

**CQ House**

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## Third Coronavirus Response Package

This Fact Sheet describes the provisions of **HR 748**, Coronavirus Aid, Relief, and Economic Security (CARES) Act, which the House will consider Friday.

The negotiated bipartisan measure provides aid and support to individuals, businesses and industries economically harmed by the coronavirus pandemic, while also providing additional aid to hospitals and the U.S. health care system to help them care for virus victims. The estimated \$2.2 trillion package expands unemployment insurance so laid-off workers can receive through July the full amount they were previously earning (rather than the partial compensation paid by state UI programs) and it extends UI benefits for an additional 13 weeks beyond the normal 26 weeks. It provides one-time cash payments to individuals and families up to \$1,200 per adult and \$500 per child, provides financial aid to small businesses to help them remain solvent and retain employees on their payrolls, and authorizes loans to major industries severely impacted by the pandemic, such as airlines.

The Senate passed the bill by a 96-0 vote late Wednesday night. President Trump says he supports the measure.

### Section I

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## Background & Summary

The novel (new) coronavirus that originated in China late last year has spread worldwide. More than 532,000 people have been diagnosed with COVID-19, the respiratory illness caused by the virus, with over 24,000 having died, according to statistics maintained by Johns Hopkins University as of midnight Thursday night.

In the United States, cases have been reported in all 50 states and the District of Columbia, with almost 86,000 individuals being diagnosed with the disease — making the United States the

nation with the most confirmed cases in the world — and almost 1,300 having died. The elderly and those with underlying health conditions such as heart or lung issues and compromised immune systems continue to be most vulnerable to severe infections, although growing numbers of severe COVID-19 infections are also occurring in younger populations.

Although the vast majority of reported cases are mild, because the pathogen is highly infectious and can be spread by those with mild or no symptoms, tracking and containing the virus is difficult. Currently there is no cure, no known effective therapeutic treatment, and no vaccine to prevent COVID-19.

### **Economic Impact**

When the virus began spreading rapidly around the city of Wuhan, China, the Chinese government sought to halt the spread through travel restrictions and an unprecedented quarantine of that region and other parts of China — which also had the impact of disrupting international supply chains by shutting down many Chinese factories that supply goods worldwide.

Although China's massive efforts to contain COVID-19 initially slowed the spread of the virus, global public health officials warned governments around the world that it was only a matter of time before the contagion would spread. It wasn't until infection rates in Italy began to skyrocket, however, that many countries began taking precautionary actions against the contagion.

In the past few weeks as the virus continued to spread relatively unabated, the economic impact both globally and within the United States became much more severe as governments, companies and other entities took often drastic actions to contain or slow the spread of the virus — which on March 11 was declared a pandemic by the World Health Organization (WHO).

Worldwide, activities and events where large numbers of people congregate were canceled to prevent people from gathering and spreading the virus. Some nations with particularly high rates of infection, such as Italy and Spain, have effectively locked-down their populations to contain the disease, and other nations such as the United Kingdom and India are taking similar actions to slow the rate of infection and "flatten the curve" of patients who will become sick so as not to overwhelm their health care systems.

In the United States, although many companies moved to have their employees work remotely, the virus has effectively shut down much of the U.S. economy with state and local governments requiring the closure of schools, restaurants, bars, theaters and other places where people gather in an effort to slow the virus. Millions of workers in the service economy, especially hourly

workers, have been laid off — particularly in the travel, hospitality, restaurant and retail industries. More than a dozen states, including California, New York and Ohio, have issued state-wide orders for residents to effectively remain in their homes, except for grocery shopping and other essential needs.

The stock market has been pummeled by the economic impact of the virus, with the Dow Jones Average as of Monday losing 37% of its value from its peak on February 12 (although it has rallied the past few days once it became apparent Congress would enact a financial rescue package). It is widely expected the United States will experience an economic recession, with some economists predicting the U.S. economy could contract by up to 30% in the second quarter of the year with the unemployment rate — which recently hit a near-record low of 3.5% — rising to 20% or more. On Thursday, the government reported that almost 3.3 million Americans filed for unemployment benefits last week.

#### **Government Response**

The U.S. government has taken a wide range of actions in response to the virus, with President Trump at the end of January declaring a public health emergency and barring non-citizens who had been in China from entering the United States. In March travel restrictions were imposed on non-citizens flying from Europe and the UK, and in conjunction with Mexico and Canada, travel between the United States and those two nations has also been restricted.

On March 13 Trump declared a national emergency under the Stafford Act — making available tens of billions of dollars in disaster funding and providing the government with greater flexibility to take certain actions in response to the growing health crisis. The administration has also taken a wide variety of administrative actions in response, including postponing until July 15 the deadline for filing federal tax returns and paying any taxes due.

On March 16 the White House released new national guidelines to help slow the spread of the virus, advising Americans to follow Centers for Disease Control and Prevention (CDC) recommendations for preventing transmission of the virus and calling on Americans for 15 days to avoid discretionary travel and to practice social distancing by avoiding shopping trips, eating or drinking at restaurants or bars, or social gatherings of more than 10 people.

To help prevent an economic collapse, the Federal Reserve has reduced interest rates to near zero and has initiated major actions to ensure market liquidity.

#### **Legislative Response**

Meanwhile, Congress has enacted two emergency packages in response to the virus.

The first was a \$8.3 billion measure cleared during the first week of March primarily intended to provide additional resources for the development of therapeutic treatments and vaccines against the virus and to support state and local public health agencies and health care preparedness. (**PL 116-123**; see House Action Reports **Supplement to the Legislative Week of March 2**)

The second package, a \$100 billion-plus measure, was cleared in mid-March after being negotiated between House Speaker Pelosi, D-Calif., and Treasury Secretary Steven Mnuchin. It was primarily focused on individuals impacted by the virus, and provides for free virus testing for everyone (including the uninsured), requires employers to offer up to 14 days of paid leave to employees sickened or quarantined because of the virus, provided additional funding for federal nutrition programs (including to feed low-income children who usually get their meals at schools now closed because of the virus), and provided aid to help ensure state unemployment insurance programs can process claims by the large number of people laid off because of the virus. (**PL 116-127**; see House Action Reports **Third** and **Fourth** Supplements to the Legislative Week of March 9)

#### ***Development of Third Response Package***

After enacting those first two packages, lawmakers turned to the urgent need to prop up the struggling U.S. economy and provide financial aid to Americans and U.S. businesses. Adding to the urgency, the U.S. health care system has become increasingly stressed, with critical shortages of protective masks, gowns and other gear increasing the risk of virus exposure to health care workers, a shortage of ventilators increasing the risk to individuals who develop severe cases of COVID-19, and serious financial difficulties at many hospitals increasing the possibility they might close.

Senate Republicans developed a nearly \$1 trillion proposal that was focused on providing one-time cash payments to most Americans, low-cost loans to help small businesses survive, aid to ailing industries such as airlines (which have been one of the hardest hit), and additional support for the health care industry.

Republicans then began negotiations with Senate Democrats in an effort to reach a bipartisan compromise, with Democrats most prominently focusing on bolstering and extending unemployment benefits so that laid-off workers would continue to receive what they had earned in their jobs, rather than just a portion of that income. While Republicans modified their measure to incorporate many Democratic proposals, when Senate Majority Leader McConnell, R-Ky., released a formal draft and sought to proceed to Senate floor consideration Democrats twice

blocked those procedural moves — forcing continued negotiations between the two parties and the White House that was conducted primarily between Senate Minority Leader Chuck Schumer, D-N.Y., and Treasury Secretary Mnuchin. industry.

Among their objections, Democrats argued that McConnell's package was tilted too heavily towards corporations rather than affected workers, and that a half-trillion-dollar fund created by the bill to help major industries and stabilize the economy lacked accountability and could be used at the discretion of the Treasury secretary for any purpose, with little transparency and no oversight. They also argued that more aid to hospitals and the U.S. medical system was needed, and that direct aid should be provided to states to help them deal with virus-related costs.

After several days of further negotiations — and after House Democrats unveiled their own alternative that included dozens of other policy provisions — an agreement was finally reached on Tuesday night, with final text released Wednesday night (March 25). The Senate passed the measure late that night by a 96-0 vote.

House Democratic and Republican leaders have voiced their support for the package and have announced that the House will take it up Friday morning and try to pass it by voice vote — in order to avoid having to call House members back to Washington, D.C. The president has publicly stated he will sign the measure.

(**HR 748**, the legislative vehicle being used to pass this third coronavirus emergency response package, when originally passed by the House would have repealed the so-called "Cadillac Tax" enacted as part of the 2010 health care law. That tax was repealed in December as part of year-end FY 2020 spending legislation.)

### **Executive Summary of HR 748**

The bill provides aid and support to individuals, businesses and industries economically harmed by the coronavirus pandemic — acting as a financial "rescue package" for the faltering U.S. economy — while also providing additional aid to hospitals and the U.S. health care system to help them care for virus victims. Treasury Secretary Steven Mnuchin has said the package is intended to help support the U.S. economy for several months while efforts to contain the pandemic continue.

Among the provisions in the estimated \$2.2 trillion package, the bill temporarily expands unemployment insurance benefits for individuals who lose their jobs due to the pandemic,

providing an additional \$600 per week through July over state benefit levels and extending regular benefits for an additional 13 weeks beyond the normal 26 weeks.

It also provides one-time direct payments to families of up to \$1,200 for adults and \$500 per child to pump more money into the economy and help those who have been financially impacted by the health emergency. Under the measure, adults with adjusted gross incomes (AGI) of up to \$75,000 (\$150,000 for married couples filing jointly) would receive the full \$1,200 payment (\$2,400 for a married couple).

#### ***Small Business Solvency & Worker Retention / Economic Stabilization***

To help small businesses retain their workers, the bill creates a \$349 billion loan program to help pay worker salaries and other expenses for several months, with the loans to be forgiven if workers remain on payroll. As an alternate option it also creates a temporary employee retention tax credit on employer-paid payroll taxes for that businesses and nonprofits could use to help offset the costs of keeping employees on payroll during the pandemic.

It provides \$454 billion to support credit facilities established by the Federal Reserve that could be leveraged by the Fed to provide between \$2 trillion and \$4 trillion in loans to struggling companies, industries, states and municipalities, and it separately provides \$78 billion to support the domestic aviation industry, in particular major airlines — with \$32 billion to be provided as grants to continue paying employees. It also provides a separate \$150 billion to state and local governments to reimburse them for their costs of responding to the coronavirus public health emergency.

#### ***Health System Support & Emergency Appropriations***

The bill provides \$140.4 billion for health related services funded through the Health and Human Services Department (HHS), including \$100 billion in supplemental appropriations that goes directly to hospitals and health care providers. In addition to the direct appropriations, hospitals will receive additional financial support through increased funding under Medicare and Medicaid, as well s increased flexibility in patient treatments under the requirements of those programs. It also addresses shortages of medical equipment and devices.

It provides a total of \$339.9 billion in emergency supplemental appropriations to aid Americans during the coronavirus crisis. More than 80% of the total funding provided in the emergency supplemental appropriations division of the measure will go directly to state and local governments, according to the appropriators.

## Section II

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### Individual Relief

This section describes the provisions of **HR 748**, Coronavirus Aid, Relief, and Economic Security (CARES) Act, that provide financial aid and relief to individuals financially harmed by the coronavirus pandemic.

The bill temporarily expands unemployment insurance benefits for individuals who lose their jobs due to the pandemic, providing an additional \$600 per week through July over state benefit levels and extending regular benefits for an additional 13 weeks beyond the normal 26 weeks.

It provides one-time direct payments to families of up to \$1,200 for adults and \$500 per child to pump more money into the economy and help those who have been financially impacted by the health emergency. Under the measure, adults with adjusted gross incomes (AGI) of up to \$75,000 (\$150,000 for married couples filing jointly) would receive the full \$1,200 payment (\$2,400 for a married couple).

The bill also defers student loan payments on all federal owned student loans — including both principal and interest — for six months, through Sept. 30, 2020, without penalty to the borrower, and it includes a number of additional education benefits and consumer protections, including a prohibition on landlords evicting tenants for 120 days and a prohibition on lenders foreclosing on mortgages for 60 days.

#### **Expanded Unemployment Benefits**

Under current law, unemployment insurance is available to individuals who have lost their jobs, and UI benefits replace part of their wages while they look for work. States run the basic unemployment insurance program, and most replace about half of an individual's wages for up to 26 weeks. A second program, the permanent extended benefits program, provides an additional 13 to 20 weeks of compensation once regular benefits have been exhausted, but only in states where the unemployment situation has gotten dramatically worse. Usually, states and the federal government split the cost of extended benefits.

The bill temporarily expands UI benefits for the millions who are losing their jobs because of the coronavirus pandemic, with the federal government picking up the cost through a Federal Pandemic Unemployment Compensation program — including by providing for immediate benefits, providing an additional \$600 per week through July, and providing for an additional 13 weeks of regular benefits beyond the normal 26 weeks. It also generally expands eligibility for UI benefits to individuals who currently can not receive traditional UI, including the self-employed, independent contractors, "gig" workers (e.g., Uber and Lyft drivers) and others with limited work histories.

It similarly expands benefits for laid-off railroad workers who receive UI benefits under the Rail Unemployment Insurance Act, eliminating the one-week waiting period, providing an additional \$600 per week for up to four months, and providing an additional 13 weeks of extended benefits.

Under the measure, the expanded UI benefits would be available to workers who are unemployed due to a wide variety of effects of the coronavirus, including: their own illness, illness in a family member, the necessity to quarantine, job loss because of the virus, and staying home to take care of a child whose school or child care is closed because of the virus. It explicitly excludes those who can telework for pay, or who are already receiving paid sick leave or other paid leave benefits.

The bill's UI expansions would expire at the end of calendar year 2020, and state participation in the expanded program would be voluntary.

#### ***Immediate, Extra & Extended UI Benefits***

The bill provides for the federal government to pay the costs for an individual's first week of unemployment benefits once the individual files for unemployment. Currently, some states require applicants for unemployment benefits to wait a full week after becoming unemployed before beginning to receive assistance, in order to avoid paying benefits to individuals who are unemployed for only a few days.

It also temporarily increases weekly UI benefits, with the federal government to fund the costs of providing an additional \$600 above the state's regular weekly benefit so that many laid-off workers would receive compensation equal to what they were earning before being laid off. The extra \$600 weekly benefit could be provided for up to four months, but would end after July 31.

(In developing the measure, lawmakers wanted to ensure that individuals laid off because of the pandemic could for the first few months receive UI benefits equal to their previous income, but the Labor Department said it would be impossible for state UI programs to individually match

prior earnings. Consequently, negotiators used the national average weekly UI benefit, \$350, and added \$600 to match national average weekly wages — which means that some individuals will temporarily receive more than they previously earned while others receive less.)

Finally, the measure provides federal funding for an additional 13 weeks of UI benefits, beyond the normal 26 weeks (for a total of 39 weeks), for those individuals who remain unemployed after their state UI benefits expire. The weekly amount provided would be the same as the regular UI benefit paid by the state, with the extended benefits to end Dec. 31.

### ***Short-Time Compensation Payments***

Short-Time Compensation (STC) programs, also known as work sharing or shared work programs, is a variation of unemployment insurance meant to prevent layoffs. Under such programs, instead of laying off workers during an economic downturn, employers can cut back the number of hours worked and spread those hours among the entire workforce — with workers whose hours are cut receiving a pro-rated UI benefit to make their compensation whole. Not all states have STC programs.

Under the bill, the federal government would pay 100% of a state's STC benefits, for up to 26 weeks of benefits for states that already have, or that establish, permanent programs in 2020.

For states that establish temporary STC benefit programs, the federal government would pay up to 50% of the state's benefit costs. Federal funding for both permanent and temporary programs would end Dec. 31, 2020, and individuals employed on a seasonal, temporary or intermittent basis would not be eligible for federal funding under state STC programs.

The measure provides \$100 million for grants to help states establish or improve existing STC programs, and to administer the programs. The funds could also be used to create or support rapid response teams to advise employers about alternatives to layoffs, and to enable employers to assess the feasibility of participating in STC program.

### ***Other UI Provisions***

The bill provides federal support to states, Native American tribes, and nonprofits so they can pay unemployment to their employees, with the federal government to pay half their costs through the end of 2020.

It allows states to hire temporary staff, or to rehire former staff, in order to address growing unemployment claims more quickly.

It also provides \$25 million to the Labor Department's Inspector General for audits, investigations, and other oversight actions of UI programs.

## **Direct Payments to Individuals**

The bill provides one-time direct payments to families of up to \$1,200 for adults and \$500 per child to pump more money into the economy and help those who have been financially impacted by the pandemic. The bill designates the payments (technically tax rebates) as Recovery Rebates.

Under the measure, adults with adjusted gross incomes (AGI) of up to \$75,000 (\$150,000 for married couples filing jointly) would receive the full \$1,200 payment (\$2,400 for a married couple).

Above those levels, payments would be phased out with a \$5 reduction for every \$100 of income over \$75,000 an individual earns — with payments being completely phased out for single filers at \$99,000 of income, for head of household filers with one child at \$146,500 of income, and for joint filers with no children at \$198,000 of income.

To be eligible for the payments, adults must have a work-eligible Social Security number and not be claimed as a dependent of any other taxpayer. Adults who have no income, or whose income is derived from non-taxable means-tested benefit programs, also would be eligible for the full payments.

In their explanatory materials, senators note that most people will not need to take action in order to receive their payment, with the IRS using their 2019 or 2018 tax return (if they haven't yet filed for 2019) as the basis for determining the amount of their payment checks.

## **Student Loans & Education Aid**

The bill defers student loan payments on all federal owned student loans — including both principal and interest — for six months, through Sept. 30, 2020, without penalty to the borrower. According to Senate explanatory materials, this would provide relief to 95% of student loan borrowers.

It also allows employers for the remainder of 2020 to repay up to \$5,250 of an employee's student loans, without that payment counting towards the employee's taxable income. (Currently, employers can pay up to \$5,250 to assist an employee with educational expenses, such as tuition, fees and books, with the employer allowed to deduct the expense and the aid not counting towards the employee's taxable income.)

### ***Loan Limits & Pell Grants***

The measure excludes any semester that a student is unable to complete because of the pandemic from counting towards either a student's subsidized loan usage limits or their lifetime Pell Grant eligibility limit.

In such circumstances, the student would not be required to return the Pell grant or federal loan. It also waives the requirement that institutions calculate the amount of grant or loan assistance that they must return to the department when a student drops out of school, if caused by the pandemic.

In addition, for students who drop out of school because of the virus, their grades would not affect their federal academic requirements for continuing to receive Pell Grants or student loans.

#### ***Work-Study Funds & Opportunity Grants***

The Federal Work-Study program funds part-time employment for undergraduate and graduate students with financial need, allowing them to earn money to help pay postsecondary education expenses.

The bill generally allows colleges and universities to continue making work-study payments to students who are unable to work because they became sick or a virus-related closure occurred at their place of employment.

It also allows colleges and universities to award additional Federal Supplemental Educational Opportunity Grants (FSEOG) to students who have been impacted by COVID-19.

FSEOGs are provided to undergraduate students with exceptional financial needs, and range from \$100 and \$4,000 a year depending on financial need. But unlike Pell Grants where every eligible student receives aid, the Education Department provides each participating college with a finite amount of FSEOG funds, and once they are allocated no more FSEOG awards can be made for the year.

#### ***AmeriCorps Service***

The bill allows current National and Community Service Corporation (AmeriCorps) volunteers to receive their Segal AmeriCorps Education Award if their service year is disrupted or suspended due to the pandemic.

It also allows AmeriCorps volunteers to reenroll for an additional year of service if their service is disrupted, and allows the agency to increase to age 26 the age limit for individuals who can reenroll. AmeriCorps would be permitted to carry over funding from the current fiscal year to next fiscal year.

## Financial Protections

The measure contains several provisions aimed at protecting individual borrowers who might be unable to pay rent, mortgage payments, or other debt as a result of the COVID-19 pandemic.

It prohibits landlords from requiring a tenant to vacate a dwelling or from commencing eviction procedures for nonpayment of rent, for 120 days following enactment. The provision applies to any property where the landlord's mortgage is insured, guaranteed, supplemented, or protected by federal agencies or programs.

It also prohibits banks, lenders, and other entities that provide information to credit reporting agencies from treating a deferment, partial payment, or a credit forbearance requested by a consumer as a result of the pandemic as negative credit information. This provision would only apply for consumers in good standing who fulfill all terms and requirements of a forbearance or modified payment agreement. The prohibition will remain in place until 120 days following the end of the declared COVID-19 national emergency.

### ***Mortgage Borrowers***

The bill prohibits mortgage lenders from foreclosing on any federally backed mortgage for a 60-day period following March 18, 2020, including mortgages insured or guaranteed by HUD, Fannie Mae, Freddie Mac, the Veterans Affairs Department, and the Agriculture Department. It authorizes borrowers experiencing hardship as a result of the COVID-19 pandemic to request up to 180 days forbearance on their mortgage payments.

It also authorizes an entity with a mortgage for a multifamily dwelling property that is experiencing financial hardship to request up to 90 days forbearance on payments for a federally backed multifamily mortgage (a multifamily residential property must have at least five dwelling units to qualify). A borrower receiving a forbearance may not evict any tenants during the forbearance period. These authorities will expire on Dec. 31, 2020.

## Other Provisions

### ***Pay for Federal Contractors***

The bill allows the federal government to pay contractor employees who cannot perform their job functions because their facility has been closed or other restrictions, if their job functions cannot be performed remotely during the COVID-19 pandemic. This authority terminates on Sept. 30, 2020.

### ***Paid Sick & Family Leave***

The Families First Coronavirus Response Act (**PL 116-127**) enacted earlier this month requires all employers with fewer than 500 employees to grant full time employees who are effected by the coronavirus 80 hours (two weeks) of paid sick leave if needed to deal with virus-related health issues (with part-time employees eligible for the typical number of hours they work). Employees are also eligible for up to twelve weeks of paid family (at two-thirds the individual's earnings) if needed to care for a family member or small child because child care is unavailable or the child's school has closed because of coronavirus.

The benefit is capped at \$511 per day for paid sick leave and \$200 for family leave, with employees limited to \$5,110 in aggregate for sick leave and more than \$2,000 for family leave. The law allows employers to receive tax credits to offset the wages paid for qualified sick and family medical leave, and it extends similar tax credits for the lost wages of self-employed individuals. To take advantage of the paid leave credits, businesses can retain and use the funds they would otherwise pay to the IRS in payroll taxes. The law's paid sick and family leave benefits expire at the end of 2020.

The bill clarifies that the limits in that law are per employee rather than per employer, and it codifies a Treasury initiative announced earlier this week to allow employers to receive an advanced tax credit from the Treasury Department in cases where benefits paid to employees would exceed their payroll tax credit, rather than waiting to be reimbursed by the IRS.

It allows employees who were laid off on or after March 1, 2020, but who are rehired by the business, to be eligible for the law's paid family and medical leave, as long as they worked for that employer for 30 of the last 60 calendar days prior to being laid off.

Finally, it allows the Office of Management and Budget to waive the law's paid sick and family leave requirements for certain categories of executive branch employees for "good cause."

#### ***Charitable Contributions***

To encourage charitable giving, the bill allows individuals to deduct up to \$300 in cash contributions to churches and other charitable organizations in 2020, regardless of whether they itemize their deductions.

It also increases amounts that can be deducted for charitable giving by those who itemize, by suspending for 2020 the current limit of 50% of AGI for individuals and by increasing from 10% to 25% of taxable income the limit that can be deducted by corporations, and increasing from 15% to 25% the limit on deductions for food contributions.

#### ***Retirement Fund Accounts***

The bill waives required minimum distribution rules for certain defined contribution plans and IRAs for calendar year 2020. Under current law, once an individual reaches a certain age, he or she must make a minimum withdrawal (i.e., a distribution) from his or her retirement account each year.

It also allows individuals who have experienced adverse financial consequences as a result of the COVID-19 pandemic to make withdrawals of up to \$100,000 from their retirement funds without having to pay the 10% early withdrawal penalty.

Under the measure, the withdrawal must be made because of adverse financial consequences experienced as a result of the individual (or his or her spouse or dependent) contracting COVID-19, or because of related factors — such as the coronavirus forcing the individual to be quarantined, the pandemic causing the individual to be furloughed or laid off, or because he or she can't work due to lack of child care or closed or reduced hours of a business the individual owns or operates. Income attributable to a withdrawal would be subject to tax over three years, and individuals could recontribute funds to their retirement plans within three years of the withdrawal without regard to that year's cap on contributions.

Finally, the measure allow allows individuals to make loans against certain retirement plans if they have experienced adverse financial consequences from the pandemic. (When loans are made against retirement funds, the retirement funds themselves remain invested and can benefit from market growth.)

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## Section III

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# Business Relief / Economic Stabilization

This section describes the provisions of [HR 748](#), Coronavirus Aid, Relief, and Economic Security (CARES) Act, that seek to keep small businesses solvent and retain employees on payroll,

while also supporting major businesses and state and local governments to help stabilize the economy during the pandemic.

To help small businesses retain their workers, the bill creates a \$349 billion loan program to help pay worker salaries and other expenses for several months, with the loans to be forgiven if workers remain on payroll. As an alternate option it also creates a temporary employee retention tax credit on employer-paid payroll taxes for that businesses and nonprofits could use to help offset the costs of keeping employees on payroll during the pandemic.

It provides \$454 billion to support credit facilities established by the Federal Reserve that could be leveraged by the Fed to provide between \$2 trillion and \$4 trillion in loans to struggling companies, industries, states and municipalities, and it separately provides \$78 billion to support the domestic aviation industry, in particular major airlines — with \$32 billion to be provided as grants to continue paying employees.

It also provides a separate \$150 billion to state and local governments to reimburse them for their costs of responding to the coronavirus public health emergency.

### **Small Business Support / Employee Retention**

The bill includes two dedicated initiatives to help keep small businesses solvent and retain employees for the next few months rather than impose lay offs, so the businesses can survive and recover more quickly from the economic impact of the pandemic — and workers can continue to be paid and keep their jobs.

Under the measure, eligible businesses could choose to use either of the two temporary initiatives — a new Paycheck Protection Program or a special payroll tax credit for employee retention — but not both.

#### ***Paycheck Protection Program***

The Paycheck Protection Program would be operated through the Small Business Administration's (SBA) primary 7(a) loan program, with the SBA guaranteeing 100% of up to \$349 billion in loans from private lenders to small businesses — with the loans to be forgiven on June 30 to the extent they are used to maintain employees on payroll, make rent or mortgage interest payments, pay utilities or insurance, or cover certain other costs during the eight-week period after the loan is obtained.

Under the measure, the amount forgiven would be reduced proportionally for a business that lays off employees compared to the same period last year, or who reduces the pay of any

employee beyond 25% of their prior year compensation. Payroll may not include compensation for individuals earning more than \$100,000 a year in salary or annualized wages. Businesses that pay additional wages to tipped workers would be eligible for additional loan forgiveness, and it encourages employers to rehire workers who were previously laid off.

SBA Paycheck Protection loans could be made for up to 250% of the employer's average monthly payroll, with a maximum loan of \$10 million for an individual business and a top interest rate of 4%. Generally, only businesses with fewer than 500 employees would be eligible unless the business is part of an industry with a larger workforce limit as defined by the SBA; the bill also allows loans to businesses with more than one physical location that has no more than 500 employee per location, such as hotel chains.

At the time of loan forgiveness, the SBA must purchase the amount forgiven from the lender; amount forgiven may not exceed the principal of the loan. Loan amounts not forgiven after one year would be converted into a regular 10-year 7(a) loan with a maximum of 4% interest rate (although the loan would remain 100% guaranteed by the federal government).

#### ***Employee Retention Payroll Tax Credit***

The bill also establishes a temporary employee retention tax credit on employer-paid Social Security payroll taxes for 2020 that businesses and nonprofits could use to help offset the costs of keeping employees on payroll during the pandemic.

Under the measure, businesses would be eligible for a refundable payroll tax credit of 50% of wages that continue to be paid to employees during the emergency if business operations have been fully or partially suspended due to a pandemic-related shut-down order, or the business's gross receipts declined by more than 50% compared to the same quarter the prior year. The credit would be provided on just the first \$10,000 of compensation, including health benefits.

For businesses with more than 100 full-time employees, the tax credit would be available for wages paid to employees who have been furloughed but who are still being paid, while businesses with 100 or fewer full-time employees would receive the credit on all employee wages, including those who are actively working.

To make up for the loss of tax revenue to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Trust Fund (where an employer's 6.2% Social Security payroll taxes are deposited), monies would be transferred from the general fund of the Treasury.

#### ***Other Tax Modifications to Boost Cash Flow***

To further bolster business cash flow and maintain operations and payroll, the bill allows employers and self-employed individuals to defer payment of payroll taxes during calendar year 2020, and instead pay them over the next two years with half to be paid by the end of 2021 and the other half by the end of 2022, and for 2019 and 2020 it increases from 30% to 50% of taxable income the amount of loan interest that businesses may deduct as a business expense.

The measure also modifies the loss limitation for pass-through businesses and sole proprietorships, allowing them to deduct excess business losses, and it allows businesses to use past corporate alternative minimum tax (AMT) credits at an accelerated rate, thereby permitting companies to claim a refund immediately (although the 2017 tax law repealed the AMT, it allowed businesses to retain corporate AMT credits that could be used as refundable credits over several years, ending in 2021).

### **Major Stabilization Loans**

The bill provides various funding streams to aid businesses dealing with financial instability as a result of the coronavirus pandemic. It provides the Treasury Department with \$454 billion to support credit facilities established by the Federal Reserve in response to the crisis — which could be leveraged by the Fed to provide between \$2 trillion and \$4 trillion in loans to struggling companies, states and municipalities.

It also provides \$78 billion to support the aviation industry, including passenger carriers and cargo carriers, aircraft manufacturers, and aviation contractors. That total includes \$46 billion for direct Treasury Department lending to the aviation industry and \$32 billion in grants to help airlines, cargo carriers and service contractors maintain payroll and employee benefits. The government would be allowed to acquire equity stakes in certain companies who take out government loans or receive government grants.

The measure generally prohibits companies from buying back stock or paying dividends to shareholders until a year after their loans are repaid. Borrowers would also have to agree to executive compensation limits for the life of the loans.

### **Business, Industry & Local Government Support**

The bill provides \$500 billion to the Treasury Department's Exchange Stabilization Fund (ESF) for support loans made by the Federal Reserve and direct loans from the Treasury — including \$454 billion to support loans made by the Fed and the remaining \$46 billion for direct Treasury Department lending to the aviation industry (see below). Loans or loan guarantees could not be made after Dec. 31, 2020.

The Treasury Department established the ESF in the 1930s and it has been used for a variety of functions; it is currently comprised of financial assets (including U.S. dollars and foreign currencies) that the Treasury Department can buy and sell. During the 2008 financial crisis it was used to guarantee money market mutual funds, which are comprised of short-term debt products that are often used by businesses to raise quick capital to cover basic operating expenses. This move was controversial at the time, as the ESF had never been used to stabilize domestic capital markets in this way.

In recent weeks, the Treasury has already begun using the ESF to guarantee new lending programs by the Federal Reserve aimed at supporting the economy as the COVID-19 pandemic has worsened, including direct loans issued by the Fed to banks and large employers. In the past two weeks the Fed has established six credit facilities (lending programs that inject liquidity into capital markets) and has plans to open more in an effort to keep U.S. banks and businesses solvent while much of the economy shuts down to slow the pandemic's spread. The Fed has also slashed interest rates to almost zero and is buying unlimited amounts of U.S. Treasuries and mortgage-backed securities from banks in order to keep credit markets functioning smoothly.

The bill directs Treasury to use \$454 billion from the ESF to guarantee and support Federal Reserve programs that provide loans to eligible businesses and state and local governments. Lawmakers estimate the Fed would be able to leverage the \$454 billion to provide anywhere between \$2 trillion and \$4 trillion in capital into the economy. Loans under the program could not be forgiven.

#### ***Stock Buyback & Compensation Restrictions***

Under the bill, recipients of Federal Reserve loans supported by the measure would be prohibited from engaging in stock buybacks or paying dividends for one year, or until the loan is paid back. However, the Treasury Department could waive these requirements if it determines it necessary "to protect the interests of the Federal Government."

Borrowers who receive such loans would also be prohibited from increasing the total compensation of any employee whose total compensation exceeds \$425,000 until one year after the loan is repaid. These businesses would also be prohibited from offering any employee a severance package that is more than twice their total annual compensation (a so-called "Golden Parachute").

The measure also limits pay raises for executives who earned more than \$3 million in 2019.

#### ***Mid-Sized Businesses***

The bill encourages the Treasury Department to work with the Federal Reserve to establish lending programs to support businesses and non-profit groups with between 500 and 10,000 employees that would be ineligible to apply for SBA assistance. If the Fed creates such a program, the loans issued through this facility would be limited to an annual interest rate of 2%, and borrowers would be able to defer repayments for up to six months.

To receive a loan under this program (if established), a borrower must certify that it will: use the funds to retain at least 90% of its workforce at full compensation and benefits through Sept. 30; will not buy back stock or pay dividends while the loan is outstanding; will not outsource jobs until two years after the loan's repayment; and will not try to block union organizing while the loan is outstanding.

#### **Aviation Sector Assistance**

The bill provides \$78 billion to support the domestic aviation industry, including passenger and cargo carriers, aircraft manufacturers, and aviation contractors such as ground crews, airport employees, baggage handlers, aviation catering businesses, and aircraft mechanics. Of the total, \$46 billion is for direct Treasury Department loans from the ESF, while the other \$32 billion is in the form of grants to help airlines maintain employee wages, salaries, and benefits.

The U.S. Treasury would be allowed to take an equity stake in government loan recipients, including through warrants, options, preferred stock, debt securities, notes or other financial instruments to provide "appropriate compensation" to the federal government for providing such aid.

#### ***Direct Lending***

The bill's \$46 billion for direct Treasury Department loans includes \$25 billion for passenger air carriers and aircraft maintenance businesses, \$4 billion for cargo air carriers, and \$17 billion for businesses "important to maintaining national security." The designation is generally believed to apply to aircraft manufacturer Boeing.

To be eligible for a loan, a borrower must be a U.S.-domiciled business with a predominantly U.S.-based workforce that is expected to incur losses as a result of the COVID-19 pandemic that may jeopardize its continued operations. Before issuing a loan, the department must determine that the applicant is unable to find alternative financing options.

Authority to provide direct loans under this section expires on Dec. 31, 2020. The loans issued under the measure may not exceed five years and must be made at interest rates that reflect their

risk. The bill authorizes the department to set the final terms, conditions, and interest rates on the loans.

Recipients of the loans are prohibited from engaging in stock buybacks, unless contractually obligated, or paying dividends to shareholders for one year, unless the loan is paid back in full sooner. The borrower must also agree to maintain its current workforce levels through September 30. These loans may not be forgiven.

#### ***Aviation Workforce Assistance***

The bill provides \$32 billion for assistance to aviation companies to maintain payroll and employee benefits. This amount includes \$25 billion in assistance for passenger air carriers, \$4 billion for cargo air carriers, and \$3 billion for contractors such as ground crews, mechanics, and caterers.

These funds may be used only to continue the payment of employee wages, salaries, and benefits. The measure directs the Treasury Department to provide the assistance to an individual airline under a formula based on its airline's reported salary and benefits levels between April 1, 2019, and Sept. 30, 2019. If the aggregate amount exceeds the \$32 billion appropriated, the department must provide proportionate shares.

The measure directs the department to announce a procedure for air carriers and contractors to apply for this assistance within five days of enactment. Initial payments must be made within 10 days of receiving a request.

Companies that receive assistance are prohibited from conducting furloughs or reducing pay rates until Sept. 30, 2020. They are also prohibited from buying back stock or paying dividends to shareholders during that time.

#### ***Additional Requirements for Assistance***

The measure authorizes the Transportation Department to require air carriers who receive either direct loans or payroll assistance to maintain scheduled air service to any point served by that carrier on March 1, 2020 — if deemed necessary by the department.

Aviation businesses that receive either direct loans or payroll assistance would be prohibited from increasing the total compensation of any executive or employee whose total compensation exceeds \$425,000 until one year after the loan is repaid, and the bill limits pay raises for executives who earned more than \$3 million in 2019. These businesses would also be prohibited from offering any employee a severance package which is more than twice their total annual compensation.

To receive either direct payroll assistance or a Treasury loan under the bill, the business must offer to provide stock, equity interest, or other debt instruments to the Treasury Department to provide appropriate compensation to the government, though the government would be prohibited from exercising any rights as a shareholder (Treasury Secretary Steven Mnuchin indicated Thursday that the federal government would take a stake in airlines receiving payroll assistance, though the details have not been revealed).

The measure also prohibits the Treasury Department from requiring an air carrier or a related business to renegotiate a collective bargaining agreement with its workers before obtaining a loan or payroll assistance.

In addition to direct assistance, the bill suspends through the end of the year federal excise taxes related to commercial aviation, including taxes on passenger ticket sales, cargo transportation, and fuel.

#### **Oversight and Accountability**

The bill requires the Treasury Department to publish a detailed report of any direct loans or loan guarantees made under the bill within 72 hours on its public website, updating the list of recipients every seven days. The department must also provide a detailed report on such loans to Congress within one week of their issuance. The Federal Reserve also must report to Congress on loans it makes under the bill.

The Treasury Department must report to Congress by Nov. 1, 2020, on the direct financial assistance provided to air carriers and contractors, and the Government Accountability Office (GAO) must conduct a study on the loans, loan guarantees, and other investments made under these authorities and submit its findings to Congress within nine months of enactment.

#### ***Special Inspector General***

The measure establishes a Special Inspector General for Pandemic Recovery within the Treasury Department to conduct, supervise, and coordinate any audits and investigations of loans, loan guarantees, and other investments made, sold, and managed by the department under this bill. The inspector general would be nominated by the President and confirmed by the Senate, and must report to Congress on the office's activities every quarter.

The office terminates five years after enactment.

#### ***Oversight Commission***

The measure also establishes an Oversight Commission to oversee the implementation of the bill by the Treasury Department and Federal Reserve, and to provide regular reports on loans,

loan guarantees, and investments made under the bill. The commission will be comprised of five members, one each appointed by the Speaker, House Minority Leader, Senate Majority and Minority leaders, and a chairperson appointed jointly by the Speaker and Senate Majority Leader.

The commission is authorized to hold hearings, hear testimony, and enter into contracts. It will disband at the end of FY 2025.

#### ***Conflicts of Interest***

The bill prohibits any company in which the President, Vice President, a member of Congress, an executive department head, or any of their immediate relatives who have substantial ownership interests (more than 20% of a firm's outstanding voting stock) from receiving loans, loan guarantees, or other investments under this section.

### **Aid to State & Local Governments**

The bill provides a separate \$150 billion to states, U.S. territories, and tribal governments to reimburse them for expenditures incurred due to the public health emergency associated with COVID-19.

Specifically, the measure creates a Coronavirus Relief Fund in the Treasury with funds to be allocated on a per capita basis, with a minimum of \$1.25 billion for states that have relatively small populations.

The funds are to go directly to state and territorial governments to help make up for the precipitous drop in tax revenue and sharp rise in spending associated with the pandemic and response. Other funds throughout the bill could be provided to state and local governments as well.

The total includes \$3 billion to be shared specifically by the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa, as well as \$8 billion for payments to tribal governments.

Under the bill, Washington D.C. is expected to receive only \$500 million, even though it currently has more coronavirus cases than more than a dozen states and pays more in federal taxes than 22 states. The territories pay none.

### **Financial Markets & Regulation**

The bill contains numerous provisions legislators say will help stabilize distressed financial markets, support financial institutions, and increase liquidity to ensure businesses have access to

capital. Many of these provisions would expire on Dec. 31, 2020.

The measure directs the Federal Deposit Insurance Corporation (FDIC) to establish a temporary guarantee program to guarantee the debt of federally insured banks and holding companies. It also allows the National Credit Union Administration (NCUA) to temporarily increase its insurance coverage of non-interest-bearing credit union accounts.

It temporarily suspends the current prohibition on the use of the Exchange Stabilization Fund (ESF) to guarantee U.S. money market mutual funds. This limit was put in place by the 2008 Emergency Economic Stabilization Act ([PL 110-343](#)) after the Treasury used the fund for this purpose during the 2008 financial crisis. It requires any guarantee to be limited based on the value of a mutual fund before the guarantee was announced, and requires the Treasury Department to reimburse the ESF using appropriated funds not otherwise allocated.

The measure also allows financial institutions through the end of 2020 to suspend certain accounting requirements for loan modifications (such as deferments or forbearance) related to the COVID-19 pandemic that would otherwise be treated as troubled debt restructuring, and to suspend any determination that a loan modified as a result of the pandemic is troubled debt restructuring.

Additionally, it allows a federally insured bank or credit union to delay implementing the Current Expected Credit Losses Framework, an accounting methodology finalized in 2016 by the Financial Accounting Standards Board, a private standard-setting association. This new accounting framework, once fully implemented, would change how banks calculate the value of their loans, and it was already facing some criticism from the financial industry and federal financial regulators before the COVID-19 pandemic began.

### ***Lending Limits***

Federal law currently limits the amount a bank may loan to a single person, company, or other entity, though these requirements do not apply for loans between banks.

The bill would temporarily waive these limits for loans to non-bank financial institutions (such as insurance companies), and it allows the Office of the Comptroller of the Currency (OCC) to exempt any transaction from these lending limits if it determines that doing so is in the public interest.

### ***Community Banks***

Under existing law, smaller community banks with less than \$10 billion in assets are exempted from certain capital reporting requirements. Instead, qualifying community banks are considered

in compliance with capital reserve requirements if their leverage ratio (a ratio of a bank's debt to equity) is greater than 9%.

The bill directs financial regulators to issue a temporary rule that reduces this ratio to 8%, and it provides a grace period for community banks that don't meet this requirement.

### ***Credit Unions***

Finally, the bill streamlines the process by which credit unions can access the Central Liquidity Facility, a government-established corporation that provides loans to member credit unions experiencing shortfalls. Specifically, it allows credit unions to access the fund without needing to first make reasonable efforts to increase liquidity by other means.

### ***Other Regulatory Provisions***

The bill allows the Housing and Urban Development Department (HUD), the Securities and Exchange Commission (SEC), and the Commodity Futures Trading Commission (CFTC) to adopt flexible hiring procedures through Dec. 31 if the respective agency head determines that an expedited process is required to respond to the COVID-19 pandemic.

Under existing law, the Federal Reserve's Board of Governors is required to hold regularly announced public meetings. The bill authorizes the Federal Reserve to waive these requirements through the end of 2020 if the Fed Chairman determines, and certifies in writing, that these requirements may be impractical as a result of the pandemic.

## **Other Small Business Provisions**

### ***SBA 7(a) Loan Program Changes***

As part of the bill's Paycheck Protection Program, the bill provides that for calendar year 2020 the SBA's 7(a) loan program will cover 100% of small business loans, with program eligibility would be expanded to include all private businesses, non-profit groups, veterans organization, or tribal businesses with fewer than 500 employees, as well as sole-proprietors, independent contractors, and other self-employed individuals who are typically ineligible for SBA loans.

At the end of the year, the SBA's 7(a) guarantee would return to 75% for loans of more than \$150,000 and 85% for smaller loans.

The measure also waives certain requirements for 7(a) loans, including borrower and lender fees, prepayment penalties, collateral requirements, and a requirement that employers must first seek credit funds elsewhere before obtaining an SBA-backed loan.

### ***Temporary Debt Forgiveness***

To help small businesses with existing SBA-backed loans, the bill provides \$17 billion for the SBA to pay the monthly principal, interest, and fee payments on all existing SBA loan products, including outstanding 7(a) loans, for six months.

For existing SBA-backed loans currently in deferment, a business would receive six months of payments once their deferral period ends. The SBA must encourage lenders to provide deferments, and allow lenders to extend loan maturity dates beyond existing statutory limits.

#### ***Other SBA Loans***

The bill increases the amount for the SBA Express loan from \$350,000 to \$1 million. This program provides small, expedited working capital loans to eligible small businesses at a lender's discretion, with 50% of the loan guaranteed by the SBA.

It also expands eligibility for small businesses and other entities harmed by the pandemic to receive loans from SBA's Economy Injury Disaster Loan Program (EIDL), which provides up to \$2 million in direct, working capital loans to small businesses and private non-profit groups that are economically impacted by a natural disaster, even if the business did not sustain physical damage. (The first emergency response package enacted earlier this month ([PL 116-123](#)) already authorized small businesses affected by the pandemic to access this loan program.)

Specifically, it expands eligibility to tribal businesses, cooperatives, and employee stock owned plans that have fewer than 500 employees, or any individual operating as a sole proprietor or independent contractor during calendar year 2020. It also streamlines the EIDL award process, by allowing the SBA to approve a loan based solely on the applicant's credit score or an alternative method for determining an applicant's repayment ability. Applicants would be allowed to retain an EIDL advance even if they were eventually denied the loan.

In addition, the measure authorizes and appropriates \$10 billion for emergency EIDL grants, which would allow the SBA to provide an advance on an EIDL loan of up to \$10,000 if requested by the applicant. Under the measure, advances must be used to maintain payroll, provide sick leave to employees, obtain materials, make rent or mortgage payments, and repay other obligations that could otherwise not met because of loss of revenue.

#### ***Miscellaneous Small Business Provisions***

The bill also does the following:

Authorizes the SBA to provide additional grants to Small Business Development Centers and Women's Business Centers to provide additional training and counseling to small businesses affected by the COVID-19 pandemic on how to build resiliency and access SBA resources. It

provides \$265 million for these programs, including \$25 million for resource partner associations to develop a training program for their counselors. The bill waives the matching requirement for Women's Business Centers for three months following enactment.

Provides \$10 million for the Minority Business Development Agency in the Commerce Department to provide grants to Minority Business Centers and Minority Chambers of Commerce for counseling, training, and education on federal resources for small businesses affected by the pandemic. The bill eliminates the non-federal matching requirement for Minority Business Centers for three months following enactment, and allows the centers to waive their fee requirements through Sept. 30, 2021.

Allows more businesses to file for bankruptcy protection using an expedited procedure set by the 2019 Small Business Reorganization Act ([PL 116-54](#)), which helps them avoid lengthy legal proceedings. Specifically, it allows small businesses with aggregate debt of less than \$7.5 million to use the procedure; the law's current threshold is \$2.7 million, and the bill would restore that threshold one year after enactment.

Finally, the measure provides \$700 million for the SBA, and \$25 million for the Treasury Department, to carry out the bill's small business provisions.

## **Business Tax Provisions**

### ***Alcohol Excise Tax***

Under current law, distillers pay a federal excise tax of \$13.50 per proof gallon of liquor (specifically, a gallon of 100-proof liquor, which has 50% alcohol content). Small distillers pay \$2.70 per proof gallon for the first 100,000 proof gallons they make and the full \$13.50 per proof gallon after that.

Because of the demand for, and national shortage of, alcohol-based hand sanitizer during the current pandemic, distillers around the country have been using a portion of their distilling capacity to produce alcohol for hand sanitizer (which must be 60% alcohol to kill the coronavirus).

The bill for calendar year 2020 waives the federal excise tax on any alcohol distilled for, or contained in, hand sanitizer that is produced and distributed in a manner consistent with Food and Drug Administration guidance.

### ***Retail Glitch Fix***

When the 2017 tax law ([PL 115-97](#)) was drafted, lawmakers intended to combine the various tax code definitions regarding property improvement into a single, new definition and provide for a 15-year cost recovery period — which would make it eligible for the law's 100% bonus depreciation provision. The law's new definition of qualified improvement property was not assigned the intended 15-year recovery period, however, leaving it with under a 39-year recovery period that is not eligible for 100% bonus depreciation. Because of this so-called "retail glitch" in the law, many retail businesses have not invested in property improvements.

The bill allows businesses, especially those in the hospitality industry, to immediately write off the costs associated with improving their facilities instead of over the 39 years — the life of such buildings as defined in the tax code. (The Senate in its explanatory materials says that in addition to fixing the 2017 law's retail glitch, this modification will increase the cash flow of effected businesses and incentivize them to continue investing in improvements.)

#### ***Net Operating Losses***

Tax law generally allows businesses that suffer net operating losses to deduct those losses from profitable years in order to tax business on their average profitability over time. Prior to the 2017 tax overhaul, a business could apply unused net operating losses to past years (up to two years back) or carry them forward up to 20 years. The 2017 law eliminated the ability to carry losses back, instead allowing unlimited ability to carry the losses forward. It also allowed businesses to deduct no more than 80% of taxable income against net operating losses in any given year.

The bill allows companies to carry back for five years net operating losses arising in tax years 2018, 2019 and 2020, and it temporarily removes the restriction on the amount of taxable income that can be deducted against net operating losses (which combined would have the effect of allowing businesses to receive full and immediate tax relief for losses in those three tax years).

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## **Section IV**

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## Health Care System Support

This section describes the provisions of **HR 748**, Coronavirus Aid, Relief, and Economic Security (CARES) Act, that address a wide range of provisions regarding the health care system.

According to Senate negotiators, the bill provides \$140.4 billion for health related services funded through the Health and Human Services Department (HHS), including \$100 billion in supplemental appropriations that goes directly to hospitals and health care providers. In addition to the direct appropriations, hospitals will receive additional financial support through increased funding under Medicare and Medicaid, as well as increased flexibility in patient treatments under the requirements of those programs.

The measure addresses shortages of medical equipment and devices, reauthorizes numerous health care workforce programs, expands available telehealth and home health services under Medicare, and clarifies the care that private health insurance companies must cover for their clients.

### Aid to Hospitals

The bill includes both supplemental emergency appropriations and additional provisions that are meant to provide financial support and flexibility for the hospital system. The additional provisions increase hospital funding under Medicare and Medicaid.

According to Senate appropriators, the bill provides an emergency supplemental appropriation of \$100 billion to reimburse hospitals and health care providers for costs associated with the pandemic. The funding is meant to ensure that health care providers receive the support they need for COVID-19-related expenses and to compensate for lost revenue as non-essential and elective procedures are cancelled.

It provides \$1.3 billion for Community Health Centers for testing, prevention, diagnosis and treatment of COVID-19. Under the measure, Community Health Centers are allowed to use FY 2020 funding to maintain or increase staffing and capacity to address the coronavirus.

It also provides \$250 million to improve the capacity of health care facilities to respond to medical events, and provides the Health Resources and Services Administration (HRSA) with \$275 million to expand services and capacity for rural hospitals, telehealth, poison control centers, and the Ryan White HIV/AIDS program.

***Hospital Aid through Medicare***

The bill temporarily lifts the Medicare sequester, which reduces payments to health care providers by 2%. The sequester is lifted from May 1 through Dec. 31, 2020. To make up for the increased payments to providers, the sequester is extended by one year beyond current law.

It increases by 20% the payment that hospitals receive from Medicare for treating a patient with COVID-19. The additional payment would be made through the duration of the COVID-19 public health emergency.

It allows qualified hospitals to request an advance lump sum or periodic payment of up to six months under the existing Medicare accelerated payment program. The amount would be based on net reimbursement and most hospitals could receive up to 100% of prior period payments, while critical access hospitals could receive up to 125%. These payments are considered loans. Under the measure, qualifying hospitals would not have to start repaying the loan for four months and would have at least 12 months interest free to complete repayment.

Under the measure, during the COVID-19 emergency acute care hospitals would be allowed to transfer patients to alternative care settings in order to prioritize resources needed to treat COVID-19 cases. Specifically, the measure waives the existing Inpatient Rehabilitation Facility (IRF) three-hour rule, which requires a beneficiary to participate in at least three hours of intensive rehabilitation at least five days per week to be admitted to an IRF. It also allows a long-term care hospital (LTCH) to maintain that designation even if more than 50% of its cases are less intensive. In addition, the measure temporarily pauses the current LTCH site-neutral payment methodology.

The bill prevents the scheduled reductions in Medicare payments for clinical diagnostic laboratory tests furnished to beneficiaries in 2021. It also delays for one year the upcoming reporting period during which laboratories would report private payer data.

***Hospital Aid through Medicaid***

The bill amends a section of the Families First Coronavirus Response Act of 2020 (**PL 116-127**) to ensure that states are able to receive the Medicaid 6.2% Federal Medical Assistance Percentage (FMAP) increase.

The measure allows state Medicaid programs to pay for direct support professionals to help with daily living activities for disabled individuals in the hospital. (Senate negotiators in their explanatory materials note that this help will reduce the length of the hospital stay for these individuals and free up beds.)

Finally, the bill clarifies that uninsured individuals can receive COVID-19 testing and related services with no cost sharing in any state Medicaid program that elects to offer that option.

### **Rectify Supply Shortages**

The bill includes provisions that are meant to address current shortages of personal protective equipment and medical devices.

It expands the list of medical supplies the Strategic National Stockpile can stockpile, including swabs for diagnostic testing for COVID-19, personal protective equipment, other supplies required for administering drugs and vaccines, and diagnostic tests.

It makes permanent the current liability protection granted to manufacturers of personal respiratory protective equipment whose equipment meets National Institute for Occupational Safety and Health (NIOSH) standards rather than Food and Drug Administration (FDA) standards. Specifically, those protections are granted in times of public health emergencies, to incentivize manufacturers to produce and distribute their protective equipment to health care providers.

During a public health emergency, medical device manufacturers would be required, upon request by the FDA, to submit information about medical device shortages or device component shortages.

Under the measure, the FDA must prioritize and expedite the review of drug applications and inspections that are necessary to prevent or mitigate a drug shortage.

The bill expands existing reporting requiring for drug manufacturers in response to the shortage of a critical drug during a public health emergency. Specifically, if there is an interruption in the supply of a critical drug, manufacturers must submit additional information to the FDA, including information about the active pharmaceutical ingredients, when those ingredients are the cause of the interruption. Manufacturers must maintain contingency plans to ensure a back up supply of products. Drug manufacturers must provide information regarding any drug registered with the FDA regarding how much was manufactured for commercial distribution each year.

#### **Report**

The bill directs the National Academies of Sciences, Engineering and Medicine to study the manufacturing supply chain of drugs and medical devices and provide Congress with recommendations to strengthen the U.S. manufacturing supply chain.

The report must assess U.S. dependence, including the private sector and state and federal governments, on critical drugs and devices that are sourced or manufactured outside of the U.S. and any national security risks or existing supply chain information gaps. It must also assess the potential economic impact of increased domestic manufacturing.

Recommendations could address promoting supply chain redundancy, improving planning considerations for medical product supply chain capacity during public health emergencies, and promoting the accessibility of drugs and devices.

### **Expand the Health Care System & Workforce**

The bill includes a number of provisions to reauthorize health care workforce, nursing programs, and grant programs that expand telehealth and rural health care services.

#### ***Health Care Workforce Programs***

The bill reauthorizes Title VII of the Public Health Service Act, which deals with programs to support clinician training and faculty development.

Specifically, it reauthorizes through FY 2025 a number of health professions workforce programs and authorizes annual appropriations in the following amounts: \$24 million for health profession schools that have been designated as Centers of Excellence; \$51 million for health education scholarships; \$1 million for loan repayments and fellowships; \$15 million for educational assistance in health professions for individuals from disadvantaged backgrounds; \$49 million for primary care training programs; \$29 million for general, pediatric, and public health dentistry; \$41 million for area health education centers; \$6 million for health professions workforce information and analysis; and \$17 million for the public health workforce.

It also requires HHS to develop a comprehensive and coordinated plan for health care workforce development programs, including education and training programs. The plan should include performance measures and identify gaps between the outcomes of development programs and workforce projection needs.

Finally, it modifies the requirements for receiving grants under the geriatric education center program to emphasize patient and family engagement, integration of geriatrics with primary care and other appropriate specialties, and collaboration with community partnerships to address gaps in health care for older adults.

#### ***Nursing Workforce Development***

The bill reauthorizes Title VIII of the Public Health Service Act, which deals with programs to support nurse workforce training.

Specifically, it reauthorizes through 2025 and authorizes annual appropriations of \$138 million for nurse practitioners, nurse midwives, nurse anesthetists, and other advanced education nurses; nurse workforce diversity; and basic nurse education and practice. It also authorizes annual appropriations of \$117 million through FY 2025 for repaying nursing student loans and permits Nurse Corps loan repayment beneficiaries to serve at private institutions under certain circumstances.

The Government Accountability Office (GAO) must evaluate HHS nurse loan repayment programs, including how payments are made, oversight functions and any gaps therein, and the number of nurses assigned to facilities pursuant to the programs. GAO must report to Congress within 18 months.

The measure requires HHS every two years to assess and report on its programs and activities related to enhancing the nursing workforce, including the extent to which the programs meet the identified goals and performance measures established for the programs.

#### ***HRSA Grant Programs***

The measure reauthorizes HRSA grant programs for telehealth, rural health care, and small health care providers.

Specifically, the bill authorizes \$29 million annually through FY 2025 for grants to promote the use of telehealth technologies for health care delivery, education and health information. It adds substance use disorder to the health issues for which telehealth can be developed and used and stipulates that at least 50% of the funds must be awarded for projects in rural areas.

It authorizes \$80 million annually through FY 2025 for grants to strengthen rural community health by focusing on quality improvement, increased access, coordination of care, and integration of services. Grants can be awarded for a maximum of five years.

#### ***Other Health Care Workforce Provisions***

The bill clarifies that the existing Ready Reserve Corps can be called up in time of a public health or national emergency to bolster the number of trained doctors and nurses available to respond to the crisis. It provides liability protections for doctors who volunteer their medical services during the COVID-19 public health emergency.

Under the measure, HHS is authorized to reassign members of the National Health Service Corps to sites close to where they were originally assigned in order to respond to the current

health emergency. The corps member must agree to the reassignment.

### **Other Health Care Appropriations**

The bill includes additional emergency supplemental appropriations for various agencies under HHS.

The measure provides \$16 billion for the Strategic National Stockpile to procure personal protective equipment, ventilators and other medical supplies for federal and state response efforts.

It provides \$11 billion for vaccine, therapeutics, diagnostics and other medical or preparedness needs. Of that total, \$3.5 billion is for creation, manufacturing and purchase of vaccines and therapeutic delivery of these to individuals in the United States.

#### ***CDC***

The bill provides a total of \$4.3 billion for the Centers for Disease Control and Prevention (CDC). The funding is meant to address preparedness and response, and includes funding for state and local public health responders. It allows for the reimbursement of funds already expended by states and local governments in response to the COVID-19 pandemic. The funding can also be used for enhanced nationwide surveillance, diagnostics, laboratory support, communication campaigns to the public, guidance to health care providers, and global health preparedness.

Specifically, the measure provides \$1.5 billion for state and local preparedness and response activities, \$500 million for CDC's global health efforts, \$500 million for public health data surveillance and infrastructure, and \$300 million for the infectious disease fund.

#### ***Other Accounts***

The measure provides \$946 million to the National Institutes of Health (NIH) for vaccine, therapeutic and diagnostic research.

It provides \$425 million to the Substance Abuse and Mental Health Services Administration (SAMHSA) to address mental health and substance use disorders arising from the COVID-19 pandemic. Specifically, \$250 million goes to certified community behavioral health clinics to increase access to mental health care services; \$50 million for suicide prevention; and \$100 million for SAMHSA emergency response grants to address mental health, substance use disorders, and provide resources and support to youth and homeless individuals during the pandemic.

The Centers for Medicare and Medicaid Services receive \$200 million, of which half is for the survey and certification of health care facilities.

## **Medicare Expansion**

The measure includes a number of provisions that expand the availability of telehealth and home health services for Medicare beneficiaries, as well as provisions to decrease costs and increase access to medications and medical devices.

### ***Telehealth and Home Health Services***

The Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020 (**PL 116-123**) expands telehealth access under Medicare during the COVID-19 public health emergency, but only if the physician or other health professional has treated the patient in the past three years.

The bill eliminates the requirement that in order to provide care through telehealth the physician must have treated a Medicare patient in the last three years. For the duration of the COVID-19 public health emergency, it eliminates the requirement that a nephrologist conduct some of the required face-to-face periodic evaluations of a patient who is undergoing home dialysis treatments.

It further expands Medicare telehealth access during the current public health emergency by allowing Federally Qualified Health Centers and Rural Health Clinics to serve as sites where the practitioner is located for telehealth consultations.

It allows physician assistants, nurse practitioners, and other professionals to order home health services for Medicare and Medicaid beneficiaries. This change remains in place after the COVID-19 public health emergency has ended. It also allows qualified hospice physicians and nurse practitioners to conduct the hospice care recertification process through telehealth during the current emergency.

Finally, the measure directs HHS to issue guidance that encourages the use of telecommunications systems, including remote patient monitoring, to furnish home health services consistent with the patient's care plan for the duration of the COVID-19 emergency.

### ***Patient Payments and Access***

For the duration of the COVID-19 public health emergency, the bill prevents scheduled reductions in Medicare payments for durable medical equipment that patients use at home upon discharge from a hospital.

The bill provides Medicare beneficiaries with access to any COVID-19 testing and vaccine through Medicare Part B without any cost-sharing.

During the emergency, it requires Medicare Part D plans to provide up to a 90-day supply of prescription medications if requested to do so by the beneficiary.

### **Other Health Care Provisions**

The bill includes additional provisions regarding health care coverage for COVID-19 patients and it extends various HHS programs, many of which are currently set to expire on May 22.

#### ***Health Care for COVID-19 Patients***

The bill requires that all testing for COVID-19 be covered by private insurance plans and that patients cannot be charged a copay or a deductible for the test. This includes tests for which the FDA has not yet approved the test developer's emergency use application, as long as the application has not been denied and as long as the developer submits an application within a reasonable time.

Health insurance companies would pay health care providers for the COVID-19 tests at the rate specified in a contract between the insurer and the provider. If there is no contract, the insurance company would pay the provider's posted cash price. The bill requires health care providers to publicly post on their websites their cash prices for testing.

Once a COVID-19 vaccine with an A or B rating in the current recommendations of the United States Preventive Services Task Force or a recommendation from the Advisory Committee on Immunization Practices has been developed, private health insurance plans must cover the vaccine for their enrollees free of charge.

For plan years beginning on or before Dec. 31, 2021, the bill allows high-deductible health plans with health savings accounts (HSAs) to cover telehealth services prior to a patient reaching the deductible.

#### ***HHS Extenders***

The bill extends the physician work geographic floor index through Dec. 1, 2020. The geographic floor index allows physicians who work in areas where labor costs is lower than the national average to receive increased payments.

It extends through Nov. 30 funding for the following HHS programs, most of which expire on May 22: quality measure endorsement and selection, outreach and assistance for low-income programs, Medicaid's money follows the person demonstration program, spousal

impoverishment protections, Medicaid community mental health services demonstration, sexual risk avoidance education, personal responsibility education, health professions opportunity grants, TANF and related programs, Community Health Centers, the National Health Service Corps, the Teaching Health Center Graduate Medical Education Program, and the Special Diabetes Program for Type I Diabetes and the Special Diabetes Program for Indians.

It also delays scheduled reductions in Medicaid disproportionate share hospital payments through Nov. 30, 2020.

### ***Miscellaneous Provisions***

The bill allows the Biomedical Advanced Research and Development Authority (BARDA) to partner with private sector companies on research and development by removing the cap on BARDA's other transaction authority (OTA) during a public health emergency. (Under current law BARDA is authorized to take away a company's patent exclusivity rights, which allows other applicants to develop an otherwise patented drug. The bill enables more of a partnership in drug development but could also undercut the government's ability to act if a drug, such as a COVID-19 vaccine, is priced too high.)

The measure allows the FDA to provide "breakthrough therapy" designations for animal drugs that help prevent animal-to-human transmission. (Senators in their explanatory materials note that this provision could accelerate the development of these drugs and that the current coronavirus pandemic is believed to have occurred because of animal-to-human transmission.)

The bill includes a number of additional provisions, including the following:

**Substance Use Disorder Treatment Records** — Aligns the disclosure of these records with the disclosure of other health records, per existing Health Insurance Portability and Accountability Act (HIPAA) requirements, with initial patient consent. (In their explanatory materials, Senators note this will allow for additional care coordination.)

**Guidance on Health Information** — Requires HHS to issue guidance on what information in a patient record can be shared during the COVID-19 public health emergency.

**Senior Nutrition Services** — Waives nutrition requirements for meal programs provided under the Older Americans Act (OAA) during the emergency.

**Community Service Activities** — Allows the Labor Department to extend older individuals' participation in community service projects under the OAA and facilitate their continued employment through the program.

**Blood Supply** — Directs HHS to improve awareness of the importance and safety of blood donation and the continued need for donations during the emergency.

**Menstrual Care Products** — Allows menstrual care products to be purchased through HSAs, Archer MSAs, health flexible spending arrangements and health reimbursement arrangements, retroactive to Dec. 31, 2019.

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## Section V

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### Direct Appropriations

This section describes the provisions of **HR 748**, Coronavirus Aid, Relief, and Economic Security (CARES) Act, that provide direct federal appropriations

According to the Senate Appropriations Committee, the bill provides a total of \$339.9 billion in emergency supplemental appropriations to aid Americans during the coronavirus crisis. More than 80% of the total funding provided in the emergency supplemental appropriations division of the measure will go directly to state and local governments, according to the appropriators.

The measure's total includes \$117 billion for hospitals and veterans' health care; \$45 billion for FEMA's disaster relief fund; \$30 billion for aid to schools and universities; \$25 billion for public transit systems; \$25 billion for food aid; \$20 billion for veterans; \$16 billion for a national stockpile of life-saving pharmaceuticals and medical supplies; \$11 billion for vaccines, therapeutics, diagnostics, and other preparedness needs; and \$4.3 billion for the Centers for Disease Control.

(For further details on hospital funding see Section IV, Health Care System Support. For further details on education funding see Section VI, Other Provisions.)

### Food & Farm Aid

The measure includes \$48.9 billion for the Agriculture Department and Food and Drug Administration (which is in the Health and Human Services Department), including \$14 billion to replenish the Commodity Credit Corporation (CCC).

#### ***Food Aid***

The total includes \$25.1 billion for the USDA Food and Nutrition Service, including \$15.8 billion for the Supplemental Nutrition Assistance Program (SNAP), formerly known as food stamps and \$8.8 billion for child nutrition programs, including the school lunch program.

The SNAP total includes \$15.5 billion for a contingency fund to cover food costs and any surge in enrollment fueled by an expected increase in unemployment because of layoffs and business closures, as well as \$100 million for food distribution on Indian reservations and \$200 million for nutrition programs in the Northern Mariana Islands, Puerto Rico and American Samoa.

#### ***Farm Aid***

The bill provides \$9.5 billion for USDA to support agricultural producers impacted by COVID-19, including producers of specialty crops; producers that supply local food systems such as farmers markets, schools, and restaurants; and livestock producers, including dairy.

It also allows the Agriculture Department to replenish the Commodity Credit Corporation (CCC) with up to \$14 billion for net realized losses. The CCC is a Depression-era program designed to stabilize farm incomes. The Trump administration has used the CCC to provide a total of nearly \$23 billion in trade related payments to U.S. farmers in 2018 and 2019 after countries like China targeted U.S. farmers in retaliation for U.S. tariffs against their goods. Critics say the payment distribution favored large farmers and Trump supporters.

#### ***Other Assistance***

The measure also provides the following:

**Food Banks** — \$450 million for commodity food purchases for emergency food assistance through food banks and other nonprofit groups.

**Rural Development** — \$100 million to continue the ReConnect pilot project to expand broadband service to rural communities; \$25 million to support the Distance Learning and Telemedicine program; and \$21 million to support \$1 billion in lending authority for the Business and Industry loan guarantee program for rural businesses.

**Food and Drug Administration** — \$80 million for the FDA to address shortages of critical medicines, enforcement work on counterfeit and misbranded products, emergency use

authorizations and pre- and post-market work on medical countermeasures, therapies, vaccines, and research.

**Food Inspection** — \$55 million to cover salary expenses of the USDA Plant and Animal Inspection Service to offset the decrease in user fee revenue caused by business disruptions, and \$33 million for Food Safety Inspection Service inspectors at federally inspected slaughter facilities.

## Transportation

The bill provides \$36.1 billion for various programs administered by the Transportation Department. The total includes funding to support U.S. domestic airports, mass transit systems and Amtrak.

### *Airports*

The bill provides \$10 billion for U.S. airports to maintain operations and service debt. According to Airports Council International-North America, U.S. airports have seen traffic drop 80% and stand to lose at least \$14 billion as a result of the coronavirus pandemic, and are struggling with a decades long debt burden of close to \$100 billion. Domestic airports owe almost \$7.4 billion in such servicing costs, and, unlike their foreign competitors who are heavily subsidized by their governments, do not receive anything near the level of government support.

Of the total, \$7.4 billion is for operating expenses and debt service, \$2.0 billion is for grants, \$500 million is for the federal Airport Improvement Program, and \$100 million is for general aviation airports. Airports must maintain at least 90% of their employees from the date of enactment through Dec. 31, 2020 to receive funding.

### *Rural Air Service*

The measure provides \$56 million for the Essential Air Service (EAS) to maintain existing air service to rural communities. The funding is meant to offset the reduction in overflight fees that help pay for the EAS program.

EAS is a U.S. government program that provides subsidies to commercial air carriers to guarantee that small communities in the United States, which had been served by certificated airlines prior to airline deregulation in 1978, retain commercial service on otherwise unprofitable routes.

### *Public Transit*

The bill appropriates \$25 billion for public transit operators to ensure that transportation access to jobs, medical treatment, food, and other essential services remains available during the pandemic. The funds can be used for operating and capital expenses to help sustain over 430,000 transit jobs and preserve access to vital transportation networks, according to appropriators.

#### ***Amtrak***

The bill provides \$1.0 billion for Amtrak operating assistance to cover revenue losses related to coronavirus. In addition, funding is provided to help states pay for their share of the cost of state supported routes.

### **FEMA & Homeland Security**

The measure includes \$45.9 billion for the Homeland Security Department, including \$45 billion for the Federal Emergency Management Agency's (FEMA) Disaster Relief Fund. It also extends the deadline for states to meet the requirements of the REAL ID Act to at least Sept. 30, 2021.

#### ***FEMA***

The bill provides \$45 billion for FEMA's Disaster Relief Fund (DRF). The fund is an appropriation against which FEMA can direct, coordinate, manage, and fund eligible response and recovery efforts associated with domestic major disasters and emergencies that overwhelm state resources pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Through the DRF, FEMA can fund authorized federal disaster support activities as well as eligible state, territorial, tribal, and local actions, such as providing emergency protection, hazard mitigation initiatives, and financial assistance to eligible disaster survivors.

Reimbursable activities may include medical response, personal protective equipment, National Guard deployment, coordination of logistics, safety measures, and community services nationwide.

The bill also includes \$400 million for FEMA grants for firefighters, emergency managers, and providers of emergency food and shelter, including \$200 million for supportive services to individuals and families in sudden economic crisis and \$100 million for personal protective equipment specifically for first responders.

Finally, the measure allows FEMA to continue paying personnel who reach normal overtime and premium pay caps while working on the coronavirus response.

**Other Homeland Security Department Provisions**

The bill also includes the following:

**Protective Gear** — \$178 million for necessary personal protection equipment including gloves, garments, goggles, hand sanitizer, respirators, and surgical masks for six months.

**Transportation Security Administration** — \$100 million for increased cleaning and sanitization at TSA operations at airports and other facilities, overtime and travel costs required to maintain operations while infected employees are quarantined, and additional explosive detection materials that must be disposed of after a single use to prevent the spread of coronavirus.

**Coast Guard** — \$141 million to activate Coast Guard Reserve personnel and for building capacity and capability for information technology systems and infrastructure to support telework and remote access.

**Family Support**

The bill provides the \$6.3 billion for the Health and Human Services Department for various family support programs.

The total includes \$3.5 billion for the Child Care and Development Block Grant program. The funds will go to states 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.

The measure appropriates \$955 million for aging and disability services programs, including senior nutrition; home and community-based supportive services; family caregivers; elder justice; and independent living.

It provides \$425 million for the Substance Abuse and Mental Health Services Administration to increase access to mental health services through Community Behavioral Health Clinics, suicide prevention programs, and emergency response spending such as outreach to those experiencing homelessness.

It also includes the following:

**Head Start** — \$750 million for 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.

**Community Services Block Grants** — \$1 billion in direct funding to local community-based organizations to provide a wide-range of social services and emergency assistance.

**Low Income Home Energy Assistance Program (LIHEAP)** — \$900 million in grants to states to support immediate home energy assistance for low-income households affected by coronavirus.

**Domestic Violence** — \$45 million to provide additional support to family violence shelters, and \$2 million in additional support for the National Domestic Violence Hotline.

**Children** — \$25 million for runaway and homeless youth programs and \$45 million for grants to states to support child welfare.

### **Housing & Community Development**

The bill provides \$12.4 billion for housing and community development programs administered by the Housing and Urban Development Department (HUD), including community development block grants and rental and other housing assistance.

#### ***Community Development Block Grants***

The bill provides \$5 billion for the Community Development Block Grant (CDBG) program to enable nearly 1,240 states, counties, and cities to rapidly respond to COVID-19 and the economic and housing impacts caused by it, including the expansion of community health facilities, child care centers, food banks, and senior services.

HUD's CDBG program provides communities with resources to address a wide range of unique community development needs. It provides annual grants on a formula basis to general units of local government and states.

The total includes \$2 billion to states and units of local governments that received an allocation under the FY 2020 CDBG formula, \$1 billion to go directly to states to support a coordinated response across entitlement and non-entitlement communities, and \$2 billion to states and units of local government, cities and counties based on the prevalence and risk of COVID-19 and related economic and housing disruption.

The bill eliminates the cap on the amount of funds a grantee can spend on public services, removes the requirement to hold in-person public hearings in order to comply with national and local social distancing requirements, and allows grantees to be reimbursed for COVID-19 response activities regardless of the date the costs were incurred.

***Emergency Solutions Grants***

The measure provides \$4 billion to address the impact of COVID-19 among individuals and families who are homeless or at risk of homelessness, and to support additional homeless assistance.

It includes eviction prevention assistance, rapid rehousing, housing counseling, and rental deposit assistance to mitigate the adverse impacts of the pandemic on working families.

***Rental Assistance Protections for Low-Income Americans***

The bill appropriates \$3 billion for housing providers to help more than 4.5 million low-income households (made up of more than 9.6 million individuals) currently assisted by HUD to safely remain in their homes or access temporary housing assistance.

The total includes \$1.9 billion to allow public housing agencies to keep over 3.2 million Section 8 voucher and public housing households stably housed; \$1 billion to allow the continuation of housing assistance contracts with private landlords for over 1.2 million Project-Based Section 8 households; \$65 million for housing and rental assistance for the elderly and persons with disabilities; and \$65 million to maintain rental assistance for nearly 61,000 households with persons suffering from AIDS.

***Indian Housing and Other Support***

The measure provides \$300 million for HUD Native American Programs, including \$200 million for the Indian Housing Block Grant program and \$100 million for imminent threats to health and safety as a result of COVID-19.

The funds will be used to prevent homelessness due to lost income from the coronavirus, as well as to contain the spread of coronavirus on tribal lands, according to appropriators.

**Veterans**

The bill provides \$19.6 billion for the Veterans Affairs Department (VA) to help veterans respond to the crisis.

The total includes \$14.4 billion to support increased demand for healthcare services at VA facilities and through telehealth, including the purchase of medical equipment and supplies, testing kits, and personal protective equipment. It also funds additional support for vulnerable veterans, including through programs to assist homeless veterans or veterans at-risk of becoming homeless, as well as within VA-run nursing homes and community living centers.

It includes \$3.1 billion for the VA to purchase, staff, and equip temporary sites of care and mobile treatment centers to deal with the pandemic, as well as \$590 million for the VA to support veterans at increased risk of contracting coronavirus. It includes funding for VA homeless programs and VA-run nursing homes and community living centers.

The measure also includes funding to expand capacity on existing VA IT networks to address the demand in services, and broadens the VA's tele-ICU and teleradiology capabilities. It further enhances the capability for telehealth visits, allowing more veterans to receive care from home, and for providers at home to continue to treat patients through technology.

Finally, it enables the VA to pay providers for every hour they work in support of the pandemic, even if they go over existing salary caps; considers veterans and their families eligible for pensions and other income-dependent benefits, even if an emergency benefit paid by the government put them over current thresholds; ensures that home health care workers have personal protective equipment to protect veterans and themselves; and directs telecommunications companies to provide broadband for veterans in support of providing telemental health care.

## **Defense**

The bill provides \$10.5 billion for the Defense Department to respond to the COVID-19 outbreak. The measure also includes a general provision to prevent department funds from being diverted to build a wall on the U.S. border with Mexico.

### ***Defense Health Programs***

The total includes \$3.8 billion for the Defense Health Program — which provides medical care to military personnel, including active duty troops and their dependents — and \$1.1 billion for Tricare, the insurance program that oversees military health care benefits, including those for Medicare-eligible military retirees and their families.

It includes \$1.6 billion for expansion of military hospitals and expeditionary hospital packages, allowing the department to nearly triple the 4,300 beds available in military treatment facilities today.

It also includes \$415 million for research and development of vaccines and anti-viral pharmaceuticals and the procurement of diagnostic tests.

### ***Defense Industrial Base***

The bill provides \$1 billion toward purchases under the Defense Production Act, a Korean War-era law that gives the president broad authorities to either require or offer financial incentives to private industry to meet emergency defense needs.

The measure also provides \$1.45 billion to the Defense Logistics Agency and military services to mitigate the impact of COVID-19 on production lines, the supply chain, and military depots and labs.

#### ***National Guard and other Defense Operations***

The total includes \$1.4 billion to pay and sustain up to 20,000 members of the National Guard for the next six months under the direction of the governors of each state, in order to support state and local response efforts. As of Tuesday, 9,000 Guard troops had been activated, with more expected to be called up.

It provides \$628 million for the procurement of pharmaceuticals and physical protection equipment by the military services for installations, ships, and first responders, as well as for bio hazard mitigation. It also provides funding for the deployment of the hospital ships USNS COMFORT and USNS MERCY, which are being sent to New York and Los Angeles.

#### ***Border Wall and Other Provisions***

The bill specifies that none of the measure's emergency funds may be transferred into the Pentagon's drug interdiction account, which would block the administration from using any of the money for the president's border wall. Earlier this year, the White House has used the drug interdiction account to shift \$3.8 billion of Defense Department funds to wall construction.

The measure provides \$300 million to procure IT equipment and increase overall department bandwidth, and \$20 million for the Pentagon's Inspector General to help oversee the dispersal and use of the department's emergency funds.

Finally, the bill allows the president to extend the tenures of certain leaders, including the chiefs of Army and Navy Reserves, the Air Force and Space Force's chiefs of staff, and the commander of the National Guard Bureau, whose appointments are scheduled to expire during the COVID-19 crisis, to ensure continuity of senior military leadership.

### **Native Americans**

The measure provides almost \$1.6 billion in Interior Department funds to assist Native communities and tribal governments in preparing for and responding to the coronavirus.

The total includes \$1.0 billion to support the tribal health system during the pandemic, including expanded support for medical services, equipment, supplies and public health education. It includes \$453 million for the Bureau of Indian Affairs (BIA) to provide aid to tribal governments; support welfare assistance and social service programs, including assistance to tribal members affected by the coronavirus crisis; expand public safety and emergency response capabilities; increase BIA capacity for teleworking so the agency is better prepared to assist tribes; and meet increased staffing and overtime costs.

Finally, it provides \$69 million for BIE-funded schools, including staffing, transportation, telework, and cleaning activities and assistance for tribal colleges and universities across the country to help respond to the crisis.

### **International Assistance**

The bill provides \$1.1 billion for the State Department, U.S. Agency for International Development (USAID), and the Peace Corps, to support the repatriation of U.S. government personnel and U.S. citizens stranded overseas, and to strengthen the response at U.S. diplomatic facilities domestically and abroad, including by providing additional medical and personal protective equipment. It also provides funding to respond to growing international humanitarian needs.

#### ***Diplomatic and Consular Programs***

The total includes \$324 million to support the voluntary departure and curtailment on a global basis of vulnerable State Department employees, evacuate U.S. citizens overseas, ensure the ongoing operation of other consular and U.S. citizen services amidst significant declines in visa revenue, and bolster the State Department's Bureau of Medical Services to respond to the coronavirus at diplomatic facilities domestically and abroad.

The measure allows the State Department and USAID to extend paid leave for coronavirus-related issues to its employees, and allows State Department medical personnel to provide medical assistance on a reimbursable basis to private U.S. citizens or third country nationals associated with the department who are unable to obtain care in a foreign country — both through FY 2022.

#### ***Migration, Refugee and Other Humanitarian Assistance***

The bill provides \$350 million to prepare for, and respond to, coronavirus among vulnerable refugee populations abroad, as called for by the UN High Commissioner for Refugees, the International Committee of the Red Cross, and other relief agencies.

It also provides \$258 million for USAID to respond to emergency needs in countries that are underequipped to respond to the pandemic. The funding will prioritize populations affected by ongoing humanitarian crises, particularly displaced people, the elevated risk of severe outbreaks in camps and informal settlements, and anticipated disproportionate mortality in these populations.

#### ***Peace Corps***

The bill provides \$88 million for the Peace Corps to support evacuations of all overseas volunteers, relocation of U.S. direct hires on authorized or ordered departure, and certain benefits for returned volunteers, including health care.

#### ***International Financial Institutions***

The measure authorizes the Treasury Department to provide U.S. contributions to the recapitalization and replenishment of various international financial institutions, including \$3.0 billion for the 19th capital replenishment of the World Bank.

It also extends and increases U.S. participation in the International Monetary Fund's New Arrangements to Borrow, which will help assist developing countries struggling with the coronavirus.

### **Law Enforcement**

The bill includes \$850 million for state and local law enforcement through the Byrne-Justice Assistance Grant Program (Byrne-JAG). The program provides grants to state and local police departments and jails to meet local needs, including the purchase of personal protective equipment and other needed medical items, and to support overtime for officers on the front lines.

Concerns have grown over COVID-19 spreading through the nation's jails and prisons, a particularly vulnerable population because medical care is in short supply and confined spaces make social distancing a challenge.

The bill includes \$100 million for the Federal Bureau of Prisons to purchase additional personal protective equipment and other medical equipment, provide extra overtime payments, and fund additional cleaning.

It also provides a total of \$55 million for the FBI, Drug Enforcement Administration, U.S. Marshals Service, and U.S. Attorneys to respond to the crisis, and for information technology improvements and security needed for telework at the Justice Department.

## Other Provisions

The bill also provides the following:

**Economic Development Administration (EDA)** — \$1.5 billion for a Commerce Department program to help rebuild impacted industries such as tourism or manufacturing supply chains, and capitalize local funds to provide low-interest loans to businesses of all sizes. The funding will leverage an additional \$20 billion in local and private investment and support more than 100,000 U.S. jobs, according to appropriators.

**Election Assistance** — \$400 million to help states prepare for a surge of voters casting ballots by mail and to ensure safe in-person voting. Experts believe states may need at least \$2 billion to cope with the expected surge.

**Fishermen** — \$300 million to help fishermen around the country, including tribal, subsistence, commercial, charter fishermen, and aquaculture farmers.

**Social Security Administration (SSA)** — \$300 million to help SSA support essential telework, communication needs, and salaries and benefits of federal employees, including necessary resources for processing disability and retirement workloads and backlogs when SSA offices reopen to the public.

**IRS** — \$250 million in additional funding for the IRS to administer the new tax credits for paid leave authorized by the bill. The funding will also address IRS costs associated with delaying the filing season and expanded telework.

**Arts** — \$150 million to provide grants and support arts organizations, museums, libraries, and other organizations during the crisis, including \$75 million for the National Endowment for the Arts and \$75 million for the National Endowment of the Humanities. The measure also provides \$7.5 million to clean and disinfect the Smithsonian Institution and \$25 million for the John F. Kennedy Center for the Performing Arts.

**Corporation for Public Broadcasting** — \$75 million for the Corporation for Public Broadcasting to make fiscal stabilization grants to public television and radio stations facing declines in non-federal revenues.

**Forest Service** — \$70 million across U.S. Forest Service programs for prevention, mitigation, or recovery activities associated with the coronavirus outbreak.

**Army Corps of Engineers** — \$70 million to the U.S. Army Corps of Engineers for additional equipment, licenses, and IT support to improve teleworking capabilities.

**Legislative Branch** — \$93 million to support the health, safety, and work capabilities of Congress and related offices. The total includes funding to support telework, reimbursement costs for the child care centers and restaurants, \$25 million to purchase in bulk and distribute cleaning supplies, and \$20 million for the Government Accountability Office to oversee funding provided in the act.

**Oversight** — \$80 million for a new Pandemic Response Accountability Committee to provide transparency to the public and coordinate oversight of funds provided in the bill.

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## Section VI

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### Other Provisions

This section describes the provisions of **HR 748**, Coronavirus Aid, Relief, and Economic Security (CARES) Act, that deal with miscellaneous pandemic-related issues and other matters.

The bill includes waivers of certain Defense Production Act requirements in order to expedite the manufacture of equipment to address the pandemic, and it provides over \$30 billion to help schools and universities cope with funding shortfalls associated with the COVID-19 pandemic. It increases the borrowing authority of the U.S. Postal Service by \$10 billion to allow it to continue operating during the emergency, and permits the Labor department to delay certain filing deadlines for pension and other employee benefit plans during a public health emergency.

It also includes provisions addressing the Food and Drug Administration's system of approving over-the-counter drugs, and exempts expenditures from the Harbor Maintenance Trust Fund from discretionary spending caps.

## **Defense Production Act**

To expedite the manufacture of needed medical equipment under the Defense Production Act, the bill waives for two years the requirement that Congress separately enact legislation to authorize projects that exceed \$50 million, as well as the requirement that any unused amounts in the Defense Production Act Fund at the end of the fiscal year in excess of \$750 million be returned to the Treasury's General Fund.

The Defense Production Act gives the president broad authorities to either require private industry, or offer financial incentives for private industry, to meet emergency national defense needs.

The bill also waives the required 30-day layover before a project may start; this waiver would sunset one year after enactment.

## **Education Aid & Program Modifications**

The bill appropriates \$30.9 billion to the Education Department to help schools, students, teachers, and families with immediate needs related to the coronavirus pandemic.

Within that total, it provides \$13.5 billion in formula funding directly to states to help schools respond to coronavirus and related school closures, meet the immediate needs of students and teachers, improve the use of education technology, support distance education, and make up for lost learning time. Another \$14.3 billion within the total is for institutions of higher education to directly support students facing urgent needs related to coronavirus, and to support institutions as they cope with the immediate effects of the pandemic including school closures.

The total also includes \$3 billion for flexible formula funding for to be allocated to states based on the needs of their elementary and secondary schools and institutions of higher education, \$100 million for Project SERV for all levels of educational institutions to respond to the immediate needs of students caused by the pandemic, and \$13 million for Howard University and \$7 million for Gallaudet University.

It also includes \$7 million for audit and oversight of activities of the Education Department's inspector general.

### ***Education Waivers & Grant Program Changes***

The bill allows the Education Department to waive requirements of the Elementary and Secondary Education Act (except for civil rights laws) if needed because of the pandemic, and it

waives the requirement that colleges and universities match federal funding for campus-based aid programs. Private, for-profit colleges must continue to provide matching funds.

It allows the department to waive or modify requirements for grants awarded under the following programs, so colleges can redeploy resources and services to pandemic response efforts: TRIO and GEAR UP, the Strengthening Institutions Program, and programs for Historically Black Colleges and Universities, Tribal colleges and universities, Hispanic-serving institutions, and other minority-serving institutions. Modifications must be requested by grant recipients, and would apply from the beginning of the current emergency through Sept. 30 of the fiscal year following the end of the emergency.

It also allows the department to expand the categories of extenuating circumstances for which a TEACH grant recipient who is unable to fulfill all or part of their service obligation may be excused from fulfilling that portion of service because they are unable to teach due to the pandemic.

#### ***Foreign Institutions***

The measure requires the Education Department to permit foreign colleges and universities that participate in the direct loan program to provide any part of an otherwise eligible program via distance education for the duration of the pandemic and following payment period.

It also allows the department to enter into agreements with non-profit colleges located in the United States to allow students at foreign schools to take courses with institution in the U.S.

#### ***HBCUs***

The measure requires the Education Department to defer requirements that historically black colleges and universities make payments on current capital financial loans during the pandemic, so they can devote more financial resources to responding to the outbreak. Under the measure, the department would continue to make the principal and interest payments that are due under the loan agreement to the lender, with the institution to later repay the department.

The measure also permits the department to waive certain outcome requirements for HBCUs and minority-service institution grants, as well as to waive any statutory or regulatory provision needed to ensure that formula calculations don't adversely affect the institutions receiving assistance.

### **Postal Service Debt**

The U.S. Postal Service (USPS) this week warned Congress that it has seen a large drop in mail volume and may be forced close down by the summer without help from Congress. The Postal Service has incurred more than \$11 billion in debt to maintain operations, and it is rapidly reaching its \$15 billion statutory limit on borrowing.

The bill increases the borrowing authority of the U.S. Postal Service by \$10 billion, to \$25 billion, and during the nation's COVID-19 emergency it eliminates the \$3 billion limit on the amount of new debt it may incur during any single year.

Under the measure, if USPS determines that it will not be able to fund operating expenses without borrowing additional money, it may seek the additional funds from the U.S. Treasury. Such funding must be used for operating expenses and may not be used to make payments on its outstanding debt.

Also during the COVID-19 emergency, the bill requires the Postal Service to prioritize the delivery of medical supplies, and it allows USPS to create temporary delivery points to protect its employees as well as individuals receiving deliveries.

### **OTC Drug Regulation**

The bill includes provisions dealing with the Food and Drug Administration's (FDA) system of approving over-the-counter (OTC) drugs that are nearly identical to provisions included in the Pandemic and All-Hazards Preparedness and Advancing Innovation Act (**HR 269**), which passed the House last year by a 401-17 vote under suspension of the rules.

The measure formally codifies the FDA's "monograph" system that reviews the safety and efficacy of over-the-counter drug ingredients, authorizing the monograph system for five years. It creates a process for modifying monographs through an administrative order, as well as a process for quickly changing safety labels.

It also establishes user fees for FDA reviews of OTC monograph drugs. Under the measure, a drug would not be subject to the bill's provisions if it has been exempted for investigational use.

#### **Codification of the Monograph System**

The current monograph system is a regulatory system developed by the Food and Drug Administration; the bill codifies that system into law by referring directly to it.

Specifically, it provides that any nonprescription drug that conforms to a final monograph or consists only of category I ingredients (ingredients generally recognized as safe and effective) subject to a tentative final monograph can be marketed without a new drug approval. Any new

nonprescription drug for which the ingredients are category I under a proposed monograph and which exists in a dosage form that prior to enactment has been substantially used for a certain period of time could also be marketed without a new drug approval.

New nonprescription drugs that include category III ingredients (ingredients where there is not enough data to evaluate the safety and efficacy) in a dosage that prior to enactment did not require a new drug approval could be marketed without a new drug approval — but only if the ingredients are placed in category III by a proposed rule for a tentative final monograph and in conformity with the conditions of use described in the proposed rule. The category I ingredients in the drug must meet the requirements established in a tentative final monograph or final monograph for those ingredients.

### ***New Drugs that Need Approval***

Under current regulations, a drug is not considered a new drug subject to approval only when it is generally recognized as safe and effective (GRASE). To earn the GRASE determination, a drug must have undergone clinical investigations to establish it as safe and effective, the investigations must have been published in scientific literature, and experts must agree that based on those investigations the product is safe and effective. The investigations must be of the same quality and quantity as would be necessary for a new drug approval.

The bill clarifies that if a drug has not been determined to be GRASE, it is considered a new drug and must apply for approval as a new drug.

Under the measure, a drug that includes category II ingredients (ingredients generally recognized not to be safe or that have unacceptable side effects) as classified by a tentative final monograph or a proposed rule would be considered a new drug, and must apply to be an approved new drug within 180 days of enactment unless FDA determines it is in the interest of public health to allow the drug to be marketed without such approval.

### **Administrative Orders**

The bill authorizes FDA to issue administrative orders determining conditions under which specific drugs, classes of drugs or combinations of drugs are not subject to new drug approval and are generally recognized as safe and effective. The administrative order could be requested by an entity external to FDA.

Any drug determined to be GRASE by administrative order must be marketed in conformity with that administrative order, and must meet the requirements for nonprescription drugs. The

administrative order may include requirements for the packaging of the drug to encourage use in accordance with labeling.

The FDA may also issue administrative orders determining that a drug is not GRASE.

The bill also allows a final administrative order to be amended, revoked or otherwise modified by following the same procedures established for administrative orders.

#### ***Safety Label Changes***

The bill establishes a process for the FDA to make changes to nonprescription drug safety labels.

If the FDA determines that a drug, class of drugs or combination of drugs needs to undergo changes to their safety labels to mitigate the risk of a serious adverse event associated with use of the drug, the agency must try to informally notify the drug sponsors 48 hours before issuing the interim final order.

The process for the FDA to issue such orders includes an opportunity for the drug sponsors to dispute the change and hold hearings; the final order would be subject to judicial review.

#### ***Exclusivity***

The bill establishes how drug sponsors could initiate an administrative order to have a drug recognized as GRASE in order to obtain the exclusive right to market that drug for 18 months after the final determination. The 18-month exclusivity period begins from the date the order is approved.

Under the measure, the drug for which the GRASE determination is sought must contain an active ingredient not previously incorporated or must change the conditions of use of the drug. For changes in the conditions of use of the drug, the requestor must have conducted or sponsored new human data studies for that use. In general a drug can only have one period of exclusivity.

If a sponsor requests a period of exclusivity and does not make the drug available for sale within a year of receiving that exclusivity, the sponsor must notify the FDA and explain why it is not marketing the drug.

#### ***Other Provisions***

The bill establishes a procedure under which a requestor external to FDA can request minor changes in the dosage of a drug that has been determined to be GRASE without the issuance of an administrative order.

Specifically, the requestor must demonstrate that the change will not affect the safety or effectiveness of the drug and will not materially affect the absorption or other exposure to the active ingredient, and that it conforms with the requirements of an administrative order already issued regarding how to determine if a minor change to dosage will affect the safety or effectiveness of a drug.

It requires the FDA to establish procedures for drug sponsors or requesters to obtain advice from FDA on the studies and other information necessary to support submissions for administrative orders and other matters regarding the regulation of nonprescription drugs and the development of new nonprescription drugs.

It also requires the Government Accountability Office, within four years of enactment, to report to Congress on the effectiveness and overall impact of exclusivity of nonprescription drugs under the bill.

#### **User Fees**

The bill establishes user fees for over-the-counter monograph drugs.

Specifically, it establishes an annual fee for facilities that manufacture OTC monograph drugs, starting in FY 2021. For FY 2021, the total facility fee revenue must equal the sum of the annual base revenue for FY 2021 (specified in the bill as \$8 million), the operating reserve adjustment for the fiscal year, and additional direct cost adjustments. For FY 2022-25, the total facility fee revenue must equal the sum of the annual base revenue for the fiscal year (specified as the total revenue amount for the previous fiscal year), the inflation adjustment for the fiscal year, the operating reserve adjustment, additional direct cost adjustments, and the following additional amount for each fiscal year as follows: \$7 million for 2022, \$6 million for 2023, \$7 million for 2024 and \$3 million for 2025.

It also establishes an administrative order request fee to be paid by requesters who initiate an administrative order for a nonprescription drug to be determined as generally recognized as safe and effective (GRASE). The fee would be \$500,000 for a tier I request for such a determination and \$100,000 for a tier II request, such as the reordering of information on a label. These amounts would be adjusted each year for inflation. If the change to the label would strengthen a warning, add a statement about the risk of misuse or abuse, or provide instructions about dosage that would increase safety, there would be no fee.

If a manufacturing facility fails to pay its fee within 20 calendar days of the due date, all OTC monograph drugs manufactured in that facility or containing an ingredient manufactured in that

facility would be deemed to be misbranded.

The fees authorized by the bill are to be collected and available for obligation only to the extent and in the amount provided in advance through appropriation acts, and would be used to defray increases in the costs of the resources allocated for OTC monograph drug activities. However, they would be available only if the Health and Human Services secretary allocates for that fiscal year at least \$12 million multiplied by the adjustment factor for that fiscal year.

#### **Recommendations for Next Reauthorization**

The bill requires the Health and Human Services Department (HHS) to develop recommendations for Congress when it prepares to reauthorize the FDA's OTC monograph system for the five years following FY 2023, as well as for reauthorizing OTC monograph drug user fees.

In developing the recommendations, HHS must consult with Congress, scientific and academic experts, health care professionals, patient and consumer advocacy groups and the regulated industry. Proposed recommendations must be made public and there must be a 30-day period for public comment as well as a meeting where the public can present its views.

After the recommendations have been revised according to public input, the revised recommendations must be submitted to Congress by Jan. 15, 2025.

#### **Sunscreen & Other Provisions**

The bill gives makers of sunscreen ingredients that are undergoing FDA review 180 days to decide whether they want to be reviewed under the bill's new procedures.

A sunscreen sponsor may request confidential meetings regarding a proposed sunscreen order to discuss confidential commercial information, trade secrets and data requirements. FDA must publish a post-meeting summary of each confidential meeting, that does not disclose confidential commercial information or trade secrets.

Under the measure, sunscreen sponsors who receive a final sunscreen order for a new sunscreen ingredient under either the bill's new procedures or the current FDA process are granted exclusivity for 18 months to market the sunscreen ingredient.

It requires HHS to revise the final administrative order concerning nonprescription sunscreen and issue a proposed rule within 18 months of enactment and at least one year before the revised order takes effect. If the revised sunscreen order does not address the effectiveness of various sun protection factor (SPF) levels and all dosage forms, HHS must report to congress its rationale for the omission as well as a plan and timeline to compile information to address those provisions.

It sunsets at the end of FY 2022 current law provisions that govern nonprescription sunscreen and other active ingredients.

#### ***Cough and Cold Drugs***

FDA must annually submit to Congress a letter describing its progress in evaluating the cough and cold monograph with respect to children under age 6, and in revising the monograph to address such children through the bill's administrative order process.

This requirement would terminate once FDA has completed its evaluation and revised the monograph.

### **Other Provisions**

#### ***Harbor Maintenance Trust Fund***

The Harbor Maintenance Trust Fund is funded by a tax on imported goods, and supports the operation and maintenance of harbors across the country. The trust fund has been accumulating surpluses in recent years (in 2019 trust fund balances exceeded \$9 billion).

The measure allows more money to be spent from the Harbor Maintenance Trust Fund by exempting trust fund expenditures from annual discretionary spending caps that limit overall appropriations that can be obligated. The provision is estimated to add an extra \$2 billion a year in spending outside the budget caps.

#### ***Retirement Plan Requirements***

The bill permits the Labor department to delay, for up to one year, certain filing deadlines for pension and other employee benefit plans during a public health emergency, and gives companies with single-employer pension plan more time to meet their funding obligations — allowing any contribution due in calendar year 2020 to be made Jan. 1, 2021 (at which time the contributions would be due, with interest).

It also allows pension plans sponsored by a non-profit employer that meet certain conditions to be eligible for the special funding rules applicable to Cooperative and Small Employer Charity Pension Plans (CSEC Plans) — which would apply the March of Dimes.

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