



March 27, 2020

## CORONA “PHASE THREE” AND THE ROAD AHEAD

### Overview

In “warp speed”, to use Senate Republican Leader McConnell’s phrase, Congress is on the verge of passing *H.R. 748, The Coronavirus Aid, Relief, and Economic Security Act*” less than a week after McConnell released an initial draft. H.R. 748 will be the third piece of corona-related legislation the Congress has passed in three weeks. Previously this month, the Congress passed [H.R. 6074, The Coronavirus Preparedness and Response Supplemental Appropriations Act](#) and [H.R. 6201, The Families First Coronavirus Response Act](#). H.R. 748, which has been characterized as the largest relief package in U.S. history at an estimated cost of over \$2 trillion, provides much needed resources to address the twin threats simultaneously confronting our country – the coronavirus epidemic and the economic downturn.

The purpose of this document is to serve as a “one stop shopping service” for people with an interest in H.R. 748 and what could follow. We provide highlights of the legislation and provide links to the bill, the section-by-section analysis, and Democratic and Republican summaries of the overall bill as well as individual sections. We also discuss our views on what we see as the next legislative steps in fighting the virus and healing the economy. As large as this package is, many parties already agree that the Congress, together with the Administration and the Federal Reserve, will need to do more in the weeks and months ahead.

### Highlights

With a measure this size, it is difficult to capture all of its major provisions but below are some items that stand out. Please also find a full summary of Division A [here](#).

DIVISION A: KEEPING WORKERS PAID AND EMPLOYED, HEALTH CARE SYSTEM ENHANCEMENTS, AND ECONOMIC STABILIZATION

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Title I: Small Business/Workers Paycheck Protection – Summaries [here](#) and [here](#).

- Authorizes \$349 billion for small business (<500 employees) loans to cover payroll support, mortgage, rent, and utility payments. (Sec. 1101)
- Appropriates \$10 billion for Emergency Economic Injury Disaster grants (EIDL) (Sec. 1107)
- Appropriates \$17 billion for loan subsidies to cover 6 months of payments for small businesses with existing loans (Sec. 1107)

Title II: Assistance to Workers, Families, and Businesses. Summary [here](#).

- Allows part-time, self-employed, and gig economy workers to access benefits (Sec. 2102)
- Provides an additional \$600 per week payment to each recipient (Sec. 2104)
- Provides an additional 13 weeks of federally funded unemployment insurance benefits (Sec. 2114)
- Provides a full rebate of \$1,200 to each individual and \$2,400 to each married couple filing jointly for all individual US residents with adjusted gross income of up to \$75,000 and \$150,000 for married couples filing jointly as well as an additional \$500 per child. Sec. 2201)
- Refundable payroll tax credit for 50 percent of wages paid by employers to employees during the coronavirus crisis. (Sec. 2301)
- Allows employers to delay payment of payroll taxes and relaxes the limitations for net operating losses. (Sec. 2302 and 2303)

Title III: Supporting America's Health Care System. Summary [here](#) and [here](#).

- Addresses shortages of medical product supplies, emergency drugs, and medical devices (Sec. 3101, 3102, 3103, 3111, and 3121)
- Clarifies coronavirus testing is covered by private insurers without cost sharing and provides free coverage without cost sharing of a coronavirus vaccine when available (Sec. 3201, 3203, and 3713)
- Provides \$1.32 billion for community health centers (Sec. 3211)
- Reauthorizes grant programs that promote telehealth and rural health care services (Sec. 3212 and 3213)
- Reauthorizes programs to support training and development of health professionals (Sec. 3401 and 3404)
- Requires the Secretary of Education to defer student loan payments, principal, and interest for 6 months through September 30, 2020, without penalty for all federally owned loans (Sec. 3513)
- Allows high deductible health plans with a health savings account to cover telehealth services prior to reaching the deductible (Sec. 3701)
- Lift the Medicare sequester, which reduces payments to providers by 2 percent, from May 1 through December 31, 2020. (Sec. 3709)
- Increase the Medicare payment made to a hospital for treating a coronavirus patient. (Sec. 3710)
- Provide hospitals up to a six-month Medicare advance lump sum payment (Sec. 3719)
- Ensure that states are able to receive the Medicaid 6.2 percent FMAP increase (Sec. 3720)



- Delay Disproportionate Share Hospital Reductions (Sec. 3813)
- Extend Temporary Assistance for Needy Families program through November 30, 2020 (Sec. 3824)
- Extend mandatory funding for community health centers, teaching health centers and the National Health Services Corps (Sec. 3831)
- Allows FDA to approve changes to over-the-counter drugs administratively (Sec. 3851)
- Establishes a new FDA user fee to hire additional staff (Sec. 3862)

#### Title IV: Economic Stabilization and Assistance to Severely Distressed Sectors of the US Economy.

Summary [here](#).

- Provides \$500 billion to Treasury's Exchange Stabilization Fund to provide loans, loan guarantees, and other investments. Direct lending to passenger air carriers (\$25 bn), cargo air carriers (\$4 bn) and businesses important to national security (\$17 bn). Also \$454 billion available for loans, loan guarantees, and investments in support of the Federal Reserve's lending facilities to eligible businesses. (Sec. 4003)
- Any lending through a Fed 13(3) facility must be broad-based, with verification that each participant is not insolvent and is unable to obtain adequate financing elsewhere. (Sec. 4003)
- Recipients of direct lending are prohibited from increasing compensation of any employee whose compensation exceeds \$425,000 or from offering severance pay or other benefits twice the maximum compensation received until one year after the loan is no longer outstanding. (Sec. 4004)
- Transportation Secretary is authorized to require air carriers receiving loans to maintain scheduled air transportation service where deemed necessary. (Sec. 4005)
- Federal banking agencies required to reduce the Community Bank Leverage Ratio for qualifying community banks from 9 to 8 percent and provide reasonable grace period if a bank falls below the ratio. (Sec. 4012)
- Establishes a Special Inspector General for Pandemic Recovery. (Sec. 4018)
- Any company in which the President, Vice President, department head, Member of Congress or any individual's spouse, child, son-or daughter-in law are not eligible for loans. (Sec. 4019)
- Establishes a Congressional Oversight Commission with five members, one chosen by each of the four House and Senate leaders and the chairperson chosen jointly by the Speaker and Majority Leader of the Senate. (Sec. 4020)
- Landlords are prohibited from initiating legal action to recover possession of a rental unit or charge fees or penalties for non-payment of rent for 120 days if the landlord's property is assisted in any way by HUD. (Sec. 4024)
- Requires air carrier recipient to enter into an agreement that until September 30, 2020, it will not conduct furloughs, reduce pay rates, buy back stock, pay dividends, and meet requirements on collective bargaining and compensation. (Sec. 4114)

#### Title V: Coronavirus Relief Fund

- Provides \$150 billion to states, territories, and tribal governments to use for expenditures incurred due to the coronavirus to be allocated by population proportion, with a minimum of \$1.25 billion for states with small populations. (Sec. 5001)

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## Title VI: Miscellaneous Provisions

- Provides \$10 billion in borrowing authority for the USPS to respond to effects of the coronavirus on an as-needed basis determined by the Treasury Secretary. (Sec. 6001)

## DIVISION B: EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS

Below are some of the highlights from the individual appropriations bills. Fuller summaries of the contents of Division B can be found [here](#). The Republicans summary [here](#), and the Democratic summary [here](#).

### Title I: Agriculture (\$34.9 billion)

- \$9.5 billion to support agriculture producers impacted by coronavirus, including producers of specialty crops, products that supply local food systems, and livestock producers
- \$8.8 billion for food purchases for child nutrition programs
- \$15.1 billion for additional funding for the supplemental nutrition assistance program demonstration

### Title II: Commerce, Justice, Science, and Related Agencies (\$3.1 billion)

- \$1.5 billion to support economic development grants for states and communities suffering economic injury
- \$850 million to assist state, local, and tribal officers respond to coronavirus

### Title III: Defense (\$10.5 billion)

- \$2.45 billion to help the defense industrial base production lines, supply chain, military depots, and laboratories and to increase access to materials needed to fight coronavirus
- \$1.6 billion to expand health care treatment facilities
- \$1.8 billion to address increased health care needs of active duty military, dependents, and retirees
- \$1.5 billion for emergency deployments of National Guard personnel

### Title V: Financial Services and General Government (\$1.8 billion)

- \$250 million to support taxpayer services in the extended filing season
- \$562 million for administrative expenses and program subsidy for SBA

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Title VI: Homeland Security (\$45.9 billion)

- \$45.4 billion to continue FEMA's response and recovery activities and reimbursements provided to states and localities

Title VII: Interior, Environment, and Related Agencies (\$2 billion)

- \$1 billion for Indian Health Services to address critical response needs, medical equipment, mobile triage units, and transportation

Title VIII: Labor, HHS, Education and Related Services (\$172 billion)

- \$100 billion to reimburse hospitals and healthcare providers
- \$16 billion to procure personal protective equipment, ventilators, and other medical supplies as part of Strategic National Stockpile
- \$11 billion for vaccines, therapeutics, diagnostics and other preparedness
- \$1.5 billion for CDC state and local preparedness
- \$3.5 billion for childcare grants to states
- \$1 billion for community development block grants to perform community-based services
- \$13 billion in formula funding directly to states to help schools respond, meet the needs of students and teachers, support distance learning
- \$14.2 billion to institutions in targeted formula funding for higher education to directly support students and institutions facing impact of coronavirus

Title X: Military Construction, Veterans Affairs, and Related Agencies (\$19.6 billion)

- \$14.4 billion to support increased demand for services at VA facilities and through telehealth, including purchase of medical equipment and supplies, testing kits, and personal protective equipment.
- \$2.1 billion to support increased care in the community

Title XII: Transportation, Housing and Urban Development, and Related Agencies (\$48.5 billion)

- \$10 billion for the FAA to maintain operations at our airports distributed by formula
- \$25 billion for the Federal Transit Administration for transit providers for operating and capital expenses distributed through formula
- \$1 billion for Amtrak operating expenses to cover revenue losses
- \$5 billion for community development block grants to help seniors, homeless, and public health services deal with coronavirus
- \$4 bn billion for homeless assistance grants to enable state and local governments address coronavirus among homeless
- \$1.2 billion to preserve Section 8 voucher rental assistance for seniors, the disabled and low income

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- \$1 billion for reduced tenant payments as a result of coronavirus

## **Corona 4?**

As noted above, in the span of three weeks the Congress and the President have worked together on three important pieces of legislation that collectively began to address the coronavirus epidemic and the economic problems facing American workers and businesses. Each succeeding bill exceeded the previous bill in both scope and cost and each bill followed a different process.

The important questions everyone are asking include: will there be a fourth bill to address the coronavirus and the economy, what are the possible components, what process will Congress and the Administration follow to put it together and pass, and what is the likely timing?

## **Will There Be A Fourth Bill?**

There are several reasons why most people believe additional legislation is likely:

- Many proposals from members of both political parties saw their proposals left on the cutting room floor or perhaps included but not as robustly as their sponsor had hoped.
- With any legislation, particularly large bills containing some large and new provisions, there are questions about how well some of the proposals will work. Adjustments – technical and substantive – seem totally likely.
- The health and economic challenges will continue to evolve and could pose new or stiffer challenges to some areas than anticipated.
- The White House and both political parties could continue to adopt the mantra not to let a crisis go to waste and conclude they have an opportunity to advance their political and substantive agendas.

Several cautionary notes here:

- The course of the virus and the economy could both shift in a positive direction and reduce the need for significant additional resources.
- Much of what has been in the first three bills has been some combination of non-controversial items and low hanging fruit from each party to do list.
- To the extent that the players feel we have a handle on the issues addressed in these bills, some parties could push expand the focus. The necessary political and policy consensus will be harder to forge in this environment.

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- If we stay in a crisis mode for the next several weeks and months, the pull of election politics is likely to be a growing factor in each side's calculations.

So, when adding this up, another bill seems likely, but for policy and political reasons it could be harder for all parties to reach consensus than the previous bills.

### What Are the Possible Components?

If there is another bill, the most likely things that will be in the next bill are items that have been in the last bills or very close relatives to those items. Making "technical corrections" to, extending, or enhancing these proposals are a logical place for both parties to start. Speaker Pelosi touched on the items Democrats are keeping an eye on in her press conference today, e.g., family and medical leave, protections for workers, increased food assistance, assistance for state and local government, etc. And Republicans probably have a similar list that may start with additional general assistance in the form of tax cuts, loans, and perhaps regulatory relief for businesses of all sizes.

It is entirely possible the next package could begin and end there for some of the reasons touched on above. However, it is conceivable President Trump and members of both political parties could seek to broaden the conversation. A logical next step is to make investments in our health care system to ensure we are better prepared for the next crisis and, perhaps a step beyond that, investments in our economy to create jobs and accelerate the recovery. Based on each party's reaction to what has been done to date, congressional Democrats and President Trump may be more eager to go there than congressional Republicans, at least some of whom are very unhappy with the +\$2 trillion price tag on the last package and its hundreds of billions of new spending. While Trump had great success in convincing this group to go along with this package, he could find selling another huge package will be more difficult the next time around.

### What Legislative Process Will Be Followed?

As noted above, each of the three corona-related bills done to date have followed a different track. On the first bill, the President initially asked for \$2.5 bn, but quickly stepped aside when he heard bipartisan criticism about the lack of resources and indicated he would sign whatever was presented to him. The end result was rather quick agreement on an \$8.3 billion emergency supplemental. Although the bill initially passed in the House, it was essentially the product of a four corners negotiation. Speaker Pelosi

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seized control of the second bill, determining the scope and much of the contents before bringing in the White House to see what needed to be included to get their approval. Some Republican provisions were added as a result of those negotiations, but the bulk of the bill remained true to her vision and the Senate Republicans, who had little or no input, were forced to pass it without change due to the urgency of the crisis. Senator McConnell tried to flip the script on the third. He and his caucus drafted a bill to their liking and included some things Democrats would like. His hope was to get quick passage in the Senate, dump the bill on the House and give Pelosi the same choice she gave him. Senate Democrats – with encouragement from Pelosi – held up the bill until McConnell included more of their priorities.

So, we have seen three procedural options in recent days. Deciding on what process a fourth bill will follow must factor in that Congress will not be functioning anywhere close to normally for the next month or more.. If all sides agree that a fourth bill is needed, the safest thing for each leader to do may be to at least start the process as a four corners discussion and see where those talks go. If it looks like the talks will bear fruit, they can follow the path of the first bill. If not, each leader can decide whether they need to try to seize the high ground by passing a bill first, which as we have just seen could be more difficult for McConnell than Pelosi.

### When Could We See a Fourth Bill Moving?

The answer to this question will in part be dictated by developments in the coronavirus and the economy. However, absent a major unexpected contingency or crash, the \$2 trillion bill would seem to give all sides some time before they need to rush in with more. Further, President Trump may want to give this bill a chance to succeed before calling for another one. Leader McConnell has indicated the Senate will be in pro forma session until April 20, while giving 24 hours' notice if they need to return to Washington sooner. As of this writing we don't know if Speaker Pelosi will follow suit, but it seems very possible she will. All of this suggests that while the work on a fourth bill begins immediately after the House passes the third bill, congressional action on that legislation could easily slip to late April or early May.

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