

THE KRESGE FOUNDATION

Summary of the Coronavirus Aid Relief and Economic Security Act (CARES Act)

Disclaimer:

The following content is a summary and general overview of key provisions of the CARES Act for informational purposes only. Further, the Act is very lengthy and not entirely clear on all points. It may be substantially clarified, if not substantively revised, by future regulation or practical application. Accordingly, this summary is based upon the best information currently available. It is not meant to constitute legal or other professional advice and should not be relied on or treated as a substitute for specific advice related to a particular circumstance. Accordingly, do not act upon this information without seeking counsel from a licensed attorney. This summary is not intended to create, and receipt of it does not constitute, an attorney-client relationship. The information in this summary is published "AS IS" and is not guaranteed to be complete, accurate, or up-to-date. In no event shall The Kresge Foundation or any of its partners, officers, employees, agents or affiliates be liable, directly or indirectly, under any theory of law (contract, tort, negligence or otherwise), to anyone, for any claims, losses or damages, direct, indirect special, incidental, punitive or consequential, resulting from or occasioned by the creation, use of or reliance on this summary or any information, resources or material accessed through the Foundation's website or the resources found at the end of this summary.

The CARES Act (Final Link): <https://www.documentcloud.org/documents/6819239-FINAL-FINAL-CARES-ACT.html>

TABLE OF CONTENTS

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

TITLE I—KEEPING AMERICAN WORKERS PAID AND EMPLOYED ACT

Sec. 1101- Sec. 1114.....5-7

TITLE II—ASSISTANCE FOR AMERICAN WORKERS, FAMILIES, AND BUSINESSES

Subtitle A—Unemployment Insurance Provisions

Sec. 2101- Sec. 2116.....8

Subtitle B—Rebates and Other Individual Provisions

Sec. 2201- Sec. 2206.....8-10

Subtitle C—Business Provisions

Sec. 2301- Sec. 2308.....11-12

TITLE III—SUPPORTING AMERICA’S HEALTH CARE SYSTEM IN THE FIGHT AGAINST THE CORONAVIRUS

Subtitle A—Health Provisions

Sec. 3001.....12

PART I—ADDRESSING SUPPLY SHORTAGES

SUBPART A—MEDICAL PRODUCT SUPPLIES

Sec. 3101- Sec. 3103.....12

SUBPART B—MITIGATING EMERGENCY DRUG SHORTAGES

Sec. 3111- Sec. 3112.....12

SUBPART C—PREVENTING MEDICAL DEVICE SHORTAGES

Sec. 3121.....13

PART II—ACCESS TO HEALTH CARE FOR COVID-19 PATIENTS

SUBPART A—COVERAGE OF TESTING AND PREVENTIVE SERVICES

Sec. 3201- Sec. 3203.....13

SUBPART B—SUPPORT FOR HEALTH CARE PROVIDERS

Sec. 3211- Sec. 3216.....13

SUBPART C—MISCELLANEOUS PROVISIONS

Sec. 3221- Sec. 3226.....14

PART III—INNOVATION.....14

Sec. 3301- Sec. 3302.....14

PART IV—HEALTH CARE WORKFORCE	14
Sec. 3401-Sec. 3519.....	14-16
<i>Subtitle C—Labor Provisions</i>	
Sec. 3601-Sec. 3611.....	16-17
<i>Subtitle D—Finance Committee</i>	
Sec. 3701-Sec. 3720.....	17-18
<i>Subtitle E—Health and Human Services Extenders</i>	
PART I—MEDICARE PROVISIONS	18
Sec. 3801-Sec. 3803.....	18
PART II—MEDICAID PROVISIONS	19
Sec.3811-Sec. 3814.....	19
PART III—HUMAN SERVICES AND OTHER HEALTH PROGRAMS	19
Sec. 3821-Sec. 3824.....	19
PART IV—PUBLIC HEALTH PROVISIONS	19
Sec. 3831-Sec. 3832.....	19
PART V—MISCELLANEOUS PROVISIONS	19
Sec. 3841.....	19
<i>Subtitle F—Over-the-Counter Drugs</i>	
PART I—OTC DRUG REVIEW	19
Sec. 3851-Sec. 3856.....	19-20
PART II—USER FEES	20
Sec. 3861-Sec. 3862.....	20
<u>TITLE IV—ECONOMIC STABILIZATION AND ASSISTANCE TO SEVERELY DISTRESSED SECTORS OF THE UNITED STATES ECONOMY</u>	
<i>Subtitle A—Coronavirus Economic Stabilization Act of 2020</i>	
Sec. 4001-Sec. 4120.....	20-25
<u>TITLE V—CORONAVIRUS RELIEF FUNDS</u>	
Sec. 5001.....	25-26
<u>TITLE VI—MISCELLANEOUS PROVISIONS</u>	
Sec. 6001-Sec. 6002.....	26
DIVISION B—EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS	26

INTRODUCTION

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief and Economic Security Act (CARES Act) into law. The CARES Act provides emergency assistance to individuals, families and businesses affected by COVID-19. The CARES Act is divided into two divisions. Division A includes programs to benefit individuals, companies and the health care system affected by COVID-19. Division B describes the supplemental appropriations to help the government respond to COVID-19.

Title I of Division A, called the Keeping American Workers Paid and Employed Act, includes the (i) Paycheck Protection Program; (ii) Disaster Loan Program; (iii) SBA Express Loan Program; (iv) Entrepreneurial Development Programs; and (v) State Trade Expansion Program.

Title II of Division A, called Assistance for American Workers, Families and Businesses, provides expanded unemployment benefits, changes to tax rebates and certain employee benefit plan rules and other tax credits, deductions and exemptions for businesses.

Title III of Division A, called Supporting America's Health Care System In The Fight Against The Coronavirus, provides numerous provisions to help our health care system respond to COVID-19 including provisions for device shortages, supply shortages and support for healthcare workers, education, the workforce and finance.

Title IV of Division A, called the Economic Stabilization and Assistance to Severely Distressed Sectors of The United States Economy, provides the Secretary of the Treasury with the authority to make loans or loan guarantees to states, municipalities and eligible businesses. This title also changes regulations created in the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Economic Stabilization Act of 2008 and others.

Title V of Division A, Coronavirus Relief Funds, provides relief up to \$150 billion for states, tribal governments and local governments for costs incurred related to COVID-19.

Title VI of Division A, Miscellaneous Provisions, authorizes the U.S. Postal Service to borrow up to \$10 billion for operating expenses and take other actions to deal with the response to COVID-19. Division B, Emergency Appropriations for Coronavirus Health Response and Agency Operations, includes supplemental appropriations to help the government respond to the COVID-19.

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

Title I of Division A: Keeping American Workers Paid and Employed Act

The CARES Act creates new Federal Small Business Administration (“SBA”) loan programs or amendments to existing programs that could assist businesses and nonprofit organizations that have been impacted by the COVID-19 pandemic with their day-to-day operating expenses such as payroll support, insurance premiums, mortgage premiums, and other specified debt obligations.

(Sec. 1101) SBA 7(A) Loan “Paycheck Protection Program”. The CARES Act amends the Small Business Act to create the Paycheck Protection Program (“PPP”) which provides a 100% guarantee for bank loans made to qualifying businesses/organizations during the period of February 15, 2020 to June 30, 2020. Nonprofit organizations under section 501(c)(3)¹ are eligible to apply for loans. The PPP is for nonprofits with fewer than 500 full-time and part-time employees. Note there are some exceptions for larger nonprofits. Consult with your lender to see if you still qualify.

Maximum Loan Amounts for loans under the PPP is \$10 million. The PPP loan amounts are tied to the nonprofit’s payroll costs. The maximum loan amount is the lesser of (I), (II) or (III):

(I) The sum of 2.5 times the average total monthly payroll costs incurred in the one-year period before the loan is made and the outstanding amount of a loan made under the Small Business Act’s Disaster Loan Program between January 31, 2020 and the date on which such loan may be refinanced; or

(II) Upon request, for nonprofits that were not in existence during the period from February 15, 2019 to June 30, 2019, the sum of 2.5 times the average total monthly payroll payments from January 1, 2020 to February 29, 2020 and the outstanding amount of a loan made under the Small Business Act’s Disaster Loan Program between January 31, 2020 and the date on which such loan may be refinanced; or

(III) \$10 million. In addition to the uses already permitted under the Small Business Act’s Business Loan program, nonprofits may use the PPP loan proceeds for payroll costs, which includes compensation to employees, such as salary, wage, commissions, or other similar compensation; paid vacation, parental, family, medical, or sick leave; allowance for dismissal or separation (i.e. severance payments); payment for group health benefits, including insurance premiums; retirement benefits; state and local payroll taxes; compensation to sole proprietors or independent contractors up to \$100,000 in one year, prorated for the covered period (February 15, 2020 to June 30, 2020); utilities and interest payments on any other debt obligations that were incurred before February 15, 2020.

These loans have no SBA fees and the interest rate is capped at 4 percent. You can also request to defer principal and interest payments for at least 6 months but not longer than 1 year. Even better, the loan principal (not interest) may be forgiven up to the amount used for payroll, interest on mortgage, rent payments and utilities during the 8 weeks after origination of the loan. The forgiveness amount will be reduced by the ratio of full-time equivalent employees during 2020 compared to 2019. Meaning they reduce the amount of loan forgiven if you

¹ Most trade associations are organized as 501(c)(6)s and are therefore not eligible to participate in the Paycheck Protection Program.

reduce your headcount in 2020. You can avoid this reduction by rehiring employees and eliminating the reduction in salary.

(Sec. 1107) Treasury Secretary Economic Stabilization Loan Program: The CARES Act gives the Treasury Secretary the authority to create a loan program for nonprofit organizations with between 500 and 10,000 employees. They could be direct loans to nonprofits or guarantees of loans made by banks to nonprofits. Loans from the Treasury would charge interest of no more than 2 percent annually and no principal or interest payments due for 6 months. The nonprofit borrower must certify the following: 1) economic conditions make the loan necessary; 2) loan proceeds will be used to retain 90 percent of workforce at full compensation until September 30, 2020, and; 3) the organization will restore not less than 90 percent of workforce as of February 1, 2020 and restore all compensation and benefits to workers no later than 4 months after termination of the COVID-19 public health emergency.

(Sec. 1110) SBA 7(b) Economic Injury Disaster Loans: The SBA's Economic Injury Disaster Loan ("EIDL") program is an existing SBA program that provides working capital loans to assist nonprofit organizations in declared disaster areas. As of today, the entire US has been designated a disaster area due to Covid-19. Loans are available to organizations with fewer than 500 employees. The maximum loan amount is \$2 million (must demonstrate economic injury equal to loan amount). Interest rates are fixed at 2.75% with repayment terms up to 30 years. EIDL loans may be used for working capital purposes, including payments of fixed debts, payroll, and accounts payable. They may not be used to refinance long-term debt. Unlike the PPP Loans, EIDL loans are not forgivable. An initial distribution of \$25,000 will be available within 5 days of loan approval. The remaining distributions will be made upon a schedule created by your SBA loan officer.

Emergency Economic Injury Grants: Through an amendment of the EIDL loan program in the CARES Act, private nonprofits, among others, with fewer than 500 employees who apply for an EIDL or PPP Loan with the SBA, may receive up to \$10,000 as an advance against the loan within 3 days of application if SBA certifies that the entity is eligible. This is to enable nonprofits to quickly access financial assistance while their loan application is being processed. Eligibility is based solely on applicant's credit score. The advance may be used to (i) provide sick leave to employees unable to work due to the direct effect of COVID-19; (ii) maintain payroll to retain employees during business disruptions; (iii) meet increased costs to obtain materials unavailable from the entity's original source due to interrupted supply chains; (iv) make rent or mortgage payments; and (v) repay obligations that cannot be met due to revenue losses. Nonprofits can submit an application to the SBA during calendar year 2020.

It's important to note that if your nonprofit received an Economic Injury Disaster Loan ("EIDL") for losses incurred due to COVID-19 between January 31, 2020 and the date when the Paycheck Protection Program ("PPP") became available, you can refinance the EIDL into the PPP and qualify for the loan forgiveness. **Please note, you may not take out an EIDL and a PPP for the same purposes.** If you took out an EIDL for purposes that are in addition to Covid-19, the portion of the loan used to fund the non-Covid-19 related expenses is not eligible for forgiveness. If you qualify for an EIDL grant (the \$10,000 advance described above) the advance does not have to be repaid even if the EIDL loan application is denied. However, if the nonprofit that receives an advance, transfers into, or is approved for a forgivable loan, the advance amount will be reduced from the loan forgiveness amount.

SBA Express Loan Program. The Express Loan Program is an existing SBA program, which requires less documentation and less paperwork, and offers nonprofits expedited financing. The CARES Act increases the maximum loan amount for Express Loans from \$350,000 to \$1 million through December 31, 2020. Unlike the Paycheck Protection Program Loans, Express Loans are not forgivable.

Funds are appropriated as follows:

- \$349 billion for loan guarantees
- \$675 million for SBA salaries and expenses
- \$25 million for the Office of Inspector General
- \$265 million for Entrepreneurial Development Programs (\$240 million for small business development centers and women’s business centers for technical assistance for businesses and \$25 million for resource partner associations to provide online information and training)
 - \$10 million for minority business centers for technical assistance for businesses
- \$10 billion for emergency EIDL grants
- \$17 billion for loan subsidies
- \$25 million for Department of Treasury salaries and expenses
- Limits the secondary market guarantee sales to \$100 billion

Other significant provisions in Title I (**Sec. 1113**) include amendments to the Small Business Reorganization Act to redefine “debtor” to increase the eligibility threshold to file under subchapter V of chapter 11 of the U.S. Bankruptcy Code to businesses with less than \$7,500,000 of debt. After one-year, the eligibility threshold returns to the original threshold (\$2,725,625). The CARES Act also amends the definition of “income” in the Bankruptcy Code to exclude National Emergency Act payments for COVID-19 by the President from “current monthly income” and “disposable income” when determining the power of courts to approve debtor plans rejected by trustees or claim holders. The CARES Act also permits individuals and families currently in chapter 13 bankruptcy to seek payment plan modifications if they are experiencing a material financial hardship due to the coronavirus pandemic, including extending their payments for up to seven years after their initial plan payment was due. These amendments sunset after one year.

[Title II of Division A: Assistance for American Workers, Families and Businesses](#)

Title II of the CARES Act creates a temporary Pandemic Unemployment Assistance (PUA) Program that runs through December 31, 2020, and expands unemployment benefits by, among other things, providing an additional \$600 per week in unemployment benefits for up to four months. It also provides for a \$1,200 tax rebate to be paid per adult individual and \$500 per child, subject to adjusted gross income limitations as calculated on 2019 tax returns if already filed, and 2018 tax returns if not, It also waives early withdrawal penalties for certain distributions from qualified retirement accounts, waives minimum distribution rules for defined plans and IRAs for 2020, and makes modifications regarding charitable giving deductions.

Title II also provides a series of tax and financial relief provisions for businesses. These provisions include an employee retention credit of 50% on up to \$10,000 of wages paid by employers experiencing a closure (whose employees are furloughed) or significant decline in gross receipts due to COVID-19, and deferrals of Social Security tax payment and additional deductions and write-offs that businesses may claim on their 2020 tax returns.

Subtitle A: Unemployment Insurance Provisions

(Secs. 2101-2116)

Workers who are laid off will be eligible to receive an additional \$600 per week and an extended four months of compensation. Workers are protected because the bill creates a temporary Pandemic Unemployment Assistance program effective Jan. 27, 2020 through December 31, 2020, to provide payment to those not traditionally eligible for unemployment benefits, including those who are self-employed or work in the gig economy.

The federal government is incentivizing states to repeal any “waiting week” provisions that prevent unemployed workers from getting benefits as soon as they are laid off by fully funding the first week of Unemployment for states that suspend such waiting periods. The federal government will fund an additional 13 weeks of unemployment benefits through December 31, 2020 after workers have run out of state unemployment benefits.

Subtitle B: Rebates and Other Individual Provisions

Beginning in 2020, "eligible individual" taxpayers will receive an advance tax credit as follows:

(Sec. 2201) Direct payments (recovery rebates):

- Single: \$1,200
- Married filing jointly: \$2,400
- Qualifying children² generate an additional \$500 each
- Payment reduced depending on Adjusted Gross Income (AGI)
 - The payment will be based on AGI from the 2019 return (if already filed)
 - Otherwise, will use the individual’s 2018 AGI
 - Or the 2019 Form SSA-2019 if the taxpayer did not file their 2018 or 2019 returns
 - The payment will be reduced by 5% of the excess of the taxpayer’s AGI which exceeds:
 - \$75,000 for Single or Married Filing Separately
 - \$112,500 for Head of Household
 - \$150,000 for Married Filing Jointly
 - The payment completely phases out when the taxpayer’s AGI exceeds:

² A qualified child is defined as:

- The taxpayer’s son, daughter, stepchild, adopted child, foster child, brother, sister, stepbrother, stepsister or any descendant of them who was under age 17 at the end of the tax year and lived with the taxpayer for more than half the year
- A child that did not provide over half of his or her own support for the year
- A child that is a US citizen, US national, or US resident
- A child claimed as a dependent on the taxpayer’s return; and
- A child with a social security number (or other ID number) that is reported on the tax return
- Qualifying children cannot be a nonresident alien individual, claimed as a dependent on another taxpayer’s return or an estate/trust

- \$99,000 for Single or Married Filing Separately
- \$146,500 for Head of Household
- \$198,000 for Married Filing Jointly
- The IRS will mail a notice of the payment to the recipient no later than 15 days after the date the payment was distributed
 - Indicates the method used to make the payment, the amount and a phone number to contact the IRS if the payment was not received
- If the distribution was made before filing the taxpayer's 2019 tax return and it is determined that the taxpayer was not eligible for the payment as computed, the taxpayer will be responsible for repayment of the rebate they received
- If the individual did not receive a rebate and is entitled to one, the computed amount will be allowed as a refundable credit against the individual's 2020 income tax

For the vast majority of Americans, no action on their part will be required in order to receive a rebate check as IRS will use the method of payment for a taxpayer's 2019 return if filed, or their 2018 return.

(Sec. 2202) Retirement Plans:

The CARES Act adds special in-service distribution rules for coronavirus-related distributions from certain defined contribution plans.

- Penalty-free early access to tax-favored employer-sponsored retirement plan funds and IRAs³
 - Existing Rule:
 - Generally, a participant in a retirement plan who takes a distribution from the plan is subject to taxation
 - If the participant is under age 59 ½, there is an additional 10% penalty on the early distribution
 - The distribution is still includable in taxable income
 - New CARES Act Rule:
 - Individuals affected by COVID-19⁴ can take distributions up to \$100,000 from these retirement funds
 - The distribution must be made during 2020
 - Not subject to 10% penalty
 - The distribution will still be includable in taxable income
 - Can elect to take any coronavirus distribution into gross income over three-year period beginning in 2020
 - Option to repay any coronavirus distribution over a three-year period
 - This would be treated as like a rollover and excluded from taxable income
- Increased limits on loans from retirement plans

³ Employer-sponsored retirement plans include IRAs, qualified plans under section 401(k), section 401(a), tax-favored annuity arrangements under sections 403(a) and (b) and eligible governmental deferred compensation plans under section 457(b)

⁴ "Affected by" means the individual is diagnosed with coronavirus, their spouse/dependent is diagnosed with it, or they have experienced financial hardship because of coronavirus (laid off, work hours reduced or quarantined)

- Existing Rule:
 - An employer sponsored retirement plan can offer a loan program
 - Participant can take a loan from the plan, limited to lesser of \$50,000 or one-half of the present value of the participant's vested accrued benefit under the plan
 - Loans must be repaid in level installments and over a period not greater than five years (except loans to acquire a participant's principal residence)
 - Loans that don't meet these rules are taxable distributions to the participant
- New CARES Act Rule:
 - Individuals affected by coronavirus can receive a loan from their plan limited to the lesser of \$100,000 or 100% of their vested accrued benefit
 - Loans must be repaid over a period not greater than six years
 - The employer can suspend repayment of existing loans for affected individuals up to one year and can also extend the repayment term by one additional year.
- **(Sec. 2203) Suspension of required minimum distributions**
 - Existing Rule:
 - Employer-sponsored retirement plans and IRAs must make minimum distributions to participants no later than April 1st of the calendar year following the year the individual reaches age 72 or retires
 - Age threshold was 70 ½ if reached that age in 2019
 - New CARES Act Rule:
 - Minimum distributions for calendar year 2020 are suspended
 - Suspension does not apply to qualified defined benefit plans

(Sec. 2204) Charitable Contribution:

The CARES Act changed charitable contribution deductions.

- Charitable contributions in computing AGI when not itemizing:
 - Changes impact your 2020 tax return
 - Up to \$300 of cash contributions to public charities in 2020 can be deducted in computing 2020's AGI
 - Excludes donations made to private foundations, supporting organizations and donor advised funds
 - Charitable contribution carryovers from prior years do not qualify for this deduction
- Charitable contributions when itemizing:
 - Changes impact your 2020 tax return
 - For certain cash contributions paid in 2020 to public charities
 - Excludes donations made to private foundations, supporting organizations and donor advised funds
 - Individuals who itemize can deduct up to 100% of their AGI
 - After considering all other current charitable contributions subject to AGI limits
 - Any excess cash contributions not deducted in 2020 can be carried forward

- Will be subject to the 60% of AGI limit in the following five years

Subtitle C: Business Provisions

Title II also provides a series of tax and financial relief provisions for businesses. These provisions include an employee retention credit, deferments of Social Security tax payments, expanded ability to use net operating losses (NOLs), and additional deductions and write-offs that businesses may claim on their 2020 tax returns.

(Sec. 2301) Employee Retention Credit for Employer Subject to Closure Due to COVID-19. Eligible employers may qualify for a refundable payroll tax credit up to 50 percent on qualified wages paid during the Covid-19 crisis (up to \$10,000). It would be available to employers whose businesses were disrupted due to virus-related shutdowns and firms experiencing a decrease in gross receipts of 50 percent or more when compared to the same quarter last year. The credit is available for employees retained but not currently working due to the crisis for firms with more than 100 employees, and for all employee wages for firms with 100 or fewer employees.

(Sec. 2302) Delay of Payment of Employer Payroll Taxes. The CARES Act allows for employers to defer paying their share of social security taxes through January 1, 2021, with 50 percent owed on December 31, 2021 and the other half owed by December 31, 2022.

(Sec. 2304) Modifications for Net Operating Losses (“NOLs”). The CARES Act allows businesses with NOLs earned in 2018, 2019, or 2020 to carry back those losses five years. The Act temporarily suspends the NOL limit of 80 percent of taxable income, so businesses may use NOLs they have to fully offset their taxable income. The modifications to NOL calculations also have provisions that benefit certain farm operations, and makes a technical correction to the treatment of NOLs for the 2017 and 2018 tax years.

(Sec. 2305) Modification of Credit for Alternative Minimum Tax (“AMT”) Liability of Corporations. Under the Tax Cuts and Jobs Act of 2017, corporations were required to take certain refundable alternative minimum tax (“AMT”) credits remaining after the repeal of the AMT over several years. The CARE Act accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now and obtain additional cash flow during the COVID-19 emergency. Businesses with tax credit carryforwards and previous AMT liability can claim larger refundable tax credits than they otherwise could.

(Sec. 2306) Modification on Limitation on Business Interest. The net interest deduction limitation currently limits businesses’ ability to deduct interest paid on their tax returns to 30 percent of earnings before interest, tax, depreciation, and amortization (EBITDA). The CARES Act increases the deductible threshold of business interest expenses from 30% of adjusted taxable income to 50% for the 2019 and 2020 tax years. Certain rules apply to partnerships.

(Sec. 2307) Qualified Improvement Property. The CARES Act also makes some permanent technical corrections to the Internal Revenue Code related to qualified improvement property. It allows businesses, especially in the hospitality industry, to write off immediately, costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building, which provides some refund potential. The CARES Act corrects an error in the Tax Cuts and Jobs Act, which not only increases companies’ access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue to invest in improvements as the country recovers from the COVID-19 emergency.

(Sec. 2308) Temporary Exception from Excise Tax for Alcohol Used to Produce Hand Sanitizer. Distilled spirits after December 31, 2019 and before January 1, 2021 will be free of excise tax for use in or contained in hand sanitizer produced and distributed in a manner consistent with any guidance issued by the FDA related to the outbreak of COVID-19.

[Title III of Division A: Supporting America’s Health Care System in The Fight Against the Coronavirus](#)

Title III of the CARES Act provides numerous provisions to help our health care system respond to COVID-19 including provisions for device shortages, supply shortages and support for healthcare workers, education, the workforce and finance.

Subtitle A contains health provisions and addresses supply shortages, provides access to health care for COVID-19 patients by providing no-cost diagnostic testing and support for vaccine research and development and reauthorizes health care workforce training programs. Subtitle B provides relief for college students and student loan borrowers impacted by COVID-19. Subtitle C limits the FMLA’s paid leave amounts and emergency paid sick leave for employees impacted by COVID-19. Subtitle D expands access to telehealth services and increases Medicare coverage reimbursement for COVID-19 related treatment. Subtitle E includes provisions to address other aspects of the Medicare and Medicaid programs such as extending time-limited funding increases and delaying certain planned reimbursement cuts. There are a few other subtitles in Title III which provide for expanded funding for community health centers and the National Health Services Corps.

Subtitle A-Health Provisions

PART I-ADDRESSING SUPPLY SHORTAGES

(Secs. 3101-3103) Subpart A-Medical Product Supplies. The Secretary of Health and Human Services is required to enter into an agreement with the National Academies to examine and report on the security of the U.S. medical product supply chain in order to assess and evaluate U.S., including the private sector, the individual states, and the federal government, dependence on critical drugs and devices sourced outside of the U.S., and to develop recommendations to improve resiliency of the U.S. supply chain for critical drug and devices.

Requires the Strategic National Stockpile to increase the supply of certain types of medical supplies, including personal protective equipment (PPEs), and other ancillary medical supplies and identifies respiratory protective devices as covered countermeasures for use during a public health emergency.

(Secs. 3111-3112) Subpart B-Mitigating Emergency Drug Shortages. It also prioritizes the review of drug applications to mitigate emergency drug shortages and creates additional reporting requirements for drug manufacturers to report a discontinuation and disruption of the sourcing of active pharmaceutical ingredients.

(Sec. 3121) Subpart C- Preventing Medical Device Shortages. The CARES Act requires manufacturers of certain drugs and medical devices that are life sustaining, life-supporting or critical to public health during a public emergency to develop, maintain, and implement risk management plans related to shortages, and creating an annual notification requirement. Such manufacturers are also subject to shortage-related inspections by the Secretary of Health and Human Services (HHS). The Secretary is required to make the notification regarding discontinuation or interruption available to health care organizations and providers. The Secretary is required to establish and maintain a list of devices in shortage in the US and will be required to make the list public. In

the event of device shortages, the Secretary shall, as necessary, prioritize and expedite applications to mitigate the shortage.

PART II — ACCESS TO HEALTH CARE FOR COVID-19 PATIENTS

Subpart A - Coverage of Testing and Preventive Services:

(Sec. 3201) Expansion of COVID-19 Tests to be Covered Without Cost-Sharing. Under FFCRA, health plans must cover, with no cost-sharing, FDA-approved COVID-19 diagnostic tests. The CARES Act expands the types of tests that must be covered, with no cost sharing, to include tests where the developer has requested, or intends to request, emergency-use authorization from the FDA; tests developed in and authorized by a State; and other tests that the Secretary of the Treasury in guidance determines are appropriate.

(Sec. 3202) Clarification on COVID-19 Testing Costs to be Covered by Health Plan. Although FFCRA requires health plans to cover COVID-19 testing without cost-sharing, it does not address the issue of test pricing. The CARES Act clarifies the prices that a health plan must pay for COVID-19 testing. Where the health plan has negotiated a rate prior to the declaration of the public health emergency, that negotiated rate will apply for the duration of the emergency. But where no price has been negotiated in advance, the health plan must pay either the cash price published by the health care provider on its public internet website or some lesser rate negotiated between the health plan and the provider.

(Sec. 3203) Rapid Coverage of COVID-19 Preventive Services and Vaccinations as Preventive Services with No-Cost Sharing. The Public Health Services Act (PHSA), as modified by the Affordable Care Act, requires that certain recommended preventive care services be covered without cost-sharing, but generally gives health plans at least a year after the recommendation to add this benefit. The CARES Act shortens this period for COVID-19 preventive services and vaccinations to 15 days from the date of the recommendation.

(Secs. 3211-3216) Subpart B-Support for Healthcare Providers:

Appropriates \$1.32 billion dollars for awards to certain healthcare facilities to aid in the prevention, diagnosis, and treatment of COVID-19.

The CARES Act provides for expanded grant opportunities for telehealth services and rural and small health-care entities quality programs by amending Section 330I of the Public Health Service Act, relating to Telehealth Network and Telehealth Resource Centers Grant Programs, and Section 330A of the Public Health Service Act, relating to the Rural Health Care Services Outreach, Rural Health Network Development, and Small Healthcare Provider Quality Improvement Grant Programs.

Limits potential state and federal liability for volunteer health care professionals who provide services without compensation, for harm caused by an act or omission of the professional in the provision of health care services during the COVID-19 health-care emergency. This provision sunsets with the expiration of the Secretary's emergency declaration.

The Secretary of HHS may assign members of the National Health Service Corps to provide health services to respond to a public health emergency.

(Secs. 3221-3226) Subpart C- Miscellaneous Provisions

PART III- INNOVATION

(Secs. 3301-3302) The CARES Act provides the Secretary of HHS with the broad use of competitive procedures to enter into transactions with entities engaged in carrying out public-health emergency related projects and prohibits the cancellation of those contracts simply because the emergency ends. It also includes provisions to ALLOW THE Secretary of HHS to expedite the development and approval of drugs to prevent or treat diseases in animals that could have significant adverse consequences for humans.

(Secs. 3401-3404) PART IV-HEALTH CARE WORKFORCE

The CARES Act provides an appropriation for grant opportunities (approximately \$200 million in funding for fiscal years 2021-2025) for health profession related programs (nonprofit health care entities and educational institutions) with a focus on those that teach and train for health care professions in medically underserved populations. There is also approximately \$200 million in scholarship money available for students in the health care professions from disadvantaged financial backgrounds and approximately \$200 million available for certain primary-care training programs.

Subtitle B: Education Provisions-COVID-19 Pandemic Education Relief Act of 2020

(Sec. 3503) Campus-Based Aid and Waivers. Waives requirement for certain higher education institutions to match federal funding and allows certain institutions to transfer 100% of unexpended allotment. This waiver does not affect the non-federal share requirement applicable to private nonprofit organizations.

(Sec. 3504) Use of Supplemental Educational Opportunity Grants for Emergency Aid. Higher education institutions may use their allocations of grants to award emergency financial aid to undergraduate or graduate students facing “unexpected expenses and unmet financial need” resulting from a qualifying emergency.

(Sec. 3505) Federal Work-Study During a Qualifying Emergency. Pursuant to a qualifying emergency, institutions of higher education are authorized to make payments to work-study students who are unable to fulfill their work-study obligations because of COVID-19. Payment may be a one-time grant or multiple payments.

(Sec. 3506) Adjustment of Subsidized Loan Usage Limits. For purposes of subsidized loan eligibility loan and semester enrollment, allows the exclusion of any semester students are unable to complete to due COVID-19.

(Sec. 3507) Exclusion from Federal Pell Grant Duration Limit. For students who are unable to remain enrolled in school because of COVID-19, the semester that the student failed to complete will not count toward the student’s lifetime Pell grant eligibility.

(Sec. 3508) Institutional Refunds and Federal Student Loan Flexibility. If a student withdraws from a higher education institution because of COVID-19, the institution does not need to include the amount of grant or loan assistance paid to that student when determining amounts that the institution must return to the Secretary of Education. Institutions taking advantage of this waiver must submit detailed reports to the Secretary. Students who are unable to remain enrolled because of COVID-19 are not required to repay associated portions of Pell grants or other loan assistance. An Institution of higher education may approve a leave of absence for any student who is unable to remain enrolled because of COVID-19 and does not require the student to return at the same point in the academic program as when the student began the leave of absence if the student returns within the same semester or its equivalent.

(Sec. 3509) Satisfactory Academic Progress. If a student fails to complete attempted credits because of COVID-19, the student's grades associated with those credits will not be considered when determining whether they satisfy the academic requirements to qualify for Pell grants or student loans.

(Sec. 3510) Continuing Education at Affected Foreign Institutions. If there is a public health emergency, major disaster emergency, or national emergency in another country, foreign institutions in that country may offer distance learning to U.S. students who receive funds under Title IV of the Higher Education Act for the duration of the emergency or disaster. The Secretary must prepare a report identifying each foreign institution that takes advantage of this option.

(Sec. 3511) National Emergency Educational Waivers. Allows the Secretary of Education to issue waivers upon request relating to assessments, accountability, and related reporting requirements, and requirements for state and local educational agencies and Indian Tribes to receive funding.

(Sec. 3512) HBCU Capital Financing. Allows the Secretary of Education to grant a deferment for payments due on HBCU Capital Financing Loans for the duration of the COVID19 disaster declaration. During the deferment period, the Secretary is required to make all principal and interest payments otherwise due under the loan agreement. Institutions are not required to repay the payments made by the Secretary until at least one full fiscal year after the end of the COVID-19 emergency. Treasury has appropriated funding for this provision.

(Sec. 3513) Temporary Relief for Federal Student Loan Borrowers. Federal student loan payments are suspended for six months, through September 30, 2020, without accruing interest. During the suspension period, all involuntary collection activities are also suspended. The Secretary must notify borrowers when loan payments are suspended and when payment obligations resume.

(Sec. 3514) Provisions related to the Corporation for National and Community Service. Participants serving in the National Service Corps programs whose service is limited or suspended because of COVID-19 shall be allowed to accrue service hours and may permit certain grant funds. The Corporation for National and Community Service may extend the term of service for up to one year after the national emergency and may waive applicable age limits to allow individuals to return to service after the emergency ends. However, in no case shall the maximum age exceed 26 years of age.

(Sec. 3515) Workforce Response Activities. To respond to COVID-19, local areas are given increased flexibility to use funding provided under the Workforce Innovation and Opportunity Act for administrative costs, however, it is not to exceed 20 percent. For the program year 2019, certain unobligated funds reserved by a governor for statewide activities under the Workforce Innovation Opportunity Act may be used for statewide rapid response activities, or in certain circumstances, released to local boards impacted by the coronavirus.

(Sec. 3516) Technical Amendments. The CARES Act amends sections of the FUTURE Act to assist federal student loan recipients and facilitate implementation.

(Sec. 3517) Waiver Authority and Reporting Requirement for Institutional Aid. Authorizes the Secretary of Education to modify the required and allowable uses of funds for grants and to modify any federal share or other financial matching requirement for a grant awarded under certain provisions of the Higher Education Act to an institution of higher education or other grant recipient as a result of COVID-19.

(Sec. 3518) Authorized Uses and Other Modifications for Grants. It also allows the Secretary of Education to modify the categories of extenuating circumstances under which a grant recipient may be excused from fulfilling

a portion of a service obligation under title IV of the Higher Education Act and must consider teaching service that is part-time or temporarily interrupted due to the emergency to be full-time service. Requires the Secretary of Education to waive certain years of teaching service requirements under the Higher Education Act in certain circumstances.

Subtitle C- Labor Provisions

(Secs. 3601-3602) Limitation on Paid Leave/Emergency Paid Sick Leave Act Limitation. An employer may but is not required to pay more than \$200 per day and \$10,000 in the aggregate for each employee for paid leave under the Family Medical Leave Act. This limit changes upon the circumstances below. An employer shall not be required to pay more than the following for Emergency Paid Sick Leave:

- \$511 per day or \$5,110 in the aggregate for each employee subject to a federal or state isolation or quarantine order due to COVID-19, is experiencing symptoms of COVID-19 and seeking a medical diagnosis or advised by a health care provider to self-quarantine; or
- \$200 per day or \$2,000 in the aggregate if the employee is caring for an individual subject to a federal, state or local isolation or quarantine order, is caring for an individual that has been advised to self-quarantine, is caring for a child if the child's school is closed or the child's care provider is unavailable due to COVID-19 or is experiencing any substantially similar condition to COVID-19.

(Sec. 3603) Unemployment Insurance. States must ensure that applications for unemployment compensation and assistance with the application process and assistance are accessible in at least two of the following: in person, by phone, or online.

(Sec. 3605) Paid Leave for Rehired Employees. The CARES Act amends the Emergency Family and Medical Leave Expansion Act to add definition that includes employees that were (i) laid off not earlier than March 1; (ii) had worked for the employer for at least 30 of the last 60 calendar days before being laid off; and (iii) was rehired by the employer.

(Sec. 3606) Advance Refunding of Credits. Provides the Secretary of Treasury with authority to waive penalties normally incurred by employers for failure to submit deposits for payroll and social security taxes. This waiver also applies to payroll credits for required paid sick leave and paid family leave.

(Sec. 3607) Expansion of DOL Authority to Postpone Certain Deadlines. The CARES Act amends the Employee Retirement Income Security Act of 1974 by adding "or a public health emergency declared by the Secretary of Health and Human Services" to "terrorist or military action" (as defined by the Act).

(Sec. 3608) Single-Employer Plan Funding Rules. Allows for the delay in payment of any defined benefit plan minimum required contributions otherwise due (including quarterly contributions) during calendar year 2020 through the due date of January 1, 2021. The amount of each such minimum required contribution shall be increased by interest accruing from the original due date for the contribution and the actual payment date, at the effective rate of interest for the plan and for the plan year which includes the payment date.

(Sec. 3610) Federal Contractors Authority. Subject to the availability of appropriations, funds made available to federal agencies for contractors to be used for paid leave, including sick leave.

Subtitle D- Finance Committee

(Secs. 3701-3708) Exemptions for Telehealth Services and Flexibility of Telehealth. A High Deductible Health Plan (“HDHP”) designed to work with Health Savings Accounts (“HSAs”) normally cannot cover the costs of treatment until the participant reaches the plan’s annual out-of-pocket deductible (with certain exceptions, such as for preventive care, dental and vision expenses). The CARES Act provides an additional safe harbor provision which provides that a health plan shall not fail to be treated as a HDHP simply due to a failure to have a deductible for telehealth or other remote care services. It also removes provisions that exclude the use of funds from HSAs or Health Care Flexible Spending Accounts to purchase over-the-counter drugs without a prescription and adds menstrual care products to the defined term “qualified medical expenses.”

The CARES Act also enhances Medicare Telehealth Services for Federally Qualified Health Centers (“FQHCs”) and Rural Health Clinics (“RHCs”) during an “emergency period” notwithstanding that the FQHC or the RHC providing the telehealth service may not be in the same location as the beneficiary (which is a typical prerequisite for FQHCs and RHCs).

The amended section of the Social Security Act also allows the Secretary of HHS to waive face-to-face visit requirements for at home dialysis patients and encourages the use of telecommunications systems for health services during an emergency period. The CARES Act expands certain Medicare and Medicaid home health certification requirements to allow nurse practitioners, physician assistants and clinical nurse specialists to provide home health services.

(Sec. 3709) Adjustment of Sequestration. A temporary suspension of Medicare sequestration put into effect during the period of May 1, 2020 through December 31, 2020. Medicare programs are exempt from spending reductions under any sequestration order.

(Sec. 3710) Medicare Hospital Inpatient Prospective Payment System Add-On Payment for COVID-19 Patients during Emergency Period. The Secretary of HHS will increase the weighting factor by 20% for individuals diagnosed with COVID-19 to reflect the hospital resources used for the discharge of patients during the emergency period.

(Sec. 3711) Increasing Access to Post-Acute Care During Emergency Period. The CARES Act waives requirements that patients of inpatient rehab facilities receive at least 15 hours of therapy per week. For long term care hospitals furnishing inpatient services during the emergency period, it waives certain site neutral payment provisions.

(Sec. 3712) Revising Payment Rates for Durable Medical Equipment Under the Medicare Program Through Duration of Emergency Period. The Secretary of HHS shall apply the transition rule, described in 42 C.F.R. § 414.210(g)(9)(iii), to items and services furnished in rural areas and noncontiguous areas as planned through December 31, 2020, and through the duration of the emergency period. For areas other than rural and noncontiguous areas, the Secretary of HHS shall apply the transition rule described in 42 C.F.R. § 414.210(g)(9)(iv) through the remainder of the emergency period.

(Sec. 3713) Coverage of COVID-19 Vaccine Under Medicare Part B Without any Cost Sharing. The term “medical and other health services” is expanded to include “COVID-19 vaccine and administration” to provide for coverage of the COVID-19 vaccine when it is developed. A deductible shall not apply with respect to a COVID-19 vaccine and its administration.

(Sec. 3714) Requiring Medicare Prescription Drug Plans and MA-PD Plans to Allow During the COVID-19 Emergency Period for Fills and Refills of Covered Part D Drugs for up to a 3-Month Supply. Requires Medicare Prescription Drug Programs to allow for three-month refills of covered drugs during the COVID-19 emergency.

(Sec. 3715) Providing Home and Community-Based Services in Acute Care Hospitals. The prohibition that nothing in section 1395a allows the Secretary of HHS authorization to limit the amount of payment that may be made under a plan for home-and-community care is expanded to include home and community-based services, self-directed personal assistance services, or home and community-based attendant services. Also clarifies that the section shall not be construed to prohibit receipt of any care or services specified in paragraph (1) in an acute care hospital, provided certain requirements are met.

(Sec. 3716) Clarification regarding Uninsured Individuals. The Families First Coronavirus Act defined “uninsured individual” to describe those not enrolled in certain health programs. Uninsured individuals can be tested for COVID-19 without cost sharing in any state Medicaid program that chooses to offer the enrollment option.

(Sec. 3717) Clarification Regarding Coverage of COVID-19 Testing Products. The Families First Coronavirus Response Act, removes language from Social Security Act that requires in-vitro diagnostic products to be approved, cleared, or authorized by FDA for coverage and also added COVID-19 testing to section 1396d, which provides medical assistance payments under certain conditions.

(Sec. 3718) Amendments Related to Reporting Requirements with respect to Clinical Diagnostic Laboratory Tests. The CARES Act extends the reporting requirements under the Social Security Act by one year.

(Sec. 3719) Expansion of Medicare Hospital Accelerated Payment Program During COVID-19 Emergency. The CARES Act mandates that the Secretary of HHS expand access to the Accelerated Payment Program to hospitals in financial distress due to COVID-19.

(Sec. 3720) Delaying Requirements for Enhanced FMAP to enable States Legislation Necessary for Compliance. The Families First Coronavirus Response Act created a temporary 6.2 percent increase of Medicaid Federal Medical Assistance Percentage (FMAP) for state Medicaid funding during the COVID-19 emergency. The CARES Act increases the time for states to enact legislation to meet eligibility standards.

Subtitle E- Health and Human Services Extenders

PART I- MEDICARE PROVISIONS

(Secs. 3801-3803) The CARES Act amend the Social Security Act to increase the funding for fiscal year 2020 (beginning October 1, 2020 and ending on November 30, 2020) for certain beneficiary outreach and counseling assistance and low-income programs. The amount allotted for the state health insurance programs is \$13,000,000, area agencies on aging is \$7,500,000, aging and disability resource centers is \$5,000,000, and contracts or grants with the National Center for Benefits and Outreach Enrollment is \$12,000,000.

PART II-MEDICAID PROVISIONS

(Secs. 3811-3814) The CARES Act amends the Deficit Reduction Act of 2005 to provide an additional \$375,500,000 for the period beginning on January 1, 2020 and ending on September 30, 2020, the allotments are for the period beginning on October 1, 2020 and ending on November 30, 2020.

It extends spousal impoverishment protections through November 30, 2020 and allows the State to disregard the income of a spouse and conduct an analysis based on the individual's eligibility for medical assistance on the basis of a reduced income.

It delays reductions in disproportionate share hospital ("DSH") allotments through November 30, 2020 removing the \$4 billion DSH reductions for fiscal year 2020.

It also extends the community mental health services demonstration program through November 30, 2020; (v) directs the Secretary to select two additional states (in addition to the eight States already listed) to participate in two-year demonstration programs. If a state is selected, it must submit a plan to monitor certified community behavioral health clinic under the demonstration program and ensure compliance during the demonstration period and collect data and notify the Secretary of changes or deviations from the payment system methodology outlined in the state's application for the demonstration program.

PART III-HUMAN SERVICES AND OTHER HEALTH PROGRAMS

(Secs. 3821-3824) The CARES Act amends the Social Security Act to extend the Sexual Risk Avoidance Education program through 2020 (as opposed to its end date of May 22, 2020). The Personal Responsibility Education Program, the temporary assistance for needy families programs (and related programs) and the grants for demonstration projects to address health profession workforce needs are extended through November 30, 2020

PART IV-PUBLIC HEALTH PROVISIONS

(Secs. 3831-3832) The CARES Act allocates funding for the period beginning October 1, 2020 and ending November 30, 2020 in the amount of \$310,000,000 to the National Health Service Corps., \$21,141,096 to teaching health centers that operate graduate medical education programs, \$4,000,000,000 for community health centers under the Patient Protection and Affordable Care Act, \$25,068,493 in HHS grants for research into the prevention and cure of Type I diabetes and \$25,068,493 in HHS grants to provide services for the prevention and treatment of diabetes through Indian health facilities.

PART V-MISCELLANEOUS PROVISIONS

(Sec. 3841) For the prevention of duplicate appropriations for fiscal year 2020, expenditures made under any provision of law amended in this title shall be charged to the applicable appropriation or authorization provided by the amendments made by this title to such provision of law for such fiscal year.

Subtitle F- Over the Counter Drugs

PART I- OTC DRUG REVIEW

(Secs. 3851-3856) OTC Drug Review. The CARES Act amends Chapter V of the Federal Food, Drug, and Cosmetic Act (FD&C Act) to regulate the process for over-the-counter drugs permitting the FDA to approve changes to OTC drugs administratively, rather than going through the full notice-and-comment rulemaking process and provides an 18-month market-exclusivity period for certain changes to the scientific summary for OTC drugs approved through the new process. The amendment also clarifies that OTC drugs that do not comply with the scientific summary standards will be considered misbranded and not allowed into interstate commerce. Amendments laid out in the CARES Act will not apply to drugs previously excluded by the FDA from the Over-the-Counter Drug Review under the original 1972 Federal Register document. It also provides for an annual

procedure to update Congress on the appropriate pediatric indication for certain OTC cough and cold drugs for children under the age of six. The evaluation consists of conditions under which nonprescription drugs are generally recognized as safe and effective and makes technical corrections to the FDA Reauthorization Act of 2017.

(Secs. 3861-3862) User Fees. User fees authorized by this section will be dedicated to FDA review of OTC monograph drug activities. The CARES Act creates a new user fee for over-the-counter drugs. The fees authorized by this section are intended to defray increases in the costs of resources allocated for OTC monograph drug activities, including funds for the FDA to hire additional staff to ensure adequate oversight.

TITLE IV: Economic Stabilization and Assistance to Severely Distressed Sectors of the United States Economy

Provides the Secretary of the Treasury with the authority to make loans or loan guarantees to states, municipalities, and eligible businesses and loosens a variety of regulations created in the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Economic Stabilization Act of 2008, among others.

Subtitle A- Coronavirus Economic Stabilization Act of 2020

(Sec. 4003) Emergency Relief and Taxpayer Protections. The CARES Act authorizes the Treasury Secretary to fund up to \$500 billion in loans and loan guarantees to eligible businesses, states, and municipalities. An eligible business is defined as: (1) an air carrier; or (2) a U.S. business that has not otherwise received adequate economic relief in the form of loans or loan guarantees provided under the CARES Act. The \$500 billion is appropriated as follows:

- \$454 billion in emergency lending to businesses, states, and cities through the U.S. Treasury's Exchange Stabilization Fund.
- \$25 billion in lending for airlines,
- \$4 billion in lending for air cargo firms, and
- \$17 billion in lending for firms deemed critical to U.S. national security.

The Treasury Secretary may make the terms and conditions of the loans, loan guarantees, or other investments, as the Secretary deems appropriate. However, loans/guarantees to air and cargo carriers or businesses critical to maintaining national security must specifically demonstrate or meet the following requirements: (1) alternative credit is not reasonably available; (2) the debt obligation is "prudently incurred"; (3) the loan reflects its risk or is market-based, as to rates prior to the COVID-19 pandemic; (4) the loan duration is no longer than five years; (5) the borrower will not buy back equity securities or pay dividends until 12 months after the loan is no longer outstanding; (6) the eligible business will maintain its employment levels as of March 24, 2020, and will not reduce employment by more than 10%; (7) the eligible business is a U.S. business with significant operations and a majority of its employees in the U.S; and (8) the eligible business has incurred or is expected to incur losses that jeopardize the continued operations of the business.

The Act directs the Treasury Secretary to establish a program to provide low-interest loans for eligible mid-sized businesses (including nonprofit organizations) with between 500 and 10,000 employees. Although these loans will require no repayment for at least six months, businesses and non-profit organizations seeking this support must provide a good-faith certification that they meet the following criteria:

- Business or Nonprofit intends to maintain at least 90 percent of their current workforce

- Business or Nonprofit will not pay dividends or repurchase stock (or other equity securities)
- Business or Nonprofit will not outsource or offshore jobs during the loan period or two years thereafter
- Business will not abrogate existing collective bargaining agreements with labor unions; and
- Business will remain neutral regarding current or future union organizing activity.

Any loan made or guaranteed by the Department of Treasury pursuant to this section shall be treated as indebtedness for purposes of IRC of 1986.

(Sec. 4004) Limitation on Certain Employee Compensation. Officers or employees whose total compensation exceeded \$425,000 in 2019 (other than employee whose compensation is determined through an existing collective bargaining agreement prior to March 2020) will have their future compensation capped at the amount they received that year while the loan or loan guarantee is in effect and for the 12 consecutive months after the loan or loan guarantee is no longer outstanding. The same limitation or cap also applies to severance payments or other compensation received upon termination from businesses participating on the loan and loan guarantee programs. Additional caps apply for officers and employees whose total compensation exceeded \$3,000,000 in 2019. Under the Act, these individuals may receive compensation up to \$3,000,000 plus 50 percent of the excess over \$3,000,000 of the total compensation received by the officer or employee from the eligible business in 2019.

(Secs. 4005-4006) Continuation of Certain Air Services/Coordination with Secretary of Transportation. The Secretary of Transportation is authorized to require any air carrier receiving loans or loan guarantees under this section, to maintain scheduled air transportation services as necessary to maintain service to any point served before March 1, 2020. The Secretary of Transportation will consider the needs of “small and remote communities” and “the need to maintain well-functioning health care and pharmaceutical supply chains.” The authority under this section shall terminate on March 1, 2022.

(Sec. 4007) Suspension of Certain Aviation Excise Taxes. The Act temporarily suspends the imposition of aviation excise taxes as otherwise required under the Internal Revenue Code through December 31, 2020.

(Sec. 4008) Debt Guarantee Authority. The Act amends the Dodd-Frank Wall Street Reform and Consumer Protection Act to allow the FDIC to establish a program to insure depository institutions without regard to a maximum amount. Any such program or guarantee shall extend to no later than December 31, 2020.

(Sec. 4010) Temporary Hiring Flexibility. During the “covered period” (as defined by the Cares Act but no later than December 31, 2020) the Secretary of Housing and Urban Development, the Securities Exchange Commission and the Commodity Futures Trading Commission may recruit and appoint candidates to fill temporary and term appointments as necessary and appropriate to prevent, prepare for, or respond to COVID-19.

(Sec. 4011) Temporary Lending Limit Waiver. The CARES Act amends section 5200 of the Revised Statutes of the United States (12 USC 84) and provides the Comptroller of Currency may, by order, exempt any transaction or series of transactions from the requirements of this section regarding loans or extensions of credit upon a finding by the Comptroller that such exemption is in the public interest and consistent with the purposes this section. This section is in effect until the sooner of (1) termination of the national emergency declaration or (2) December 31, 2020.

(Sec. 4012) Temporary Relief for Community Banks. The federal banking agencies shall issue an interim final rule that provides the Community Bank Leverage Ratio (“CBLR”) is reduced from 9% to 8% and provides that a qualifying community bank that falls below the new CBLR shall have a reasonable grace period to satisfy the leverage requirement. Once the interim rule is issued, it will be effective until the sooner of (1) termination of the national emergency declaration or (2) December 31, 2020.

(Sec. 4013) Temporary Relief from Troubled Debt Restructurings. The CARES Act allows financial institutions to temporarily suspend Generally Accepted Accounting Principles (“GAAP”) requirements and loan determinations for loan modifications related to COVID-19 during the period of March 1, 2020 and ending on the earlier of December 31, 2020 or 60 days after termination of the national emergency declaration. However, such suspensions cannot be applied to loans that were more than 30 days past due as of December 31, 2019.

(Sec. 4014) Optional Temporary Relief from Current Credit Losses. The Act suspends the requirement of any insured deposit institution, bank holding company or any affiliate thereof to comply with the Financial Accounting Standards Board Accounting Standards regarding the “Measurement of Credit Losses on Financial Instruments” until the sooner of (1) termination of the national emergency declaration or (2) December 31, 2020.

(Sec. 4015) Non-applicability of Restrictions on ESF During National Emergency. The CARES Act removes the applicability of section 131 of the Emergency Exchange Stabilization Act until December 31, 2020. Specifically, it removes the requirement that the Treasury reimburse the Exchange Stabilization Fund (“ESF”) for any funds that are used for the Treasury Money Market Funds Guaranty Program and the prohibition of the establishment of any future guaranty program for the money market mutual fund industry.

(Sec. 4016) Temporary Credit Union Provisions. The CARES Act amends the Federal Credit Union Act by expanding the types of credit unions to beyond only those “primarily serving natural persons” and inserting “such credit unions as the Board may in its discretion determine.” It increases a credit union’s access to liquidity if the obligation does not exceed 16 times its subscribed capital stock and surplus of the facility. These increases will expire December 31, 2020.

(Sec. 4017) Increasing Access to Materials Necessary for National Security and Pandemic Recovery. During the two years from the enactment of the CARES Act, the limitations of the Defense Production Act of 1950 are lifted. the government may take any action to correct a shortfall without regard to the current expenditure limit of \$50 million found in the Defense Production Act.

(Sec. 4018) Special Inspector General for Pandemic Recovery. The CARES Act establishes the Office of the Special Inspector General for Pandemic Recovery within the Department of Treasury. The head of the Office of the Special Inspector General for Pandemic Recovery shall be the Special Inspector General for Pandemic Recovery, appointed by the President, by and with the advice and consent of the Senate. The Special Inspector General shall conduct, supervise, and coordinate audits and investigations of the making, purchase, management, and sale of loans, loan guarantees, and other investments made by the Secretary of the Treasury under any program established under this Act.

The Special Inspector General shall submit to the appropriate committees of Congress quarterly reports summarizing the activities including a detailed statement of all loans, loan guarantees, other transactions,

obligations and expenditures. Funding in the amount of \$25,000,000 is made available to the Special Inspector General to carry out this section.

(Sec. 4019) Conflicts of Interest. The President, Vice President, an Executive Department head, Member of Congress, or any of such individual's spouse, child, son-in-law, or daughter-in-law that owns or has a company or equity interest in over 20% of the outstanding voting stock shall not be eligible for any transaction, including loans, loan guarantees, or other investments provided under this Title.

(Sec. 4020) Congressional Oversight Commission. The CARES Act establishes a Congressional Oversight Commission to conduct oversight of the implementation of this subtitle by the Department of the Treasury and the Board of Governors of the Federal Reserve System, including efforts of the Department and the Board to provide economic stability as a result of COVID-19. The Oversight Commission is required to submit to Congress reports which include but are not limited to the impact of loans, loan guarantees, and investments made under this subtitle on the financial well-being of individuals, and the effectiveness of the loans, loan guarantees, and investments made under this subtitle.

The Oversight Commission consists of five members as follows: one member appointed by the Speaker of the House of Representatives; one member appointed by the House Majority Leader; one member appointed by the Senate Majority Leader; one member appointed by the Senate Minority Leader; one member appointed by the Speaker of the House and Senate Majority Leader, after consultation with the Senate Minority Leader and House Minority Leader.

(Sec. 4021) Credit Protection During COVID-19. The CARES Act amends the Fair Credit Reporting Act requires that furnishers to accommodate relief to consumers impacted by COVID-19 by allowing account forbearance or modifying payments with respect to an obligation or account (deferring one or more payments or allowing partial payments). If a furnisher makes an accommodation and the consumer makes the payment, the furnisher shall report the credit obligation or account as current or report it as the status reported prior to the accommodation. The credit protection is available during the covered period which begins on January 31, 2020 and ends 120 days after the date the national emergency declaration related to the COVID-19 terminates.

(Sec. 4022) Foreclosure Moratorium and Consumer Right to Request Forbearance. The CARES Act provides that beginning on March 18, 2020 and for a 60-day period thereafter, foreclosures or foreclosure related evictions on all federally-backed mortgage loans are suspended and borrowers may request up to 180 days of forbearance if they've experienced a financial hardship related to the COVID-19. Borrowers may seek to extend the forbearance for an additional 180 days. During the period of forbearance, no fees or penalties may accrue on the borrower's loan.

(Sec. 4023) Forbearance of Residential Mortgage Loan Payments for Multifamily Properties with Federally Backed Loans. The CARES Act provides up to 90 days of forbearance for multifamily borrowers with a federally backed multifamily mortgage loan (includes loans to real property designed for five or more families that are purchased, insured, or assisted by Fannie Mae, Freddie Mac, or HUD) who have experienced a financial hardship due to COVID-19. Borrowers receive an initial 30-day period and can request up to two additional 30-day periods of extension. Multifamily borrowers receiving forbearance may not evict or charge late fees or penalties to tenants for the duration of the forbearance period.

(Sec. 4024) Temporary Moratorium on Eviction Filings. For 120 days after the date of enactment, landlords cannot initiate legal action to recover possession of a rental unit or to charge fees, penalties, or other charges to the tenant related to such nonpayment of rent where the landlord's mortgage on that property is insured, guaranteed, supplemented, protected, or assisted in any way by federally backed mortgages or programs such as HUD, Fannie Mae, Freddie Mac, the rural housing voucher program, or the Violence Against Women Act of 1994.

(Sec. 4025) Protection of Collective Bargaining Agreement. Neither the Secretary, nor any other actor, department, or agency of the Federal Government, may condition a loan or loan guarantee on an eligible business's implementation of measures to enter into negotiations with a certified bargaining representative regarding pay or other terms and conditions of employment. This provision is in effect from the date of the issuance of the loan or loan guarantee until one year after the loan or loan guarantee is no longer outstanding.

(Sec. 4026) Reports. Within 72 hours after any transaction by the Secretary under this section, the Secretary of the Treasury must publish on the Department of the Treasury's website information about each transaction authorized by the CARES Act, such as the date of the application, date of approval, amount of the loan or loan guarantee, interest rate and a copy of the relevant and final term sheet. No later than 9 months after the date of enactment of the CARES Act, and annually thereafter (until loan or loan guarantee remains outstanding) the Comptroller General shall conduct a study of the loans and loan guarantees and report the same to various congressional committees.

(Sec. 4027) Direct Appropriation. \$500,000,000 is appropriated to carry out the purpose of this subtitle. These funds may be used for modifications, restructurings, or other amendments of loans, loan guarantees, or other investments, exercising any options, warrants or investments made prior to January 1, 2021 and paying costs and administrative expenses. Any of these funds remaining on January 1, 2026 shall be transferred to the general fund of the Treasury to be used for deficit reduction.

(Sec. 4028) Rule of Construction. Nothing in this subtitle is construed to allow the Secretary to provide relief to eligible businesses, States, and municipalities except in the form of loans, loan guarantees and other investments that are in the interest of the Federal Government.

(Sec. 4029) Termination of Authority. The loans or loan guarantees provided for in this section may be modified, restructured or otherwise amended, yet not forgiven and shall not be extended beyond five years from the initial origination date of the loan or guarantee.

Subtitle B- Air Carrier Worker Support

(Sec. 4112) Pandemic Relief for Aviation Workers. The Treasury may appropriate up to \$32 billion to provide financial assistance to carry out the mandate of this Subtitle, which governs air carrier employees and contractors wages, salaries and benefits broken out as follows: \$25 billion for passenger air carriers, \$4 billion for cargo air carriers, and \$3 billion for airline contractors (up to \$100 million of those funds may be used for costs and administrative fees associated with providing the financial assistance).

(Sec. 4113) Procedures for Providing Payroll Support. Pursuant to the CARES Act, air carriers and contractors must submit a request for financial assistance and submit financial statements and other data such as the amount of wages, salaries, benefits and other compensation that the air carrier paid employees during the

period of April 1, 2019 through September 30, 2019. This information and data will be used in the formula provided by the CARES Act to determine the allocation of financial assistance for aviation workers.

(Sec. 4114) Required Assurances. To be eligible for a financial assistance under this subtitle, an air carrier or contractor shall enter into an agreement with the Secretary of the Treasury confirming that it will not, until September 30, 2020, implement involuntary furloughs, reduce pay or benefits, buy back its own common stock or pay dividends or make any other capital contributions, and must meet requirements of Sections 4115 and 4117 of this subtitle, which govern employee compensation limits and collective bargaining agreements. The Secretary of Transportation is authorized to require air carriers who were provided financial assistance under this subtitle, to maintain scheduled air transportation services as the Secretary of Transportation deems necessary to ensure services to any point served by that carrier before March 1, 2020. When considering whether to exercise authority provided by this section, the Secretary of Transportation shall take into consideration the needs of small and remote communities and the need to maintain well-functioning health care supply chains, including medical devices and supplies, and pharmaceutical supply chains.

(Sec. 4115) Protection of Collective Bargaining Agreements. The Secretary cannot condition financial assistance on an air carrier's or contractor's implementation of measures to enter into negotiations with the certified bargaining representative of a class of employees regarding pay or other employment terms.

(Sec. 4116) Limitation on Certain Employee Compensation. The Secretary may only provide financial assistance under this subtitle to an air carrier or contractor after agreeing to compensation limits for their employees for two years and beginning on March 24, 2020 through March 24, 2022. The total compensation limits (which includes salary, bonuses, awards of stock, and other financial benefits provided by an air carrier or contractor) for officer or employees whose total compensation exceeded \$425,000 in 2019 will receive that same total compensation for two years. No retirement or severance packages can exceed twice the maximum total compensation during 2019. Further, no officer or employee whose total compensation exceeded \$3,000,000 in 2019 may receive in excess of \$3,000,000 and 50% of the excess over \$3,000,000 of the total compensation received in 2019.

(Sec. 4117) Tax Payer Protection. The CARES Act allows the Secretary to receive warrants, options, preferred stock, debt securities, notes, or other financial instruments issued by recipients of financial assistance under this subtitle to provide appropriate compensation to the Government for the provision of financial assistance.

(Sec. 4118) Reports. No later than November 1, 2020, the Secretary shall submit to the various committee outlined in this section, a report on the financial assistance provided to air carrier and contractors under this subtitle, including a description of any financial assistance provided.

(Sec. 4119) Coordination. In implementing this subtitle, the Secretary shall coordinate with the Secretary of Transportation.

[Title V – Coronavirus Relief Funds](#)

(Sec. 5001) Coronavirus Relief Fund. The CARES Act amends the Social Security Act to provide \$150 billion to states, tribal governments and units of local government to use for costs incurred due to COVID-19 allocated by pro rata, with a minimum of \$1.25 billion for states in 2020. \$3 billion is allocated for the District of Columbia, Puerto Rico, the US Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa. \$8 billion is

allocated for tribal governments. The CARES Act also provides oversight authority through the Inspector General of the Department of Treasury to conduct monitoring and oversight of the receipt, disbursement and use of funds made available under this section.

Title VI- Miscellaneous Provisions

(Sec. 6001) COVID-19 Borrowing Authority for the United States Postal Service. The CARES Act provides that if the Postal Service is not able to fund operating expenses without borrowing money, it may borrow from the Treasury, an amount no to exceed \$10,000,000,000 to be used solely for such operating expenses and not to pay any outstanding debt of the Postal Service. The Postal Service shall prioritize delivery of postal products for medical purposes and may establish temporary delivery points to protect employees and individuals receiving deliveries from the Postal Service.

(Sec. 6002) Emergency Designation. Amounts provided under this division (Division A) are designated emergency requirement.

DIVISION B—EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS

The Senate passed supplemental emergency appropriations in the amount of \$339,855 billion to help the government respond to COVID-19. This includes \$8.8 billion for child nutrition programs, \$15.51 billion for Supplemental Assistance Program (SNAP), \$9.5 billion for agricultural producers impacted by COVID-19, \$117 billion for hospitals and veteran care, \$5 billion for FEMA disaster relief fund, \$16 billion for the strategic national stockpile, \$4.3 billion for the Centers for Disease Control, and \$1 billion for vaccines, therapeutics and diagnostics. The CARES Act breaks out the appropriation amongst the following:

Title I- Department of Agriculture

Title II- Departments of Commerce, Justice and State, the Judiciary, and Related Agencies

Title III- Department of Defense

Title IV- Corps of Engineers-Civil Department of the Army

Title V- Department of the Treasury

Title VI- Department of Homeland Security

Title VII- Department of Interior

Title VIII- Department of Labor, Health and Human Services, Education, And Related Agencies

Title IX- Legislative Branch

Title X- Veterans Affairs and Related Agencies

Title XI- Department of State

Title XII- Transportation

Additional CARES Act Resources:

American Action Forum:

<https://www.americanactionforum.org/insight/financial-services-provisions-in-the-coronavirus-aid-relief-and-economic-security-cares-act-updated/>

<https://www.americanactionforum.org/insight/tax-provisions-in-the-coronavirus-aid-relief-and-economic-security-cares-act-final-version/>

American Institute of Certified Public Accounts (AICPA):

<https://www.aicpa.org/news/aicpa-coronavirus-resource-center.html>

Bradley:

<https://www.bradley.com/insights/publications/2020/03/highlights-of-employee-benefits-provisions-in-the-cares-act>

Council on Foundations:

<http://email.cof.org/daily-briefing-legal-resources-for-responding-to-covid-19>

Couzens Lanskey:

<http://couzens.com/the-cares-coronavirus-aid-recovery-and-economic-security-act/>

Crains Detroit:

https://www.crainsdetroit.com/small-business/relief-programs-small-businesses-spin?utm_source=crain-s-early-access&utm_medium=email&utm_campaign=20200329&utm_content=article9-headline

Deloitte:

General page with information about the various business challenges related to Covid-19:

- <http://www.deloitte.com/covid-19>

General economic items:

- The economic impact of COVID-19 - <https://www2.deloitte.com/global/en/insights/economy/covid-19/economic-impact-covid-19.html>
- Impact of COVID-19 on China's Economy - <https://www2.deloitte.com/cn/en/pages/about-deloitte/articles/deloitte-research-issue-54.html>

Navigating the organization through the next few weeks and months:

- Practical workforce strategies that put your people first - <https://www2.deloitte.com/global/en/pages/about-deloitte/articles/practical-workforce-strategies-that-put-your-people-first.html>

- The Heart of Resilient Leadership: Responding to COVID-19 - https://www2.deloitte.com/content/dam/Deloitte/global/Documents/About-Deloitte/dttl_the_heart_of_resilient_leadership_COVID19_1.pdf
- 10 Key Actions for Enterprises in An Epidemic - <https://www2.deloitte.com/cn/en/pages/risk/articles/ten-things-firms-to-do-in-2019-ncov.html#>

Customer Relationships:

- Maintaining customer loyalty and trust during times of uncertainty - <https://www2.deloitte.com/global/en/pages/about-deloitte/articles/maintaining-customer-loyalty-during-uncertainty.html>

Operations and Supply Chain related items:

- COVID-19: Managing supply chain risk and disruption - <https://www2.deloitte.com/global/en/pages/risk/articles/covid-19-managing-supply-chain-risk-and-disruption.html>
- The coronavirus and its consequences: Legal impact on supply and production relationships - <https://www2.deloitte.com/global/en/pages/about-deloitte/articles/legal-consequences-coronavirus-deloitte-germany.html>
- Restarting Business Operations amid COVID-19 prevention - <https://www2.deloitte.com/cn/en/pages/risk/articles/resume-work-under-2019-ncov.html>

Managing the financial impact to your business:

- COVID-19: Navigating volatility and distress: Addressing the financial impact of COVID-19 - <https://www2.deloitte.com/global/en/pages/about-deloitte/articles/covid-19-navigating-volatility-and-distress.html>
- Evaluate working capital and liquidity requirements - <https://www2.deloitte.com/global/en/pages/about-deloitte/articles/evaluate-working-capital-and-liquidity-requirements.html>
- Addressing the financial impact of COVID-19: Credit solutions for companies with urgent cash needs - <https://www2.deloitte.com/global/en/pages/about-deloitte/articles/addressing-the-financial-impact-of-covid-19.html>
- COVID-19: Managing cash flow during a period of crisis - <https://www2.deloitte.com/global/en/pages/about-deloitte/articles/managing-cash-flow-during-period-of-crisis.html>
- Tax considerations resulting from COVID-19 and business disruption - <https://www2.deloitte.com/nz/en/pages/tax-alerts/articles/covid-19-and-business-disruption.html>

Technology related:

- People, technology, and the path to organizational resilience: Insights for technology leaders facing COVID-19 - <https://www2.deloitte.com/global/en/pages/about-deloitte/articles/people--technology--and-the-path-to-organizational-resilience.html>

General:



us-tax-covid-19-stimulus-a-taxpayer-guide



External Release_Families First



Payroll Tax Deferral and COVID-19 Retent



The CARES Act_Paycheck Protecti

Financial Accounting Standards Board (FASB)

<https://www.fasb.org/COVID19>

Foley Lardner:

<https://www.foley.com/en/insights/publications/2020/03/coronavirus-cares-act-enacted-into-law>

Governmental Accounting Standards Board (GASB):

<https://www.gasb.org/COVID19>

Goldman Sachs:



US Daily_Phase 3 Fiscal Legislation_Lar



Update on the US fiscal stimulus packag

Inside Charity:

<https://insidecharity.org/2020/03/28/cares-act-for-nonprofits/>

Independent Sector:

<https://independentsector.org/news-post/leaders-of-nations-charitable-nonprofits-respond-to-passage-of-cares/>

Main Street Lending Program:



MSLP Term Sheet.pdf

National Council of Nonprofits:

[special edition of *Nonprofit Advocacy Matters*.](#)

<https://www.councilofnonprofits.org/trends-policy-issues/initial-analysis-of-the-coronavirus-aid-relief-and-economic-security-act-cares>

NY Times FAQ:

<https://www.nytimes.com/article/coronavirus-stimulus-package-questions-answers.html>

Revolution:



Revolution_CARES_Act_Briefing.pdf

The National Law Review

<https://www.natlawreview.com/article/proposed-legislation-covid-19-cares-act-coronavirus-aid-relief-and-economic-security>

Tax Foundation:

<https://taxfoundation.org/cares-act-senate-coronavirus-bill-economic-relief-plan/>