SUMMARY OF THE "CARES ACT"

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OVERVIEW

The Senate and the House overwhelmingly passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and the President to signed the bill into law on Friday, March 27, 2020.

In addition to providing a large cash infusion to hospitals and broader access to COVID-19 testing to individuals, the CARES Act aims to boost the economy with over $2 trillion in relief, ranging from individual rebates and small business loans to increased unemployment benefits and a wide variety of tax breaks.

About $2 trillion would be provided to individuals, businesses, and states, among others, in response to the coronavirus pandemic under the Senate-passed version of H.R. 748.

The measure, negotiated between the Senate and administration, includes:

- $500 billion for loans and assistance to companies and state and local governments, including $29 billion for loans to U.S. airlines and related businesses. Stock buybacks and executive compensation would be restricted. Additional funds would be provided to aviation workers.
- $349 billion in low-interest small business loans that could be partially forgiven
- Payments of as much as $1,200 for individual taxpayers, and $500 per child, phased out when incomes exceed $75,000 for individuals and $150,000 for couples filing jointly.
- An additional $600 per week for those receiving unemployment benefits.
- $150 billion for aid to state, local, and tribal governments.
- A suspension of Medicare sequestration through the end of the year and the extension of several health programs until December.

The measure would bar businesses controlled by the president, vice president, members of Congress, and heads of executive departments from receiving loans or assistance under the Treasury Department programs.

The measure would also provide about $342 billion in emergency supplemental funding, including $100 billion for hospitals. For a summary of the measure's spending provisions, see the BGOV Bill Summary: Amended H.R. 748, Virus Emergency Funding.

Below is a summary of the provisions outside of the supplemental spending package.

FINANCIAL SUPPORT

Loans & Investments

The measure would provide $500 billion to the Treasury Department's Exchange Stabilization Fund, to be used to make loans, loan guarantees, and other investments to businesses, states, and municipalities in 2020.

Of that amount, it would provide as loans and loan guarantees as much as:

- $25 billion for passenger airlines, ticket agents, and aviation inspection and repair services.
- $17 billion for businesses critical to national security. The measure doesn't specify which types of businesses would meet this criteria, although some of the funds are likely intended for Boeing Co., Bloomberg News reported.
- $4 billion for cargo airlines.

As much as $454 billion, and any other unused loan funds, would be available to make loans, loan guarantees, and other investments to support programs or facilities established within the Federal Reserve. Funds could be used to purchase obligations or other interests from businesses, states, or municipalities directly or in secondary markets.

The Treasury Department would set loan rates based on risk and the current average yield on U.S. debt. Loan forgiveness wouldn't be allowed.

Airlines, related businesses, and critical national security businesses with losses that threaten their continued operation could receive loans if:

- They can't reasonably obtain credit elsewhere.
- The investment is prudent.
- The loan or loan guarantee is secured or made at a rate that reflects its risk and isn't less than interest rates on comparable obligations before the coronavirus outbreak, to the extent practicable.

The duration is as short as practicable, and not longer than five years.

Agreements would have to:

- Prohibit the business and its affiliates from purchasing outstanding stock, paying dividends, or making other common stock-related capital distributions for the term of the loan plus one year.

- Require the business to maintain employment levels as of March 24, 2020, until Sept. 30, 2020, to the extent practicable, and agree not to reduce employment levels by more than 10%.
- Include a certification that the business is U.S.-based.
- Include wage limits for highly compensated employees that would last for one year after the loan has been repaid.

Officers and employees with total compensation, including salary and other financial benefits, greater than $425,000 in 2019 couldn't receive an increase over their 2019 compensation or termination pay that exceed twice that level. Officers and employees with 2019 compensation greater than $3 million couldn't receive compensation in any 12 consecutive months greater than $3 million plus half of the amount their 2019 compensation exceeded $3 million.

Loan agreements with publicly traded airlines, related businesses, and critical national security businesses would have to include a warrant or equity interest that provides for participation in equity appreciation. For businesses that aren't publicly traded, agreements could include a senior debt instrument issued by the business with a reasonable interest rate premium.

The measure would also bar businesses that receive loans through Federal Reserve programs from repurchasing outstanding equity, paying dividends, or increasing highly compensated employees' compensation beyond the limits in the bill until one year after the loan has been repaid. The Treasury Department could issue a waiver if necessary to protect the federal government's interests, but the department would have to be available to testify to Congress about the waiver.

Federal Reserve lending programs would have to endeavor to provide financing to banks or other lenders to make direct loans to businesses, including nonprofits, with between 500 and 10,000 employees. Those loans would have an interest rate not higher than 2%, and wouldn't require interest or principal repayments in the first six months.

Borrowers would have to certify that they:

- Would use the loan to retain at least 90% of their workforce until Sept. 30, 2020.
- Intend to restore at least 90% of their workforce as of Feb. 1, 2020, within four months of the end of the coronavirus public health emergency.
- Are U.S.-based.
- Won't pay dividends or repurchase equities.

- Won't outsource jobs or relocate them outside the country, or abrogate existing collective bargaining agreements for the term of the loan and two subsequent years.
- Would remain neutral on any union organizing efforts during the loan term.

The Treasury Department would also have to endeavor to establish a program that provides liquidity to the financial system that supports lending to states and municipalities.

The bill would bar the Treasury Department and other federal agencies from requiring air carriers or other businesses that receive loans or guarantees to enter into collective bargaining to modify employee pay.

The Transportation Department could require air carriers that receive loans or loan guarantees to maintain scheduled air service to any point they served before March 1. The department's authority would terminate on March 1, 2022.

The Treasury Department would have to liquidate its equity interests as soon as reasonably practicable. It couldn't exercise voting power connected to any stock it acquires through the programs.

The Treasury Department could use as much as $100 million of amounts made available by the bill for administration.

The Treasury Department could designate financial institutions as financial agents of the U.S. They would perform duties the Treasury Department deems necessary to respond to the coronavirus and would be repaid by the department.

Loans made or guaranteed by the Treasury Department would be treated as indebtedness for tax purposes.

Aviation Workforce

The measure would provide $32 billion to the Treasury Department for financial assistance to the aviation workforce.

The aid would be limited to $25 billion for passenger airlines, $4 billion for cargo airlines, and $3 billion for catering and ground support contractors. Funds could only be used to pay employees, except for $100 million that the Treasury Department could use for administration.

Payments would reflect employee costs in the period of April 1, 2019, through Sept. 30, 2019.

Companies would have to agree not to reduce pay and benefits or conduct involuntary furloughs until Sept. 30, 2020.

The measure includes restrictions similar to those that the bill would impose on airlines that receive loans. Companies would have to agree that through Sept. 30, 2021, they won't purchase equity of their company or parent company, pay dividends, or make other capital distributions. They would have to agree to similar highly compensated employee wage restrictions through March 24, 2022.

The Transportation Department could require airlines to maintain service to points served before March 1, 2020. The authority would terminate on March 1, 2022.

The Treasury Department could receive warrants, options, preferred stock, debt securities, notes, or other financial instruments as compensation to the federal government.

Financial assistance couldn't be conditioned on the implementation of measures to enter into collective bargaining negotiations between when the financial assistance is first provided and

Defense Production Act

The measure would waive several requirements of the Defense Production Act. President Donald Trump invoked the law, which gives the federal government priority for manufacturing orders, on March 18, although his administration has been slow to use it.

The measure would waive for two years a provision barring the Defense Production Act Fund from having a balance greater than $750 million, and another requiring an act of Congress to authorize projects that would correct an industrial resource shortfall exceeding $50 million.

It would waive for one year a requirement that the president notify Congress 30 days before making a loan that would cause federal obligations for the shortfall to exceed $50 million, and an additional congressional notification requirement related to projects exceeding that threshold.

OVERSIGHT PROVISIONS

Special IG

The measure would create an Office of the Special Inspector General for Pandemic Recovery within the Treasury Department to audit and investigate the department's loans and other activities under the bill. The special inspector general would be appointed by the president and subject to Senate confirmation, and the office could be staffed as necessary using competitive hiring procedures.

The office would report to Congress quarterly with detailed information on all loans, guarantees, and other Treasury Department transactions under the bill. The department would have to address any deficiencies identified in a report or certify to Congress that action wouldn't be necessary or appropriate.

The legislation would require $25 million of the $500 billion appropriated by the bill to be made available to the Office of the Special Inspector General. The office would terminate five years after the bill's enactment.

A similar special inspector general was created to oversee the Troubled Asset Relief Program.

Pandemic Response Accountability Committee

The measure would provide $80 million for a Pandemic Response Accountability Committee that would oversee loans and other funds provided to nonfederal entities under the bill and other coronavirus response laws.

The committee would be established within the Council of Inspectors General on Integrity and Efficiency. It would include inspectors general of relevant departments and an executive director selected with congressional input.

The committee would detect and prevent fraud, waste, abuse, and mismanagement, and identify major risks. Its tasks would include conducting audits, and reviewing grant and contract reporting and program administration. It could issue subpoenas to compel testimony.

Suspected violations of criminal law would be reported to the Justice Department.

Information on how the funds are used would have to be posted to a public website. Federal agencies would have to report monthly on any use of coronavirus funds that exceeds $150,000.

The committee would terminate on Sept. 30, 2025.

Conflicts of Interest

Businesses owned by the president, vice president, a cabinet secretary, or member of Congress would be ineligible for loans, guarantees, and other relief under the bill. The bar would apply to entities in which the government official owns at least 20% of any class of equity, measured by vote or value.

The prohibition would include any interests owned by spouses, children, and children's spouses.

Entities would have to certify to the Treasury Department and the Federal Reserve that they are eligible to participate under the conflict of interest provisions before any transaction could be approved.

Oversight Commission

The bill would create a Congressional Oversight Commission within the legislative branch to oversee the Treasury Department and Federal Reserve's stabilization activities related to the pandemic.

It would report to Congress on the use and effects of authorities provided by the bill, especially with regard to market transparency and long-term costs and benefits to taxpayers.

The commission would consist of members appointed by the speaker and minority leader of the House, the two party leaders of the Senate, and a chairperson appointed jointly by the speaker and the Senate majority leader after consulting with the minority leaders in their chambers. It could hire staff, and executive agency personnel could be detailed to the commission.

The commission could hold sworn proceedings and obtain information from agencies. The commission would terminate Sept. 30, 2025.

The measure would authorize such sums as may be necessary for the commission. Expenses would have to be reimbursed by the Treasury Department and the Federal Reserve.

Transaction Reports

The Treasury Department would have to:

- Publish information on its loans and guarantees to businesses, including the terms and the names of counterparties, online within 72 hours.
- Provide reports and detailed financial statements to Congress within seven days, publish them seven days later, and summarize the information every 30 days.
- Publish contracts with outside entities to administer a loan or guarantee within 24 hours.

The Federal Reserve would have to report to Congress and the public on emergency lending facilities supported by the Treasury Department under the measure.

SMALL BUSINESSES

7(a) Loans

The measure would establish a new Paycheck Protection Program to let small businesses, nonprofits, and individuals seek loans through the Small Business Administration's 7(a) loan program.

The measure would authorize $349 billion in total 7(a) lending from Feb. 15 through June 30, instead of the current $30 billion authorization for fiscal 2020.

It would also provide $349 billion for the SBA to fully guarantee loans under the new program, compared with a 75% or 85% guarantee for standard 7(a) loans.

Loans would be available during the covered period for:

- Any business, nonprofit, veterans group, or tribal business with 500 or fewer employees, or a number set by the SBA for the relevant industry.
- Sole proprietors, independent contractors, and eligible self-employed workers.
- Hotel and food service chains with 500 or fewer employees per location.

Eligible recipients could receive loans for as much as $10 million or 250% of their average monthly payroll costs, instead of $5 million. Interest rates during the covered period would be capped at 4%.

Recipients could use the loans to cover eligible payroll costs -- including salaries, commissions, regular paid leave, and health-care benefits -- as well as mortgage interest and utility payments. They'd have to make a "good faith certification" that they'll use the funds to retain workers, maintain payroll, and pay for rent and similar expenses.

They couldn't use the funds to compensate individual employees at an annual rate above $100,000, or to pay for emergency sick or family leave under the second coronavirus response package (Public Law 116-127).

The measure would waive rules requiring recipients to pay certain fees, provide collateral, or be unable to obtain credit elsewhere. SBA rules on company affiliates used to determine small business size would be waived for franchises, food or lodging companies with 500 or fewer employees, and businesses that get financial assistance from a small business investment company.

Approved 7(a) lenders could issue covered loans if they determine a business was operating with salaried employees or paid contractors as of Feb. 15. The measure would provide $25 million for the Treasury Department to set criteria to allow additional insured banks and credit unions to participate.

The SBA would have to assume that eligible loan applicants in operation as of Feb. 15 were adversely affected by Covid-19, and require lenders to let them defer payments for at least six months and as long as one year.

Loans would receive a risk weight of 0% under banking capital rules, meaning banks and credit unions wouldn't have to set aside additional capital to cover them. Lenders that modify covered loans due to Covid-19 would be temporarily exempt from having to make certain disclosures related to troubled debt restructurings.

Loan Forgiveness

Recipients of SBA-guaranteed loans under the Paycheck Protection Program could apply for loan forgiveness over eight weeks for eligible payroll costs and for mortgage interest, rent, and utility payments.

The SBA would pay lenders for any canceled debt plus accrued interest. Lenders generally wouldn't be subject to enforcement actions under the Small Business Act related to loan forgiveness.

Loan forgiveness would be reduced for businesses that fire employees or cut their pay. Businesses could receive additional forgiveness for wages paid to tipped employees.

Covered loans would have a maximum maturity of 10 years following a borrower's application for forgiveness. The SBA would continue to guarantee remaining balances.

Canceled debt would be excluded from borrowers' gross income for tax purposes.

The measure also would authorize and provide $17 billion for the SBA to pay the principal, interest, and associated fees for loans under the 7(a), 504, and microloan programs for six months.

Disaster Loans

The measure would provide $10 billion to expand the SBA's disaster loan program from Jan. 31 through Dec. 31 to cover businesses, cooperatives, employee stock ownership plans, and tribal businesses with 500 or fewer employees, as well as sole proprietors and independent contractors.

The SBA would have to waive certain eligibility rules during the covered period for disaster loans made in response to Covid-19.

The measure also would authorize the SBA to advance as much as $10,000 to existing and newly eligible disaster loan recipients within three days of receiving their applications. Recipients could use the advance funds to pay sick leave to employees affected by Covid-19, retain employees, address interrupted supply chains, make rent or mortgage payments, and repay debt. They wouldn't have to repay the advance funds.

The measure also would permanently expand the SBA's disaster loan program to cover small entities affected by emergencies for which the president determines the federal government has primary responsibility, as President Donald Trump did for the coronavirus outbreak.

Bankruptcy

The measure would allow businesses with as much as $7.5 million in debt to qualify for a streamlined Chapter 11 bankruptcy process, increasing the current debt limit of $2.73 million for eligible small businesses.

For one year following the bill's enactment, the measure would temporarily exclude federal payments related to the coronavirus from income calculations under Chapter 11 bankruptcy proceedings. It would also allow debtors experiencing hardship because of Covid-19 to modify existing bankruptcy reorganization plans.

Other Small Business Provisions

The measure also would provide:

- $675 million for SBA salaries and expenses.
- $240 million for Small Business Development Centers and Women's Business Development Centers to assist small businesses affected by Covid-19, and $25 million to establish an online platform with related resources.
- $25 million for the SBA inspector general.
- $10 million for the Commerce Department's Minority Business Development Agency (MBDA).

In addition, it would authorize:

- $25 million for the SBA to provide resources and services in the 10 most commonly spoken languages in the U.S. other than English.
- $10 million for the MBDA to provide nonmatching grants to minority business centers and chambers of commerce to advise minority-owned businesses how to respond to Covid-19.

The SBA would have to issue regulations to implement the measure within 15 days of enactment.

A limit on SBA 7(a) express loans, which have a 36-hour turnaround, would be increased to $1 million, from $350,000, through the end of 2020.

The SBA couldn't guarantee more than $100 billion in principal payments for its trust certificates from the date of the bill's enactment through Sept. 30, 2021.

It would have to reimburse small businesses receiving funds under the State Trade Expansion Program for financial losses related to foreign trade missions or trade show exhibitions that were canceled due to Covid-19.

The measure also would waive nonfederal fund matching requirements for three months for certain women and minority business centers.

TAXES & REBATES

<u>Recovery Rebates</u>

The measure would provide refundable tax credits of as much as $1,200 per individual or $2,400 for couples who file joint tax returns. An additional $500 would be provided for each child.

The credit would be reduced by 5% for the amount a taxpayer's income exceeds $150,000 for joint returns, $112,500 for heads of household, and $75,000 for other filers. The rebate would completely phase out for incomes exceeding $198,000 for joint filers, $146,500 for heads of household, and $99,000 for individual filers, according to a summary from the Senate Finance Committee.

The rebate would be based on 2019 taxes, or for individuals who haven't filed, against their 2018 taxes or 2019 Social Security statements.

Payments would be made through Dec. 31, 2020. They could be delivered electronically to accounts where a taxpayer had authorized deposit of a tax refund or other federal payment on or after Jan. 1, 2018. Notice would have to be sent to the taxpayer within 15 days of sending the payment. Treasury Secretary Steven Mnuchin said during a March 25 White House virus briefing that the department could begin sending payments in as little as three weeks.

A Social Security number would be required to claim the credit, although only one number would be required if one spouse was a member of the Armed Forces.

The measure would establish rules for the credit to be provided in U.S. territories.

The Treasury Department, in coordination with the Social Security Administration, would have to conduct a public awareness campaign.

The measure would provide funding to carry out the rebates that would remain available through fiscal 2021:

- $293.5 million for IRS taxpayer services.
- $170 million for IRS operations support.
- $78.7 million for the Treasury Department's Bureau of the Fiscal Service.

- $38 million for the Social Security Administration.
- $37.2 million for IRS enforcement.

Payroll Tax Deferral

The measure would defer employer payroll and railroad retirement tax payments through the end of 2020. Deferred funds would be paid over two years in 2021 and 2022. The delay would provide businesses with about $300 billion of cash flow, according to a summary from House Ways and Means Committee Republicans.

Deferral wouldn't apply to employers with small business loan debt forgiven under the bill.

The measure would defer 50% of self-employed Social Security tax payments.

The measure would appropriate funds to cover any forgone revenue to the Social Security and disability insurance trust funds and Social Security Equivalent Benefit Account.

Employee Retention Credit

The measure would establish a refundable credit against employer payroll and railroad retirement taxes for certain employers that are hurt by the coronavirus but retain their employees. The credit would be for 50% of eligible employee wages paid after March 12, 2020, and before Jan. 1, 2021. It would be provided for as much as $10,000 of compensation, including health benefits.

Employers could receive the credit if a government order related to the pandemic requires them to partially or fully suspend operations, or if their gross receipts declined by certain thresholds. Alternate rules would apply for tax-exempt organizations.

Employers with more than 100 full-time employees in 2019 would receive credits for wages paid to employees while they aren't providing services. Employers with fewer employees would receive credit for wages paid while operations were suspended or during the quarter in which the company had a significant decline in gross receipts.

Employers couldn't receive the credit if they receive a loan under the SBA Paycheck Protection Program for 7(a) loans established by the bill (see above).

Employers couldn't use the credit for wages for which they also receive a credit under the work opportunity tax credit or a paid leave credit established by the 2017 tax overhaul (Public Law 115-97). Wages taken into account for the paid leave credits established under the second coronavirus response law (Public Law 116-127) couldn't also be used for the employee retention credit.

The credit wouldn't apply to federal, state, or local government employers.

The measure would appropriate funds to the Social Security and disability trust funds and the Social Security Equivalent Benefit Account to offset the reduction in revenue.

Retirement Plans

The measure includes several retirement plan allowances that are often provided in legislation after major disasters.

Individuals could withdraw as much as $100,000 from their retirement accounts in 2020 without being subject to a 10% penalty. Funds would be treated as a tax-exempt rollover contribution if repaid in the next three years. If funds weren't repaid, they would be taxed as income over three years.

Individuals would be eligible to make withdrawals if they, their spouse, or their dependent are diagnosed with Covid-19, or if the pandemic hurts their finances, such as through layoffs or reduced hours.

Eligible individuals could receive loans for the lesser of $100,000 or the present value of their vested benefits in their employer retirement accounts in the 180 days after the bill's enactment. The limit is currently $50,000 or half the account's value.

Individuals affected by the coronavirus with retirement plan loans due by Dec. 31, 2020, would have an extra year to repay them.

The measure would modify certain retirement plan and account minimum distribution rules for 2020.

Charitable Contributions

The measure would create a $300 above-the-line individual charitable contribution allowance for individuals who don't itemize their returns for tax years beginning in 2020.

The measure also would suspend for 2020 the limit on the individual charitable deduction, which is available to filers who itemize. The deduction is limited to 60% of individual taxpayers' adjusted gross incomes through 2025.

The corporate charitable deduction limit would be increased in 2020 to 25% of taxable income, from 10%. A deduction for food inventory contributions would be increased to 25%, from 15%.

Student Loans

Employer student loan repayment assistance paid after the bill's enactment and before Jan. 1, 2021, would be excluded from employees' income tax. Repaid amounts would count toward a $5,250 limit on other forms of employer-provided education assistance, such as tuition and related expenses, that can be excluded from income.

Business Losses

The measure would allow business losses from tax years after Dec. 31, 2017, and before Jan. 1, 2021, to be carried back five years. Net operating loss carrybacks were eliminated for most businesses by the 2017 tax overhaul. Separate rules would apply to real estate investment trusts and life insurance companies.

The measure would allow the full amount of net operating loss carryovers and carrybacks to be used for tax years beginning before Jan. 1, 2021. The deduction was limited to 80% of taxable income under the 2017 tax overhaul. A separate deduction limit would be established for tax years beginning after Dec. 31, 2020.

The measure would modify the effective date of changes to the net operating loss deduction included in the 2017 tax overhaul. Republicans have previously sought changes to the date language, which they say doesn't reflect congressional intent.

The measure would also modify net operating loss deduction limits for pass-through businesses and sole proprietorships.

Other Business Provisions

The measure would:

- Allow companies to more quickly access their remaining alternative minimum tax credits. The 2017 tax overhaul eliminated the corporate AMT but made remaining AMT credits refundable over several years, ending in 2021.
- Allow businesses to deduct 50% of their interest expenses in 2019 and 2020, with adjustments, instead of 30%. Separate rules would apply for partnerships.
- Address the "retail glitch" from the 2017 tax overhaul, in which the depreciation schedule for certain restaurant and retail businesses' qualified improvement property was inadvertently lengthened to 39 years. The bill would classify qualified improvement property as 15-year property, or 20-year property under an alternative depreciation system. The classification would make the property eligible for temporary "bonus depreciation" established by the 2017 tax law, which would allow it to be written off immediately.

Aviation Taxes

The measure would suspend the 7.5% passenger ticket tax and 6.25% cargo tax until Jan. 1, 2021. Kerosene used for commercial aviation also wouldn't be taxed during that period. The proceeds from those taxes are deposited in the Airport and Airway Trust Fund.

Hand Sanitizer

The measure would exempt hand sanitizer from an excise tax on distilled spirits. It would apply to hand sanitizer produced and distributed in 2020 in response to coronavirus. The provision would help distilleries that have begun producing hand sanitizer.

The federal alcohol excise tax is currently set at $2.70 per gallon for the first 100,000 gallons produced in a calendar year. Manufacturers pay $13.34 a gallon up for every additional gallon up until they make 22.23 million gallons. Any alcohol produced beyond that threshold is taxed at $13.50 a gallon.

The measure would also waive bulk sales and labeling requirements.

AID TO STATES & TERRITORIES

The measure would provide $150 billion in fiscal 2020 to help states and territories respond to Covid-19.

Of the total, $8 billion would be set aside for tribal governments, and $3 billion would be reserved for the District of Columbia and U.S. territories.

The rest would be distributed to states based on population, with no state receiving less than $1.25 billion in fiscal 2020.

Funds could be used for unbudgeted Covid-19 expenditures from March through December.

Funding would be subject to Hyde amendment restrictions that prevent the use of federal funds for abortions, except in cases of rape or incest or if the mother's life is in danger.

The bill would provide $35 million for the Treasury Department inspector general to ensure funds are properly spent.

UNEMPLOYMENT & PAID LEAVE

Pandemic Unemployment Assistance

The measure would provide an additional $600 per week in "federal pandemic unemployment compensation" to individuals receiving unemployment benefits. The extra payment would remain available through July 31, 2020. It would be excluded when determining eligibility for Medicaid and the Children's Health Insurance Program (CHIP).

The measure would allow individuals affected by the coronavirus to receive pandemic unemployment assistance for as long as 39 weeks, which would include any week for which they receive regular compensation or extended benefits.

Unemployment benefits under that program would be available to individuals who are in quarantine, caring for a diagnosed family member, or out of work because their employer closed due to the coronavirus. It also would be available to those who are self-employed, have limited work history, or otherwise wouldn't qualify for unemployment benefits. Benefits wouldn't be provided to individuals who can telework with pay or who are receiving other paid leave benefits.

The benefit provisions would apply retroactively to Jan. 27 and remain in place through Dec. 31. Compensation would be provided without any waiting period.

The measure also would provide an additional 13 weeks of pandemic emergency unemployment compensation to individuals who have exhausted regular benefits. Emergency benefits would remain available through Dec. 31.

States would be paid 100% of the total amount of unemployment benefits they provide, including administrative costs in certain cases.

The measure also would fully reimburse states for providing compensation the first week of unemployment, without a waiting period.

In addition, states would receive funding to reimburse nonprofits and government agencies for half of their costs of providing unemployment benefits.

The measure would provide similar additional unemployment benefits to railroad workers. It would appropriate $425 million for the enhanced benefits.

The measure would provide $25 million for the Labor Department's inspector general's office to conduct oversight of unemployment assistance.

Work-Sharing Programs

States would have 100% of their costs covered for supporting "short-time compensation" programs through Dec. 31, 2020. The voluntary programs provide workers with prorated unemployment benefits to offset work reductions made by their employer in lieu of a layoff. It wouldn't apply to seasonal or temporary workers.

The measure also would provide $100 million for the Labor Department to award grants to states that enact short-time compensation programs.

Leave Program Modifications

The measure would amend the emergency sick leave program enacted under the second coronavirus response measure.

Certain workers laid off on or after March 1, 2020, would be eligible to receive family leave benefits if they're rehired.

The Office of Management and Budget would be authorized to exclude certain federal government employers and executive branch workers from leave requirements and benefits.

The measure would apply the same caps on the amount employers would be required to pay per employee for the leave programs, which are:

- $200 per day, or $10,000 total, for family leave related to care for a child whose school or day care has closed because of the coronavirus.
- $511 per day, or $5,100 total, for sick leave related to a worker's quarantine or diagnosis.
- $200 per day, or $2,000 total, for sick leave related to caregiving for another quarantined individual or child whose school or day care has closed.

Federal agencies could use funds, subject to appropriations, to reimburse federal contractors for providing paid leave to its employees or subcontractors through Sept. 30, 2020. The provision would apply to contractors who can't work on-site or remotely because of the coronavirus. Such payments would be reduced by applicable tax credits available to the employer.

The Treasury Department would have to waive penalties for employers failing to make payroll or railroad tax payments in anticipation of tax credits for the paid family and sick leave programs established under Public Law 116-127.

HEALTH PROVISIONS

Medicare & Medicaid

Sequestration:

- The measure would suspend automatic Medicare payment cuts to hospitals and doctors, known as sequestration, from May 1 through Dec. 31.
- The measure would also extend for one year, through 2030, the broader sequestration of mandatory funding, including Medicare payments.
- The sequestration, which is required under the Budget Control Act (Public Law 112-25), reduces Medicare payments by 2% annually, including $15.3 billion for fiscal 2020.

Medicare Payments: Hospitals would receive a 20% increase in their Medicare payments for treating a patient with Covid-19 during the coronavirus emergency.

The measure would prevent a scheduled reduction in Medicare payments for durable medical equipment, such as wheelchairs or other equipment used at home, for the duration of the emergency.

It would eliminate a 15% reduction in payments for clinical diagnostic lab tests for 2021 and then extend the 15% reduction through 2024. It also would delay an associated payment rate reporting requirement for labs for a year.

The Medicare hospital accelerated payment program would be expanded during the emergency period so that it applies to more types of hospitals and to cover as long as six months. HHS could increase the amount of payment that would otherwise be made up to 100%, or 125% for critical access hospitals.

Telehealth: The measure would remove a requirement from the first coronavirus response measure (Public Law 116-123) that a doctor had to have treated a patient within the last three years to use expanded telehealth authorities under Medicare.

Federally qualified health centers and rural health clinics could furnish telehealth service to beneficiaries in another location during the coronavirus emergency and be reimbursed at a rate that is similar to the national average for comparable services under the Medicare physician fee schedule.

Individuals receiving home dialysis wouldn't need to have periodic in-person assessments to qualify for telehealth services during the coronavirus emergency. Face-to-face encounters for recertifying eligibility for hospice care could be conducted via telehealth during the emergency period instead of in person.

Medicare Coverage: Medicare Part B, which provides general medical insurance, would fully cover a Covid-19 vaccine without any cost-sharing. Drug plans would have to allow Part D prescription drug beneficiaries to receive a 90-day supply of medication during the public health emergency.

Post-Acute Care: The measure would waive a requirement that patients at inpatient rehab facilities receive at least 15 hours of therapy per week during the emergency period. It also would direct HHS to waive a payment adjustment for long-term care hospitals that don't have at least a 50% discharge payment percentage.

Other Provisions: The measure also would:

- Allow physician assistants and nurse practitioners to order home health services for Medicare beneficiaries.
- Allow state Medicaid programs to cover home and community-based services that are provided in acute-care hospitals.

- Delay by 30 days a requirement in the second coronavirus response package that a state maintain premiums to receive the 6.2 percentage point increase in Medicaid funding.

Drugs & Devices

Medical Supplies: The bill would expand the Strategic National Stockpile to include personal protective equipment and supplies such as swabs used for Covid-19 testing.

It would also make permanent a provision in the second coronavirus response package extending liability immunity to manufacturers of respiratory protective devices, such as masks and ventilators, that HHS designates for use during a declared public health emergency.

Drug & Device Shortages: Manufacturers of drugs that are critical to public health during an emergency would have to notify the FDA of supply chain interruptions for active pharmaceutical ingredients. Device manufacturers would have to make similar disclosures.

Makers of covered drugs, active ingredients, and related devices would have to maintain risk management plans for facilities to evaluate supply risks.

The FDA would have to:

- Prioritize application reviews and inspections for drugs and devices that could mitigate shortages.
- Publish a list of device shortages, though it could withhold such information to prevent hoarding.

Drug makers would also have to report annually on the amount of each drug they create for commercial distribution. The FDA could require the information to be submitted during a public health emergency. Biological products could be exempt if the FDA determines it's not necessary to protect public health.

Animal Drugs: The FDA would have expedite the review of animal drugs at the request of a sponsor if it has the potential to prevent animal-to-human transmission of life-threatening diseases.

Over-the-Counter Drugs: The measure would modify the FDA's regulatory framework for nonprescription drugs and establish user fees to support the new process. The user fees would be authorized from fiscal 2021 through 2025 and include facility fees and fees for administrative order requests.

The measure would create an administrative order process for determining whether a nonprescription drug is "generally recognized as safe and effective." It would include opportunities for public comment and dispute resolution. There would also be expedited procedures for drugs that pose an imminent public health hazard and for safety labeling changes.

Final orders that are issued in response to a drugmaker request would include 18 months of exclusivity.

Health Coverage

Testing: Health insurers would have to reimburse providers for all coronavirus testing and related visits based on the cash price that the provider lists online, unless they have a previously negotiated rate or negotiate a new rate that's less than the cash price. Testing providers that don't list their prices online during the emergency could be penalized a maximum of $300 per day.

The measure also would expand the types of coronavirus lab tests that would have to be fully covered by insurance, including tests that haven't yet received an emergency use authorization from the Food and Drug Administration.

Vaccines: Health insurers would have to cover vaccines and other services intended to prevent Covid-19 without any cost-sharing. The requirement would take effect 15 business days after a recommendation from the U.S. Preventive Services Task Force or CDC Advisory Committee on Immunization Practices.

High-Deductible Health Plans: The measure would allow telehealth services to be covered under a high-deductible health plan before a patient reaches the deductible for plan years beginning on or before Dec. 31, 2021.

Spending Accounts: The measure would permanently allow health savings accounts to be used for medicine without a prescription and for menstrual products. The provisions would also apply to other spending accounts such as flexible spending arrangements.

Provider Support

Health Centers: The measure would provide an additional $1.32 billion for fiscal 2020 for supplemental awards to community health centers to prevent and treat Covid-19. Funding would be subject to Hyde amendment restrictions that prevent the use of federal funds for abortions, except in cases of rape or incest or if the mother's life is in danger.

Health Records: The measure would allow patient records related to substance use disorders to be disclosed to health-care providers and other entities in accordance with the Health Insurance Portability and Accountability Act after a patient gives initial consent. Substance use records are currently governed under stricter privacy regulations than HIPAA.

Under the bill, the information generally couldn't be used in civil, criminal, administrative, or legislative proceedings against a patient, or to discriminate against individuals seeking access to health care, employment, housing, courts, or public benefits.

Separately, the measure would direct HHS to issue guidance on sharing protected patient health information during the coronavirus emergency.

Other Provisions: The measure also would:

- Modify a previous authorization for a Ready Reserve Corps that hasn't been implemented.
- Exempt health-care professionals from liability for providing volunteer services during the coronavirus emergency.
- Allow HHS to assign National Health Service Corps members, with their voluntary agreement, to provide services to help respond to the pandemic if it's close to their original assignments.

Health Extenders

DSH Cuts: The measure would delay until Dec. 1 a scheduled $4 billion reduction in Medicaid funding for disproportionate share hospitals (DSH), which have large numbers of low-income and uninsured patients.

Public Health Programs: Funding for community health centers serving vulnerable and underserved populations would be extended at the fiscal 2019 level of $4 billion annually through fiscal 2020, and $668.5 million would be appropriated for the two-month period of Oct. 1 through Nov. 30.

The measure would extend funding for a number of other public health programs through Nov. 30 at their fiscal 2019 levels, including:

- National Health Service Corps (NHSC).
- Teaching Health Center Graduate Medical Education (THCGME) Program.
- Special Diabetes Program.
- Special Diabetes Program for Indians.
- Sexual Risk Avoidance Education Program.
- Personal Responsibility Education Program.
- Funding for the health centers, NHSC, and THCGME program would be subject to existing restrictions on using federal funds for abortion.

Medicare Programs:

- Funding for several Medicare provisions scheduled to expire May 22 would be extended through Nov. 30, including:
- State health insurance assistance programs.
- A contract with the National Center for Benefits and Outreach Enrollment.
- A contract with a consensus-based entity, such as the National Quality Forum, regarding performance measurement.
- Area Agencies on Aging.
- Aging and Disability Resource Centers.

The package also would extend until Dec. 1 funding for a floor on the geographic index used to calculate provider payment rates under Medicare.

Medicaid Programs: The measure would extend through Nov. 30 the Money Follows the Person demonstration grant program, and a protection against spousal impoverishment when a married individual is receiving home and community-based services.

TANF & Other Programs: The Temporary Assistance for Needy Families program would be extended through Nov. 30 at its previous annual level of $16.6 billion. The measure also would continue funding for related TANF programs, including grants to U.S. territories and for child care.

The Certified Community Behavioral Health Clinics demonstration program and Health Profession Opportunity Grants would also be extended through Nov. 30.

Other Health Programs

Several health workforce programs would be reauthorized from fiscal 2021 through 2025, including:

- $255 million annually for nursing workforce development programs.
- $51.5 million annually for scholarships for disadvantaged students.
- $48.9 million annually for primary care training and enhancement.
- $41.3 million annually for area health education centers.
- $40.7 million for geriatrics education and training.

The measure would reauthorize several other health programs from fiscal 2021 through 2025, including:

- $125.5 million annually for the Healthy Start program related to infant mortality.

- $79.5 million annually for grant programs related to rural health care.
- $29 million annually for telehealth network and resource centers grant programs.

Funding for the programs would be subject to appropriation.

The measure would allow HHS to waive nutrition requirements for meal programs under the Older Americans Act during the coronavirus emergency. The Labor Department could also modify community service program requirements under that law, and increase administrative costs for projects, in response to the pandemic.

BANKING RULES

The measure would waive several banking and accounting rules, most of which would be reinstated in 2021 or when the coronavirus public health emergency ends.

Accounting Rules

Banks and credit unions would be temporarily exempt from a 2016 accounting rule on credit losses issued by the Financial Accounting Standards Board.

The rule includes a methodology for current expected credit losses (CECL) opposed by banks that requires them to set aside reserves to cover potential losses over the life of a loan.

Financial institutions could also exempt themselves from accounting rules that would otherwise categorize certain loan modifications related to Covid-19, such as payment deferrals, as troubled debt restructurings (TDRs). Agencies would have to defer to the financial institutions.

Loan modifications that qualify as TDRs typically result in stricter accounting and disclosure requirements.

The TDR waiver period would run from March 1 through Dec. 31 or 60 days after the coronavirus public health emergency ends, whichever is sooner.

Federal banking agencies announced similar relief in a March 22 interagency statement.

Money Market Funds

The Treasury Department could use its Exchange Stabilization Fund (ESF) to backstop money market funds, a key source of short-term liquidity for businesses and households. The measure would provide “such sums as may be necessary” to reimburse the ESF for any claims payments that exceed collected fees.

The department used the ESF during the 2008 financial crisis to guarantee more than $3 trillion of money market fund holdings amid an investor run. The use of the ESF for such guarantees was subsequently barred under Public Law 110-343.

Capital Rules

Federal banking agencies would have to set an optional capital-to-asset ratio of 8% for community banks with less than $10 billion in assets, instead of the current 9%.

Eligible banks that exceed the ratio are automatically deemed to have met other leverage and risk-based capital rules set by the banking agencies.

Lending Limits

Lending limits imposed on national banks would be lifted for loans they issue to nonbank financial institutions, similar to a waiver for loans issued to regular financial institutions and approved by the Office of the Comptroller of the Currency (OCC).

The OCC could waive any other transaction from the lending limits, if it finds an exemption is in the public interest.

FDIC Guarantees

The Federal Deposit Insurance Corporation (FDIC) would be authorized to guarantee additional types of deposits, including on accounts that don't accrue interest.

It could also establish an emergency program to guarantee the debt of solvent insured banks up to a maximum level without further congressional approval.

The National Credit Union Administration would be authorized to increase insurance coverage levels for non-interest-bearing accounts held at federally backed credit unions.

Credit Union Liquidity

The measure would allow credit unions serving corporate customers to seek loans through the Central Liquidity Facility, a mixed-ownership government corporation that lends to other credit unions experiencing unusual liquidity shortfalls.

Applicants would have to show that they made reasonable efforts to obtain liquidity from certain other sources.

The measure would also increase the facility's authority to borrow funds from a single source.

Closed Fed Meetings

The Federal Reserve chairman would be authorized in "unusual and exigent circumstances" to exempt Fed board meetings from the Sunshine in the Government Act, which requires the board to announce certain meetings in advance and permit public attendance.

EDUCATION

Financial Aid

The measure would allow the Education Department to waive requirements related to institutions' eligibility for and allotment of federal financial aid, as well as certain reporting requirements. The department would also have broad authority to waive provisions to ensure that schools receiving federal aid aren't adversely affected by formula-based calculations during the coronavirus emergency.

The package would direct the department to waive requirements that higher education institutions match a portion of federal student aid for two school years. When calculating eligibility against lifetime usage limits, the department couldn't count a student's enrollment in subsidized loan or Pell Grant programs during any semester the student didn't complete because of the emergency.

The department would waive repayment of grants and loans by students who received support and were forced to withdraw from school.

The department could allow institutions to keep unused grant or loan assistance if students were unable to use the funding due to the emergency. It could modify the required and allowable uses of funds provided to institutions, as well as nonfederal matching requirements, upon the request of an institution or other grant recipient.

The measure would allow institutions to:

- Roll over unused funds from the previous five years for use during the next five-year period.
- Make work-study payments to participating students who were unable to fulfill their work requirements due to closed workplaces.
- Treat any unspent work-study funds as grants to support the ability of low-income students to access and complete higher education.
- Use supplemental educational opportunity grants to provide emergency aid to students facing unexpected expenses and unmet needs.
- Provide students with leaves of absence that don't require them to pick up where they left off if they return the same semester.
- Exclude credits for classes a student began but didn't finish due to the emergency when determining the student's academic progress for financial aid eligibility purposes.

Foreign institutions could offer distance learning without jeopardizing their eligibility for U.S. financial aid during a declared public health emergency or similar emergency in the relevant country. The provision would be retroactive to March 1.

The department could amend the types of extenuating circumstances that can excuse a Teach Grant recipient from fulfilling teaching service obligations. It would have to consider service that is part-time or interrupted due to the Covid-19 crisis to have been full-time.

It would also have to waive teacher student loan forgiveness requirements related to consecutive years of service if an interruption was caused by the emergency and the borrower completes a combined five years or more of qualifying teaching service.

Other Education Provisions

Loan Repayment: The measure would suspend student loan payments and interest accrual through Sept. 30, which would cover six months for most borrowers. Each month for which payments are suspended would be treated as if on-time payments were made for purposes of federal loan forgiveness programs. Involuntary collections related to student loans, such as wage garnishments or tax refund reductions, as well as negative credit reporting would also be suspended for the same period.

General Waivers: The Education Department would have broad authority during the coronavirus emergency to waive obligations at the request of state or local governments, school systems, or the Bureau of Indian Education. Waivers could address academic assessments, institutional support for schools, professional development, allocation and accounting for federal education funding, and reporting requirements, among other things. They would generally be limited to the current academic year. Civil rights laws couldn't be waived.

HBCU Capital Loans: The measure would appropriate $62 million for the department to defer and cover the principal and interest on capital loans to historically black colleges and universities due during the emergency. After the original loan is repaid, the institutions would have to repay any amounts covered by the department.

AmeriCorps Service: The Corporation for National and Community Service would have to allow AmeriCorps participants who are eligible for educational awards and whose service has been limited due to Covid-19 to perform other activities to accrue necessary service hours. The corporation could provide the full value of an educational award for service to participants forced to suspend or limit their involvement or exit the program early as a result of the coronavirus emergency.

CONSUMER PROTECTIONS

Mortgage Payments, Foreclosures & Evictions

Borrowers with federally backed mortgages -- including those that are insured by the Federal Housing Administration, guaranteed by the Veterans Affairs Department, or purchased by Fannie Mae and Freddie Mac -- who attest that they're experiencing financial hardship due to Covid-19 could suspend their payments for 180 days, with a possible 180-day extension. They wouldn't accrue additional interest or fees during that period.

The measure would also prohibit foreclosures on homes with federally backed mortgages for at least 60 days starting March 18.

Landlords with federally backed mortgages on multifamily properties could suspend their payments for as long as 30 days, with as many as two 30-day extensions. They couldn't evict tenants or charge fees during that period.

The measure would also suspend evictions for 120 days following the bill's enactment on properties that have a federally backed mortgage or participate in a covered federal housing program.

Credit Reports

Lenders and other businesses could let consumers affected by Covid-19 defer or suspend their debt payments or make partial payments from Jan. 31 through 120 days after the measure is enacted or the coronavirus emergency ends.

They would have to report positive information about those accounts to credit reporting companies, or give consumers with delinquent accounts a chance to resolve the negative information in their credit reports by the end of the covered period.

Delinquent borrowers would continue to be reported as delinquent during the period, unless they made payments to bring their account current.

OTHER PROVISIONS

Postal Service

The measure would let the U.S. Postal Service borrow as much as $10 billion in additional funds from the Treasury Department to cover operating expenses during the Covid-19 emergency. The USPS couldn't use the funds to pay any outstanding debt.

The Postal Service currently has a $15 billion borrowing cap, with $11 billion in outstanding debt as of Sept. 30, 2019, according to its annual financial report.

The measure would also require the Postal Service to prioritize medical deliveries, and would allow it to establish temporary delivery points to protect its workers and the public.

Pension Provisions

The measure would extend the deadline for minimum contributions to single-employer pension plans to Jan. 1, 2021. Such contributions would include accrued interest.

The measure would amend the definition of Cooperative and Small Employer Charity plans to include a medical research organization that focuses on mothers and children and has been in existence since 1938.

The Labor Department could postpone filing deadlines under the Employee Retirement Income Security Act for as long as one year for a public health emergency.

Workforce Development

The measure would allow 2019 workforce development funds to be used for administrative costs and rapid response activities related to a qualifying emergency.