

## Senate Passes Stimulus Bill

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**PRACTICES** Financial Institutions and Insurance Finance, Financial Regulatory, Finance, Public Finance, Government and Public Policy, Labor and Employment

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In the wake of the economic downturn caused by the coronavirus outbreak, Congress sought to pass a stimulus bill designed to mitigate the negative impact on the U.S. economy of measures taken to slow the spread of the virus. Hopes of a quick passage of the bill dimmed on March 21, when the Democrat and Republican negotiators in the Senate could not agree on worker protections or stock buyback restrictions for businesses that received funding, among other issues. Early in the morning of March 25, however, Senate Majority Leader Mitch McConnell and Minority Leader Charles E. Schumer announced that a breakthrough had been reached. A vote was taken later that day, and the Senate passed the bill unanimously.

Known as the “Coronavirus Aid, Relief, and Economic Security Act” or the “CARES Act”,<sup>[1]</sup> the bill is a \$2 trillion stimulus package designed to provide “emergency assistance and health care response for individuals, families and businesses affected by the 2020 coronavirus pandemic.”<sup>[2]</sup> The bill provides for, among other things:

- payments of up to \$1,200 to many Americans (or \$2,400 for eligible individuals filing a joint return);<sup>[3]</sup>
- a lending fund of up to \$500 billion for loans to “eligible businesses, States, and municipalities”, including up to \$25 billion for loans to passenger air carriers and \$4 billion to cargo air carriers;<sup>[4]</sup>
- grant funds of \$25 billion to pay workers employed by passenger air carriers, of \$4 billion to pay workers employed by cargo carriers, and of \$4 billion to pay workers employed by related vendors;<sup>[5]</sup>
- extended and increased unemployment benefits;<sup>[6]</sup> and
- a public health and emergency fund to reimburse health care providers for expenses and lost revenues caused by the coronavirus outbreak.

The bill also contains provisions restricting who may receive payments and conditions on those that do accept federal funds, including:

- a prohibition on businesses owned by President Trump, White House officials, or members of Congress from receiving taxpayer-backed loans;<sup>[7]</sup>
- the appointment of an inspector general to oversee the \$500 billion loan fund described above;<sup>[8]</sup>
- a prohibition on business who accept loans from making stock buybacks or paying out dividends (or other capital distributions) until one year after the loan is no longer outstanding;<sup>[9]</sup>
- a requirement that a business accepting a loan “maintain its employment levels as of March 24, 2020, to the extent practicable, and in any case . . . not reduce its employment levels by more than 10 percent from the levels on such date”;<sup>[10]</sup> and
- limitations on compensation for highly paid employees whose employers accept federal loans.<sup>[11]</sup>

The bill still needs to be approved by the House of Representatives and signed by President Trump. Voting in the House is complicated by the fact that it is out of session because most Representatives are not in Washington, DC, and return travel raises concerns given the coronavirus outbreak. Although remote voting is not currently allowed under House rules, “House leaders hoped the bill would pass by voice vote on Friday, without representatives having to return to Washington.”<sup>[12]</sup>

If the version of the bill passed by the Senate becomes law, the Secretary of the U.S. Department of the Treasury will have to “publish procedures for application and minimum requirements, which may be supplemented by the Secretary in the Secretary’s discretion, for making loans, loan guarantees, or other investments” under the CARE Act.<sup>[13]</sup> As more details become available, particularly regarding how businesses can access the funds and what restrictions will apply if they do so, we will provide additional information.

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<sup>[1]</sup> H.R. 748, § 1.

<sup>[2]</sup> *Id.*, preamble.

<sup>[3]</sup> *Id.*, § 6428(a).

<sup>[4]</sup> *Id.*, § 4003.

<sup>[5]</sup> *Id.*, § 4122.

<sup>[6]</sup> *Id.*, § 2104.

<sup>[7]</sup> *Id.*, § 4019.

<sup>[8]</sup> *Id.*, § 4018.

<sup>[9]</sup> *Id.*, §§ 4003(c)(2)(E), (F).

<sup>[10]</sup> *Id.*, §§ 4003(c)(2)(G).

<sup>[11]</sup> *Id.*, § 4004.

<sup>[12]</sup> Richard Cowan *et al.*, *U.S. Senate passes \$2 trillion bill for 'strange and evil' coronavirus crisis*, Reuters, Mar. 25, 2020, <https://www.reuters.com/article/us-health-coronavirus-usa-congress/u-s-senators-look-to-quickly-pass-massive-coronavirus-bill-head-home-idUSKBN21C1C0>.

<sup>[13]</sup> *Id.*, § 4003(c)(1)(B).