



'American Rescue Plan' Proposed to Provide Expanded COVID-19 Paid Leave and Unemployment Relief

On January 14, 2021, President-elect Biden announced the "[American Rescue Plan](#)," which is the new administration's first emergency coronavirus and stimulus proposal. If passed, the plan will greatly expand the availability of paid leave and unemployment benefits to U.S. workers. Indeed, the new administration maintains that the plan could provide emergency paid leave to an additional 106 million Americans. To do so, the plan will impose significant new burdens on employers by, for example, closing certain loopholes that previously exempted large segments of employers from federal paid leave requirements.

In addition to providing for stimulus payments of \$1,400 per person for those under certain income thresholds (on top of the \$600 payments issued in December), the American Rescue Plan could affect employers and employees as follows:

- Increasing unemployment benefits by providing a federal supplement of an additional \$400 per week through September 30, 2021. This would be an increase from the expanded unemployment benefits included in the December 2020 relief package, which consist of a federal supplement of \$300 per week for 11 weeks.
- Reinstating mandatory paid sick and family and medical leave under the Families First Coronavirus Response Act (FFCRA) through September 30, 2021. At present, covered employers have the option but are not required to provide FFCRA leave from January 1 to March 31, 2021. Currently, covered employers that voluntarily elect to provide such leave through March 31 remain entitled to reimbursement through payroll tax credits.
- Expanding FFCRA to cover employers with 500 or more employees. Importantly, although the Plan would require such large employers to provide paid FFCRA leave to eligible employees, the new administration's [Fact Sheet](#) suggests that

such large employers will **not** be reimbursed for the costs of that paid leave through payroll tax credits. In contrast, employers with fewer than 500 employees can continue to seek reimbursement vis-à-vis the tax credits.

- Eliminating the exemption from FFCRA coverage for health care workers and first responders. Under the new administration's proposed plan, employers will be required to offer federal paid leave to such employees.
- Eliminating the exemption to FFCRA paid leave requirements that was available to certain small businesses with fewer than 50 employees.
- Expanding the emergency paid sick leave ("EPSL") and expanded family and medical leave ("EFML") available under FFCRA to "over" 14 weeks, although the specific amount of both types of leaves that the administration is proposing remains unclear. In 2020, eligible employees could receive two weeks of paid EPSL and 12 weeks of EFML, of which 10 were paid.
- Expanding FFCRA coverage to employees of the federal government and providing reimbursement to state and local governments for the costs of FFCRA leave.
- Providing a maximum FFCRA paid leave benefit of \$1,400 per week. In 2020, certain FFCRA leave was capped at \$1,000 per week.
- Expanding FFCRA coverage to provide for paid time off to obtain COVID-19 vaccination.

Key Takeaways

- As outlined above, the American Rescue Plan could have a significant impact on employers and employees alike.
- It remains to be determined whether Congress will pass the plan as proposed by the new administration. The Spencer Fane Labor and Employment team will continue to provide updates regarding the effects such anticipated legislation will have on employers as additional information becomes available.

This Client Alert was prepared by [Randi Winter](#) of the Spencer Fane office in Minneapolis, Minnesota.