

A&D-RELEVANT PROVISIONS – STIMULUS BILL (“CARES Act”)

DIVISION A –

TITLE I – KEEPING AMERICAN WORKERS PAID AND EMPLOYED ACT

Sec. 1102. Provides “paycheck protection” loans to small businesses, nonprofit organizations, veterans organizations, or tribal business concerns with fewer than 500 employees. Also covers sole proprietors and self-employed individuals.

- Provides SBA appropriation of \$349 billion for these loans (Sec. 1107);
- Administered by the Small Business Administration;
- Maximum amount: Lesser of \$10M or the calculation based on a formula of payroll costs in subsection (E);
- May be used for payroll, health benefits, mortgage (including interest), rent, utilities, and interest on debt service from other obligations (Subsection F).

Sec. 1103 (Entrepreneurial Development). Provides grants to provide education, training and advice to small businesses on accessing and applying for resources provided herein for business resiliency

- Administered through Small Business Development Centers and Women’s Business Centers;
- Appropriates \$265 million for these grants (Sec. 1107);
- Similar program for Minority Business Development Centers in Sec. 1108

Sec. 1104 (State Trade Expansion Program). Allows SBA to reimburse certain recipients for financial losses relating to a foreign trade mission or trade show exhibition canceled due to the public health emergency.

Sec. 1110 (Emergency Economic Injury Disaster Loan Grants). Provides emergency grants for SBA loan-eligible entities up to \$10,000, as an advance against the EIDL loan, within 3 days of receipt of the application. Repayment is not required even if the loan is subsequently denied.

TITLE II – RELIEF FOR WORKERS AFFECTED BY CORONAVIRUS ACT

Sec. 2102 (Pandemic Unemployment Assistance).

Sec. 2301 (Employee Retention Credit for Employers). Allows a tax credit for eligible employers of 50% of qualified wages subject to applicable employment taxes;

- Qualified wages may not exceed \$10,000;
- Limitations and refundability discussed in subsection (b);
- “Eligible employer” covers those whose operation is fully or partially suspended during that quarter due to orders from governmental authorities

Sec. 2302 (Delay of Employer Payroll Taxes). Defers employer portion of payroll taxes subject to certain definitions and conditions. Deferral period defined as date of enactment through January 1, 2021.

Sec. 2303 (Net Operating Losses). Modifies law related to treatment of net operating losses.

Sec. 2305 (Corporate AMT). Modifies rules related to the corporate alternative minimum tax (AMT).

Sec. 2306 (Business Interest). Modifies rules related to the tax limits on business interest.

TITLE III – SUPPORTING THE HEALTH CARE SYSTEM

Sec. 3610 (Federal Contractor Authority). Allows an agency to modify a contract to reimburse for paid leave a contractor pays to keep its employees or subcontractors in a ready state, through September 30, 2020. Covers employees who cannot perform work on a site approved by the Federal Government.

TITLV IV – ECONOMIC STABILIZATION AND ASSISTANCE TO SEVERELY DISTRESSED SECTORS

Sec. 4003 (Emergency Relief). Provides up to \$500 billion in loans or loan guarantees to eligible businesses, including:

- \$25 billion for passenger air carriers, ticket agents, and Part 145 MRO companies (see additional authorized amounts under Sec. 4112 below)
- \$4 billion for cargo air carriers (See also Sec. 4112 below);
- \$17 billion for “businesses critical to maintaining national security”; and
- \$454 billion for loans or loan guarantees to other eligible businesses, states or municipalities

Secretary of the Treasury shall administer the program, and shall publish procedures for application and minimum requirements within 10 days of enactment. Loans/guarantees shall be as short as practicable and in any event not longer than 5 years.

Terms and conditions on receiving assistance (subsection (c)) include:

- For the term of the loan plus one year, the recipient and their affiliates must agree not to repurchase an equity security of their business or of their parent company, unless contractually obligated to do so;
- For the same term as above, the recipient shall not pay dividends on its common stock;
- Until September 30, 2020, the recipient shall maintain its employment levels as of March 24, 2020, to the extent practicable, and in no case shall not reduce employment by more than 10%.
- The recipient must be created or organized within the United States with significant operations in and a majority of its employees based in the United States;
- The recipient agrees to limit certain employee compensation as discussed below under Sec. 4004 (applies only to airlines and national security businesses above)
- The recipient must have incurred or expects to incur covered losses such that continued operation of the business is jeopardized, as determined by the Secretary.

The Secretary is encouraged to establish loans for businesses and nonprofit organizations between 500 and 10,000 employees with an interest rate not to exceed 2% and a 6-month deferral period for principal and interest. Terms and conditions include the ones above and some additional ones including prohibitions on outsourcing and retention of collective bargaining agreements.

Sec. 4004 (Limitations on Employee Compensation). For the term of the loan plus one year, the recipient agrees that:

- No officer or employee receiving total compensation above \$425,000 in calendar year 2019 (other than those covered by a collective bargaining agreement) will receive more than that amount during the covered period; or
- No such officer or employee will receive severance pay or benefits upon termination which exceeds twice the maximum total compensation of the officer or employee in 2019; and
- No officer or employee receiving \$3 million or more in 2019 will receive an amount during the covered period exceeding the sum of \$3 million and fifty percent of the difference between \$3 million and the compensation received by the individual in 2019.

Sec. 4005 (Continuation of Air Service). Allows the Secretary of Transportation to “hold in” air service provided by any air carrier receiving loans or loan guarantees under this Act. This authority terminates on March 1, 2022.

Sec. 4007 (Suspension of Aviation Excise Taxes). Suspends aviation excise taxes until January 1, 2021. These include passenger ticket taxes, domestic and international segment fees, aviation fuel taxes, and other related aviation excise taxes normally deposited into the Airport and Airway Trust Fund.

Sec. 4017 (Defense Production Act). Authorizes authorities of the Defense Production Act for two years.

Sec. 4018 (Special IG for Pandemic Recovery). Establishes a new Special IG for Pandemic Recovery, to be appointed by the Treasury Secretary subject to confirmation by the Senate.

Sec. 4020 (Congressional Oversight Commission). Establishes a new Congressional Oversight Commission to oversee the implementation of this Act.

Sec. 4019 (Conflicts of Interest). Prohibits certain listed individuals from owning a controlling interest (20% or more) in any business receiving assistance under this Act.

Sec. 4112 (Aviation Worker Relief). Provides financial assistance to be used exclusively for the payment of aviation employee wages, salaries and benefits as follows:

- Employees of passenger airlines, \$25 billion;
- Employees of cargo airlines, \$4 billion; and
- Employees of aviation contractors (defined below), \$3 billion.

The term "contractor" means (A) a person that performs, by contract or subcontract with a Part 121 air carrier, (1) catering functions; or (2) functions on airport property that are directly related to air transportation, including but not limited to the loading/unloading of property on aircraft; assistance to passengers; security; airport ticketing and check-in functions; ground handling of aircraft; or aircraft cleaning, sanitization, and waste removal.

Program is administered by the Secretary of the Treasury, coordinating with the Secretary of Transportation (Sec. 4119).

Sec. 4114 (Terms and Conditions). To receive the assistance above, the recipient must agree to:

- Refrain from involuntary furloughs or reductions in pay rates or benefits through September 30, 2020;
- Refrain from purchasing an equity security of the company or its parent company through September 30, 2020;
- Accept the provisions of Section 4115 (related to CBAs) and Section 4116 (compensation caps) described more fully below.

Sec. 4115 (Protection of CBAs). The Federal Government shall not condition this assistance on the implementation of measures to enter into negotiation on a collective bargaining agreement regarding pay or other terms and conditions of employment.

Sec. 4116 (Compensation Caps). As a condition of receiving assistance, airlines and their covered contractors must agree to the same compensation and severance pay caps specified in Sec. 4004 above. These generally apply to employees whose total compensation was \$425,000 or above in calendar year 2019. Restrictions run for two years, or through March 24, 2022. Compensation covered by a collective bargaining agreement is exempt from these requirements.

Sec. 4117 (Equity Interests). The Secretary may require warrants, preferred stock, debt securities, or other financial instruments to provide appropriate compensation to the government for the assistance being provided to airlines or their contractors in this title.

DIVISION B – EMERGENCY APPROPRIATIONS (S. 3548)

TITLE II – Commerce, Justice, Science (\$3 billion)

Economic Development Administration.--\$1.5 billion in economic adjustment assistance. Can be used by manufacturing supply chain companies to leverage local funding

NOAA.--\$20 million.

NASA.--\$60 million.

TITLE III – Department of Defense (\$10.5 billion)

Defense Working Capital Fund.--\$1.45 billion.

Defense Production Act.--\$1 billion for DoD to invest in manufacturing capabilities related to PPE and medical equipment to meet the needs of health care workers.

Advance Billings.—Language (Sec. 13003) allowing advance billings for any DoD working capital funds to exceed the amount otherwise specified in appropriations Acts.

UCA Administration.—Language (Sec. 13004) waiving 10 U.S.C. 2326(b)(3) as it relates to undefinitized contractual actions (UCAs) related to the national emergency. Head of an agency may waive 10 U.S.C. 2326(b) for a contract if a necessary due to the national emergency (Sec. 13005).

TITLE VIII – Departments of Labor, Health and Human Services, and Education (\$172.1 billion)

TITLE XII –Transportation and Housing

\$10 billion for airport grants

\$25 million for FAA "Operations", to "prevent, prepare for, and respond to coronavirus", repurposed from amounts in P. L. 115-123 (Sec. 22001).