This Week In Congress

**Senate** – The Senate passed H.R. 748, the legislative vehicle for the Phase 3 coronavirus response bill, “The Coronavirus Aid, Relief, and Economic Security (CARES) Act,” by a vote of 96-0. The bill includes forgivable small business loans, direct assistance to taxpayers, assistance to severely distressed sectors of the economy, and additional health care resources to respond to the coronavirus outbreak.

**House** – The House passed the CARES Act by voice vote. President Trump is expected to sign the bill Friday afternoon.

Next Week In Congress

**Senate** – The Senate will be in recess until April 20. The Senate will hold pro forma sessions on March 30, April 2, April 6, April 9, April 13, and April 16.

**House** – The House will be in recess until a pro forma session on March 31.

**TAX**

Senate and House Pass the Coronavirus Aid, Relief, and Economic Security Act or the CARES Act, President Expected to Sign

**Key Points:**
- The Senate passed the CARES Act (H.R. 748) on Wednesday, by a vote of 96-0.
- The House passed the bill on Friday by voice vote, sending it to the President for his signature.

After much deliberation the Senate passed H.R. 748, also known as the CARES Act or the Stage 3 bill, by a vote of 96-0 on Wednesday. The tax implications of the bill were included in section II entitled “Assistance for American Workers, Families, and Businesses.” A short summary of each relevant section is provided below with the Joint Committee on Taxation score included.

The entire bill costs about $2 trillion, and the JCT score indicates that tax provisions will reduce revenues by more than $577 billion over ten years, with the largest component being the individual tax rebates. The Senate then adjourned until April 20, though staff and committees may begin work soon on a Stage 4 bill.

The legislation then went to the House, and after over three hours of debate and efforts to bring back sufficient House Members to achieve a quorum (a majority of the House), the House was able to pass the bill by a voice vote.

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Representative Massie (R-KY) pressed for a recorded vote, but was unsuccessful when there was a quorum and an insufficient number of other Members present supported his request for a recorded vote. House Republican leadership and the President were not supportive of his efforts.

The House and Senate seem poised to consider the next set of policies to respond to the COVID-19 crisis over the next weeks or month, with the timeline and process not yet set. The House largely drafted the Stage 2 bill, while the Senate largely drafted the Stage 3 bill. Speaker Pelosi this week said she hopes that he fourth bill could be a combination or “Four Corners” bill with participation by House and Senate Democratic and Republican leaders.

Below is a top-line summary of some key measures in the bill, with more focus on the revenue measures:

### General Provisions

- A new SBA loan program termed a “paycheck protection program” for businesses generally under 500 employees, to cover payroll, rent and mortgage payments for an eight-week period, which may be forgiven to the extent used for those purposes to retain employees etc.
- Extended and expanded unemployment insurance (UI), including a 16 week increase of $600/week of UI benefits on top of underlying state UI benefits.
- About $500 billion for loan guarantees, including a program for small and larger businesses that will be run by the Treasury Department to provide liquidity to business, the Treasury may take equity or warrants or other means to be compensated for the risk, and participation will include limits on dividends, stock buybacks and executive compensation until one year after the loan is repaid.
- Approximately $130 billion in funding for hospitals and health care, as well as Medicaid and Medicare funding and provisions.
- $340 billion in emergency appropriations.
- Various forms of student debt relief.
- $150 billion in funds for states and localities to address new COVID-19 expenses.

### Revenue Provisions

- Sec. 2201 – 2020 recovery rebates for individuals, $1,200 per taxpayer, plus $500 per child, phased out starting at $75,000 single/$150,000 joint and fully by $99,000/$198,000 (revenue loss of $292.734 billion/10 years).
- Sec. 2202 – Special rules for use of retirement funds, waiving some penalties for early withdrawal in certain cases (revenue loss of $2.56 billion/10 years).
- Sec. 2203 – Temporary waiver of required minimum distribution rules for certain retirement plans and accounts (revenue loss $2.56 billion/10 years).
- Sec. 2204 – Allowance of partial above the line deduction for charitable contributions, up to $300, and Sec. 2205 – Modification of limitations on charitable contributions during 2020 (revenue loss $1.09 billion/10 years).
- Sec. 2206 – Temporary exclusion for certain employer payments of student loans, up to $5,250 (revenue loss $460 million/10 years).
- Sec. 2301 – 50% payroll (refundable) employee retention credit for employers subject to closure due to COVID-19 (revenue loss $54.572 billion/10 years).
FINANCIAL SERVICES

Congress Passes Phase 3 Coronavirus Response Bill, Including Financial Services Provisions

Key Points:
- The CARES Act provides $350 billion for a small business loan program.
- The bill also provides $500 billion in loans and loan guarantees to corporations, including $25 billion for passenger air carriers.

On March 26, the Senate passed H.R. 748, the legislative vehicle for the Coronavirus Aid, Relief, and Economic Security (CARES) Act, by a vote of 96-0. The bill passed the House on Friday by a voice vote, and will now go to the President for his signature. In addition to providing health care resources and direct payments to individuals, the bill also includes provisions to provide loans to small businesses and provides funding to support direct loans and the creation of Federal Reserve facilities to distressed sectors of the economy.

Title I of the bill authorizes a $350 billion expansion of the Small Business Administration (SBA) 7(a) loan program. This title is intended to help affected small businesses weather the effects of the coronavirus. Small businesses (500 employees or fewer) would be able to apply to SBA lenders for loan amounts based on a formula tied to payroll costs, with a maximum loan amount of $10 million. The bill also expedites the process for financial institutions to become SBA certified lenders. Additionally, the bill would allow for portions of these loans to be forgiven if they are used for payroll, rent, mortgage payments, or utility payments. Eligible payroll costs do not include compensation above $100,000 in wages. Upon a lender’s report of an expected loan forgiveness amount for a loan or pool of loans, the SBA will purchase such amount of the loan from the lender.

A summary of revenue (and UI) provisions is available here, with bill text (as passed the Senate, which was not changed in House) here.

For more information about tax issues you may email or call Christopher Hatche at 202-659-8201. Josh Hansma contributed to this section.
Title IV of the bill provides assistance to severely distressed sectors of the economy. Title IV provides up to $500 billion for Treasury support of loans, loan guarantees and other investments in support of “eligible businesses, States, and municipalities”. Specifically, the bill makes direct lending from the Treasury Department available to the following: $25 billion for passenger air carriers; $4 billion for cargo air carriers; and $17 billion available for “businesses critical to maintaining national security.” The other $454 billion in Title IV is to provide credit support for Federal Reserve emergency facilities created pursuant to its authorities under Section 13(3) of the Federal Reserve Act. The Federal Reserve facilities, using the Treasury $454 billion as a credit backstop, is authorized to provide loans, loan guarantees or other investments to eligible businesses, States and municipalities by: purchasing obligations or other interests directly from issuers; purchasing obligations or other interests in secondary markets; or making loans, including loans or other advances secured by collateral.

The bill also requires the Secretary to seek the implementation of a Federal Reserve program or 13(3) facility that provides financing to banks and other lenders that make direct loans to eligible businesses, including nonprofit organizations, with between 500 and 10,000 employees, with loans being subject to an interest rate not higher than 2%. It allows the Federal Reserve to establish a “Main Street Lending Program” or similar facility and also requires the Secretary to “endeavor to seek the implementation” of a Federal Reserve program or facility that “provides liquidity to the financial system that supports lending to States and municipalities.”

Among other provisions, the bill provides for a special inspector general for pandemic recovery; a Congressional Oversight Committee to oversee the Section 4003 programs; and prohibitions on loans under Title IV to any company in which the President, Vice President, an executive department head, Member of Congress, or any such individual's spouse, child, son-in-law, or daughter in-law that own over 20 percent of the outstanding voting stock.

**Regulators Continue to Take Steps to Provide Relief During the Coronavirus Outbreak**

**Key Point:**
- Federal financial regulators took a series of steps to provide regulatory relief and encourage market stability during the coronavirus outbreak.

This week, federal financial regulators continued to take steps to stabilize the markets in response to the coronavirus outbreak.

On March 25, the Federal Reserve, the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Consumer Financial Protection Bureau (CFPB) issued a [joint statement](https://www.federalreserve.gov/newsevents/press/monetary/20200325a.htm) encouraging banks, savings associations and credit unions to offer responsible small-dollar loans to consumers and small businesses in response to COVID-19.


On March 24, the Federal Reserve announced a six-month delay in the planned implementation of policy changes to procedures governing the provision of intraday credit to U.S. branches and agencies of foreign banking organizations (FBOs). On March 25, the Federal Reserve
On March 24, the Federal Reserve approved an interim final rule to adjust total loss absorbing capacity (TLAC) rules to allow banks to continue lending to creditworthy households and businesses. A Federal Reserve press release explained:

The interim final rule will phase in gradually, as intended, the automatic restrictions associated with a firm's "total loss absorbing capacity," or TLAC, buffer requirements, if the levels decline. TLAC is an additional cushion of capital and long-term debt that could be used to recapitalize a bank if it is in distress. The change will facilitate the use of firms' buffers to promote lending activity to households and businesses.

The Securities and Exchange Commission (SEC) took several actions, including:

- Issuing an order to provide conditional regulatory relief for registered transfer agents and certain other persons through May 30, 2020.
- Issuing an order providing additional flexibility to Registered Investment Companies affected by the coronavirus. This order allows registered funds to borrow funds from certain affiliates and to enter into certain other lending arrangements.
- Extending orders providing conditional exemptions from reporting and proxy delivery requirements for public companies, funds, and investment advisers.

The Federal Reserve announced significant steps “to support households, businesses and the U.S. economy” during the coronavirus pandemic. The Federal Reserve announced it would take the following actions:

- Purchase through the Federal Open Market Committee (FOMC) “Treasury securities and agency mortgage-backed securities (MBS) in the amounts needed to support” the markets, adding to its previously announced $500 billion purchase of Treasury securities and $200 billion of MBS.
- Establish two credit facilities, the Primary Market Corporate Credit Facility (PMCCF) for new bond issuance and the Secondary Market Corporate Credit Facility (SMCCF) to provide liquidity for outstanding corporate bonds.
- Establish the Term Asset-Backed Securities Loan Facility (TALF) to lend to holders of certain AAA-rated asset backed securities (ABS) backed by recently originated consumer and Small Business Administration loans.
- Including municipal variable rate demand notes (VRDNs) and bank certificates of deposit in the previously announced Money Market Mutual Fund Liquidity Facility (MMLF).
- Expanding the Commercial Paper Funding Facility (CPFF) to include “high-quality, tax-exempt commercial paper as eligible securities” and reducing the pricing of the facility.
Upcoming Hearings and Meetings

March 31

CFTC Open Meeting: The Commodity Futures Trading Commission (CFTC) is scheduled to hold an open meeting.

For more information about financial services issues you may email Joel Oswald or Alex Barcham.

HEALTH

Congress Passes Third Coronavirus Package; President Expected to Sign

Key Points:

- This week Congress completed work on a third legislative package to address COVID-19.
- The Senate passed the bill 96-0 and the House passed the bill by voice vote. The President is expected to sign the bill into law.

On March 27, Congress completed work on the third COVID-19 package entitled the Coronavirus Aid, Relief, and Economic Security (CARES) Act which provides $2 trillion in economic relief including the health care sector.

To address supply shortages, the bill requires the Strategic National Stockpile to add additional medical supplies including personal protective equipment and ancillary medical supplies. Masks and respirators are designated as federally approved countermeasures. The bill also adds additional reporting requirements for both drug manufacturers and medical device manufacturers on potential shortages or supply disruptions. The Secretary is given the authority to expedite new drug or device applications to address potential shortages. The bill also aims to provide additional support to individuals and health care providers to address COVID-19 requiring price transparency for testing and no cost-sharing for patients. Insurers would also be required to cover any preventative measures or vaccines for COVID-19. The bill includes authorizes $1.32 billion in FY 2020 supplemental awards for health centers for prevention, diagnosis, and treatment of COVID-19. It also expands grants available for telehealth and expanding access to health care in rural communities.

The bill makes many changes to the Medicare program to help improve the use of telehealth and protect seniors from additional risk. These changes include waivers of certain face-to-face visit requirements, improving care planning, and expanding refill periods for Part D drugs. The bill also ensures no cost-sharing for seniors.

The final bill also includes a number of other legislative proposals not directly connected to COVID-19. This includes a version of the “Overdose Prevention and Patient Safety Act” which aims to relax certain privacy restrictions to substance use disorder records by allowing disclosure of this information to covered entities with prior written consent from the patient. The bill also includes previously stalled legislation to incentivize hospitals’ use of new antibiotic drugs. The final package includes legislative efforts to improve coordination between the Food and Drug Administration and the Centers for Medicare and Medicaid Services (CMS) to help coordinate the approval and coverage of new innovative therapies to ensure faster access for patients. In addition, the bill extends expiring health extenders through November 30, 2020.

The bill provides $340 billion in new funding to address COVID-19. This includes $4.3 billion for the Centers for Disease Control and Prevention to support states, localities, and territories in their response to the virus and continue disease surveillance; $945 billion for the National Institutes of Health to support research into COVID-19; $127 billion for the Assistant Secretary for Preparedness and
Response programs such as $100 billion for grants to cover unreimbursed health care related expenses or attributed lost revenues, $27 million for the Biomedical Advanced Research and Development Authority including $16 billion for the Strategic National Stockpile; and $200 million for CMS to assist nursing home with infection control.

For more information about healthcare issues you may email or call Nicole Ruzinski Bertsch or George Olsen at 202-659-8201.

TRADE

Senate Finance Republicans Urge the Administration to Combat COVID-19 through Trade Policy

Key Points:
- On Wednesday, a group of Senate Finance Republicans sent a letter to President Trump urging the Administration to take several trade measures to “blunt the health and economic impact of COVID-19.”
- The letter calls for multilateral cooperation and a “total moratorium” on new tariffs.

On Wednesday, Senate Finance Republicans sent a letter to President Trump outlining a handful of ways the administration might use trade policy to combat the economic harm caused by COVID-19. The letter expressed support for prioritizing coordination with other countries and ensuring any import and export restrictions are “limited and do not jeopardize the global response to this pandemic.”

The Senators urged the Administration to pause any consideration of White House trade advisor Peter Navarro’s “Buy American” executive order, which looks to reduce U.S. reliance on foreign pharmaceutical drugs. Additionally, they stated that the Administration should examine its Section 301 tariff exclusion process to determine if more medical products “warrant exemption at this time,” and asked the USTR to consider extending tariff exemptions beyond one year. On Wednesday, Navarro denied reports that the Trump administration was considering a 90-day deferral of tariff collections on imports stating, “the Trump tariffs have been an important defense against China’s economic aggression, and we are stronger today because they exist.”

The Senators also asked the Administration to provide a “temporary deferral of duty collection for businesses to opt-in to” and requested the administration to consider a complete freeze on any new tariffs or tariff increases “for the time being.”

U.S. Customs and Border Protection Reconsiders Tariff Suspensions

Key Point:
- U.S. Customs and Border Protection has pulled back on guidance that would have allowed some companies extra time to pay duties on imported goods.

The U.S. government earlier this week told importers it will approve temporary suspensions of tariff payments on a case-by-case basis, setting up a clash with steel producers and other domestic firms who oppose any tariff relief on foreign-made products. Later in the week, U.S. Customs and Border Protection (CBP) stopped accepting such requests, apparently reversing itself on the issue.

On March 20, CBP sent a letter saying it would grant “additional days for payment of estimated duties, taxes, and fees” on a case-by-case basis. The decision came as big business groups are asking the administration to cancel or at least suspend its punitive tariffs on imports from China as well as steel and aluminum products from around the globe. On Wednesday, a group
of domestic steel associations sent a letter to CBP opposing delays in tariff payments. The American Iron & Steel Institute and four other organizations stated “[a]ny efforts to delay or reduce the collection of duties on unfairly-traded steel imports or imports that threaten to impair U.S. national and economic security will ultimately hurt U.S. workers and businesses during this unprecedented moment.”

Ultimately CBP appeared to pull back on easing tariffs, posting a message stating that they are “no longer accepting requests for additional days for payment.” The message also states that CBP will retain the right to allow additional days only for “narrow circumstances,” including a physical inability to file entry or payments because of technology outages or port closures.

_for more information about trade issues you may email or call Christopher Hatcher at 202-659-8201. Ryan Sigmon contributed to this section._

_for This Week in Congress was written by Alex Barcham._