

# COVID-19: CARES Act and Federal Policy Responses

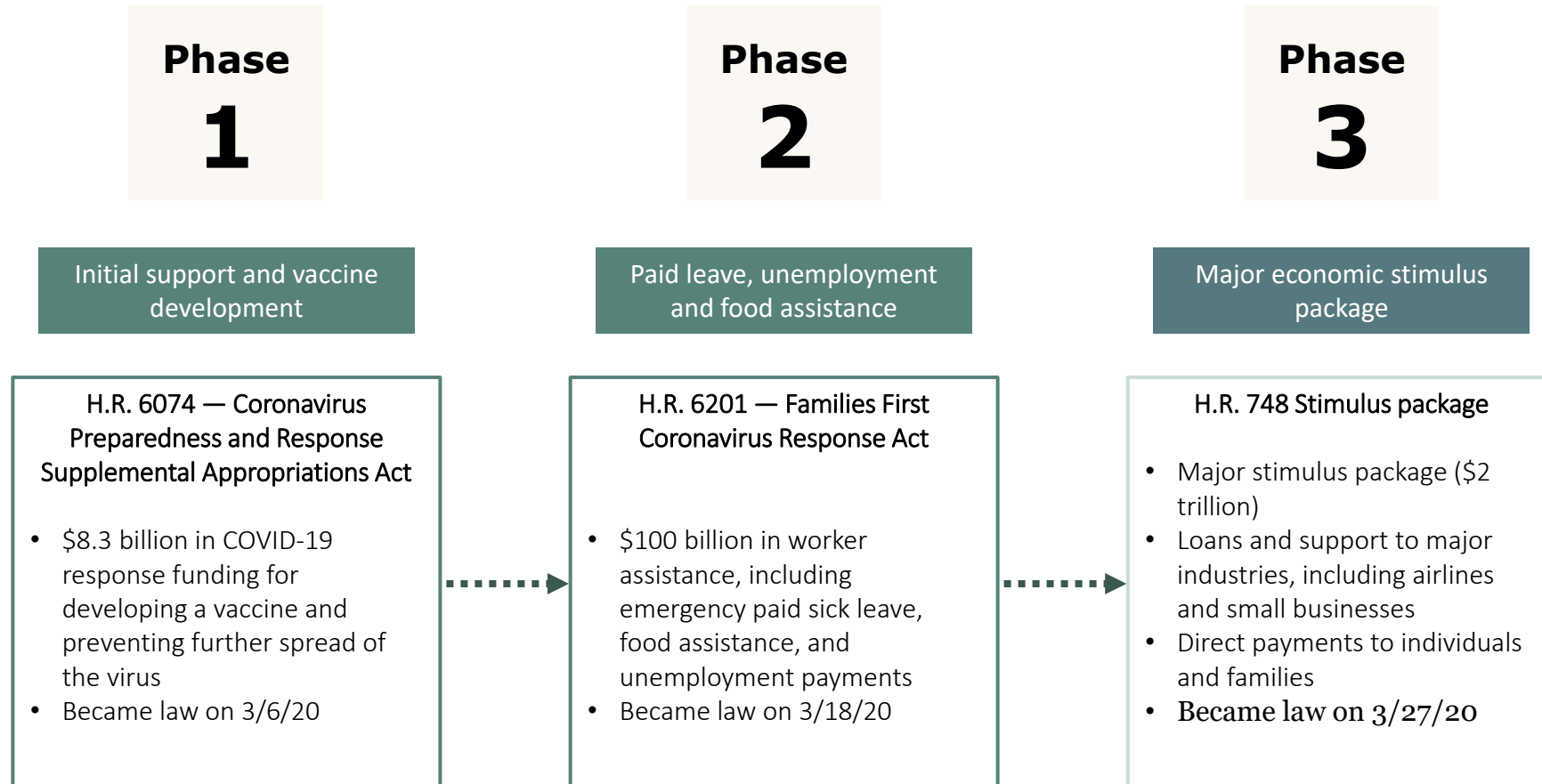


**KUTAKROCK**

[kutakrock.com](http://kutakrock.com)

April 1, 2020

# Three-Phase Federal Response to the COVID-19 Pandemic



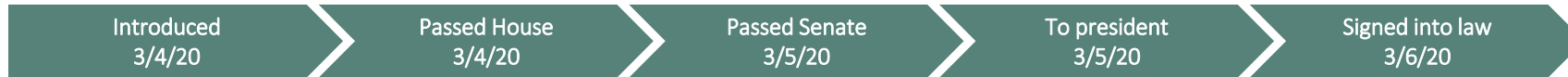
Sources: The Wall Street Journal, The Washington Post, Congress.gov.

Zachary Goldstein | Slide last updated on: March 18, 2020



# H.R. 6074: Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020

## *Bill at a glance*



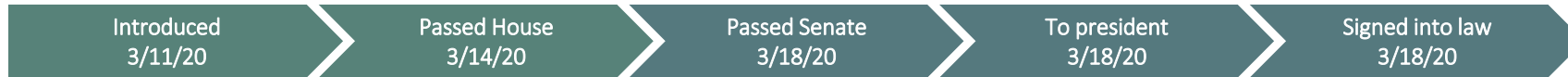
## Bill overview

- Provides \$8.3 billion in emergency funding in response to the coronavirus outbreak for:
  - The development and manufacturing of vaccines and other supplies
  - State, local and tribal public health agencies
  - Loans for affected small businesses
  - Evacuations and emergency preparedness activities
  - Humanitarian assistance for affected countries
- The supplemental appropriations will be provided to the FDA, CDC, NIH, Public Health and Social Services Emergency Fund, Small Business Administration, Department of State, and USAID
- Designates the supplemental appropriations as emergency spending, which is exempt from discretionary spending limits



# H.R. 6201 – Families First Coronavirus Response Act

## Bill at a glance



### Bill overview

- Creates a federal emergency paid leave program administered by SSA
  - The paid sick leave program initially only covered 20% of workers, and now covers even less after being scaled back to exempt small businesses
  - The paid family leave program included now only covers parents whose childrens' schools have closed, notably leaving out those who must stay home to take care of ill family members
- Provides funds for nutrition assistance, including \$500 million for WIC and \$400 million for TEFAP
- Includes \$5 million for the Department of Labor to administer an emergency paid sick days program and \$250 million for the Senior Nutrition program in the Administration for Community Living
- Offers provisions to ensure children's access to school lunches
- Suspends SNAP work requirements
- Requires OSHA to issue an ETS requiring employers in the health care sector to develop a comprehensive exposure control plan to protect workers from COVID-19
- Offers states \$1 billion for emergency grants and interest-free loans to support processing and paying unemployment insurance
- Requires private insurers to expand coverage of certain COVID-19 related expenses

# Emergency Paid Leave Requirements in H.R. 6201

	What employers does this apply to?	What is the required duration of leave?	What are qualifying reasons for taking leave?	What is the required wage replacement?*
<p><b>Paid sick leave</b></p> <p><b>Takes effect:</b> April 2, 2020</p> <p><b>Expires:</b> December 31, 2020</p>	<ul style="list-style-type: none"> <li>Private sector employers that have fewer than 500 employees</li> <li>Public sector employers that have one or more employees</li> <li><i>Small businesses with less than 50 employees may be exempted if leave requirements would burden the business too much</i></li> </ul>	<ul style="list-style-type: none"> <li>Two weeks of paid sick leave for full-time employees that meet leave eligibility requirements</li> <li>Part-time employee leave is based on the average hours they work</li> </ul>	<ol style="list-style-type: none"> <li>Gov. mandated COVID-19 related quarantine</li> <li>Health care provider advised quarantine</li> <li>Experiencing symptoms or seeking diagnosis</li> <li>Caring for quarantined individuals or children who are at home due to COVID-19</li> <li>Experiencing a similar condition as defined by HHS</li> </ol>	<ul style="list-style-type: none"> <li><b>If home due to reasons 1-3:</b> Regular rate of pay, capped at \$511 daily and \$5,110 in the aggregate</li> <li><b>If home due to reasons 4-5:</b> 2/3 of regular rate of pay, capped at \$200 daily and \$2,000 in the aggregate</li> </ul>
<p><b>Family and medical leave</b></p> <p><b>Takes effect:</b> April 2, 2020</p> <p><b>Expires:</b> December 31, 2020</p>	<ul style="list-style-type: none"> <li>Private sector employers that have fewer than 500 employees</li> <li><i>Small businesses with less than 50 employees may be exempted if leave requirements would burden the business too much</i></li> </ul>	<ul style="list-style-type: none"> <li>Ten weeks of paid family and medical leave for full-time employees that have been with the company for at least a month</li> <li>Part-time employees are “eligible for leave for the number of hours that the employee is normally scheduled to work over that period”</li> </ul>	<ul style="list-style-type: none"> <li>Unable to work or telework because caring for quarantined individuals or children who are at home due to COVID-19</li> </ul>	<ul style="list-style-type: none"> <li>At least 2/3 of regular rate of pay, capped at \$200 daily and \$10,000 in the aggregate</li> </ul>

\*Private sector employers that have less than 500 employees are eligible for a 100% payroll tax credit to cover required leave wages and certain medical expenses

Sources: Ways and Means Republicans, Department of Labor.

# Phase 3 (H.R. 748): Middle Class Health Benefits Tax Repeal Act



Total cost: \$2 trillion

- **Direct payments to individuals:**

- \$1,200 per adult, with an additional \$500 per child
- The full amount will go to individuals who earn >\$75,000/year or \$150,000 for married couples; the payments scale down for higher-earning individuals, phasing out completely at \$99,000 for individuals, \$146,500 for heads of households with one child, and \$198,000 for joint filers without children

- **Hospital investments**

- \$100 billion for hospitals
- \$1 billion to Indian Health Service
- \$16 billion for building a stockpile of medical equipment
- Increases reimbursements by 20% for treating Medicare patients with coronavirus

- **\$500 billion lending funds for industries, states, and localities**

- Loans for companies with more than 500 employees
- \$25 billion in loans to airlines; \$4 billion to cargo carriers
- Bans loans to businesses owned by the president, vice president, heads of executive departments, or members of Congress

- **\$350 billion in loans for small businesses**

- Loans to small businesses would be forgiven if payrolls are maintained
- **Unemployment benefits increased \$600/week for four months**
- **New Treasury IG and Congressional Oversight Board**
- **State and Local Funds**
  - \$150 billion for state and local funds, including \$8 billion for tribal governments

# The Enacted Stimulus Package Contains Numerous Provisions That Pertain To The Financial Sector

## The bill supports Fed lending and offers different types of regulatory relief

1

Authorizes the Treasury Department to direct **\$454 billion in support of Federal Reserve lending** programs; the Fed designs and runs its programs, but must receive DOT approval on any proposed plans

2

Authorizes **the Federal Deposit Insurance Corporation (FDIC)** to **revive crisis-era backstop measures** allowing it to guarantee bank-issued debt, as well as noninterest-bearing transaction deposits (e.g. checking accounts) beyond the FDIC's typical \$250,000 limit

3

Allows banks the option of **temporarily delaying compliance with the Current Expected Credit Losses (CECL) standard**, an accounting standard used to estimate allowances for credit losses

4

**Protects consumers' credit reports** in the event that they must make any coronavirus-related loan modifications; does so by requiring financial institutions to designate qualifying modified loan payments as "current" in reports to credit reporting agencies until 4 months after the state of emergency has been officially lifted

5

**Eases capital requirements for small banks** by decreasing the community bank leverage ratio by 1 percent (from 9 percent to 8 percent)

6

**Suspends federal student loan payments** until Sep. 30, **allows up to 6 months** of forbearance for consumers who have taken out federally backed mortgage loans, and **bans foreclosures** on such loans **for 60 days**



# The Federal Government is Trying To Stabilize The Economy

## Key agencies and their responses



### Department of the Treasury

- Worked on economic package that includes sending American workers checks and support small businesses
- Will advance funds to businesses so they can cover the costs of the paid sick leave requirements
- Parent agency of the IRS



### Internal Revenue Service (IRS)

- Delaying the April 15th tax filing deadline by three months
- Individuals may delay as much as \$1 million in income taxes owed, while corporations can delay up to \$10 million in taxes



### Federal Reserve System

- Fed Funds Rate decreased to between 0 and 0.25
- Ramped up quantitative easing, first to \$700 billion and now unlimited
- Decreased discount rate 150 basis points and urged usage of discount window
- Expanded 2 lending facilities and created 3 new ones
- Suspended some Dodd-Frank capital requirements
- Facilitating foreign purchases of US Dollars
- Expanding repurchase agreement (repo) operations
- Creating a small business lending facility - "Main Street Business Lending Program"



### Small Business Administration (SBA)

- Released guidance for small businesses and is making available low-interest Economic Injury Disaster Loans (EIDLs) of up to \$2 million to affected business and non-profits
- The \$8.3 billion supplemental appropriations bill signed by President Trump on March 6 allows for \$1 billion in subsidized "Small Business Disaster Loans" and includes \$20 million for the SBA to administer them



### Consumer Financial Protection Bureau (CFPB)

- Has released guidance advising consumers on how to best protect themselves financially in the midst of coronavirus



# The Fed Is Using Many Of The Tools At Its Disposal (1/2)

Key actions taken by the Fed

## 1. Decreased Federal Funds Rate

- Cutting the rate makes borrowing cheaper because various consumer loan interest rates are pegged to it
- Federal Funds Rate = interest rate that banks must pay to lend funds to each other overnight
- The Fed decreased the rate down to between 0 and 0.25

## 2. Massive quantitative easing

- Quantitative easing = Federal Reserve purchases government bonds and other assets to add cash to the market
- Originally stated it would buy \$700 billion in bonds and mortgage-backed securities, but has announced no-limit purchases of corporate and municipal bonds



## 3. Expanded discount window

- Discount window = short term loans directly from the Federal Reserve for banks
- Discount rate = rate banks pay on those short term loans; the Fed decreased the rate by 150 basis points
- Using the discount window usually signals distress, but major banks announced they would use it to decrease stigma

## 4. Relaunched lending facilities and created new ones

- Lending facilities = short term loans to financial institutions secured by certain high-quality assets, to limit uncertainty in markets for those assets
- Lending facilities expanded or created: Money Market Mutual Funds (including municipal), corporate debt, and consumer debt

Sources: Board of Governors of the Federal Reserve System, The Brookings Institute, Street Insider.

August Gebhard-Koenigstein | Slide last updated on: March 23, 2020

# The Fed Is Using Many Of The Tools At Its Disposal (2/2)

Key actions taken by the Fed

## 5. Encouraging lending by banks

- The Fed is temporarily doing away with various regulatory requirements; it has gotten rid of the reserve requirement, and is encouraging banks to reach in to loss-absorbing capital they are required by Dodd-Frank reforms to hold
- By encouraging banks to utilize other forms of capital – like regulatory capital – the Fed wants to stimulate lending so that credit does not dry up

## 6. International liquidity swaps

- The Fed is facilitating international central bank access U.S. Dollars by lowering the pricing on international liquidity swap arrangements and extending maturity periods
- The Fed is trying to improve the global liquidity of the U.S. Dollar so that other central banks can lend those dollars to banks that need access to them



## 7. Expanded repo operations

- Two repos capped at \$500 billion
- Repo = repurchase agreement operations
- Repo market disruptions can disrupt the federal funds rate, so the Fed is injecting liquidity into these markets to keep them running smoothly

## 8. Small business lending

- The Fed has announced that it will establish the Main Street Business Lending Program to support small and medium-sized businesses and make it easier for them to access credit
- The program is meant to complement efforts by the Small Business Administration

Sources: Board of Governors of the Federal Reserve System, The Brookings Institute, Street Insider.

August Gebhard-Koenigstein | Slide last updated on: March 23, 2020

# The U.S. Has Taken Various Internationally-Focused Actions

## Key foreign policy actions

### Travel



- The US has enacted travel bans from 28 European nations in the Schengen Area, as well as the UK and Ireland; there are exemptions for Americans and family members of Americans
- Travel into the US is also suspended for passengers who have been in China or Iran in the last 14 days; there are exemptions for Americans, but with certain restrictions in place
- The US has closed its northern border with Canada and its southern border with Mexico, exempting only essential traffic

### Trade



- President Trump initially said that restrictions on European travel also applied to cargo, but the White House later clarified that this was not the case
- Still, passenger planes carry a lot of cargo, and the ban will likely lead to a decrease in flights/capacity, disrupting trade and supply chains
- US trade officials granted tariff exemptions for dozens of Chinese medical exports, like exam gloves and surgical drapes; US officials are reportedly weighing further tariff relief for China and other nations

### Oil



- President Trump stated that he instructed the Department of Energy to buy “large quantities” of crude oil for the Strategic Petroleum Reserve
- The Strategic Petroleum Reserve stores petroleum for emergency situations and is meant to protect against disruptions in the international petroleum supply
- President Trump said the move would aid the US oil industry in the wake of falling oil prices, in addition to helping the country achieve energy independence

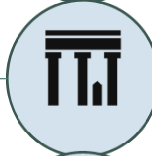
# Coronavirus Small Business Relief Programs Exist at the Federal, State And Local, And Corporate Level



Loans are the most common option for relief, though some entities are also making grants available through their business assistance programs



**Federal loans:** The SBA is providing low-interest disaster loans of up to \$2 million dollars to small businesses, private non-profits, and small-scale agricultural cooperatives that have been hurt financially by COVID-19. The stimulus package approved by the Senate also includes \$350 billion in small business loans.



**Federal Reserve Main Street Business Lending Program:** The Fed announced that it is establishing a new program to support SMEs and make it easier for them to access credit. The program is meant to complement efforts by the SBA.



**IRS tax filing and payment extension:** The International Revenue Service (IRS) has delayed the April 15<sup>th</sup> tax filing deadline to July 15. Small business filers can delay up to \$1 million in taxes without incurring any penalties.



**State and local relief programs:** States and localities around the country are posting new information about their business assistance programs; these can typically be found on governors' websites and vary in their eligibility requirements, their type of relief (loan vs. grant), and their application processes.

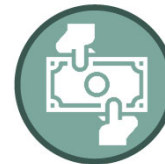


**Corporate relief programs:** Amazon has set up a \$5 million Neighborhood Small Business Relief Fund to give grants to businesses in Seattle neighborhoods; Facebook has established a Small Business Grants Program and has committed to providing \$100 million in grants and Facebook advertising credits for up to 30,000 small businesses internationally.

# Key Small Business Provisions In The Stimulus Package

Some researchers estimate that small businesses could need up to \$1.5 trillion cash injections from the federal government, far more than the stimulus currently provides

Appropriates **\$350 billion** in forgivable loans (capped at 4% interest) to small businesses (who can receive **up to \$10 million**) to prevent them from laying off their workers; these will be overseen by the SBA and administered by banks + other lenders



Creates a refundable **50% tax payroll tax credit** on worker wages; applies to all businesses, including small businesses

Codifies a **delay in employer-side Social Security payroll taxes** until 2021 or 2022



**Senate stimulus package**



Designates some of the \$425 billion appropriated for the Federal Reserve's credit facilities to be used to **support small businesses**

Provides **expanded unemployment-insurance benefits** to sole proprietors, in addition to other self-employed workers



Establishes less strict operating loss-reduction rules, allowing businesses to **get more tax relief**

Sources: MarketWatch.

August Gebhard-Koenigstein | Slide last updated: March 26, 2020

# The Treasury Department Recently Released Guidance for the New Small Business Program



As part of the recently enacted stimulus, the SBA is overseeing the **Paycheck Protection program**, authorizing almost \$350 billion for small business job retention and more

## Understanding the program



**Purpose:** To keep workers employed by small businesses on payroll, and further help small business weather the economic fallout of the coronavirus

**Process:** Businesses can find the application on the Treasury Department CARES Act resource page; after gathering necessary information they should contact their bank or any SBA-approved lender to begin the process

**Eligibility:** Any business (including non-profits, veterans organizations, sole proprietors, independent contractors, and tribal businesses) that has fewer than 500 employees (number can vary depending on industry)

### Loan features:

- Max. of \$10 million, 0.5% interest rate, 2-year maturity period
- Loan will be forgiven if business uses it for payroll costs (or other qualifying operating expenses) during the first 8 weeks after loan is taken out
  - It is expected that no more than a quarter of the forgiven should be used for non-payroll costs
- Initial payment deferred for six months
- No collateral or personal guarantees
- No fees payable to the SBA
- SBA provides a 100% percent guarantee of the loan

Sources: Small Business Administration, The Washington Post, Alan Rappeport

August Gebhard-Koenigstein | Slide last updated: April 1, 2020