139—APR. 24, 2020

PAYCHECK PROTECTION PROGRAM
AND HEALTH CARE ENHANCEMENT ACT

Public Law 116–139
116th Congress

An Act

Apr. 24, 2020
[H.R. 266]

Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2019, and for other purposes.

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

Paycheck
Protection
Program and
Health Care
Enhancement
Act.
15 USC 9001
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Paycheck Protection Program and Health Care Enhancement Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.

DIVISION A—SMALL BUSINESS PROGRAMS

- Sec. 101. Amendments to the Paycheck Protection Program, economic injury disaster loans, and emergency grants.
- Sec. 102. Emergency designation.

DIVISION B—ADDITIONAL EMERGENCY APPROPRIATIONS FOR
CORONAVIRUS RESPONSE

SEC. 3. 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—SMALL BUSINESS
PROGRAMS**

**SEC. 101. AMENDMENTS TO THE PAYCHECK PROTECTION PROGRAM,
ECONOMIC INJURY DISASTER LOANS, AND EMERGENCY
GRANTS.**

(a) INCREASED AUTHORITY FOR COMMITMENTS AND APPROPRIATIONS FOR PAYCHECK PROTECTION PROGRAM.—Title I of division A of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) is amended—

(1) in section 1102(b)(1), by striking “\$349,000,000,000” and inserting “\$659,000,000,000”; and

(2) in section 1107(a)(1), by striking “\$349,000,000,000” and inserting “\$670,335,000,000”.

(b) INCREASED AUTHORIZATION FOR EMERGENCY EIDL GRANTS.—Section 1110(e)(7) of division A of the Coronavirus Aid,

Ante, p. 293.

Ante, p. 301.

Relief, and Economic Security Act (Public Law 116–136) is amended by striking “\$10,000,000,000” and inserting “\$20,000,000,000”. *Ante*, p. 308.

(c) ELIGIBILITY OF AGRICULTURAL ENTERPRISES FOR ECONOMIC INJURY DISASTER LOANS AND EMERGENCY GRANTS.—Section 1110(a)(2) of division A of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) is amended— *Ante*, p. 306.

(1) in subparagraph (D), by striking “or” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(F) an agricultural enterprise (as defined in section 18(b) of the Small Business Act (15 U.S.C. 647(b)) with not more than 500 employees.”.

(d) SET ASIDE FOR INSURED DEPOSITORY INSTITUTIONS, CREDIT UNIONS, AND COMMUNITY FINANCIAL INSTITUTIONS.—Section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) is amended—

(1) in subparagraph (A)—

(A) in clause (viii), by striking “and” at the end;

(B) in clause (ix), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(x) the term ‘community development financial institution’ has the meaning given the term in section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702);

“(xi) the term ‘community financial institutions’ means—

“(I) a community development financial institution;

“(II) a minority depository institution, as defined in section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note);

“(III) a development company that is certified under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.); and

“(IV) an intermediary, as defined in section 7(m)(11); and

“(xii) the term ‘credit union’ means a State credit union or a Federal credit union, as those terms are defined, respectively, in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).”; and

(2) by adding at the end the following:

“(S) SET-ASIDE FOR INSURED DEPOSITORY INSTITUTIONS, CREDIT UNIONS, AND COMMUNITY FINANCIAL INSTITUTIONS.—

“(i) INSURED DEPOSITORY INSTITUTIONS AND CREDIT UNIONS.—In making loan guarantees under this paragraph after the date of enactment of this clause, the Administrator shall guarantee not less than \$30,000,000,000 in loans made by—

“(I) insured depository institutions with consolidated assets of not less than \$10,000,000,000 and less than \$50,000,000,000; and

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“(II) credit unions with consolidated assets of not less than \$10,000,000,000 and less than \$50,000,000,000.

“(ii) COMMUNITY FINANCIAL INSTITUTIONS, SMALL INSURED DEPOSITORY INSTITUTIONS, AND CREDIT UNIONS.—In making loan guarantees under this paragraph after the date of enactment of this clause, the Administrator shall guarantee not less than \$30,000,000,000 in loans made by—

“(I) community financial institutions;

“(II) insured depository institutions with consolidated assets of less than \$10,000,000,000; and

“(III) credit unions with consolidated assets of less than \$10,000,000,000.”.

SEC. 102. EMERGENCY DESIGNATION.

(a) IN GENERAL.—The amounts provided under this division are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)).

(b) DESIGNATION IN SENATE.—In the Senate, this division is designated as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

DIVISION B—ADDITIONAL EMERGENCY APPROPRIATIONS FOR CORONAVIRUS RESPONSE

The following sums are hereby 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

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Public Health and Social Services Emergency Fund”, \$75,000,000,000, to remain available until expended, to prevent, prepare for, and respond to coronavirus, domestically or internationally, for necessary expenses to reimburse, through grants or other mechanisms, eligible health care providers for health care related expenses or lost revenues that are attributable to coronavirus: *Provided*, That these funds may not be used to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse: *Provided further*, That recipients of payments under this paragraph in this Act shall submit reports and maintain documentation as the Secretary of Health and Human Services (referred to in this paragraph as the “Secretary”) determines are needed to ensure compliance with conditions that are imposed by this paragraph in this Act for such payments, and such reports and documentation shall be in such form, with such content, and in such time as

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the Secretary may prescribe for such purpose: *Provided further*, That “eligible health care providers” means public entities, Medicare or Medicaid enrolled suppliers and providers, and such for-profit entities and not-for-profit entities not otherwise described in this proviso as the Secretary may specify, within the United States (including territories), that provide diagnoses, testing, or care for individuals with possible or actual cases of COVID–19: *Provided further*, That the Secretary shall, on a rolling basis, review applications and make payments under this paragraph in this Act: *Provided further*, That funds appropriated under this paragraph in this Act shall be available for building or construction of temporary structures, leasing of properties, medical supplies and equipment including personal protective equipment and testing supplies, increased workforce and trainings, emergency operation centers, retrofitting facilities, and surge capacity: *Provided further*, That, in this paragraph, the term “payment” means a pre-payment, prospective payment, or retrospective payment, as determined appropriate by the Secretary: *Provided further*, That payments under this paragraph in this Act shall be made in consideration of the most efficient payment systems practicable to provide emergency payment: *Provided further*, That to be eligible for a payment under this paragraph in this Act, an eligible health care provider shall submit to the Secretary an application that includes a statement justifying the need of the provider for the payment and the eligible health care provider shall have a valid tax identification number: *Provided further*, That, not later than 3 years after final payments are made under this paragraph in this Act, the Office of Inspector General of the Department of Health and Human Services shall transmit a final report on audit findings with respect to this program to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That nothing in this paragraph limits the authority of the Inspector General or the Comptroller General to conduct audits of interim payments at an earlier date: *Provided further*, That not later than 60 days after the date of enactment of this Act, the Secretary shall provide a report to the Committees on Appropriations of the House of Representatives and the Senate on obligation of funds, including obligations to such eligible health care providers summarized by State of the payment receipt: *Provided further*, That such reports shall be updated and submitted to such Committees every 60 days until funds are expended: *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.

Definition.

Review.

Definition.

Reports.

Audits.

Reports.

Updates.
Time period.

For an additional amount for “Public Health and Social Services Emergency Fund”, \$25,000,000,000, to remain available until expended, to prevent, prepare for, and respond to coronavirus, domestically or internationally, for necessary expenses to research, develop, validate, manufacture, purchase, administer, and expand capacity for COVID–19 tests to effectively monitor and suppress COVID–19, including tests for both active infection and prior exposure, including molecular, antigen, and serological tests, the manufacturing, procurement and distribution of tests, testing equipment and testing supplies, including personal protective equipment needed for administering tests, the development and validation of rapid, molecular point-of-care tests, and other tests, support for workforce, epidemiology, to scale up academic, commercial,

public health, and hospital laboratories, to conduct surveillance and contact tracing, support development of COVID–19 testing plans, and other related activities related to COVID–19 testing: *Provided*, That of the amount appropriated under this paragraph in this Act, not less than \$11,000,000,000 shall be for States, localities, territories, tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes for necessary expenses to develop, purchase, administer, process, and analyze COVID–19 tests, including support for workforce, epidemiology, use by employers or in other settings, scale up of testing by public health, academic, commercial, and hospital laboratories, and community-based testing sites, health care facilities, and other entities engaged in COVID–19 testing, conduct surveillance, trace contacts, and other related activities related to COVID–19 testing: *Provided further*, That of the amount identified in the preceding proviso, not less than \$2,000,000,000 shall be allocated to States, localities, and territories according to the formula that applied to the Public Health Emergency Preparedness cooperative agreement in fiscal year 2019, not less than \$4,250,000,000 shall be allocated to States, localities, and territories according to a formula methodology that is based on relative number of cases of COVID–19, and not less than \$750,000,000 shall be allocated in coordination with the Director of the Indian Health Service, to tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes: *Provided further*, That the Secretary of Health and Human Services (referred to in this paragraph as the “Secretary”) may satisfy the funding thresholds outlined in the first and second provisos under this paragraph in this Act by making awards through other grant or cooperative agreement mechanisms: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Governor or designee of each State, locality, territory, tribe, or tribal organization receiving funds pursuant to this Act shall submit to the Secretary its plan for COVID–19 testing, including goals for the remainder of calendar year 2020, to include: (1) the number of tests needed, month-by-month, to include diagnostic, serological, and other tests, as appropriate; (2) month-by-month estimates of laboratory and testing capacity, including related to workforce, equipment and supplies, and available tests; and (3) a description of how the State, locality, territory, tribe, or tribal organization will use its resources for testing, including as it relates to easing any COVID–19 community mitigation policies: *Provided further*, That the Secretary shall submit such formula methodology identified in the first proviso under this paragraph in this Act to the Committees on Appropriations of the House of Representatives and the Senate one day prior to awarding such funds: *Provided further*, That such funds identified in the first and second provisos under this paragraph in this Act shall be allocated within 30 days of the date of enactment of this Act: *Provided further*, That of the amount appropriated under this paragraph in this Act, not less than \$1,000,000,000 shall be transferred to the “Centers for Disease Control and Prevention—CDC-Wide Activities and Program Support” for surveillance, epidemiology, laboratory capacity expansion, contact tracing, public health data surveillance and analytics infrastructure modernization, disseminating information about testing, and workforce support necessary to expand and improve COVID–19 testing: *Provided further*, That of the amount appropriated under this paragraph in

Deadline.
Testing plan.

Estimates.

Methodologies.

Deadline.

this Act, not less than \$306,000,000 shall be transferred to the “National Institutes of Health—National Cancer Institute” to develop, validate, improve, and implement serological testing and associated technologies for the purposes specified under this paragraph in this Act: *Provided further*, That of the amount appropriated under this paragraph in this Act, not less than \$500,000,000 shall be transferred to the “National Institutes of Health—National Institute of Biomedical Imaging and Bioengineering” to accelerate research, development, and implementation of point of care and other rapid testing related to coronavirus: *Provided further*, That of the amount appropriated under this paragraph in this Act, not less than \$1,000,000,000 shall be transferred to the “National Institutes of Health—Office of the Director” to develop, validate, improve, and implement testing and associated technologies; to accelerate research, development, and implementation of point of care and other rapid testing; and for partnerships with governmental and non-governmental entities to research, develop, and implement the activities outlined in this proviso: *Provided further*, That funds in the preceding proviso may be transferred to the accounts of the Institutes and Centers of the National Institutes of Health (referred to in this paragraph as the “NIH”) for the purposes specified in the preceding proviso: *Provided further*, That the transfer authority provided in the preceding proviso is in addition to all other transfer authority available to the NIH: *Provided further*, That of the amount appropriated under this paragraph in this Act, not less than \$1,000,000,000 shall be available to the Biomedical Advanced Research and Development Authority for necessary expenses of advanced research, development, manufacturing, production, and purchase of diagnostic, serologic, or other COVID–19 tests or related supplies, and other activities related to COVID–19 testing at the discretion of the Secretary: *Provided further*, That of the amount appropriated under this paragraph in this Act, \$22,000,000, shall be transferred to the “Department of Health and Human Services—Food and Drug Administration—Salaries and Expenses” to support activities associated with diagnostic, serological, antigen, and other tests, and related administrative activities: *Provided further*, That the amount appropriated under this paragraph in this Act may be used for grants for the rent, lease, purchase, acquisition, construction, alteration, renovation, or equipping of non-federally owned facilities to improve preparedness and response capability at the State and local level for diagnostic, serologic, or other COVID–19 tests, or related supplies: *Provided further*, That the amount appropriated under this paragraph in this Act may be used for construction, alteration, renovation, or equipping of non-federally owned facilities for the production of diagnostic, serologic, or other COVID–19 tests, or related supplies, where the Secretary determines that such a contract is necessary to secure, or for the production of, sufficient amounts of such tests or related supplies: *Provided further*, That funds appropriated under this paragraph in this Act may be used for purchase of medical supplies and equipment, including personal protective equipment and testing supplies to be used for administering tests, increased workforce and trainings, emergency operation centers, and surge capacity for diagnostic, serologic, or other COVID–19 tests, or related supplies: *Provided further*, That products purchased with funds appropriated under this paragraph in this Act may, at the discretion of the Secretary, be deposited in

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Contracts.

the Strategic National Stockpile under section 319F-2 of the Public Health Service Act: *Provided further*, That of the amount appropriated under this paragraph in this Act, \$600,000,000 shall be transferred to “Health Resources and Services Administration—Primary Health Care” for grants under the Health Centers program, as defined by section 330 of the Public Health Service Act, and for grants to federally qualified health centers, as defined in section 1861(aa)(4)(B) of the Social Security Act: *Provided further*, That sections 330(e)(6)(A)(iii), 330(e)(6)(B)(iii), and 330(r)(2)(B) of the Public Health Service Act shall not apply to funds provided under the previous proviso: *Provided further*, That of the amount appropriated under this paragraph in this Act, \$225,000,000 shall be used to provide additional funding for COVID-19 testing and related expenses, through grants or other mechanisms, to rural health clinics as defined in section 1861(aa)(2) of the Social Security Act, with such funds also available to such entities for building or construction of temporary structures, leasing of properties, and retrofitting facilities as necessary to support COVID-19 testing: *Provided further*, That such funds shall be distributed using the procedures developed for the Provider Relief Fund authorized under the third paragraph under this heading in division B of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136); may be distributed using contracts or agreements established for such program; and shall be subject to the process requirements applicable to such program: *Provided further*, That the Secretary may specify a minimum amount for each eligible entity accepting assistance under the two previous provisos: *Provided further*, That up to \$1,000,000,000 of funds provided under this paragraph in this Act may be used to cover the cost of testing for the uninsured, using the definitions applicable to funds provided under this heading in Public Law 116-127: *Provided further*, That not later than 21 days after the date of enactment of this Act, the Secretary, in coordination with other appropriate departments and agencies, shall issue a report on COVID-19 testing: *Provided further*, That such report shall include data on demographic characteristics, including, in a de-identified and disaggregated manner, race, ethnicity, age, sex, geographic region and other relevant factors of individuals tested for or diagnosed with COVID-19, to the extent such information is available: *Provided further*, That such report shall include information on the number and rates of cases, hospitalizations, and deaths as a result of COVID-19: *Provided further*, That such report shall be submitted to the Committees on Appropriations of the House and Senate, and the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, and updated and resubmitted to such Committees, as necessary, every 30 days until the end of the COVID-19 public health emergency first declared by the Secretary on January 31, 2020: *Provided further*, That not later than 180 days after the date of enactment of this Act, the Secretary shall issue a report on the number of positive diagnoses, hospitalizations, and deaths as a result of COVID-19, disaggregated nationally by race, ethnicity, age, sex, geographic region, and other relevant factors: *Provided further*, That such report shall include epidemiological analysis of such data: *Provided further*, That not later than 30 days after the date of the enactment of this Act, the Secretary, in coordination with other departments and agencies, as appropriate,

Contracts.
Requirements.

Coordination.
Reports.

Data.

Data.

Updates.
Time period.

Reports.
Data.

Analysis.
Coordination.
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Testing plan.

shall report to the Committees on Appropriations of the House and Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate on a COVID–19 strategic testing plan: *Provided further*, That such plan shall assist States, localities, territories, tribes, tribal organizations, and urban Indian health organizations, in understanding COVID–19 testing for both active infection and prior exposure, including hospital-based testing, high-complexity laboratory testing, point-of-care testing, mobile-testing units, testing for employers and other settings, and other tests as necessary: *Provided further*, That such plan shall include estimates of testing production that account for new and emerging technologies, as well as guidelines for testing: *Provided further*, That such plan shall address how the Secretary will increase domestic testing capacity, including testing supplies; and address disparities in all communities: *Provided further*, That such plan shall outline Federal resources that are available to support the testing plans of each State, locality, territory, tribe, tribal organization, and urban Indian health organization: *Provided further*, That such plan shall be updated every 90 days until funds are expended: *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.

Testing estimates
and guidelines.

Updates.
Time period.

GENERAL PROVISIONS—THIS TITLE

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. The requirements, authorities, and conditions described in sections 18108, 18109, and 18112 of division B of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) shall apply to funds appropriated in this Act to the Department of Health and Human Services.

Applicability.

SEC. 102. Funds appropriated by this Act under the heading “Department of Health and Human Services”, except for the amounts specified in the first paragraph and the first and second provisos in the second paragraph under the heading “Public Health and Social Services Emergency Fund”, 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”, “Food and Drug Administration”, and “National Institutes of Health” to prevent, prepare for, and respond to coronavirus 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 Act are not necessary, such amounts may be transferred back to that appropriation: *Provided further*, That none of the funds made available by this Act 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.

Consultation.

Notification.
Time period.
Determination.

SEC. 103. Of the funds appropriated by this Act under the heading “Public Health and Social Services Emergency Fund”, up to \$6,000,000 shall be transferred to, and merged with, funds made