



March 26, 2020

# Analysis of Senate-Passed CARES Act

On March 25, the Senate approved a \$2 trillion stimulus package, the *Coronavirus Aid, Relief, and Economic Security Act*, to address the economic and health impacts of the COVID-19 pandemic. The bill now moves to the House for a vote on Friday. The House is expected to approve the bill and send it to President Donald Trump for his signature.

This client alert provides a summary and analysis of the legislation's following provisions:

- **Division A**—Keeping Workers Paid and Employed, Health Care System Enhancements and Economic Stabilization
  - **Title I**—Keeping American Workers Employed and Paid Act
  - **Title II**—Assistance for American Workers, Families and Businesses
    - **Subtitle A**—Unemployment Insurance Provisions
    - **Subtitle B**—Rebates and Other Individual Provisions
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  - **Title IV**—Economic Stabilization and Assistance to Severely Distressed Sectors of the U.S. Economy

- Subtitle A—Economic Stabilization Act of 2020
- Subtitle B—Air Carrier Worker Support
- **Division B**—Emergency Appropriations for Coronavirus Health Response and Agency Operations

## **Division A—Keeping Workers Paid and Employed, Health Care System Enhancements and Economic Stabilization**

### **Title I—Keeping American Workers Employed and Paid Act.**

#### **Section 1101: Definitions**

- Defines “Administration” and “Administrator” as the Small Business Administration (SBA) and the SBA Administrator, respectively.
- Defines “small business concern” as already established SBA size standards.
- Impact: Defines provisions. Note that the definition of eligible small business is expanded in Sec. 1102.

#### **Section 1102: Paycheck Protection Program**

- Amends Sec. 7(a) of the Small Business Act to provide a Paycheck Protection Program through small business interruption loans and loan guarantees.
- The program would provide nearly \$350 billion in loans and loan guarantees capped at \$10 million to small businesses for the covered period of Feb. 15, 2020 through June 30, 2020 to cover payroll costs (up to annual payroll amounts of \$100,000); continuation of group health care benefits; employee salaries, commissions, or similar compensation; mortgage payments; rent; utilities; and interest on any other debt obligations that were incurred before the covered period.
- The new bill also extends eligibility to companies of 500 employees or less. Eligibility for loans would also be expanded to 501(c)(3) nonprofits, veterans organizations, and tribal small business concerns. Sole-proprietors, independent contractors, and other self-employed individuals may also participate in the program.
- The SBA’s affiliation test is waived during the covered period for hospitality and restaurant industries, franchises that are approved on the SBA’s Franchise Directory, and small businesses who receive financing through the Small Business Investment Company (SBIC) program.
- Loans would be optimized, with deferred loans of no less than 6 months and up to 1 year, and would be 100% federally guaranteed. The program would waive fees, the credit elsewhere test, as well as collateral and personal guarantee requirements. The interest rate on the loans would not exceed an interest rate of 4%.
- Increases the SBA Express loan amount cap from \$350,000 to \$1 million through Dec. 31, 2020. On Jan. 1, 2021, SBA Express loans will again be capped at \$350,000. It also rescinds newly implemented affiliation rules for SBA Express loans.
- Impact: This revised section expands eligibility for SBA 7(a) loans and provides small businesses funds for specified COVID-19 related costs incurred from Feb. 15, 2020 through June 30, 2020.

#### **Section 1103: Entrepreneurial Development**

- Provides financial assistance in the form of \$265,000,000 in grants to resource partners to provide education, training, and advice to covered small business concerns for the COVID-19 response.
- Impact: This section would provide education, training and advice to covered small business concerns to help them better respond to COVID-19.

#### **Section 1104: State Trade Expansion Program**

- This section would reimburse recipients of grants under the State Trade Expansion Program for any losses related to COVID-19 cancellations of a foreign trade mission or a trade show exhibition if the reimbursement does not exceed a recipient’s grant funding.
- Impact: Provides assistance to recipients of the State Trade Expansion Program grants.

#### **Section 1105: Waiver of Matching Funds Requirement Under the Women’s Business Center Program**

- Waives a statutory requirement to obtain cash contributions from non-federal sources for a three-month period.

- Impact: Allows for grants to be quickly dispersed to WBCs without requiring those businesses to find a secondary source of non-federal funding for grants.

#### **Section 1106: Loan Forgiveness**

- Makes loan forgiveness available up to the principal amount of the financing made available under the applicable covered loan; however, loan forgiveness would be reduced for employers who lay-off workers or reduce employee compensation except where employers rehire workers or pay additional wages to tipped workers.
- Loan forgiveness is available for payroll costs, mortgage interest, rent and utility payments.
- Provides that the SBA would purchase forgiven loan amounts from a lender, once the creditor has forgiven the loan amount.
- Forgiven loan amounts will not be included as gross income.
- Impact: This portion of the legislation incentivizes worker retention during the COVID-19 pandemic and provides partial loan forgiveness for small businesses and nonprofits.

#### **Section 1107: Direct Appropriations**

- Provides \$349 billion for loan guarantees and loan subsidies,
- Provides \$10 billion in EIDL grants
- Provides \$17 billion for SBA to defer payments for six months on existing loans.
- Provides \$240 million for small business development centers and women's business centers for technical assistance for businesses,
- Provides \$25 million for resource partner associations to provide online information and training, and
- Provides \$10 million for minority business centers for technical assistance for businesses.
- Impact: Directs the appropriation of specific amounts of federal funds.

#### **Section 1108: Minority Business Development Agency**

- Provides \$10,000,000 in grants for the U.S. Department of Commerce's Minority Business Development Agency to assist provide education, training, and advice to covered small business concerns for response to COVID-19 as well as providing assistance with accessing and applying for 7(a) loans.
- No matching of funds for these grants is required for a three-month period.
- Impact: Allows for grants to for education, training, and advice to covered small business concerns in rural and economically distressed areas, without requiring a secondary source of non-federal funding for grants.

#### **Section 1109: United States Treasury Program Management Authority**

- Directs the Treasury Department, the Farm Credit Administration, and the other federal financial regulatory agencies, to establish criteria for FDIC-insured lending institutions, and other specialized lenders that do not already participate in SBA lending, to participate in the small business interruption loans program.
- To participate, a lender must demonstrate that participation would not affect the safety and soundness of the institution or lender. Existing 7(a) lenders may opt in to the program.
- Impact: This section expands the number of eligible lenders qualified to make SBA 7(a) loans.

#### **Section 1110: Emergency EIDL Grants**

- Authorizes \$10 billion in appropriations for SBA to administer Economic Injury Disaster Loan (EIDL) grants through Dec. 30, 2020.
- Eligible entities are businesses, cooperatives, and employee stock ownership plan (ESOPs), and tribal small business concerns with fewer than 500 employees; or any individual operating as a sole proprietor or an independent contractor; as well as small business concerns, private nonprofit organizations, and small agricultural cooperatives.
- EIDL loans made in response to COVID-19 will be given based on the applicants credit score, or a similar alternative method, and will waive
  - personal guarantee on advances and loans up to \$200,000,
  - requirement that an applicant was in business for the 1-year period prior to the covered period so long as they were in operation Jan. 31, 2020, and

- the credit elsewhere requirement.
- Provides for a loan advance of \$10,000 to be distributed by SBA within three days (upon verification the applicant has provided for an EIDL loan) for paid sick leave, payroll, increased costs, making rent or mortgage payments, and repaying obligations that cannot be met due to revenue losses. Advance payments will not be considered in the loan forgiveness amounts should the loan be converted to an SBA 7(a) loan.
- Impact: Allows small businesses to receive immediate cash payments of \$10,000 in three days and waive certain requirements on loans of less than \$200,000. Applicants may later convert to the larger SBA 7(a) loan program.

#### **Section 1111: Resources and Services in Languages Other than English**

- Provides that \$25 million shall be directed by SBA to providing resources in the 10 most commonly spoken languages, other than English.
- Impact: This provision ensures that SBA will provide information to small business owners for whom English is not a first language.

#### **Section 1112: Subsidy for Certain Loan Payments**

- Appropriates \$17 billion to incentive lenders to defer existing 7(a), 504, and microloan products.
- SBA is authorized to pay principal, interest, and any associated fees owed on deferred existing loans for a 6 month period, even if the loan was sold on the secondary market.
- Provides a section to authorize the SBA Administrator to encourage the FDIC, OCC, and state regulators to not require increase reserves as a result of payments made by SBA; waive limits on maximum loan maturities during the one year period following enactment; and extend lender site visit requirements not more than 60 days, and not more than 90 days after default.
- Impact: This provision allows for existing small business loans to receive deferral and for creditors to receive payments from the SBA for deferral.

#### **Section 1113: Bankruptcy**

- Expands eligibility for the streamlined Chapter 11, Subchapter V small business bankruptcy process by increasing the debt limit for business and individual filers from \$2,725,625 to not more than \$7,500,000, excluding debt owed to affiliates or insiders.
- Prohibits such Chapter 11, Subchapter V filers from being a reporting company under Sec. 13 or 15(d) of the Securities Exchange Act of 1934 or an affiliate of an issuer, as defined in section 3 of the Exchange Act.
- Adds flexibility to Chapter 13 bankruptcies by excluding federal aid from income in new filings and by allowing for plan modifications for previously confirmed Chapter 13 plans if income is lost directly or indirectly due to coronavirus, with maximum term of the plan extended to 7 years.
- Impact: Will allow more small businesses and individuals to take advantage of the streamlined Chapter 11, Subchapter V bankruptcy process, and will add flexibility to both new and old Chapter 13 bankruptcies.

#### **Section 1114: Emergency Rulemaking Authority**

- Requires that SBA promulgate regulations no later 15 days after enactment.
- Impact: Sets deadline for SBA to provide implementing regulations.

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

#### *Subtitle A—Unemployment Insurance Provisions*

#### **Section 2101: Short Title**

- Title is called the Relief for Workers Affected by Coronavirus Act.
- Impact: Title provision only.

#### **Section 2102: Pandemic Unemployment Assistance**

- Creates a temporary Pandemic Unemployment Assistance program for up to 39 weeks from Jan. 27, 2020 through Dec. 31,

2020. Program provides immediate benefits to those not traditionally eligible for unemployment benefits, who are unable to work, partially unemployed, or unemployed as a direct result of the coronavirus public health emergency. Individuals who have the ability to telework or those receiving paid sick leave or other paid leave benefits are not eligible for unemployment benefits.

- The benefit amount is equal to the weekly amount authorized under state law where the individual was employed plus an additional \$600 provided under Sec. 2104. Benefit amount is not limited to 100% of individual's salary.
- Impact: Provides those who are not traditionally eligible for unemployment, such as self-employed, independent contractors, and those with limited work history, with unemployment benefits.

#### **Section 2103: Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations**

- Provides payments to states to reimburse nonprofits, government agencies, and Indian tribes for half of the costs they incur from March 13 through Dec. 31, 2020 to pay unemployment benefits.
- Impact: Provides monies to states for claims made by those who are employed by nonprofits, government agencies, and Indian tribes.

#### **Section 2104: Emergency Increase in Unemployment Compensation Benefits**

- Provides an additional \$600 per week payment to each recipient of unemployment insurance or Pandemic Unemployment Assistance recipient for up to four months.
- States are fully reimbursed for benefits and administrative costs under this section.
- Impact: Provides additional monies for those unemployed by pandemic. Payment amount is not limited to 100% of individual's salary prior to unemployment.

#### **Section 2105: Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week**

- Provides funding to pay the cost of the first week of unemployment benefits through Dec. 31, 2020 for states that choose to pay recipients as soon as they become unemployed instead of waiting one week before the individual is eligible to receive unemployment benefits.
- Impact: Fully funds the benefit payments for states that provide benefits more rapidly.

#### **Section 2106: Emergency State Staffing Flexibility**

- Provides states with temporary, limited flexibility to hire temporary staff, re-hire former staff, or take other steps to quickly process unemployment claims.
- Impact: Provides states with staffing to process claims.

#### **Section 2107: Pandemic Emergency Unemployment Compensation**

- Provides an additional 13 weeks of federally-funded unemployment benefits through Dec. 31, 2020 to help those who remain unemployed after exhausting their state unemployment benefits. These benefits are paid before any permanent Extended Benefits.
- Impact: Provides additional monies for those who are most displaced from pandemic.

#### **Section 2108: Temporary Financing of Short-Time Compensation Payments in States with Programs in Law**

- Provides funding to support existing state "short-time compensation" programs, where employers reduce employee's hours instead of laying off workers and the employees with reduced hours receive a pro-rated unemployment benefit.
- The benefit amount is equal to the weekly amount authorized under state law plus an additional \$600 provided under Sec. 2104.
- Pays 100% of the costs they incur in providing short-time compensation through Dec. 31, 2020.
- Impact: Provides "bridge" compensation for employees where employers keep employees on payroll but reduce their hours.

#### **Section 2109: Temporary Financing of Short-Time Compensation Agreements**

- Permits states to enter into an agreement with Department of Labor to enact a short-time compensation plan.
- Provides funding to support states which begin a "short-time compensation" program by providing 50% of the costs a state

incurs in providing short-time compensation through Dec. 31, 2020.

- Impact: Encourages states to offer programs that provide “bridge” compensation for employees where employers keep employees on payroll but reduce their hours.

#### **Section 2110: Grants for Short-Time Compensation Programs**

- Provides \$100 million in grants to states that enact “short-time compensation” programs to help them implement and administer these programs.
- Impact: Encourages states to offer programs that provide “bridge” compensation for employees where employers keep employees on payroll but reduce their hours.

#### **Section 2111: Assistance and Guidance in Implementing Programs**

- Requires the Department of Labor to disseminate model legislative language for states, provide technical assistance, and establish reporting requirements related to “short-time compensation” programs.
- Impact: Encourages states to offer programs that provide “bridge” compensation for employees where employers keep employees on payroll but reduce their hours.

#### **Section 2112: Waiver of the 7-day Waiting Period for Benefits under the Railroad Unemployment Insurance Act**

- Temporarily eliminates the 7-day waiting period for railroad unemployment insurance benefits through Dec. 31, 2020 (to make this program consistent with the change made for states through the same period in an earlier section of this title).
- Impact: Speeds up delivery of unemployment insurance for railroad employees.

#### **Section 2113: Enhanced Benefits under the Railroad Unemployment Insurance Act**

- Provides an additional \$600 per week payment to each recipient of unemployment insurance or Pandemic Unemployment Assistance recipient for up to three months (to make this program consistent with the change made for states in an earlier section of this title).
- Impact: Provides additional monies for railroad employees who become unemployed as a result of the pandemic.

#### **Section 2114: Extended Unemployment under the Railroad Unemployment Insurance Act**

- Provides an additional 13 weeks of unemployment benefits through Dec. 31, 2020 to help those who remain unemployed after weeks of state unemployment are no longer available (to make this program consistent with the change made for states in an earlier section of this title).
- Impact: Provides additional monies for railroad employees who are most displaced from pandemic.

#### **Section 2115: Funding for the Department of Labor Office of Inspector General for Oversight of Unemployment Provisions**

- Provides \$25 million to the Department of Labor’s Inspector General for audits, investigations and other oversight with respect to Subtitle A’s provisions.
- Impact: Allows for audits and oversight of the new Unemployment Insurance provisions.

#### **Section 2116: Implementation**

- Gives the secretary of Labor the ability to issue operating instructions and other guidance as needed to implement Subtitle A. Allows the Department of Labor to waive the Paperwork Reduction Act requirements, making it easier for the DOL to gather information from states.
- Impact: Enables DOL’s ability to implement Subtitle A and gather state information.

#### *Subtitle B—Rebates and Other Individual Provisions*

#### **Section 2201: 2020 Recovery Rebates for Individuals**

- Provides U.S. residents with adjusted gross income up to \$75,000 (individuals) and \$150,000 (for joint filers) are eligible for a full \$1,200 rebate (\$2,400 for joint filers). And an additional \$500 per child.
- Reduces rebates by \$5 for each \$100 that a taxpayer’s income exceeds a phase-out threshold. The rebate is completely phased out for individuals with adjusted gross income of \$99,000 (\$198,000 for joint filers) with no children.

- Amounts are based on taxpayers' 2018 tax return if 2019 tax return has not yet been filed.
- Impact: Provides immediate cash relief for working class Americans and will help stimulate the economy.

#### **Section 2202: Special Rules for Use of Retirement Funds**

- Waives the 10% early distribution penalty for coronavirus-related distributions up to an aggregate \$100,000 from all eligible retirement plans in the plan sponsor's controlled group.
  - Distribution amounts may be included in individual's taxable income ratably over three years, subject to taxpayer election.
  - The taxpayer may recontribute the funds to an eligible retirement plan in one or more payments within three years of distribution date and without regard to that year's cap on contributions.
  - Applies to coronavirus-related distributions from Jan. 1 through Dec. 31, 2020.
  - Impact: Allows individuals access cash without tax penalties.
- Modifies requirements for participant loans from qualified plans.
  - For six months, increases the maximum plan loan amount available to participants to the lesser of (i) \$100,000 or (ii) the participant's vested account balance.
  - Delays by one year the due date of any outstanding loans otherwise due through Dec. 31, 2020; but repayments are to be adjusted to reflect the delayed due date and any interest accruing during the delay.
  - Impact: Gives individuals access to more cash and delays adverse tax consequences if unable to repay an outstanding loan due to layoff or termination.
- Related plan amendments generally required by last day of first plan year beginning on or after Jan. 1, 2022, two-year extended amendment deadline for governmental plans.

#### **Section 2203: Temporary Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts**

- No minimum distribution is required for calendar year 2020 from (i) defined contribution plans, as described in Code §401(a), 403(a), or 403(b), (ii) Code §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.
- The calendar year 2020 is disregarded for purposes of determining the 5 year post-death period in which full distribution must be made to beneficiaries that are not designated beneficiaries.
- Amounts paid in 2020 that otherwise would be required minimum distributions are not eligible for rollover treatment.
- Related plan amendments generally required by last day of first plan year beginning on or after Jan. 1, 2022, two-year extended amendment deadline for governmental plans.
- Impact: Allows individuals to preserve retirement funds and protects them from having to take a distribution based on 2019 account balance, when entire account in 2020 is deflated due to poor market performance in 2020.

#### **Section 2205: Modification of Limitations on Charitable Contributions During 2020**

- Increases the limitations on deductions for charitable contributions.
- The 50% of adjusted gross income limitation is suspended for individuals.
- The 10% limitation is increased to 25% of taxable income for corporations.
- Increases the limitation on deductions for contributions of food inventory from 15% to 25%.
- Impact: Promotes philanthropy.

#### **Section 2206: Exclusion for Certain Employer Payments of Student Loans**

- Employer payments during 2020 made to or on behalf of an employee with respect to the principal or interest on any qualified education loan held by the employee will be treated as educational assistance within the meaning of Sec. 127 and thus be excludible from the employee's gross income.
- All conditions under Sec. 127 must be met, including:
  - Total educational assistance program benefits during a calendar year remain limited to the existing \$5,250 maximum gross income exclusion.
  - Benefit needs to be provided pursuant to a separate written plan of the employer.
- Impact: Encourages employers to assist employees with their payment of student loan debt.



*Subtitle C—Business Provisions.*

**Section 2301: Employee Retention Payroll Tax Credit or Employer Subject to Closure or 50% Reduction in Gross Receipts**

- Provides a refundable payroll tax credit, capped at \$10,000.00 per employee, for 50% of wages paid by employers to employees from March 13 through Dec. 31, 2020.
- Employers qualify if they either (1) are subject to a full or partial shut-down order due to the COVID-19 crisis or (2) see gross receipts decline by more than 50% when compared to the same quarter in the prior year. In the event the qualifying event is a decline in gross receipts, the employer remains eligible for the credit during 2020 until it reaches 80% of gross revenues in a quarter compared to the prior year.
- Employers who have taken an SBA business interruption loan are not eligible for the credit (because those loans may be fully forgiven under circumstances related to COVID-19).
- Impact: This provision is designed to incentivize employers to retain employees during the crisis. Due to the \$10,000.00 per employee cap on this credit, employers who may qualify for an SBA business interruption loan will want to evaluate whether taking this credit or applying for an SBA loan makes the most sense.

**Section 2302: Delay of Payment of Employer Payroll Taxes**

- Employers and self-employed individuals may delay payment of 100% of the employer share of social security taxes due after the date of enactment through the end of 2020.
- The deferred amounts are paid in two installments: 50% on Dec. 31, 2021, and 50% on Dec. 31, 2022.
- Impact: This provision frees up cash for all businesses and self-employed individuals to fund business operations and support retaining employees.

**Section 2303: Modification of Net Operating Losses**

- The provision allows 100% of losses for tax years 2018, 2019, and 2020 (rather than 80%).
- The provision allows a five-year carryback for losses in tax years 2018, 2019 and 2020.
- Impact: This will allow businesses to carryback 100% of losses as far as 2013 to offset taxable income and access cash to support business operations in 2020 and future years.

**Section 2304: Modification of Limitation on Losses for Taxpayers Other Than Corporations**

- The provision suspends the \$250,000 (\$500,000 for joint return) limitation on excess business losses for pass through businesses and sole proprietors for tax years 2018, 2019, and 2020.
- The provision also allows a five-year carryback for losses in tax years 2018, 2019, and 2020.
- Impact: This will allow pass-through businesses and sole proprietors to carryback losses as far as 2013 to offset taxable income and access cash to support business operations in 2020 and future years.

**Section 2305: Modification of Credit for Prior Year Minimum Tax Liability of Corporations**

- This provision accelerates the ability of businesses to recover alternative minimum tax (“AMT”) credits.
- The corporate AMT was repealed as part of the Tax Cuts and Jobs Act of 2017, but corporate AMT credits were made available as refundable credits over several years, ending in 2021.
- Impact: This will benefit corporations with AMT credits by permitting them to claim a refund now and obtain additional cash flow.

**Section 2306: Modification of Limitation on Business Interest**

- For 2019 and 2020, this provision increases the amount of interest expense that businesses (both corporations and partners in partnerships) are allowed to deduct, by increasing the limitation from 30% of adjusted taxable income to 50%.
- Impact: This provision will allow businesses to increase liquidity with a reduced cost of capital, so that they are able to continue operations.

**Section 2307: Technical Amendments Regarding Qualified Improvement Property**

- The Tax Cuts and Jobs Act of 2017 had a technical error which required the costs of qualified improvement property (improvements to the interior of nonresidential buildings) to be depreciated over the 39-year life of the building.
- This technical correction classifies qualified improvement property as 15-year life, which also allows such property to be



eligible for bonus depreciation.

- **Impact:** This provision not only increases companies' access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue to invest in improvements.

#### **Section 2308: Temporary Exception From Excise Tax For Alcohol Used to Produce Hand Sanitizer**

- Allows taxpayers a tax holiday on distilled spirits withdrawn from the bonded premises of any distilled spirits plant if the alcohol is used in or contained in hand sanitizer produced and distributed consistent with FDA guidelines related to COVID-19.
- The tax holiday applies to distilled spirits removed after Dec. 31, 2019, and before Jan. 1, 2020.
- **Impact:** Will provide tax relief for businesses attempting to help produce supplies critical to the COVID-19 disaster.

### **Title III – Supporting America's Health Care System in the Fight Against the Coronavirus**

#### *Subtitle A—Health Provisions*

##### *Part I—Addressing Supply Shortages*

###### *Subpart A—Medical Product Supplies*

#### **Section 3101: National Academies Report on America's Medical Product Supply Chain Security**

- Directs the National Academies of Sciences, Engineering and Medicine to study the manufacturing supply chain of drugs and medical devices, and evaluate the dependence of the United States on critical drugs and devices that are sourced or manufactured outside the United States; and to provide Congress with recommendations, which may include a plan to improve the resiliency of the supply chain for critical drugs and devices. The National Academies must consult and consider input from other federal agencies and stakeholders.
- **Impact:** Gathers more information and recommendations regarding strengthening the U.S. manufacturing supply chain.

#### **Section 3102: Requiring the Strategic National Stockpile to Include Certain Types of Medical Supplies**

- Clarifies that the Strategic National Stockpile can stockpile certain medical supplies, including personal protective equipment, ancillary medical supplies, and other applicable supplies required for the administration of drugs, vaccines and other biological products.
- **Impact:** Includes medical supplies used to diagnose and treat COVID-19 in the Strategic National Stockpile.

#### **Section 3103: Treatment of Respiratory Protective Devices as Covered Countermeasures**

- Provides permanent liability protection for manufacturers of personal respiratory protective equipment that the secretary of HHS determines to be a priority during a public health emergency under Sec. 319 of the Public Health Services Act.
- **Impact:** Incentivizes increased production and distribution of personal respiratory protective equipment such as masks and respirators.

##### *Subpart B—Mitigating Emergency Drug Shortages*

#### **Section 3111: Prioritize Reviews of Drug applications; Incentives**

- Compels the Food and Drug Administration (FDA) to prioritize and expedite the review of drug applications and inspections in order to prevent or mitigate a drug shortage.
- **Impact:** FDA will prioritize and expedite review of some drug applications and inspections.

#### **Section 3112: Additional Manufacturer Reporting Requirements in Response to Drug Shortages**

- Requires drug manufacturers to submit more information when there is an interruption in supply, including information about active pharmaceutical ingredients, when active pharmaceutical ingredients are the cause of the interruption. This includes information about alternative sources for the active pharmaceutical ingredient, whether any associated device used for preparation or administration included in the drug is a reason for the interruption, expected duration of the interruption, and other information the secretary may require.

- Mandates that manufacturers provide information about drug volume, and maintain a risk management plan that identifies and evaluates risks to the supply of the drug. The secretary must periodically provide these reports to CMS.
- Impact: Increases manufacturer reporting requirements to prevent or mitigate drug shortages.

*Subpart C—Preventing Medical Device Shortages*

**Section 3121: Discontinuance or Interruption in the Production of Medical Devices**

- Requires that medical device manufacturers are required to submit information about device shortages or device component shortages upon request of the FDA during a public health emergency when that device is critical to the public health. This information includes a permanent discontinuance in the manufacture of the device or an interruption in the manufacture of the device that is likely to lead to a meaningful disruption in the supply of that device, at least six months prior to the discontinuance or interruption.
- Information gathered by this reporting will be disseminated by the secretary to appropriate health care organizations, except when the secretary determines the disclosure of such information would adversely affect the public health.
- Impact: Requires increased reporting among medical device manufacturers during a public health emergency.

*Part II—Access to Health Care for Covid-19 Patients*

*Subpart A—Coverage Of Testing And Preventive Services*

**Section 3201: Coverage of Diagnostic Testing for COVID-19**

- Clarifies that all testing for COVID-19 is to be covered by private insurance plans without cost sharing, including tests without an Emergency Use Authorization by the FDA.
- Impact: Requires private insurance plans to cover all COVID-19 diagnostic testing without cost-sharing.

**Section 3202: Pricing of Diagnostic Testing**

- Requires insurers to pay either a negotiated rate specified in a contract between the insurer and the provider or, absent a contract, a cash price posted by the provider for COVID-19 testing covered.
- Requires each provider of a diagnostic test for COVID-19 to post the cash price for such test on a public internet website; a civil monetary applies for \$300 per day if the provider does not comply.
- Impact: Insurers pay contracted rates or cash price for COVID-19 testing with no cost to patients.

**Section 3203: Rapid Coverage of Preventive Services and Vaccines for Coronavirus**

- Requires group health plans and health insurance issuers offering group or individual coverage cover, without cost-sharing, a qualifying coronavirus preventative service. This is defined as an item, service, or immunization that is intended to prevent or mitigate coronavirus that has a rating of “A” or “B” in the current recommendations of the United States Preventative Services Task Force or a recommendation from the Advisory Committee on Immunization Practices (ACIP). It must be covered within 15 days after the recommendation is made.
- Impact: Requires health plans to cover preventive services and vaccines for COVID-19 without cost-sharing.

*Subpart B—Support For Health Care Providers*

**Section 3211: Supplemental Awards for Health Centers**

- Provides \$1.32 billion in supplemental funding to community health centers for preventing, diagnosing and treating COVID-19.
- Impact: Provides additional funding to community health centers.

**Section 3212: Telehealth Network and Telehealth Resource Centers Grant Programs**

- Reauthorizes Health Resources and Services Administration (HRSA) grant programs that promote the use of telehealth technologies for health care delivery, education, and health information services, with heightened requirements that funds are awarded in rural areas.
- Requires the secretary of HHS to submit a report to Congress every five years, regarding the activities and outcomes of the

grant program.

- Impact: Provides grant money to promote the use of telehealth.

#### **Section 3213: Rural Health Care Services Outreach, Rural Health Network Development, and Small Health Care Provider Quality Improvement Grant Programs**

- Reauthorizes HRSA grant programs that bolster rural community health by focusing on quality improvement, increasing health care access, coordination of care, and integration of services.
- Requires the secretary of HHS to submit a report to Congress every five years, regarding the impact of projects funded under the grant programs on the health status of rural residents with chronic conditions.
- Impact: Makes grant money available for those rural areas, who are disproportionately older and more likely to have a chronic disease, which could increase their risk of more severe illness if they contract COVID-19.

#### **Section 3214: United States Public Health Service Modernization**

- Creates a Ready Reserve Corps for service in times of public health or national emergency, where previously the Corps only pertained to times of national emergency.
- Impact: Establishes a program to provide an adequate supply of trained doctors and nurses to respond to public health emergencies.

#### **Section 3215: Limitation on Liability for Volunteer Health Care Professionals During COVID-19 Emergency Response**

- Provides that a health care professional is not liable under Federal or State law for any harm caused by an act or omission of the professional in the provision of health care services during a public health emergency with respect to COVID-19.
- This applies if the health care professional is volunteer and within the scope of the health professional's license, registration or certification.
- Impact: Ensures liability protections for health care professionals providing volunteer medical services during the COVID-19 public health emergency.

#### **Section 3216: Flexibility for Members of National Health Service Corps During Emergency Period**

- Allows the secretary of HHS to reassign members of the National Health Service Corps to locations outside of where they were originally assigned, so long as those locations are within a reasonable distance and the total number of hours required remain the same as prior to the enactment of this Act. This applies during the public health emergency and requires the voluntary consent of the corps member.
- Impact: Provides flexibility to National Health Service Corps workers to respond to the COVID-19 public health emergency.

#### *Subpart C—Miscellaneous Provisions*

#### **Section 3221: Confidentiality and Disclosure of Records Relating to Substance Use Disorder**

- Changes rules governing how substance use disorder records may be shared. Aligns 42 CFR Part 2 regulations, which govern the confidentiality and sharing of substance abuse disorder treatment records, with the *Health Insurance Portability and Accountability Act* (HIPAA). Requires written patient consent once for all future disclosures for the purposes of treatment, payment and health care operations, until the patient revokes consent in writing.
- Impact: Aligns confidentiality and disclosure regulations with respect to patients with substance use disorder.

#### **Section 3222: Nutrition Services**

- This section waives nutrition requirements for *Older Americans Act* (OAA) meal programs during the COVID-19 public health emergency. Opens eligibility to individuals who are practicing social distancing due to the emergency and are otherwise eligible.
- Impact: Waives nutrition requirements if certain food options are not available due to the emergency.

#### **Section 3223: Continuity of Service and Opportunities for Participants in Community Service Activities under Title V of the Older Americans Act of 1965**

- Permits the secretary of Labor to allow individuals participating in community service activities under the Older Americans Act to extend their participation and increase the participation cap due to the effects of the COVID-19 public health

emergency. The secretary is also permitted to make administrative adjustments to facilitate their continued employment under the program.

- Impact: Expands access to and opportunities for participation in community service activities under the OAA.

#### **Section 3224: Guidance on Protected Health Information**

- Mandates that HHS issue guidance on sharing of patients' protected health information during the COVID-19 public health emergency and national emergency declaration by the President. The guidance shall include information on compliance with HIPAA, and what is allowed to be shared of patient record sharing during the COVID-19 public health emergency. Guidance must be issued within 180 days of enactment.
- Impact: Requires HHS to issue guidance on what constitutes protected patient health information during this public health emergency.

#### **Section 3225: Reauthorization of Healthy Start Program**

- Reauthorizes the Healthy Start program, which provides grants to improve access to services for women and families. Requires the GAO to issue a report within four years of enactment on the allocation of grants and the ability of grantees to improve health outcomes for project participants.
- Impact: Reauthorizes the Healthy Start grant program.

#### **Section 3226: Importance of the Blood Supply**

- Directs the secretary of HHS to carry out a national campaign to improve awareness of, and support outreach to, the public and health care providers about the importance and safety of blood donation and the need for donations during the COVID-19 public health emergency. The national campaign may include an awareness campaign and consultations with the relevant heads of other Federal agencies. A report must then be delivered to Congress within two years of enactment of this Act.
- Impact: Establishes a campaign to raise awareness of the importance, safety and continued need for blood donation.

### *Part III—Innovation*

#### **Section 3301: Removing the Cap on OTA During Public Health Emergencies**

- Removes the cap on other transaction authority (OTA) during a public health emergency, so the Biomedical Advanced Research and Development Authority (BARDA) can more easily enter into agreements with the private sector on research and development. Such agreements cannot be terminated prior to the completion of their term, solely due to the end of a public health emergency declaration. The HHS secretary is also directed to provide a report (upon expiration of a public health emergency declaration) to Congress on the project(s) including outcomes, benefits and risks associated with funds used during the public health emergency including a rationale for the use of authority for such project(s).
- Impact: Removes barriers to partnership between BARDA and the private sector, and incentivizes private sector entities to compete for such projects by honoring the terms of set agreements regardless of changes in need or emergency declaration status.

#### **Section 3302: Priority Zoonotic Animal Drugs**

- Provides Breakthrough Therapy designations for animal drugs that can help prevent animal-to-human transmission of diseases. It amends Chapter V of the Food, Drug and Cosmetic Act to allow the HHS secretary to expedite the review and development of new animal drug applications if preliminary clinical evidence indicates that the new animal drug alone or in combination with one or more animal drugs may potentially prevent or treat a zoonotic disease in animals including a vector borne-disease.
- Impact: Expedites the development of drugs to treat animals to help prevent animal-to-human transmission that could potentially cause serious diseases in humans.

### *Part IV—Health Care Workforce*

#### **Section 3401: Reauthorization of Health Professions Workforce Programs**

- Reauthorizes and updates Title VII of the Public Health Service Act (PHSA) programs, including planning, developing and

operating a program that identifies or develops innovative models of providing care and training primary care physicians on such models. It also includes the training of practitioners in family medicine, general internal medicine, geriatrics, pediatrics, and other medical specialties. The HHS secretary is directed to submit a report to Congress no later than Sep. 30, 2025, and every five years thereafter and may prioritize awarding grants and contracts to qualified applicants that train residents in rural areas including tribes and tribal organizations.

- Impact: Supports clinician training and faculty development in critically needed medical specialties.

#### **Section 3402: Health Workforce Coordination**

- Directs the HHS secretary to develop a comprehensive and coordinated plan for the HHS health workforce development, education and training programs within one year of enactment. The plan would identify relevant workforce projection needs, including performance measures and identify gaps between program outcomes, actions to address those gaps and barriers toward the implementation of such actions. The HHS secretary must submit a report to Congress no later than two years after enactment, describing the development and implementation of the plan.
- Impact: Directs HHS to create a plan for health workforce development.

#### **Section 3403: Education and Training Relating to Geriatrics**

- Reauthorizes and updates Title VII of the Public Health Services Act, which supports clinician training and faculty development programs to better meet the health care needs of certain populations. It grants the HHS secretary the authority to provide special consideration in awarding grants to entities that provide services in areas with a shortage of geriatric workforce professionals and additional support for activities in areas of demonstrated need, including education and training for home health workers, family caregivers, and direct care workers on care for older adults.
- Impact: Strengthens education and training for the health workforce to better treat vulnerable populations, including older individuals and those with chronic diseases.

#### **Section 3404: Nursing Workforce Development**

- Reauthorizes and updates Title VIII of the Public Health Services Act, which pertains to the nurse workforce training programs. It updates reporting requirements and also permits Nurse Corp loan repayment beneficiaries to serve at private institutions under certain circumstances. It also directs the HHS secretary to submit a biennial report on nursing workforce program improvements no later than Sept. 30, 2020 and biennially thereafter submit a report to Congress assessing HHS programs and activities related to enhancing the nursing workforce, including information on goal and performance measures, level of HHS coordination with other federal departments regarding programs designed to improve the nursing workforce.
- Impact: Supports the development of a robust nursing workforce.

#### *Subtitle B – Education Provisions*

#### **Section 3501. Short Title**

- The *COVID-19 Pandemic Education Relief Act of 2020*
- Impact: Title provision only.

#### **Section 3502. Definitions**

- This section sets definitions for the terms, “coronavirus,” “foreign institution,” “institution of higher education,” “qualifying emergency,” and “secretary.”
- Impact: Key definitions.

#### **Section 3503. Campus-Based Aid Waivers**

- This section waives the institutional matching requirement for campus-based aid programs. This does not apply to private for-profit institutions. The section also allows institutions to transfer unused work-study funds to be used for supplemental grants.
- Impact: Frees up student aid funds for institutions of higher education.

**Section 3504. Use of Supplemental Educational Opportunity Grants for Emergency Aid**

- This section allows institutions to award additional Supplemental Educational Opportunity Grants funds to students impacted by COVID-19.
- Impact: Opens emergency financial aid grants to assist undergraduate and graduate students with unexpected expenses and unmet financial needs.

**Section 3505. Federal Work-Study During a Qualifying Emergency**

- This section allows institutions to issue work-study payments, either as a lump sum or in payments similar to paychecks, to students who are unable to work due to workplace closures.
- Impact: Allows students to continue to be paid in the event of a workplace closure.

**Section 3506. Adjustments of Subsidized Loan Limits**

- For students who dropped out of school as a result of COVID -19, this section excludes the term during which they dropped out from counting toward lifetime subsidized loan eligibility.
- Impact: Allows students to access subsidized loans without repercussions caused by dropping out due to COVID-19.

**Section 3507. Exclusion from Federal Pell Grant Duration Limit**

- For students who dropped out of school as a result of COVID -19, this section excludes the term from counting toward their lifetime Pell Grant eligibility.
- Impact: Ensures students do not face limits to their Pell Grant eligibility as a result of dropping out due to COVID-19.

**Section 3508. Institutional Refund and Federal Student Loan Flexibility**

- For students who dropped out of school as a result of COVID -19, this section clarifies that the student is not required to return Pell grants or federal student loans to the secretary. It also waives the requirement that institutions calculate the amount of grant or loan assistance the institution must return to the secretary in the event of students dropping out of school as a result of COVID-19.
- Impact: Provides waivers to institutions and students with regard to federal grant or loan funds normally required to be paid back to the federal government in the event of a student dropping out.

**Section 3509. Satisfactory Progress**

- For students who dropped out of school as a result of COVID -19, this section ensures the student's grades do not affect their federal academic requirements to continue to receive Pell Grants or student loans.
- Impact: Provides an exception to federal academic requirements related to Pell grants or student loans if impacted by the student dropping out due to COVID-19.

**Section 3510. Continuing Education at Affected Foreign Institutions**

- This section permits foreign institutions to offer distance learning to U.S. students receiving title IV funds for the duration of the COVID-19 declaration of disaster.
- Impact: Permits foreign institutions to offer distance learning to students receiving federal funds.

**Section 3511. National Emergency Educational Waivers**

- This section provides the secretary of Education with the authority to provide waivers from the *Elementary and Secondary Education Act* that are necessary and appropriate due to the COVID-19 declaration of disaster. Civil rights laws are not included in this waiver authority.
- Impact: Provides the secretary with flexibility to waive requirements deemed unnecessary due to the COVID-19 public health emergency.

**Section 3512. HBCU Capital Financing Program**

- This section authorizes the secretary of Education to defer payments on current HBCU Capital Financing loans during the national emergency period so HBCUs can devote financial resources to COVID-19 efforts.
- Impact: Allows HBCUs to defer HBCU Capital Financial loan payments.

**Section 3513. Temporary Relief for Federal Student Loan Borrowers**

- This section requires the secretary to defer student loan payments, principal, and interest for six months, through Sept. 30, 2020, without penalty to the borrower for all federally owned loans, providing relief for over 95% of student loan borrowers.
- Impact: Provides temporary student loan relief to borrowers.

**Section 3514. Provisions Related to the Corporation for National and Community Service**

- This section provides participants in National Service Corps programs with the educational award they were due to receive before their duties were suspended or placed on hold during the COVID-19 declaration of disaster. It also extends the age limits and terms of service to allow individuals serving in national service programs to continue participating after the COVID-19 declaration of disaster ends.
- Impact: Provides flexibility to students in completing or receiving awards for their service in National Service Corps programs.

**Section 3515. Workforce Response Activities**

- This section provides local workforce boards with additional flexibility to use funds received under the *Workforce Innovation and Opportunity Act* for administrative costs, including for online resources. It also allows governors to utilize reserved workforce funds on rapid response activities in response to COVID-19.
- Impact: Opens up additional funding sources for boards and governors to use for workforce response activities.

**Section 3516. Technical Amendments**

- This section makes technical changes to the *FUTURE Act* to improve implementation and aid student loan borrowers.
- Impact: Makes technical changes to the *FUTURE Act*.

**Section 3517. Waiver Authority and Reporting Requirements for Institutional Aid**

- This section authorizes the secretary of Education to waive certain outcome requirements for FY2021 grant programs for HBCU and other Minority Serving Institutions (MSI).
- Impact: Waives several outcome requirements normally required for grant programs for HBCUs and other MSIs.

**Section 3518. Authorized Uses and Other Modifications for Grants**

- This section authorizes the secretary of Education to waive or modify current allowable uses of funds for institutional grant programs including TRIO, GEARUP, Title III, Title V, and sections of Title VII, so colleges can re-deploy resources and services to COVID-19 efforts. It also permits institutions to request waivers from the secretary for financial matching requirements in competitive grant and other MSI grant programs in the *Higher Education Act* so colleges can devote institutional resources to COVID-19 efforts.
- Impact: Loosens grant funding allowable use restrictions so institutions can re-deploy that funding in their COVID-19 efforts.

**Section 3519. Service Obligation to Teachers**

- For teachers who could not finish their year of teaching service as a result of COVID-19, this section allows their partial year of service to be counted as a full year of service toward TEACH grant obligations or Teacher Loan Forgiveness. It also waives a requirement that teachers must serve consecutive years of teaching service for Teacher Loan Forgiveness eligibility, if a teacher's service is not consecutive as a result of COVID-19.
- Impact: Provides teachers with flexibility in fulfilling their federal grant or loan forgiveness obligations.

*Subtitle C—Labor Provisions***Section 3601: Limitation on Paid Leave**

- Provides clarification to the *Families First Coronavirus Response Act* by stating that paid leave under the extension of the Emergency Family and Medical Leave Expansion Act may not exceed \$200 per day and \$10,000 in the aggregate for each employee. The bill previously did not state “each employee,” though this was implied.
- Impact: No impact—clarifying language of a technical nature.



**Section 3602: Emergency Paid Sick Leave Act Limitation**

- Provides clarification to the *Families First Coronavirus Response Act* by stating that sick leave under the Emergency Family and Medical Leave Expansion Act may not exceed \$511 per day and \$5,110 in the aggregate for sick leave, or more than \$200 per day and \$2,000 in the aggregate to care for a quarantined individual or child for each employee under this section, or for any employee experiencing substantially similar conditions as specified by the secretary of HHS. The bill previously did not state “each employee,” though this was implied.
- Impact: No impact—clarifying language of a technical nature, but broadened the \$200 per day and \$2,000 aggregate to include all situations when an employee is not able to work while caring for another.

**Section 3603: Unemployment Insurance**

- Provides that applications for unemployment compensation and assistance be accessible to the extent practicable in two of the following methods: in person, by phone, or online.
- Impact: Broadens requirements for the accessibility of the applications for unemployment compensation.

**Section 3604: OMB Waiver of Paid Family and Paid Sick Leave**

- Allows the Office of Management and Budget to exclude certain categories of executive branch employees for good cause from coverage under the paid sick leave and paid family and medical leave provisions of the *Families First Coronavirus Response Act*.
- Impact: This section gives the executive branch needed flexibility.

**Section 3605: Paid Leave for Rehired Employees**

- Provides that certain employees who were laid off by their employers not earlier than March 1, 2020 and were subsequently rehired by their employers, will be considered eligible for paid family and medical leave, if they had worked for their employers for 30 of the last 60 calendar days prior to their layoff.
- Impact: This section clarifies those employees who were laid off before they could have been eligible for paid family and medical leave, will be eligible for such leave once they have been rehired.

**Section 3606: Advance Refunding of Credits**

- Allows the secretary of the Treasury to waive penalties under for employers who fail to make a deposit if such failure was due to the anticipation of a credit under the paid sick leave or paid family leave provisions of the *Families First Coronavirus Response Act*.
- Impact: This section clarifies that employers can receive advance tax credits from the Treasury and creates the regulatory authority for the implementation of these advance tax credits.

**Section 3607: Expansion of DOL Authority to Postpone Certain Deadlines**

- Adds declared public health emergencies to instances when the secretary of Labor can postpone ERISA deadlines by notice or otherwise for up to one year for pension and other employee benefit plans, sponsors, administrators, participants and beneficiaries.
- Impact: This section allows the secretary of Labor to delay ERISA deadlines for up to one year due to declared public health emergencies.

**Section 3608: Single-Employer Plan Funding Rules**

- Delays minimum required contributions due during calendar year 2020 for single employer pension plans until Jan 1, 2021, increased by interest between the due date and the payment date.
- The plan sponsor may also elect to treat the plan’s adjusted funding target attainment percentage before 2020 as including the calendar year 2020.
- Impact: This section provides flexibility for single employer funding rules.

**Section 3609: Application of Cooperative and Small Employer Charity Pension Plan Rules to Certain Charitable Employers Whose Primary Exempt Purpose Is Providing Services with Respect to Mothers and Children**

- Amends the definition of CSEC plans to include a plan that is sponsored by an employer that is exempt from tax under IRC 501(c)(3), has been in existence since 1938, conducts medical research directly or indirectly through grant making, and has

as its primary exempt purpose providing services with respect to mothers and children. This change is effective for plan years beginning after 2018.

- **Impact:** This section expands the definition of CSEC plans.

#### **Section 3610: Federal Contractor Authority**

- Permits funding made available to federal agencies to be used to modify terms and conditions of contracts or other agreements to reimburse contractors at minimum applicable billing contract rates, not to exceed a minimum of 40 hours per week, for paid leave, including sick leave, provided to employees or subcontractors to keep them in a ready state. This also includes protecting the life and safety of government and contractor personnel.
- Such authority applies to contractors whose employees or subcontractors cannot perform work on approved sites due to facility closures and other restrictions and to those who cannot telework. This authority is triggered by the COVID-19 public health emergency and the applicability of these provisions ends on Sept 30, 2020.
- **Impact:** This section allows federal contractors to use federal funding to provide employees and subcontractors with paid leave and paid sick leave in the event that they are not able to work due to the COVID-19 public health emergency.

#### **Section 3611: Technical Corrections**

- Provides technical corrections to the text of the Families First Coronavirus Response Act, the Emergency Family and Medical Leave Expansion Act, the Emergency Paid Sick Leave Act and the Family and Medical Leave Act of 1993.
- Gives DOL the authority to issue regulations, including ensuring consistency between paid family leave and paid sick leave.
- Also authorizes the secretary of Labor or his designee to investigate and collect data to ensure compliance with the Emergency Paid Sick Leave Act.
- **Impact:** No impact—clarifying language of a technical nature, and provides authority to issue regulations and to investigate and collect data.

#### *Subtitle D—Finance Committee*

#### **Section 3701: Exemptions for Telehealth Services**

- Allows high-deductible health plans with a health savings account to cover telehealth services prior to a patient reaching the deductible.
- **Impact:** Increases telehealth access for patients.

#### **Section 3702: Inclusion of Certain Over-the-Counter Medical Products as Qualified Medical Expenses**

- Allows patients to use funds in HSAs and FSAs for the purchase of over-the-counter medical products, including those needed in quarantine and social distancing, without a prescription from a physician.
- **Impact:** Expands HSA and FSA eligibility for over-the-counter medical products, specifically menstrual care products.

#### **Section 3703: Increasing Medicare Telehealth Flexibilities During Emergency Period**

- Eliminates the requirement in the Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020 (Public Law 116-123) that Medicare beneficiaries have a pre-existing relationship with a provider in order to utilize telehealth services from that provider during the COVID-19 emergency period.
- **Impact:** Allows beneficiaries to access telehealth from a broader range of providers.

#### **Section 3704: Enhancing Medicare Telehealth Services for Federally Qualified Health Centers and Rural Health Clinics During Emergency Period**

- Allows Federally Qualified Health Centers and Rural Health Clinics to furnish telehealth services to Medicare beneficiaries in their homes. Medicare would reimburse for these telehealth services based on payment rates similar to the national average payment rates for comparable telehealth services under the Medicare Physician Fee Schedule. It would also exclude the costs associated with these services from both the FQHC prospective payment system and the RHC all-inclusive rate calculation.
- **Impact:** Broadens access to telehealth for Medicare beneficiaries.

**Section 3705: Temporary Waiver of Requirement for Face-to-Face Visits Between Home Dialysis Patients and Physicians**

- Eliminates a requirement that a nephrologist conduct some of the required periodic evaluations of a patient on home dialysis face-to-face during the COVID-19 emergency period.
- Impact: Temporarily allows dialysis patients to receive evaluations via telehealth.

**Section 3706: Use of Telehealth to Conduct Face-to-Face Encounter Prior to Recertification of Eligibility for Hospital Care During Emergency Period**

- Allows, during the COVID-19 emergency period, hospice physicians and nurse practitioners to use telehealth technologies in order to fulfill the requirement for face-to-face recertification in hospice settings.
- Impact: Temporarily expands telehealth capabilities in hospice settings.

**Section 3707: Encouraging the Use of Telecommunications Systems for Home Health Services During Emergency Period**

- Requires HHS to issue clarifying guidance encouraging the use of telecommunications systems, including remote patient monitoring, to furnish home health services during the COVID-19 emergency period.
- Impact: More guidance on remote patient monitoring for home health.

**Section 3708: Improving Care Planning for Medicare Home Health Services**

- Allows physician assistants, nurse practitioners, and other professionals to order home health services for beneficiaries, by removing the requirement that only physicians prescribe home health.
- Impact: Reduces delays and increases beneficiary access to home health services.

**Section 3709: Adjustment of Sequestration**

- Temporarily lifts the Medicare sequester, which reduces payments to providers by 2%, from May 1 through Dec. 31, 2020. This increases payments for hospitals, physicians, nursing homes, home health, and other care. It also extends the Medicare sequester by one-year beyond current law.
- Impact: Increases payments to Medicare providers through Dec. 31, 2020.

**Section 3710: Medicare Hospital Inpatient Prospective Payment System Add-on Payment for COVID-19 Patients During Emergency Period**

- Increases the payment for treating a patient with COVID-19 by 20%. This applies to payments made to hospitals for Medicare patients, and creates a new COVID-19 Medicare code. This add-on payment would be available through the duration of the COVID-19 emergency period.
- Impact: Increases payment for hospitals treating Medicare patients with COVID-19.

**Section 3711: Increasing Access to Post-Acute Care During Emergency Period**

- Waives the Inpatient Rehabilitation Facility (IRF) three-hour rule, which requires that a beneficiary be expected to participate in at least three hours of intensive rehabilitation at least five days per week to be admitted to an IRF. It would allow a Long Term Care Hospital (LTCH) to maintain its designation even if more than 50% of its cases are less intensive. It would also temporarily pause the current LTCH site-neutral payment methodology. These policies apply during the COVID-19 emergency period.
- Impact: Provides flexibility to acute care hospitals to transfer patients out of their facilities and into alternative care settings in order to prioritize resources needed to treat COVID-19 cases.

**Section 3712: Revising Payment Rates for Durable Medical Equipment under the Medicare Program through Duration of Emergency Period**

- Prevents scheduled reductions in Medicare payments for durable medical equipment, through the length of COVID-19 emergency period.
- Impact: Keeps Medicare payment level for durable medical equipment.

**Section 3713: Coverage of the COVID-19 Vaccine under Part B of the Medicare Program without any Cost-Sharing**

- Requires Medicare Part B to cover a COVID-19 vaccine with no cost-sharing.
- Impact: Enables beneficiaries to receive a COVID-19 vaccine with no cost-sharing.

**Section 3714: Requiring Medicare Prescription Drug Plans and MA-PD Plans to Allow During the COVID-19 Emergency Period for Fills and Refills of Covered Part D Drugs for a 3-Month Supply**

- Requires that Medicare Part D plans provide up to a 90-day supply of a prescription medication if requested by a beneficiary during the COVID-19 emergency period. This applies unless it is inconsistent with an applicable safety edit.
- Impact: Allows Medicare Part D beneficiaries to receive 3 months' supply of prescription medication.

**Section 3715: Providing Home and Community-Based Services in Acute Care Hospitals**

- Allows state Medicaid programs to pay for attendant services and caregivers that help with activities of daily living.
- Impact: This change is designed to smooth the transition between acute care and home and community-based settings, and reduce length of stay.

**Section 3716: Clarification Regarding Uninsured Individuals**

- Clarifies a section of the Families First Coronavirus Response Act of 2020 by ensuring that uninsured individuals can receive a COVID-19 test and related service with no cost-sharing in any state Medicaid program that elects to offer such enrollment option.
- Impact: If state allows uninsured individuals to enroll in Medicaid coverage, those beneficiaries can receive a COVID-19 test at no cost to them.

**Section 3717: Clarification Regarding Coverage of COVID-19 Testing Products**

- Clarifies a section of the Families First Coronavirus Response Act of 2020 by ensuring that beneficiaries can receive all tests for COVID-19 in Medicare Part B with no cost-sharing.
- Impact: All Medicare Part B beneficiaries can receive testing for COVID-19 at no cost to them.

**Section 3718: Amendments Relating to Reporting Requirements with Respect to Clinical Diagnostic Laboratory Tests**

- Prevents scheduled reductions in Medicare payments for clinical diagnostic laboratory tests furnished to beneficiaries in 2021, and delays the upcoming reporting period during which laboratories are required to report private payer data by one year.
- Impact: Medicare payment cuts for clinical lab test will not go into effect in 2021.

**Section 3719: Expansion of the Medicare Hospital Accelerated Payment Program During the COVID-19 Public Health Emergency**

- Expands, for the duration of the COVID-19 emergency period, an existing Medicare accelerated payment program. Qualified facilities are able to request up to a six month advanced lump sum or periodic payment, based on net reimbursement represented by unbilled discharges or unpaid bills. Most hospital types could elect to receive up to 100% of the prior period payments, with Critical Access Hospitals able to receive up to 125%. A qualifying hospital is not required to start paying down the loan for four months, and also has at least 12 months to complete repayment without a requirement to pay interest.
- Impact: Gives hospitals, especially those facilities in rural and frontier areas, reliable and stable cash flow.

**Sec. 3720: Delaying Requirements for Enhanced FMAP to Enable State Legislation Necessary for Compliance**

- Amends a section of the Families First Coronavirus Response Act of 2020 to delay the application of the requirement that states cannot receive the 6.2 FMAP increase if there are premium requirements. States that have premium requirements are not ineligible for the FMAP increase if the premium was in effect on the date of enactment.
- Impact: Ensures all states are eligible to receive the FMAP increase.

*Subtitle E—Health and Human Services Extenders**Part I—Medicare Provisions***Section 3801: Extension of Work Geographic Index Floor**

- Increases payments for the work component of physician fees in areas where labor cost is determined to be lower than the national average through Dec. 1, 2020.
- Impact: Extension through Dec. 1, 2020.

**Section 3802: Extension of Funding for Quality Measure Endorsement and Selection**

- Provides funding for HHS to contract with the National Quality Forum (NQF), to carry out duties related to quality measurement and performance improvement through Nov. 30, 2020.
- Impact: Extension through Nov. 30, 2020.

**Section 3803: Extension of Funding Outreach and Assistance for Low-Income Programs**

- Extends funding for beneficiary outreach and counseling related to low-income programs through Nov. 30, 2020.
- Impact: Extension through Nov. 30, 2020.

*Part II – Medicaid Provisions***Section 3811: Extension of the Money Follows the Person Demonstration Program**

- Extends the Medicaid Money Follows the Person demonstration that helps patients transition from the nursing home to the home setting through Nov. 30, 2020.
- Impact: Extension through Nov. 30, 2020.

**Section 3812: Extension of Spousal Impoverishment Protections**

- Extends the Medicaid spousal impoverishment protections program through Nov. 30, 2020 to help the spouse of an individual who qualifies for nursing home care to live at home in the community.
- Impact: Extension through Nov. 30, 2020.

**Section 3813: Delay of Disproportionate Share Hospital Reductions**

- Delays scheduled reductions in Medicaid disproportionate share hospital payments through Nov. 30, 2020.
- Impact: Cuts delayed until Nov. 30, 2020.

**Section 3814: Extension and Expansion of Community Mental Health Services Demonstration**

- Extends the Medicaid Community Mental Health Services demonstration that provides coordinated care to patients with mental health and substance use disorders through Nov. 30, 2020. It would also expand the demonstration to two additional sites and requires the GAO to submit a report on state experiences in the program and Federal evaluation of the program, with recommendations as appropriate.
- Impact: Extension through Nov. 30, 2020.

*Part III – Human Services and Other Health Programs***Section 3821: Extension of Sexual Risk Avoidance Education Program**

- Extends the Sexual Risk Avoidance Education program through Nov. 30, 2020 at current funding levels. This program provides funds to states to provide education exclusively focused on sexual risk avoidance.
- Impact: Extension through Nov. 30, 2020.

**Section 3822: Extension of Personal Responsibility Education Program**

- Extends the Personal Responsibility Education Program (PREP) through Nov. 30, 2020 at current funding levels. PREP provides states, community groups, tribes, and tribal organizations with grants to implement evidence-based, or evidence-informed, innovative strategies for teen pregnancy and HIV/STD prevention, youth development, and adulthood preparation for young people.
- Impact: Extension through Nov. 30, 2020.

**Section 3823: Extension of Demonstration Projects to Address Health Professions Workforce Needs**

- Extends the Health Professions Opportunity Grants program through Nov. 30, 2020 at current funding levels. This program provides funding to help low-income individuals obtain education and training in high-demand, well-paid, health care jobs.
- Impact: Extension through Nov. 30, 2020.

**Section 3824: Extension of the Temporary Assistance for Needy Families Program and Related Programs**

- Extends TANF and related programs through Nov. 30, 2020.
- Impact: Extension through Nov. 30, 2020.

*Part IV – Public Health Provisions***Section 3831: Extension for Community Health Centers, the National Health Service Corps, and Teaching Health Centers that Operate GME Programs**

- Extends mandatory funding for community health centers, the National Health Service Corps, and the Teaching Health Center Graduate Medical Education Program at current levels through Nov. 30, 2020.
- Impact: Extension through Nov. 30, 2020.

**Section 3832: Diabetes Programs**

- This section extends mandatory funding for the Special Diabetes Program for Type I Diabetes and the Special Diabetes Program for Indians at current levels through Nov. 30, 2020.
- Impact: Extension through Nov. 30, 2020.

*Part V – Miscellaneous Provisions***Section 3841: Prevention of Duplicate Appropriations for Fiscal Year 2020**

- Prevents duplicate funding for programs for FY2020.

*Subtitle F—Over-the-Counter Drugs**Part I – OTC Drug Review***Section 3851: Regulation of certain nonprescription drugs that are marketed with an approved drug application**

- Allows the FDA to approve changes to over-the-counter drugs administratively, rather than going through a full notice and comment rulemaking. Provides an 18-month market-exclusivity component that rewards a return on investment for new OTC drugs.
- Impact: Removes requirement for full notice and comment rulemaking for over-the-counter drugs, similar to other drugs. Incentivizes companies by providing 18-month marketing exclusivity for new over-the-counter drugs.

**Section 3852: Misbranding**

- Clarifies that an OTC drug that does not comply with the monograph requirements is misbranded.
- Impact: An OTC drug that does not comply with the monograph requirements is misbranded.

**Section 3853: Drugs Excluded from Over-the-Counter Drug Review**

- Clarifies that nothing in this Act will apply to any non-prescription drug that was previously excluded by the FDA from the Over-the-Counter Drug Review.
- Impact: Nothing in this Act will apply to any non-prescription drug that was previously excluded by the FDA from the Over-the-Counter Drug Review.

**Section 3854: Treatment of Sunscreen Innovation Act**

- Clarifies that sponsors of sunscreen ingredients with pending orders have the option to see review in accordance with the Sunscreen Innovation Act or to see review under the new monograph review process. A sponsor may request confidential meetings with respect to a proposed sunscreen order to discuss matters related to data requirements to support a general recognition of safety and effectiveness.
- Impact: Pending orders can be reviewed under the Sunscreen Innovation Act or the new monograph review process.

**Section 3855: Annual Update to Congress on Appropriate Pediatric Indication for Certain OTC Cough and Cold Drugs**

- Requires the HHS secretary to submit an annual update to Congress regarding FDA's progress in evaluating certain pediatric indications for certain cough and cold monograph drugs for children under age six.

- **Impact:** Requires an annual report regarding pediatric indications for cough and cold monograph drugs.

#### **Section 3856: Technical Corrections**

- Includes technical corrections to the Food and Drug Administration Reauthorization Act of 2017 and existing law.

#### *Part II – User Fees*

#### **Section 3861: Finding**

- Declares that the fees paid pursuant to this section will be dedicated to FDA review of over-the-counter (OTC) monograph drugs.

#### **Section 3862: Fees Relating to Over-the-Counter Drugs**

- Establishes a new FDA user fee, beginning fiscal year 2021. This covers fees for OTC monograph drug facilities and fees for each OTC monograph request, subject to inflation. The fees are to be used to defray the increases in costs allocated for OTC monograph drug activities, such as hiring staff.
- **Impact:** Creates a user fee to support hiring staff to conduct the OTC monograph drug activities.

### **Title IV—Economic Stabilization and Assistance to Severely Distressed Sectors of the U.S. Economy**

#### *Subtitle A – Coronavirus Economic Stabilization Act of 2020*

#### **Section 4001: Short title**

- Coronavirus Economic Stabilization Act of 2020

#### **Section 4002: Definitions**

- Defines: air carrier, coronavirus, covered loss, eligible business, employee, equity security, exchange, municipality, national securities exchange, secretary, and state.
- **Impact:** Defines key terms. For example, “eligible business” is defined as a U.S. business that has not otherwise received adequate economic relief in the form of loans or loan guarantees provided under this Act.

#### **Section 4003: Emergency Relief and Taxpayer Protections**

- Provides \$500 billion to Treasury for loans, loan guarantees, and other investments through the following:
  - \$25 billion for passenger air carriers;
  - \$4 billion for cargo air carriers;
  - \$17 billion for businesses critical to maintaining national security; and
  - \$454 billion (plus any unused amounts from the above) to assist the Federal Reserve’s lending facilities or programs that provide liquidity to the financial system. Specifically, this fund will support lending to eligible businesses, states, or municipalities by purchasing obligations or other interests or making loans secured by collateral
    - The Federal Reserve’s 13(3) lending, which is emergency lending authorized by the Dodd-Frank Act, can be used to relieve pressure on the economy, Americans citizens, and U.S. businesses.
- The General \$454 Billion Fund
  - Treasury will use the \$454 billion to capitalize one or more Federal Reserve lending facilities. Specifically, Treasury will contribute the “equity” (*i.e.*, the first loss position on the portfolio of loans made by the fund) and the Federal Reserve will supply leverage at a multiple of the Treasury contribution that corresponds to the credit risk of the loan portfolio. If this fund is used to loan only to investment-grade borrowers, the Federal Reserve’s contribution will be much larger (perhaps around \$3 trillion) than if the fund loans to borrowers with a BB credit rating or below.
- Terms, Conditions and Procedures
  - Treasury has the authority to require terms and conditions, as well as any covenants, representations, warranties and requirements (including requirements for audits) as deemed appropriate.
  - Treasury must publish procedures for application and minimum requirements within 10 days of enactment.



- Special rules for direct lending include:
  - Credit is not reasonably available;
  - The loan or loan guarantee is secured at rate that reflects risk of loan or loan guarantee and the extent practicable, not less than an interest rate based on previous market conditions;
  - Loans cannot be longer than 5 years;
  - During the duration of the loan plus 12 months after the loan is no longer outstanding, the borrower: (i) cannot repurchase its own equity or its parent company's equity unless contractually required before enactment of the Act, and (ii) cannot pay dividends on its common stock;
  - Borrowers must maintain employment levels from March 24, 2020, to the extent possible until Sep. 30, 2020, and cannot reduce its employee levels by more than 10%;
  - Borrowers must certify that its business is created or organized in the United States., has significant operations in the United States., and a majority of its employees are based in the United States;
  - The loan cannot be reduced through loan forgiveness; and
  - Borrowers must have incurred or are expected to incur losses that jeopardize ongoing business operations.
- Specifies that the Treasury will implement a program or facility with the Federal Reserve that is targeted at nonprofit organization businesses between 500 and 10,000 employees. Terms and conditions include:
  - Funds are used to retain 90% of employee workforce with full compensation and benefits through Sep. 30, 2020;
  - The recipient intends to restore not less than 90% of the workforce that existed as of Feb. 1, 2020 and to restore all worker compensation and benefits no less than 4 months after the pandemic;
  - While the loan is outstanding the recipient (i) cannot repurchase its own equity or its parent company's equity and (ii) cannot pay dividends on its common stock;
  - The recipient cannot be a debtor in bankruptcy;
  - The recipient must be created or organized in the United States, have significant operations in the United States., and have a majority of its employees based in the United States;
  - During the term of the loan and for two years after repayment, the recipient will not outsource jobs or use offshore employees and will not abrogate existing collective bargaining agreements;
  - Recipients must remain neutral in union organizing efforts for the loan term; and
  - The loan cannot be reduced through loan forgiveness.
- Impact: Provides substantial financial assistance for distressed areas of the economy through loan, loan guarantees, and investment either directly by Treasury or through a facility or program run by the Federal Reserve. Treasury has broad authority to determine who receives loans or loan guarantees, loan amounts, and other terms of such loans. Each relief provision also requires recipients to abide by certain terms and conditions for either the duration of their loan or a certain affixed time.

#### **Section 4004: Limitation on Certain Employee Compensation**

- Businesses eligible for loans and loan guarantees under Secs. 4003(b)(1) through (3) must agree to limitations on total compensation (salary, bonuses, stock awards, and other financial benefits) paid to officers and employees whose total compensation was more than \$425,000 in 2019.
- For the period beginning on the date of a loan agreement or loan guarantee and ending one-year after the loan agreement or guarantee is no longer outstanding:
  - No officer or employee whose total compensation in 2019 was more than \$425,000 can receive:
    - during any 12-consecutive-month period, total compensation in excess of the employee's total compensation for 2019; or
    - severance that is more than twice the employee's total compensation for 2019; and
  - If an employee's total compensation for 2019 exceeded \$3 million, then for any 12-consecutive-month period, the employee's total compensation cannot exceed \$3 million plus 50% of the employee's total compensation for 2019 in excess of \$3 million.
- These limitations do not apply to union employees under collective bargaining agreements entered into prior to March 1, 2020.
- Impact: Requires businesses that are receiving loans under Sec. 4003 to limit total compensation paid to high earners and encourage businesses to put the borrowed funds into their employee base and other business purposes.

**Section 4005: Continuation of Certain Air Services**

- Authorizes the secretary of Transportation to require an air carrier receiving loans under Sec. 4003 to maintain scheduled air transportation service. This section terminates on March 1, 2022.
- Impact: Requires those airlines that are receiving loans to stay in business.

**Section 4006: Coordination with Secretary of Transportation**

- Requires the secretary of Treasury to work in coordination with the secretary of Transportation.
- Impact: Ensures that coordination between the Transportation and Treasury departments will be as quick and efficient as possible.

**Section 4007: Suspension of Certain Aviation Excise Taxes**

- Repeals aviation taxes imposed under Secs. 4261 and 4271 for the period after date of enactment and ending before Jan. 1, 2021.
- Includes that the use of kerosene for commercial aviation will be suspended under Sec. 4083.
- Impact: Benefits all commercial airline companies, a severely distressed sector, as many airline corporations have been grounded due to the coronavirus outbreak.

**Section 4008: Debt Guarantee Authority**

- Allows the FDIC to guarantee obligations of solvent insured depository institutions and solvent depository institution holding companies until Dec. 31, 2020.
- Allows noninterest-bearing transaction accounts to be treated as a debt guarantee program
- Allows the National Credit Union Administration to increase the share insurance coverage provided by the National Credit Union Share Insurance Fund on any noninterest-bearing transaction account in any federally insured credit union until Dec. 31, 2020.
- Impact: Provides for emergency financial stabilization by the FDIC who may guarantee solvent depository institutions' obligations and extends insurance coverage to include non-interest bearing accounts in any federally insured credit union.

**Section 4009: Temporary Government in the Sunshine Act Relief**

- Provides temporary relief from certain meeting and record keeping requirements for the Chairman of the Board of Governors of the Federal Reserve System.
- Impact: Removes regulatory burdens that may prevent the maximum amount of relief from reaching businesses.

**Section 4010: Temporary Hiring Flexibility**

- Suspends general hiring procedures for Housing and Urban Development and the Securities and Exchange Commission to allow the appointment candidates to fill temporary and term appointments.
- Impact: Allows HUD and SEC to fill essential roles in an effort to help the economic crisis.

**Section 4011: Temporary Lending Limit Waiver**

- Allows the Comptroller of the Currency ("OCC") to exempt transactions from lending limits for financial institutions and nonbank financial companies, until the earlier of Dec. 31, 2020, or the termination date of the COVID-19 emergency.
- Impact: Provides businesses with increased liquidity as the OCC can temporarily bypass lending limitations.

**Section 4012: Temporary Relief for Community Banks**

- Reduces the Community Bank Leverage Ratio from 9% to 8% and allows for a reasonable grace period if a community bank falls below the ratio until the earlier of Dec. 31, 2020, or the termination date of the COVID-19 emergency.
- Impact: Helps community banks maintain compliance with capital adequacy requirements to help businesses with credit and cash flow.

**Section 4013: Temporary Relief from Troubled Debt Restructurings**

- Allows federally insured financial institutions and credit unions to suspend requirements under U.S. Generally Accepted Accounting Principles ("GAAP") for loan modifications related to COVID-19 from March 1, 2020 until the earlier of Dec. 31,

2020, or 60 days after the termination date of the COVID-19 emergency.

- Impact: Makes it easier for businesses seeking to modify their existing debt arrangements.

#### **Section 4014: Optional Temporary Relief from Current Expected Credit Losses**

- Allows an insured depository institution, credit union, bank holding company, or any affiliate thereof to elect not to comply with recent accounting rules for estimating allowances for credit losses until the earlier of Dec. 31, 2020, or the termination date of the COVID-19 emergency.
- Impact: Makes it easier for certain financial institutions to manage potential losses related to loans with distressed businesses and consumers. However, relief is of limited value to more diversified financial institutions and to small financial institutions and credit unions because of its short duration. Relief does not apply to nonbank financial institutions.

#### **Section 4015: Non-Applicability of Restrictions on ESF During National Emergency**

- Temporarily suspends the limitation on using of the Exchange Stabilization Fund for guarantee programs for the U.S. money market mutual fund industry.
- Any guarantee is limited to the total value of a shareholder's account in a participating fund as of the close of business on the date before the guarantee is announced, and shall expire no later than Dec. 31, 2020.
- Impact: Allows the secretary of Treasury to use funds to establish future guarantee programs for the U.S. money market mutual fund industry.

#### **Section 4016: Temporary Credit Union Provisions**

- Temporarily facilitates easier access (including for corporate credit unions) to the Central Liquidity Facility ("CLF") to meet liquidity needs, but requires a credit union to show it has made reasonable efforts to use primary sources of liquidity such as balance sheet and market funding sources. This provision expires Dec. 31, 2020.
- Impact: Temporarily increases resources available for credit unions to meet liquidity needs.

#### **Section 4017: Increasing Access to Materials Necessary for National Security and Pandemic Recovery**

- For two years from the enactment date, waives the requirement (1) for a separate act of Congress to authorize certain national security projects exceeding \$50 million, and (2) that all amounts over \$750 million in the Defense Production Act Fund at the end of the year be sent to Treasury's General Fund.
- For one year from the enactment date, waives Congressional approval of the 30-day waiting period after the President notifies Congress of a private loan for national security that would \$50 million in aggregate cost.
- Impact: Allows for national security projects to be quickly approved by the President without separate Congressional action.

#### **Section 4018: Special Inspector General for Pandemic Recovery**

- Establishes within the Department of the Treasury the Office of the Special Inspector General for Pandemic Recovery, who shall be appointed by the President and confirmed by the Senate. Inspector General will conduct and coordinate audits and investigations of the loans, loan guarantees, and other investments made under this Title.
- Impact: Provides for enhanced government oversight of government funds dispersed under this Title through an Inspector General.

#### **Section 4019: Conflicts of Interest**

- Prohibits any company in which the President, Vice President, an executive department head, member of Congress, or any of such individual's spouse, children, son or daughter in-law own over 20%, from being eligible for the loans, loan guarantees, or other investments provided under this Title.
- Impact: Prevents conflicts of interests between the executive and legislative department and the funding provided under this Title.

#### **Section 4020: Congressional Oversight Commission**

- Establishes a Congressional Oversight Commission of five individuals to oversee the implementation of this Title by the Treasury and the Federal Reserve.
- The Oversight Commission may hold hearings, take testimony, and secure from any federal department or agency information it deems necessary to carry out its responsibility.

- The Oversight Commission will terminate on Sept. 30, 2025.
- Impact: Helps assure the public that proper oversight of the \$500 billion in loans, loan guarantees, and other investments will be provided.

#### **Section 4021: Credit Protection During COVID-19**

- From Jan. 31, 2020 until the later of (i) 120 days after the enactment date, or (ii) 120 days after the termination date of the COVID-19 emergency, requires lender accommodations (agreement to defer 1 or more payments or modify loans) with respect to one or more payments on a credit obligation to be reported to credit reporting agencies in a way that does not negatively impact a borrower's credit score.
- Allows accommodations to be reported to credit reporting agencies if the consumer has not fulfilled requirements pursuant to the forbearance or modified payment agreement.
- Impact: Allows consumers to work with lenders to modify or defer obligations without negatively affecting their credit scores.

#### **Section 4022: Foreclosure Moratorium and Consumer Right to Request Forbearance**

- Upon request by a borrower affirming a financial hardship from the COVID-19 emergency, provides forbearance for up to 180 days, plus a 180-day extension for federally-backed mortgage loans without accruing fees or interests.
- Prohibits foreclosures on all federally-backed mortgage loans for a 60-day period beginning on March 18, 2020, unless a property is vacant or abandoned.
- This provision terminates on the earlier of the Dec. 31, 2020, or the termination date of the COVID-19 emergency.
- Impact: Allows those affected by COVID-19 to delay mortgage payments and avoid foreclosure on their mortgages.

#### **Section 4023: Forbearance of Residential Mortgage Loan Payments for Multifamily Properties with Federally Backed Loans**

- By submitting a request to a lender, provides up to 90 days of forbearance for multifamily borrowers with a federally backed multifamily mortgage loan who have experienced a financial hardship due to COVID-19 and were current on their payments as of Feb. 1, 2020.
- Those receiving forbearance may not evict or charge late fees to tenants for the duration of the forbearance period.
- This provision terminates on the earlier of the Dec. 31, 2020, or the termination date of the COVID-19 emergency.
- Impact: Allows multifamily borrowers affected by COVID-19 to delay mortgage payments and avoid foreclosure on their mortgages.

#### **Section 4024: Temporary Moratorium on Eviction Filings**

- For 120 days after the enactment date, prohibits landlords from initiating legal action to recover possession of a rental unit or charge late fees, penalties, or other charges to the tenant related to such nonpayment of rent where the landlord's mortgage on that property is insured, guaranteed, supplemented, protected, or assisted in any way by HUD, Fannie Mae, Freddie Mac, the rural housing voucher program, or the Violence Against Women Act of 1994.
- Impact: Provides temporary rent and penalty relief for tenants of these properties.

#### **Section 4025: Protection of Collective Bargaining Agreement**

- Loans and loan guarantees shall not be conditioned upon an air carrier's or business's implementation of measures to negotiate with a union representative of an air carrier or other business.
- This provision is effective from the date on which an air carrier or business is first issued a loan or guarantee and ends on the date that is one year after the loan or guarantee is no longer outstanding.
- Impact: Removes a potential impediment to air carriers and other businesses obtaining loans and loan guarantees.

#### **Section 4026: Reports**

- Requires the secretary of the Treasury to publish on its website detailed information about each transactions authorized by this Act within 72 hours of the time the transaction is execution.
- Requires the Comptroller General of the United States to conduct a study on the loans, loan guarantees, and other investments provided, and provide a report to Congress within nine months and annually thereafter.
- Impact: Provides public transparency of loans, loan guarantees, and other investments made under this title.

**Section 4027: Direct Appropriation**

- Authorizes \$500 billion of Treasury funds to implement this title until Jan. 1, 2021.
- On or after Jan. 1, 2021, no new loan, loan guarantees, or other investments may be made, and remaining funds may only be used for modifications, restructurings, or exercising options or other investments made prior to that date.
- Impact: Businesses need to have their loans, loan guarantees, and other investments in place before Jan. 1, 2021.

**Section 4028: Rule of Construction**

- Limits the authority of the secretary of the Treasury to provide relief under this title is to loans, loan guarantees or other investments as provided therein.
- Impact: Limits the ability of the Treasury to provide relief under this title except as set forth.

**Section 4029: Termination of Authority**

- Terminates the authority of the secretary of Treasury to make any new loans, loan guarantees or other investments on Dec. 31, 2020; however, any outstanding loans, loan guarantees or other investments may be modified (but may not be forgiven).
- Any loan or loan guarantee modification for a loan to passenger airlines cannot extend beyond five years from the initial origination date of the loan or loan guarantee.
- Impact: Businesses need to have their loans, loan guarantees, and other investments in place before Jan. 1, 2021.

*Subtitle B – Air Carrier Worker Support***Section 4111: Definitions**

- Defines: airline catering employee, airline catering services, contractor, employee, and secretary.
- Impact: Defines key terms.

**Section 4112: Pandemic relief for aviation workers**

- Financial assistance to preserve aviation jobs for the continuation of payment of employee wages, salaries and benefits.
  - \$25 billion passenger air carriers
  - \$4 billion cargo air carriers
  - \$3 billion contractors
  - \$100 million for administrative expenses
- Impact: Fulfills the request for financial assistance for aviation workers in an effort to preserve jobs.

**Section 4113: Procedures for providing payroll support**

- Financial assistance to:
  - Air carriers for salaries and benefits reported to the Department of Transportation from April 1, 2019 to Sept. 30, 2019.
  - Air carriers that do not transmit reports, the amount that the air carrier certifies, using sworn financial statements or other appropriate data (*i.e.*, amount of wages, salaries, benefits, and other compensation) from April 1, 2019 to Sept. 30, 2019.
  - Contractors based on the amount that the air carrier certifies, using sworn financial statements or other appropriate data (*i.e.*, amount of wages, salaries, benefits, and other compensation) from April 1, 2019 to Sept. 30, 2019.
- Includes as terms and conditions requirements for audits and clawbacks of financial assistance in the event of a failure to honor assurances.
  - The deadline for immediate payroll assistance is no later than 10 days after the enactment of this Act. Subsequent payments will be determined by the secretary, who also has the authority to reduce the amount to air carriers on a pro rata basis.
- Impact: Allows air carriers and contractors to keep employees on staff so long as they abide by the terms, conditions, and procedures of the provision.

**Section 4114: Required assurances**

- Until Sept. 30, 2020, each air carrier must enter into an agreement to refrain from conducting involuntary furloughs, ensure that neither an air carrier or contractor nor affiliate may purchase equity security of the air carrier, and ensure that the air carrier or contractor does not pay dividends or make capital distributions.
- The provision also authorizes the secretary of Transportation to provide financial assistance to maintain scheduled air service by considering the needs of small and remote communities as well as maintaining well-functioning healthcare supply chains. This provision is in effect until March 1, 2022.
- Impact: Allows air carriers and contractors to keep employees on staff so long as they abide by the terms, conditions, and procedures of the provision.

**Section 4115: Protection of collective bargaining agreement**

- There cannot be any conditions on the financial assistance to require an air carrier or contractor enter into negotiations for a collective bargaining agreement beginning on the date of which financial assistance is issued and ending on Sept. 30, 2020.
- Impact: Prevents the federal government from having too much authority over the delivery of financial assistance.

**Section 4116: Limitation on certain employee compensation**

- Air carriers or contractors eligible for financial assistance under subtitle B must agree to limitations on total compensation (salary, bonuses, stock awards, and other financial benefits) paid to officers and employees whose total compensation was more than \$425,000 in 2019.
- For the two-year period beginning on March 24, 2020 and ending on March 24, 2022:
  - No officer or employee whose total compensation in 2019 was more than \$425,000 can receive:
    - during any 12-consecutive-month period, total compensation in excess of the employee's total compensation for 2019; or
    - severance that is more than twice the employee's total compensation for 2019; and
  - If an employee's total compensation in 2019 exceeded \$3 million, then for any 12-consecutive-month period, the employee's total compensation cannot exceed \$3 million plus 50% of the employee's total compensation for 2019 in excess of \$3 million.
- These limitations do not apply to union employees under collective bargaining agreements entered into prior to the date of enactment of the CARES Act.
- Impact: Requires air carriers and contractors that are receiving financial assistance to limit total compensation paid to higher earners, which will encourage them to put funds into their employee base and other business purposes.

**Section 4117: Tax payer protection**

- The secretary may receive warrants, options, stock and other financial instruments to provide compensation for government assistance.
- Impact: Allows the federal government to take compensation from the recipients of financial assistance.

**Section 4118: Reports**

- The secretary will submit a report on the financial assistance provided to air carriers and contractors to the House Committee on Transportation and Infrastructure, the House Committee on Financial Services, the Senate Committee on Commerce, Science and Transportation, and the Senate Committee on Banking, Housing, and Urban Affairs one year after the date of enactment.
- Impact: Requires reports to several House and Senate committees one year after enactment.

**Section 4119: Coordination**

- The secretary shall work with the secretary of Transportation.
- Impact: Ensures that coordination between the Transportation and Treasury departments will be as quick and efficient as possible.

**Section 4120: Direct appropriation**

- \$32 billion in direct appropriation.

- Impact: Provides \$32 billion in direct appropriation.

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

The CARES Act would provide nearly \$340 billion in emergency appropriations, of which more than 80% would be directed towards state and local governments.

Breakouts by Appropriations Subcommittee are as follows:

- Agriculture, Rural Development, Food and Drug Administration, and Related Agencies [\$34.9 billion]
- Commerce, Justice, Science, and Related Agencies [\$3.1 billion]
- Defense [\$10.5 billion]
- Energy and Water Development [\$221.4 million]
- Financial Services and General Government [\$1.82 billion]
- Homeland Security [\$45.9 billion]
- Interior, Environment, and Related Agencies [\$2.0 billion]
- Labor, Health and Human Services, Education, and Related Agencies [\$172.1 billion]
- Legislative Branch [\$93 million]
- Military Construction, Veterans Affairs, and Related Agencies [\$19.6 billion]
- State, Foreign Operations, and Related Programs [\$1.1 billion]
- Transportation, Housing and Urban Development, and Related Agencies [\$48.5 billion]

Below is a summary of select provisions.

### **Territories and Indian Country**

#### Food Distribution Program On Indian Reservations – \$100 million

- Provides additional funding for low-income households living on Indian reservations and participating Indian Tribal Organizations.

#### Nutrition Assistance For The Commonwealth Of The Northern Mariana Islands, Puerto Rico, And American Samoa – \$200 million

- Provides additional funding for U.S. territories that cannot access SNAP.

#### Native American Programs – \$300 million

- Funds will be used to prevent homelessness and the spread of coronavirus on tribal lands.

#### Bureau of Indian Affairs – \$453 million

- For coronavirus containment in detention facilities; aid to tribal governments; tribal welfare assistance and social services programs; information technology including teleworking capabilities; and increased staffing and overtime costs.

#### Bureau of Indian Education – \$69 million

- For extended teacher and workforce salary needs; transportation needs associated with the pandemic; information technology, including teleworking capabilities; and aid for tribal colleges and universities.

#### Indian Health Service – \$1.032 billion

- Addresses critical response needs in Indian Country, along with the ability to transfer \$125 million for facility needs. Funding provides for medical and equipment supplies; mobile triage units; surveillance; medicines; purchased and referred care; transportation; backfilling for public health service corps; and increased capacity for telehealth and other teleworking capacity.



## **Health Care**

### Food and Drug Administration – \$80 million

- Funds support the development of necessary medical countermeasures and vaccines, advance domestic manufacturing for medical products, and monitor medical product supply chains.

## **Defense**

### Defense Industrial Base – \$2.45 billion

- \$1.45 billion for the Defense Working Capital Funds as the Defense Logistics Agency and military services work to mitigate the impact of COVID-19 on production lines, supply chain, military depots, and labs; and
- \$1 billion for the Defense Production Act to increase access to materials necessary for national security and pandemic recovery.

### Defense Health Program – Medical Care and Medical Countermeasures – \$1.8 billion

- Addresses increased health care cases for eligible military members, dependents, and retirees; and to procure additional medical equipment; as well as for the procurement of physical protective equipment for medical personnel and disease response.

### National Guard Support For DOD and The States and Territories – \$1.5 billion

- For emergency deployments of Guard personnel.

### DOD Operations – \$713.6 million

- For medical supplies and physical protection equipment on installations and ships;
- For deployments of the USNS COMFORT and USNS MERCY; and
- For increased operations and deployment schedules.

## **State Government**

### Election Security Grants – \$400 million

- Provides grants to the States in response to the coronavirus for the 2020 election cycle.

### Child Care and Development Block Grant — \$3.5 billion

- For immediate assistance to child care providers to prevent them from going out of business and to otherwise support child care for families, including for healthcare workers, first responders, and others playing critical roles during this crisis.

### Community Services Block Grant — \$1 billion

- Direct funding to local community-based organizations to provide a wide-range of social services and emergency assistance for those who need it most.

### Low Income Home Energy Assistance Program — \$900 million

- Immediate home energy assistance for low-income households affected by coronavirus.

### Community Development Block Grant (CDBG) – \$5 billion

- Provides communities and states with funding to provide a wide range of resources to address COVID-19, such as services for senior citizens, the homeless, and public health services.

## **Justice**

### The Supreme Court – \$500,000

- To expand its capacity for staff to work remotely and continue mission critical activities.

Federal Courts (Salaries and Expenses) – \$6 million

- For increased costs of pretrial and probation services, including substance abuse treatment and drug testing, and to expand capacity for Judiciary staff to work remotely.

Federal Courts (Defender Services) – \$1 million

- To expand its capacity for Defender Services staff to work remotely and continue representing clients without disruption.

**Performing Arts**

National Endowment for The Arts – \$75 million

- For grants, including funding to state arts agencies and other partners in an effort to help local, state, and regional communities provide continued access to cultural organizations and institutions of learning.

National Endowment for The Humanities – \$75 million

- For grants, including funding for state humanities councils and other partners in an effort to help local, state, and regional communities.

**Health Care**

Public Health and Social Services Emergency Fund — \$127 billion

- Reimbursement to Hospitals & Healthcare Providers.
- Strategic National Stockpile: to procure personal protective equipment, ventilators, and other medical supplies for federal and state response efforts.
- Advance construction, manufacturing, and purchase of vaccines and therapeutic delivery to the American people.
- To improve the capacity of healthcare facilities to respond to medical events.
- To expand services and capacity for rural hospitals, telehealth, poison control centers, and the Ryan White HIV/AIDS program.

Centers for Disease Control (CDC) and Prevention — \$4.3 billion

- Resources are provided for public health preparedness and response, which includes funding to state and local public health responders, as well as enhanced nationwide surveillance, diagnostics, laboratory support, communication campaigns to the public, guidance to physicians and health care workers, and global health preparedness.
- Funds state and local preparedness and response activities.
- Continue CDC's global health efforts critical to the health and security of the United States.
- To invest in better COVID-19 tools and build state and local public health data infrastructure.
- To give HHS flexibility to respond to pandemic threats.

National Institutes of Health (NIH) — \$945.5 million

- For vaccine, therapeutic, and diagnostic research to increase our understanding of COVID-19, including underlying risks to cardiovascular and pulmonary conditions.

Substance Abuse and Mental Health Services Administration — \$425 million

- Addresses mental health and substance use disorders as a result of the coronavirus pandemic.
- Increases access to mental health care services.
- Provides increased support for those most in need of intervention.
- Addresses mental health, substance use disorders, and provide resources and support to youth and the homeless during the pandemic.

Centers for Medicare and Medicaid Services — \$200 million

- Supports additional infection control surveys for facilities with populations vulnerable to severe illness from coronavirus.

Administration for Children and Families — \$6.3 billion

- Grants to all Head Start programs to help them respond to coronavirus-related needs of children and families, including

making up for lost learning time.

- Provides additional support to family violence shelters and the National Domestic Violence Hotline.
- Immediate assistance to current programs providing critical services and housing for runaway and homeless youth.
- State grants to support the child welfare needs of families during this crisis, and to help keep families together.

Administration for Community Living — \$955 million

- Resources are included for aging and disability services programs, including senior nutrition; home and community-based supportive services; family caregivers; elder justice; and independent living.

**Veterans**

Medical Community Care — \$2.1 billion

- Supports increased demand for care in the community, specifically emergency room and urgent care.

**DOT and Housing**

DOT Administrative Accounts — \$6 million

- To cover increased administrative expenses as a result of the coronavirus.

DOT Inspector General — \$5 million

- To provide oversight and ensure funds provided are used for lawful purposes.

HUD Administrative Expenses — \$50 million

- Ensures that HUD's programs are able to continue serving low-income vulnerable populations, while also providing states and local governments with resources to contain and respond to the coronavirus.

HUD Inspector General — \$5 million

- Funding for the HUD Inspector General to provide oversight.

**Real Estate**

Tenant-Based Rental Assistance — \$1.25 billion

- Preserves Section 8 voucher rental assistance for seniors, the disabled, and low-income working families, who will experience loss of income from the coronavirus.

Project-Based Rental Assistance — \$1 billion

- Funding will make up for reduced tenant payments as a result of coronavirus.

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