Federal Relief to Address the COVID-19 Pandemic

To help keep you apprised of the various Federal relief packages to address the COVID-19 pandemic, please find below key information regarding the status, summary of key provisions, and other relevant information, in reverse chronological order.

**Coronavirus IV – Infrastructure**

**Status: in development**

Discussions on a “phase four” bill have already started in a general way, according to Sen. Richard Shelby (R-Ala.). The focus of this legislation would be on major infrastructure to boost the economy in the long run.

House Speaker Pelosi has expressed support for a broader economic stimulus plan, and stated that the next House response to the virus will expand refundable tax credits for the self-employed and access to longer term leave, increase the scope of allowable uses of family and medical leave, and ensure paid leave for first responders and health workers. The next piece of House legislation is expected to follow regular order and give committees the opportunity to provide input. Work on the bill will proceed even while the House remains in recess.

**Coronavirus III.5 – Major Disaster**

**Status: major disaster declared**

On March 20, President Trump declared a major disaster for the State of New York. Previously, the President noted that he had been considering declaring the pandemic a “major disaster,” which would add additional levels of Federal assistance. As the pandemic unfolds, additional states may receive a major disaster designation.

**Coronavirus III – Economic Aid**

**Status: in development**

The Senate plans to stay in session until the third legislative package (Phase III) is complete. On Friday, Senate Majority Leader Mitch McConnell (R-Ky.) teed up a “shell” bill (H.R. 748), with the first vote related to phase III for Sunday, March 22. On Sunday, the cloture vote failed by a vote of 47-47, with 60 votes needed to advance the measure. On March 23, McConnell again teed up another vote, which failed by a vote of 49-46, with Sen. Doug Jones (D-Ala.) switching his vote from Sunday. McConnell has teed up another vote for Wednesday, while negotiations are ongoing. According to the latest reports, the package is expected to cost approximately $2 trillion.

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1 See March 13 letter which states: “In addition, after careful consideration, I believe that the disaster is of such severity and magnitude nationwide that requests for a declaration of a major disaster as set forth in section 401(a) of the Stafford Act may be appropriate.”
Senate GOP bill
According to Majority Leader McConnell, Senate Republicans will work with the Trump administration on their own version of a third coronavirus bill. They hope to “reach an agreement among ourselves as to what Senate Republicans and the administration favor doing next,” before negotiating with Democrats on a final version that could become law. On March 19, McConnell unveiled the Senate GOP phase III proposal (S. 3548), with summaries of the key health portions here (HELP Committee) and here (Finance Committee). On March 22, Sen. Alexander released a summary of the revised bill here. On March 23, Sens. Bennett (D-Colo.) and Barrasso (R-Wyo.) circulated language that would provide grants to certain healthcare providers.

Schumer Coronavirus Proposal
Minority Leader Schumer has presented congressional appropriators with a comprehensive proposal for the third part of Congress’ legislative response to the coronavirus.

House Proposal
On March 18, Speaker Pelosi issued a press release regarding Phase III. On March 18, Energy and Commerce Health Subcommittee Republican Leader Michael Burgess, M.D. (R-TX) urged that any upcoming COVID-19 legislative package include H.R. 4870, the United States Public Health Service Modernization Act of 2019 which was introduced by Dr. Burgess and Health Subcommittee Chairwoman Anna Eshoo (D-CA) to improve the Ready Reserve Corps which can be quickly summoned to serve during public health emergencies. On March 23, Reps. Brett Guthrie (R-KY) and Eliot Engel (D-NY) urged for the inclusion of the H.R. 5883, the Safeguarding Therapeutics Act, which would give the FDA much-needed authority to destroy counterfeit medical devices.

On March 23, Pelosi released an initial summary of the her phase III proposal. Later that day, the complete bill was released, along with a longer summary, a FAQ on economic assistance payments, and a FAQ on unemployment compensation.

House Speaker Nancy Pelosi says she’s thinking about bringing House members back to Washington to vote on the chamber’s version of a stimulus package to respond to the coronavirus.

White House Proposal
According to Secretary Mnuchin, President Trump supports the passage of a $1.2 trillion economic stimulus package which includes direct payments of at least $1,000 to every American over the next two weeks. Mnuchin is negotiating with Speaker Pelosi and Senate Republicans on issues ranging from a payroll tax cut, support for small and medium-sized businesses, and relief to the hotel industry and airlines (which have requested $58 billion in aid). On March 17, the Office of Management and Budget (OMB) sent a letter requesting an additional $45.8 billion to help address the pandemic, as well as revising requested FY20 budget amounts for the Centers for Disease Control and Prevention (CDC) and the National Institutes of Health (NIH). It’s unclear if the additional OMB request would be part of a 3rd package or perhaps a 4th package.

Coronavirus II.5 – Defense Production Act

Status: invoked
On March 18, the President invoked the Defense Production Act (DPA), which allows the federal government to compel companies through loans, loan guarantees, purchases and purchase commitments to prioritize and expedite the manufacture of medical supplies that are in short supply. The President delegate the key authority for implementing the DPA to Secretary Azar. Shortly thereafter, Secretary Azar issued a press release. For more
information on the DPA, visit here. Separately, General Motors Co. Chief Executive Officer Mary Barra offered to manufacture hospital ventilators in auto factories closed because of the coronavirus outbreak, according to top White House economic adviser Larry Kudlow.

Sen. Schumer has urged the Administration to do more with the DPA. On March 23, Sen. Tammy Baldwin (D-WI) announced the introduction of legislation to:

- Immediately require a major purchase order for 300 million N95 masks, which will allow industry to begin scaling up production of masks and other PPE materials.
- Require the National Response Coordination Center to conduct a national assessment on current medical supply needs and a follow up major purchase order to fulfill the needs identified in the assessment.
- Waive restrictions on dollar limitations for orders executed under DPA and a 30 day waiting period for orders that exceed $50 million.
- Authorize increased funding for DPA accounts that are being considered for supplemental COVID-19 spending packages.

McConnell’s phase III proposal included $1 B to implement the DPA, while Pelosi’s phase III proposal included $500 M.

**Coronavirus II – Testing and Paid Leave**

**Status: signed into law**

The House passed H.R. 6201, the Families First Coronavirus Act, in the early hours of March 14. The large-scale economic relief plan aims to support Americans in combating the spread of the coronavirus through the expansion of paid leave, food assistance, and unemployment assistance and through increased federal Medicaid funding. Speaker Pelosi and Secretary Mnuchin worked to negotiate the House-passed legislation, which was backed by President Trump. The bill would increase federal medical assistance percentages (FMAP) for state Medicaid programs by 6.2 percentage points. Medicaid funding for U.S. territories would also be increased. The bill includes a prohibition against cost sharing and prior authorization for certain coronavirus testing and related services, such as provider visits for testing. It also appropriates $1 billion for the National Disaster Medical System to reimburse costs associated with testing the uninsured. The bill would add personal respiratory protective devices as a covered countermeasure under the Public Readiness and Emergency Preparedness Act and allow HHS to provide liability protections for certain emergency response products.

The chamber later passed “technical corrections” to the emergency aid bill which scale back “qualifying need” for Family and Medical Leave Act (FMLA) leave to circumstances in which an employee cannot work or telework because a child’s school, day care, or childcare is unavailable. The original version of the bill would have required employers to provide employees with 12 weeks of partially paid FMLA leave for quarantine, to care for a family member, or to care for a child. The Senate passed the bill unamended in the afternoon of March 18, by a vote of 90-8. The President signed the bill later that evening.

**Coronavirus I.5 – Emergency Declarations**

**Status: emergency declared**

On Friday, March 13, 2020, President Donald Trump declared a national emergency with respect to the COVID-19 pandemic. By declaring the emergency, billions of dollars in the Disaster Relief Fund and additional resources from the Federal Emergency Management Agency (FEMA) and other parts of the government are now available. The declaration also makes more federal funds available along with supplies, personnel, and other support. The
emergency order confers new broad authorities to HHS Secretary Alex Azar. Azar has waived certain laws and regulations to give doctors and hospitals maximum flexibility to test and respond to the virus. In addition, as part of the emergency declaration, the Small Business Administration is now able to offer Economic Injury Disaster loans – up to $2 million – for small businesses impacted by the virus. Previously, on January 31, 2020, U.S. Department of Health and Human Services (HHS) Secretary Alex Azar determined that a public health emergency existed because of confirmed cases of the coronavirus disease (COVID-19) under the authority granted by section 319 of the Public Health Service Act (PHSA). The nationwide determination took effect January 27, 2020.

**Coronavirus I – Emergency Appropriations**

**Status: signed into law**

President Trump signed into law a $7.8 billion emergency spending bill (H.R. 6074) (P.L. 116-123) to combat the coronavirus outbreak on March 6. The bipartisan *Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020* also allows the Medicare program to spend $500 million on telehealth programs used in response to the virus. The legislation includes $6.5 billion for the U.S. Department of Health and Human Services (HHS), $1.25 billion for the State Department and the U.S. Agency for International Development (USAID), and $20 million for the Small Business Administration (SBA). The bill provides:

- $3.1 billion for the Public Health and Social Services Emergency Fund to be used to develop and purchase vaccines and medical supplies;
- $300 million in contingency funds to purchase vaccines if necessary;
- $100 million for community health centers;
- $2.2 billion to the CDC, including $950 million for state and local preparedness grants, $300 million for global disease detection and response, and $300 million for the Infectious Disease Rapid Response Reserve Fund;
- $836 million for the NIH;
- $10 million for worker-based training and health worker protection;
- $435 million for international public health programs, including $200 million for the U.S. Emergency Reserve Fund; and
- $300 million for humanitarian and health assistance in areas affected by the virus.

The bill will also allow HHS to regulate the commercial price of a coronavirus vaccine. It was advanced by the House of Representatives by a vote of 415-2 and was passed by the Senate by a vote of 96-1. Reps. Ken Buck (R-Colo.) and Andy Biggs (R-Ariz.) as well as Sen. Rand Paul (R-Ky.) voted against the measure.