

Changes Under the SECURE & CARES Acts

Racine Kenosha Estate Planning Council

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Dayna J. Lefebvre

Becker, Hickey & Poster, S.C.

222 E. Erie Street, Suite 320

Milwaukee, WI 53202

(414) 273-1414

dayna@beckerhickey.com

SECURE ACT

“Setting Every Community Up for Retirement Enhancement”

- Effective January 1, 2020
- This presentation will focus on changes related to estate planning. See Exhibit A for a summary of other changes in the SECURE Act.

I. Applicability

- a. 401(k), 403(b), 457(b), and IRA accounts

II. Rules for Inherited IRAs

- a. Applies to accounts where owner/plan participant died on or after 1/1/2020
- b. Eliminates “stretch” in most cases
- c. Base rule: 10 Year Rule
 - i. Inherited IRAs with a designated beneficiary must be fully distributed by 12/31 of the year containing the 10th anniversary of the death of the plan owner/participant
 - ii. Designated Beneficiaries are determined the same way as under the previous rules
- d. Exceptions to the 10 Year Rule (Eligible Designated Beneficiaries)
 - i. Surviving Spouse Beneficiary
 - 1. Same rules apply as under previous rules
 - 2. Rollover to surviving spouse’s own account
 - ii. Minor Child Beneficiary
 - 1. Must be a child of the owner/participant
 - 2. Eligible for “stretch” treatment until age of majority, and must take RMDs each year
 - 3. At age of majority, convert to 10 year rule (fully distributed by 12/31 of year containing 10th anniversary of child reaching majority)
 - 4. Age of majority is determined by state law (18 or 21)
 - 5. “Stretch” treatment can be extended to age 26 if child meets education qualification requirements (yet to be determined)
 - iii. Disabled Beneficiary
 - 1. “Stretch” treatment or 10 year rule, whichever is elected by beneficiary
 - iv. Chronically Ill Beneficiary

1. “Stretch” treatment or 10 year rule, whichever is elected by beneficiary
- v. Beneficiary Less than 10 Years Younger than Decedent
 1. “Stretch” treatment or 10 year rule, whichever is elected by beneficiary
- e. No Designated Beneficiary
 - i. Estate, Charity, or Non-Qualified Trust
 - ii. Before owner/participant reaches required begin date, then 5 year rule still applies
 - iii. After owner/participant reaches required begin date, then remaining life expectancy of deceased owner/participant
- f. Qualified Trust
 - i. Same requirements for a trust to be qualified as “see through” or “look through”
 - ii. Exceptions/New Rules for Disabled and Chronically Ill Trust Beneficiaries
 1. Sole Benefit Trust
 - a. If the Trust is for the sole lifetime benefit of the disabled or chronically ill individual, then the Trust will qualify as an Eligible Designated Beneficiary and can stretch distributions over beneficiary’s life expectancy
 2. Applicable Multi-Beneficiary Trust
 - a. If, upon the death of the owner/participant, the trust will be divided into multiple sole benefit trusts, then the trust for the disabled/chronically ill beneficiary will be able to qualify as an Eligible Designated Beneficiary and can stretch distributions over beneficiary’s life expectancy
 - b. The other trusts for non-eligible designated beneficiaries would still be subject to the 10 year rule
 - iii. Conduit Trusts
 1. Need to review the language carefully to determine whether distributions can be taken over the 10 years, or must all be taken in the 10th year
 - iv. Accumulation Trusts
 1. Cannot qualify as an Eligible Designated Beneficiary (except in the disabled/
- g. Lifetime Planning Strategies
 - i. Purchase life insurance to offset income tax liability and replace assets
 - ii. Charitable giving with IRAs
 - iii. Roth conversions if the owner/participant is in a lower tax bracket than the beneficiary
 - iv. Larger lifetime withdrawals from IRAs, taking into consideration tax brackets, if the owner/participant will still be in a lower tax bracket than the beneficiary

- III. Repeal of maximum contribution age
 - a. Old Rule: Couldn’t contribute to an IRA after age 70½

- b. New Rule: People earning income through employment or self-employment are permitted to contribute to an IRA at any age, as long as they are still earning
 - i. Note that the qualified charitable contribution limit of \$100,000 will be reduced by any contributions made after age 70½
- IV. Change in required minimum distribution age
- a. Old Rule: Must begin taking RMDs at 70½
 - b. New Rule: Must begin taking RMDs at 72
 - i. If turned 70½ in 2019 or earlier, still must take RMDs, even if not yet 72

CARES ACT

“Coronavirus Aid, Relief, and Economic Security Act”

- Effective March 27, 2020
 - This presentation will focus on changes related to estate planning and tax planning. See Exhibit A for a summary of other changes in the CARES Act.
- I. Changes to Required Minimum Distributions for 2020
- a. Waiver of RMDs
 - i. Participant/Owner IRAs
 - ii. Inherited IRAs
 - iii. Includes RMDs that were supposed to be taken by 4/1/2020 due to owner/participant turning 70½ in 2019
 - b. If a RMD is withdrawn, the participant can roll it back into the account from which it was drawn within 60 days with no penalty or income tax implications
 - i. This was extended by the IRS (Notice 2020-51) to allow any RMDs withdrawn after January 1, 2020 to be returned to the account by August 31, 2020
- II. Increased Access to Qualified Retirement Funds
- a. Eligible individuals:
 - i. Diagnosed with COVID
 - ii. Spouse or dependent diagnosed with COVID
 - iii. Economic hardship due to COVID (examples)
 - 1. Loss of employment
 - 2. Reduction in employment
 - 3. Unable to work due to lack of child care
 - 4. Quarantine
 - b. Waive 10% early withdrawal penalty in some cases
 - i. Not all plans allow early withdrawals, but employers are permitted under CARES to amend a plan to include early withdrawals
 - ii. Applies only to hardship withdrawals by eligible individuals up to \$100,000 in 2020
 - iii. Withdrawals are still subject to income tax
 - 1. Can be prorated over three years following the distribution rather than being taxed in the year of distribution

2. Income tax paid will be credited back to owner/participant if funds are returned to a qualified account within the three years following the distribution
 3. Employer is not required to withhold federal income tax
 - c. Expansion of loans from qualified accounts
 - i. Not all plans allow loans, but employers are permitted under CARES to amend the plan to allow loans
 - ii. Applies to loans taken out between 3/27/2020 and 9/23/2020
 - iii. Limited to the lesser of \$100,000 or 100% of vested plan account balance
 - iv. For outstanding loans on March 27, 2020
 1. If they were supposed to be repaid by December 31, 2020, the repayment due date is extended by a year
 2. March 27, 2020 to December 31, 2020 is not counted for either the 5 year maximum repayment rule or the time period during which interest must be amortized
- III. Expansion of Charitable Contribution Deductions for Individuals
- a. \$300 deduction for charitable cash contributions made in 2020
 - i. Applies whether taking the standard deduction or itemizing deductions
 - b. Increases deductibility of charitable contributions to 100% of AGI rather than limiting to 60% of AGI in 2020
 - i. Exclusions:
 1. Donor advised fund
 2. 509(a)(3) supporting organization
 - ii. Must proactively elect to use this increased charitable deduction
- IV. Economic Impact Payments (Recovery Rebates)
- a. Payment Amount
 - i. \$1,200 per individual with AGI of \$75,000 or less
 - ii. \$1,200 per head of household with AGI of \$122,500 or less
 - iii. \$2,400 per married filing jointly couple with AGI of \$150,000 or less
 - iv. \$500 per child under 17
 - v. Phased out based on adjusted gross income (\$5 per \$100 income until completely phased out)
 - vi. Individual/couple must be qualified under the rules
 1. Not a dependent
 2. Not a trust or estate
 3. Social Security number that authorizes employment in the U.S.
 4. Alive at the time the payment is made
 - vii. Child qualification rules are the same as the Child Tax Credit
 - b. Payments are not taxable income to recipient. When 2020 income tax returns are filed, economic impact credit will be recalculated based on 2020 income.
 - i. Credit allowable on 2020 tax return will be reduced by economic impact payments received by taxpayer in 2020
 - ii. Individuals who received payments larger than the credit they are eligible for in 2020 will not have to repay the excess payment

- iii. People who were not eligible for economic impact payments may be eligible for the credit on their 2020 tax returns due to change in circumstances (i.e. had a child, decreased income, no longer a dependent, etc.)
- c. If the taxpayer died prior to the payment being received, the payment must be returned to the IRS. Instructions are provided on their website

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EXHIBIT A
SUMMARY OF OTHER SECURE ACT CHANGES*

*Thank you to Attorney Tiara M. Oates for preparing this Exhibit A

SECURE ACT (“*Setting Every Community Up for Retirement Enhancement Act*” of 2019)
Text: H.R. 1994-116 Congress (2019-2020) <https://www.congress.gov/116/bills/hr1994/BILLS-116hr1994rds.pdf>

- Was originally passed in the House in July, was approved by the Senate on Dec. 19, 2019 as part of an end-of-year appropriations act and accompanying tax measures and was signed into law on December 20, 2020.
- This bill amended the Internal Revenue Code of 1986, to encourage retirement savings, & other purposes
- The bill includes significant provisions aimed at increasing access to tax-advantaged accounts and preventing older Americans from out-living their assets:

Section 101: Multiple Employer Plans; Pooled Employer Plans

- Amended Section 413 of the Internal Revenue Code of 1986 by adding “Application of Qualification Requirements for Certain Multiple Employer Plans with Pooled Plan Providers”
- Allows two or more unrelated employers to join a pooled employer plan (PEP).
 - This is a brand-new multiple employer plan (MEP) that has been promoted as a way smaller employer can pool together to participate in a single plan to save administrative costs.
- The Act also eliminates the “one bade apple rule’ a rule under which a failure by one employer (or the plan itself) to satisfy an application plan requirement will result in the disqualification of the MEP for all employers maintaining the plan.
- Designated pooled plan provider must be a named fiduciary, be responsible as the ERISA Section 3(16) plan administrator, must register with the DOL/IRS, with the ERISA bond limits increased to \$1 million.
- Each adopting employer maintains responsibility for selection and monitoring of the pooled plan provider or any other named fiduciary.
- IRS and DOL have the authority to audit the pooled plan provider for Code and ERISA compliance.

Section 102: Increase in 10% CAP for Automatic Enrollment Safe Harbor After 1st Plan Year

- Amended Section 401(k)(13)(C)(iii): Strikes “does not exceed 10%”, inserting “does exceed 15%”
- Makes it easier for small businesses to set up 401(K)s by increasing the cap under which they can automatically enroll workers in “Safe Harbor” retirement plans, from 10% pay to 15% pay.
- This provision, if adopted by employers, will require their documents to outline the higher cap in the plan document.

Section 103: Rules Relating to Election of Safe Harbor 401(k) Status

- Amended Subparagraph (A) of Section 401(k)(12) of the Internal Revenue Code of 1986
- The safe harbor notice requirement for non-elective contributions is eliminated but maintains the requirement to allow employees to make or change an election at least once per year.
- The bill also permits plan sponsors to switch to a safe harbor 401(k) plan with non-elective contributions at any time before the 30th day before the close of the plan year.
- Amendments after that time would be allowed if the amendment provides:
 1. A non-elective contribution of at least 4% of compensation (rather than at least 3%) for all eligible employees for that plan year, and
 2. The plan is amended no later than the last day for distributing excess contributions for the plan year, that is, by the close of the following plan year.

Section 104: Increase in Credit Limitation for Small Employer Pension Plan Startup Costs

- Amended Paragraph 1 of section 45E(b) of the Internal Revenue Code of 1986
- Increases the credit by changing the calculation of the flat dollar amount limit on the credit to the greater of
 1. \$500; or
 2. The lesser of:
 - a) \$250 for each employee of the eligible employer who is not a highly compensated employee and who is eligible to participate in the eligible employer plan maintained by the eligible employer; or
 - b) \$5,000
- The credit applies for up to three years.

Section 105: Small Employer Automatic Enrollment Credit

- Amends Paragraph 1 of Section 45E(b) of the Internal Revenue Code of 1986
- Creates a new tax credit up to \$500 per year to employers to defray startup costs for new 401(k) plans and SIMPLE IRA plans that include automatic enrollment.
- The credit is in addition to the plan start up credit allowed under present law and would be available for three years.
- The credit would also be available to employers that convert an existing plan an automatic enrollment design.

Section 106: Creation Taxable Non-Tuition Fellowship and Stipend Payments Treated as Compensation for IRA Purposes.

- Amended Paragraph 1 of Section 219(f) of the Internal Revenue Code of 1986
- Under the old rule's stipends and non-tuition fellowship payments received by graduate and postdoctoral students are not treated as compensation and cannot be used as the basis for IRA contributions.
- Under the SECURE Act this provision removes this obstacle by taking such amounts that are includible in includible in income into account for IRA contribution purposes.

Section 107: Repeal of Maximum Age for Traditional IRA Contributions

- Amended Paragraph 1 of Section 219(d) of the Internal Revenue Code of 1986

- Under the old rules of the Internal Revenue Code, you had to be under the age of 70 ½ in order to contribute to a traditional IRA. If you were 85 years old and still working, you wouldn't have to be able to contribute to a traditional IRA.
- Under the SECURE ACT anybody at any age including workers over the age of 70 ½ can make traditional IRA to contribute which also potentially allows them to make backdoor Roth IRA contributions
 - Of course, everyone still needs to be able to demonstrate earned income (like from working at a job, or self-employment) in order to contribute under the SECURE Act.

Section 108: Qualified Plans Prohibited from Making Loans Through Credit Cards and Similar Arrangements

- Amended Paragraph 2 of Section 72(p) of the Internal Revenue Code 1986
- Prohibits the distribution of plan loans through credit cards or similar arrangements

Section 109: Portability of Lifetime Income Options

- Amended Subsection (a) of Section 401 of the Internal Revenue Code 1986
- The SECURE Act permits qualified DC plans, 403(b) plans or governmental 457(b) plans to make a direct trustee-to-trustee transfer to another employer-sponsored retirement plan or IRA of lifetime income investments or distributions of a lifetime income investment in the form of a qualified plan distribution annuity, if a lifetime income investment is no longer authorized to be held as an investment option under the plan.

Section 110: Treatment of Custodial Account on Termination of Section 403(b) plans

- No later than six months after the date of enactment, the Secretary of Treasury will issue guidance under which if the employer terminates a 403(b) custodial account, the distribution needed to effectuate the plan termination may be the distribution of an individual custodial account in kind to a participant or beneficiary.
- The individual custodial account will be maintained on a tax-deferred basis as a 403(b) custodial account until paid out, subject to the 403(b) rules in effect at the time that the individual custodial account is distributed.
- The Treasury guidance shall be retroactively effective for taxable years beginning after December 31, 2008.

Section 111: Clarification of Retirement Income Account Rules Relating to Church-Controlled Organizations.

- Amended Subparagraph (B) of Section 403(b)(9) of the Internal Revenue Code of 1986
- Under the SECURE Act this clarifies individuals that may be covered by plans maintained by church-controlled organizations.
- Covered individuals include:
 - Duly ordained, commissioned, or licenses ministers, regardless of the source of compensation; employees of a tax-exempt organization, controlled by or associated with a church or a convention or association of churches; and certain employees after separation from service with a church, a convention or association of churches, or an organization described above.

Section 112 Qualified Cash or Deferred Arrangements Must Allow Long-Term, Part-Time Employees to Participate

- Amended Section 401(k) (2)(D) of the Internal Revenue Code 1986
- Under the old rules, employers generally may exclude part-time employees (employees who work less than 1,000 hours per year) when providing a defined contribution plan to their employers.
- Under the SECURE Act, this section requires employers maintaining a 401(k) plan to have a dual eligibility requirement under which an employee must complete either a one year of service requirement (with the 1,000-hour rule) or three consecutive years of service where the employee completes more than 500 hours of service.
 - The employer may elect to exclude such employees from testing under the nondiscrimination and coverage rules, and from the application of the top-heavy rules.

Section 113: Penalty-Free Withdrawals for Individuals in Case of Birth or Adoption

- Amends 72(t)(2) of the Internal Revenue Code of 1986: amended by inserting “10%
- Permit penalty-free withdrawals of \$5,000 from 401(k) accounts to defray the costs of having or adopting a child.

Section 114: Increase in age for required minimum distributions

- Amended Section 401(a)(9)(C)(i)(I) of the Internal Revenue Code of 1986
- Under the Internal Revenue Code, participants were generally required to begin taking distributions from their retirement plan at the age of 70 ½.
 - The policy behind this rule was to ensure that individuals spend their retirement savings during their lifetime and not use their retirement plans for estate planning purposes to transfer wealth to beneficiaries.
 - The age 70 ½ was first applied in the retirement plan context in the early 1960s and has never been adjusted to take into account increases in the life expectancy.
- Under the SECURES Act this section increases the required minimum distribution age from 70 ½ to 72
 - This means your money could have a 12 to 24 months to grow tax sheltered.
 - EX: if you turn 72 in 2021 you will need to take your first RMD by April 2022, giving you another 12 months before having to take the first RMD. Alternatively, if you turned age 70 ½ later in 2019, you may have an extra 24 months before you have to take your first RMD as compared to the previous rule.

Section 115: Special Rules for Minimum Funding Standards for Community Newspaper Plans.

- Amended Section 430 of the Internal Revenue Code of 1986
- This provision provides pension funding relief for community newspaper plan sponsors by increasing the interest rate to calculate those funding obligations to 8%.
- Additionally, this bill provides for a longer amortization period of 30 years from years.
 - These two changes would reduce the annual amount struggling community newspaper employers would be required to contribute to their pension plan.

Section 116: Treat Difficulty of Care Payments as Compensation for Determining Contribution Limitations.

- Amended Section 408(o) of the Internal Revenue Code 1986
- Under the old rule of the Internal Revenue Code, many home health care workers do not have a taxable income because their only compensation comes from “difficulty of care” payments exempt from taxation under Code Section 131.
 - Since such workers do not have taxable income, they cannot save for retirement in a DC plan or IRA.
- Under the SECURE Act, this section would allow home health care workers to contribute a plan or IRA by amending Code Sections 415(c) and 408(o) to provide that tax-exempt difficulty of care payments are treated as compensation for purposes of calculating the contribution limits to DC plans and IRAs.

Section 201: Plan Adopted by Filing Due Date for Year May be Treated as in Effect as of Close of Year

- Amends Section 401(b) of the Internal Revenue Code of 1986
- This section permits businesses to treat qualified retirement plans adopted before the due date (including extensions) of the tax return for the taxable year to treat the plan as having been adopted as of the last day of the taxable year.
 - The additional time to establish a plan provides flexibility for employers that are considering adopting a plan and opportunity for employees to receive contributions for that earlier year and begin to accumulate retirement savings.

Section 202: Combined Annual Report for Group of Plans

- Directs the IRS and DOL (“Department of Labor”) to effectuate the filing of a consolidated Form 5500 for similar plans. Plans eligible for consolidated filing must be DC plans, with the same trustee, the same fiduciary (or named fiduciaries) under ERISA, and the same administrator using the same plan year, and providing the same investments or investment options to participants and beneficiaries.
 - The change will reduce aggregate administrative costs, making it easier for small employers to sponsor a retirement plan and thus improving retirement savings.

Section 203: Disclosure Regarding Lifetime Income

- Amended Subparagraph (b) of Section 105(a)(2) of the ERISA (Employee Retirement Income Security Act of 1974)
- Requires benefit statements provided to DC plan participants to include a lifetime income disclosure at least once during any 12-month period.
- The disclosure would illustrate the monthly payments the participant would receive if the total account balance were used to provide lifetime income streams including a qualified joint and survivor annuity for the participant and the participant’s surviving spouse and a single life annuity.
- The Secretary of Labor is directed to develop a model disclosure.
- Disclosure in terms of monthly payments will provide useful information to plan participants in correlating the funds in their defined contribution plan to lifetime income.

- Plan fiduciaries, plan sponsors, or other persons will have no liability under ERISA solely by reason of the provision of lifetime income stream equivalents that are derived in accordance with the assumptions and guidance under the provision and that include the explanations contained in the model disclosure.

Section 204: Fiduciary Safe Harbor for Selection of Lifetime Income Provider

- Amended Section 404 of the ERISA (Employee Retirement Income Security Act of 1974)
- This Section provides certainty for plan sponsors in the selection of lifetime income providers, a fiduciary act under ERISA.
- Fiduciaries are afforded an optional safe harbor to satisfy the prudence requirement with respect to the selection of insurers for a guaranteed retirement income contract and are protected from liability for any losses that may result to the participant or beneficiary due to an issuer's inability in the future to satisfy its financial obligations under the terms of the contract.
- Removing ambiguity about the applicable fiduciary standard eliminates a roadblock to offering lifetime income benefit options under a DC plan.

Section 205: Modification of Non-discrimination Rules to Protect Older, Longer Service Participants

- Amended Section 401 of the Internal Revenue Code of 1986
- Provides non-discrimination testing relief for large employers with defined plans that are closed to new entrants.
- The non-discrimination testing relief includes benefits, rights and features relief for the closed participant class; benefit accrual relief for the closed participant class; and minimum participation requirement relief.

Section 206: Modification of PBGC Premiums for CSEC Plans

- Amended Subparagraph (A) of Section 4006(a)(3) of ERISA of 1974
- In 2014, different funding rules were adopted for three types of pension plans:
 - Single employer
 - Multi-employer; and
 - Cooperative and small employer charity (CSEC) plans
- The legislation establishes individualized rules for calculating PBGC ("Pension Benefit Guaranty Corporation") insurance premiums
- For CSEC plans, the legislation specifies flat-rate premiums of \$19.00 per participant, and variable rate premiums of \$9.00 for each \$1,000 of unfunded vested benefits.

Section 301: Benefits Provided to Volunteer Firefighters and Emergency Medical Responders

- Amended Subparagraph 139B(d) of the Internal Revenue Code of 1986 by striking "beginning after December 31, 2010)
- Reinstates for one year the exclusions for qualified state or local tax benefits and qualified reimbursement payments provided to members of qualified volunteer emergency response organizations and increases the exclusion for qualified reimbursement payments to \$50.00 for each month during which a volunteer performs services.

- Applies to tax years beginning after December 31, 2019.

Section 302: Expansion of Section 529 Plans

- Amended Section 529(c) of the Internal Revenue Code of 1986
- The SECURE Act will allow people to withdraw up to \$10,000 during their lifetime from 529 plans, tax free, to cover registered apprenticeships, distributions to repay certain student loans, and certain costs associated with elementary and secondary education of the beneficiary or siblings.
- Originally under the Internal Revenue Code, 529 plans were excludable up to the amount of the designated beneficiary's qualified higher education expenses, which does not include the expenses of registered apprenticeships or student loan payments.
 - Note: Not all states may follow the Student Loan benefit to come out tax-free at the state level.

Section 401: Modification of Required Distribution Rules for Designated Beneficiaries

Section 402: Increase in Penalty for Failure to File

- Amends Subsection (a) of Section 6651 of the Internal Revenue Code of 1986
- Increases the failure to file penalty to the lesser of \$435 or 100% of the amount of the tax due. Increasing the penalties will encourage the filing of timely and accurate returns which, in turn, will improve overall tax administration.
- Applies to returns due after December 31, 2019.

Section 403: Increased Penalties for Failure to File Retirement Plan Returns

- Amends Subsection (e) of Section 6652 of the Internal Revenue Code of 1986
- The SECURE Act modifies the failure to file penalties for retirement plans returns.
- The Form 5500 penalty would be modified to \$250 per day, not to exceed \$150,000.
- Failure to file a registration statement would incur a penalty of \$10 per participant per day, not to exceed \$50,000.
- Failure to file a required notification of change would result in a penalty of \$10 per day, not to exceed \$10,000 for any failure.
- Failure to provide a required withholding notice results in a penalty of \$100 for each failure, not to exceed \$50,000 for all failures during any calendar year.
 - Increasing the penalties will encourage the filing of timely and accurate information returns and statements and the provision of required notices, which, in turn will improve overall tax administration.

Section 404: Increase Information Sharing to Administer Excise Tax

- Amended Section 6103(o) of the Internal Revenue Code of 1986
- Allows the IRS to share returns and return information with the U.S. Customs and Border Protection for purposes of administering and collecting the heavy vehicle use tax.

Section 501: Modification of Rules Relating to the Taxation of Unearned Income of Certain Children

- Amends section 1(j) of the Internal Revenue Code of 1986 by striking paragraph 4

- The SECURE Act reverses the Internal Revenue Code provision, that resulted in unexpectedly high tax for parents with unearned income of minor children, particularly children of military members and first responders killed in the line of duty.
 - The act now reduces taxes levied on children's military survivor benefits and certain other non-earned income.

EXHIBIT B
SUMMARY OF OTHER CARES ACT CHANGES*

*Thank you to Attorney Tiara M. Oates for preparing this Exhibit B

TITLE I Keeping American Workers Paid and Employment

- This title provides emergency relief for small businesses to meet their payroll and expenses and to receive education and assistance throughout the COVID-19 pandemic.

Section 1102 – Paycheck Protection Program

- The Paycheck Protection Loan Program greatly expands SBA loan eligibility. The loan program will allow businesses suffering due to the coronavirus outbreak to borrow money for a variety of qualified costs related to employee compensation and benefits, including:
 - Payroll costs
 - Continuation of health care benefits
 - Employee compensation (of those making less than \$100K)
 - Mortgage interest obligations
 - Rent
 - Utilities; and
 - Interest in debit incurred before the covered period.
- The legislations greatly expand then number of businesses (including non-profits) that are eligible for SBA loans and raises the maximum amount for such a loan by 2.5 x the average total monthly payroll costs, or up to \$10 million. The interest rate may not exceed 4%.
- Requires the Administrator to register each loan using the taxpayer TIN, as defined by the Internal Revenue Service, within 15 days.
- Defines eligibility for loans for small businesses, **501(c)(30)** nonprofit, a **5019(c)(19)** veteran’s organization, or Tribunal business concerned described in **31(b)(2)(C)** of the Small Business Act with not more than 500 employees, or the applicable size standard for the industry as provided by SBA, if higher.
- Applies current SBA affiliation rules to eligible non-profits
- Include sole-proprietors, independent contractors, and other self-employed individuals as eligible for loans.
- Allow businesses with more than one physical location that employs no more than 500 employees per physical location in certain industries to be eligible and is below a gross annual receipts threshold in certain industries to be eligible.
- Waives affiliation rules under **13 C.F.R. 121.103** for any business with less than 500 employees in the Accommodation and Food Services Industry, certain franchise businesses and small businesses that receive financing through the Small Business Investment Company Act. Affiliation rules otherwise apply to determine eligibility.
- Provides delegated authority, which is the ability for lenders to make determinations on borrower eligibility and creditworthiness without going through all of SBA’s channels, to

all current **7(a) (Small Business Act)** lenders who make these loans to small businesses, and provides that same authority to lenders who join the program and make these loans.

- Waives the credit available elsewhere, personal guaranty, and collateral requirements.
- For eligibility purposes, requires lenders to determine whether a business was operational on February 15, 2020, and had employees for whom it paid salaries and payroll taxes, or a paid independent contractor.
 - This is likely to be interpreted to replace the determination of repayment ability which is not possible during the crisis.
- Requires eligible borrowers to make a good faith certification that the loan is necessary due to the uncertainty of current economic conditions caused by COVID-19; they will use the funds to retain workers and maintain payroll, lease utility payments; and are not receiving duplicative funds for the same uses from another SBA program.
- Waives both borrower and lender fees for participation in the Paycheck Protection Program.
- Effective January 1, 2021, Section **7(a)(2)(A)** of the Small Business Act is amended by increasing the government guarantee of 7(a) loans to 100 percent through December 31, 2020, at which point guarantee percentages will return to 75 percent for loans exceeding \$150,000 and 85% for loans equal to or less than \$150,000.
- Allows complete deferment of 7(a) loan payments for at least 6 months and not more than a year and requires SBA to disseminate guidance to lenders on this deferment process within 30 days.
- Provides the regulatory capital risk weight of loans made under this program and temporary relief from troubled debt restructuring (TDR) disclosures for loans that are deferred under this program.
- Requires the Administrator to provide a lender with a process fee for servicing the loan. Sets lender compensation fees at five percent for loans of not more than \$350,000
 - Three percent for loans for more than \$350,000 and less than \$2,000,000
 - One percent for loans of not less than \$2,000,000.
- Includes a sense of the Senate for the Administrator to issue guidance to lenders and agents to ensure that the processing and disbursement of covered loans prioritizes small business concerns and entitles in underserved and rural markets, including veterans and members of the military community, small business concerns owned and controlled by socially and economically disadvantaged individuals.
- Provides guidance for loans sold on the Secondary Market
- Effective January 2, 2021 **Section 7(a)(31)(D)** of the Small Businesses Act is amended by increasing the maximum loan for a SBA Express loan from \$350,000 to \$1 million through December 31, 2020, after which point the Express loan will have a maximum of \$350,000.
- Permanently rescinds the interim final rule entitled “Express Loan Programs: Affiliation Standards” (85 Fed. Reg. 7622 (February 10, 2020))

Section 1103 – Entrepreneurial Development

- Authorizes SBA to provide additional financial awards to resource partners (Small Business Development Centers and Women’s Business Centers) to provide counseling, training, and education on SBA resources and businesses resiliency to small business owners affected by COVID-19.
- Authorizes SBA to provide an association or associations representing resource partners with grants to establish:
 - One online platform that consolidates resources and information available across multiple Federal agencies for small business concerns related to COVID-19; and
 - A training program to educate Small Business Development Center, Women’s Business Center, Service Corps of Retired Executives’ and Veteran’s Business Outreach Center counselors on the various federal resources available to ensure counselors are directing small businesses appropriately.

Section 1104 – State Trade Expansion Program

- Allows for federal grant funds appropriated to support the State Trade Expansion Program (STEP) in FY 2018 and FY 2019 to remain available for use through FY 2021.
- Allows for STEP participants to be reimbursed for events cancelled due to COVID-19, so long as it does not exceed their federal grant.

Section 1105 – Waiver of Matching Funds Requirement under the Women’s Business Center Program

- Eliminates the non-federal match requirement for Women’s Business Centers for a period of three months.

Section 1106 – Loan and Forgiveness

- Establishes that the borrower under the Paycheck Protection Program shall be eligible for loan forgiveness equal to the amount spend by the borrower during an 8-week period after the origination date on:
 - Rent
 - Payroll costs for workers making less than \$100K
 - Interest on a mortgage, and
 - Utility payments.
- The amount forgiven may not exceed the principal of the loan. Eligible payroll costs do not include compensation above \$100,000 in wages. Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the cover 8-week period compared to the previous year or time period, proportionate to maintaining employees and wages:
 - Payroll costs **plus** any payment of interest on any covered mortgage obligations (which shall not include any prepayment of or payment of principal on a covered mortgage obligation) **plus** any payment on any covered rent obligation + any covered utility payment.

- The amount forgiving will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation.
 - To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.
- Allows forgiveness for additional wages paid to tipped workers/
- Borrowers will verify through documentation to lenders their payments during the period. Lenders that receive the required documentation will not be subject to an enforcement action or penalties by the Administrator relating to loan forgiveness for eligible issues.
- Upon a lender's report of an unexpected loan forgiveness amount for a loan or pool of loans, the SBA will purchase such amount of the loan from the lender.
- Cancelled indebtedness resulting from this section will not be included in the borrower's taxable income.
- Any loan amounts not forgiven at the end of one year is carried forward as an ongoing loan with terms of a max of 10 years, at max 4 percent interest. The 100 percent loan guarantee remains intact.

Section 1107 – Direct Appropriations

- This section appropriates funds for the following uses:
 - \$349 billion for loan guarantees,
 - \$675 million for Small Business Administration salaries and expenses,
 - \$25 million for the Office of Inspector General,
 - \$240 million for small business development centers and women's business centers for technical assistance for businesses,
 - \$25 million for resource partner associations to provide online information and training,
 - \$10 million for minority business centers for technical assistance for businesses,
 - \$10 billion for emergency EIDL grants,
 - \$25 million for Department of Treasury salaries and expenses, and
 - \$100 billion for secondary market guarantee sales.

Section 1108 –Minority Business Development Agency

- Authorizes \$10 million for the Minority Business Development Agency within the Department of Commerce to provide grants to Minority Business Centers and Minority Chambers of Commerce for the purpose of providing counseling, training, and education on federal resources and business response to COVID-19 for small businesses.

Section 1109 – United States Treasury Program Management Authority

- Establishes the authority of the U.S. Department of Treasury, the Farm Credit Administration, and other federal financial regulatory agencies to authorize bank and no-bank lenders to participate, including insured credit unions in loans made under Paycheck Protection Program.

- For financial institutions admitted under this section, gives Treasury the authority to issue regulations and guidance for terms concerning lender compensation, underwriting standards, interest rates, and maturity.
 - Interest rates set under this authority may not exceed the maximum permissible rate of interest set on loans made under Section 1102 of this Act.
- Requires that Treasury ensure that terms and conditions provided by this section are the same as the terms established for loans under Section 1102 of this Act for borrower eligibility, maximum loan amount, allowable uses, fee waivers, deferment, guarantee percentage, and loan forgiveness.
- Allows Treasury to issue regulations and guidance as necessary, including to allow additional lenders to originate loans and establish terms.
- Prohibits borrowers from applying for the loan if that borrower has a previously pending application for a 7(a) loan for the same purpose.
- Establishes that the SBA will administer the program, including purchasing and guaranteeing loans, with guidance from Treasury.
- All 7(a) lenders can opt-in to participate in the Paycheck Protection Program.

Section 1110 – Emergency EIDL Grants

- Expands eligibility for access to Economic Injury Disaster Loans (EIDL) to include Tribal businesses, cooperatives, and ESOP's with fewer than 500 employees or any individual operating as a sole proprietor or an independent contractor during the covered period (January 31, 2020 to December 31, 2020).
 - Private non-profits are also eligible for both grants and EIDLs.
- Requires that for any SBA EIDL loans made in response to COVID-19 before December 31, 2020, the SBA shall waive any personal guarantee on advances and loans below \$200,000, the requirement that an applicant needs to have been in business for the 1 year period before the disaster, and the credit elsewhere requirement.
- During the covered period, allows the SBA to approve and offer EIDL loans based solely on an applicant's credit score, or use an alternative appropriate alternative method for determining applicant's ability to repay.
- Establishes an Emergency Grant to allow an eligible entity who has applied for an EIDL loan due to COVID-19 to request an advance on that loan, of not more than \$10,000 which the SBA must distribute within 3 days.
- Establishes that applicants shall not be required to repay advance payments, even if subsequently denied for an EIDL loan.
- In advance of disbursing the advance payment, the SBA must verify that the entity is an eligible applicant for an EIDL loan.
 - This approval shall take the form of a certification under penalty of perjury by the applicant that they are eligible.
- Outlines that advance payment may be used for:
 - Providing paid sick leave to employees
 - Maintaining payroll,

- Meeting increased costs to obtain materials,
- Making rent or mortgage payments, and
- Repaying obligations that cannot be met due to revenue losses.
- Requires that an advance payment be considered when determining loan forgiveness, if the applicant transfers into a loan made under SBA's Paycheck Protection Program.
- Terminates the authority to carry out Emergency EIDL Grants on December 30, 2020.
- Establishes that an emergency involving Federal primary responsibility determined to exist by the President under Section 501(b) of the Stafford Disaster Relief and Emergency Assistance Act qualifies as a new trigger for EIDL loans and, in such circumstances, the SBA Administrator shall deem that each State or subdivision has sufficient economic damages to small business concerns to qualify for assistance under this paragraph and the Administrator shall accept applications for such assistance immediately.
- Adds "emergency" explicitly into other existing EIDL trigger language under Section 7(b)(2) of the Small Business Act.

Section 1111 – Resources and Services Languages other than English

- Directs \$25 million for the SBA to offer resources and services in the 10 most commonly spoken, other than English.

Section 1112 – Subsidy for Certain Loan Payments

- Defines a covered loan as an existing 7(a) (including Community Advantage), 504, or microloan product.
 - Paycheck Protection Program (PPP) loans are not covered
- Requires the SBA to pay the principal, interest, and any associated fees that are owed on the covered loans for a six-month period starting on the next payment due.
 - Loans that are already on deferment will receive six months of payment by the SBA beginning with the first payment after the deferral period.
 - Loans made up until 6 months after enactment will also receive a full 6 months of loan payments by the SBA.
- SBA must make payments no later than 30 days after the date on which the first payment is due.
 - Requires the SBA to still make payments even if the loan was sold on the secondary market.
- Requires SBA to encourage lenders to provide deferments and allows lenders, up until one year after enactment, to extend the maturity of SBA loans in deferment beyond existing statutory limits.

Section 1113 – Bankruptcy

- Amends the Small Business Reorganization Act to increase the eligibility threshold to file under subchapter V of the chapter 11 of the U.S. Bankruptcy Code to businesses with less than \$7,500,000 of debt.

- The increase sunsets after one year and the eligibility threshold returns to \$2,725,625.
- Amends the definition of income in the Bankruptcy Code for chapter 7 and 13 to exclude coronavirus-related payments from the federal government from being treated as “income” for purposes of filing bankruptcy.
 - Sunsets after one year.
- Clarifies that the calculation of disposable income for purposes of confirming a chapter 13 plan shall not include coronavirus-related payments.
 - Sunsets after one year.
- Explicitly permits individuals and families currently in chapter 13 to seek payment plan modifications if they are experiencing a material financial hardship due to the coronavirus pandemic, including extending their payment for up to seven years after their initial plan payment was due.
 - Sunsets after one year.

Section 1114 – Emergency Rulemaking Authority

- SBA required to establish regulations no later than 15 days after enactment of this title.

TITLE II – Assistance for American Workers, Families, and Business

Subtitle A – Unemployment Insurance Provisions

- Relief for workers affected by the Coronavirus Act.

Section 2102 – Pandemic Unemployment Assistance

- This section creates a temporary Pandemic Unemployment Assistance program through December 31, 2020 to provide payment to those not traditionally eligible for unemployment benefits (self-employed, independent contractors, those with limited work history, and others) who are unable to work as a direct result of the coronavirus public health emergency.

Section 2103 – Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations

- This section provides payment to states to reimburse non-profits, government agencies, and Indian tribes for half of the costs they incur through December 31, 2020 to pay unemployment benefits.

Section 2104 – Emergency Increase in Unemployment Compensation Benefits

This section provides an additional \$600 per week payment to each recipient of unemployment insurance or Pandemic Unemployment Assistance for up to four months.

Section 2105 – Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week.

- This section provides funding to pay the cost of the first week of unemployment benefits through December 31, 2020 for states that choose to pay recipients as soon as they become unemployed instead of waiting one week before the individual is eligible to receive benefits.

Section 2106 – Emergency State Staffing Flexibility

- This section provides states with temporary, limited flexibility to hire temporary staff, rehire former staff, or take other steps to quickly process unemployment claims.

Section 2107 – Pandemic Emergency Unemployment Compensation

- This section provides an additional 13 weeks of unemployment benefits through December 31, 2020 to help those who remain unemployed after weeks of state unemployment benefits are no longer available.

Section 2108 – Temporary Financing of Short-term Compensation Payments in States with Programs in Law

- This section provides funding to support “short-time compensation” programs, where employers reduce employee hours instead of laying off workers and the employees with reduced hours receive a pro-rated unemployment benefit.
 - This provision would pay 100% of the costs they incur in providing this short-time compensation through December 31, 2020.

Section 2109 – Temporary Financing of Short-Time Compensation Agreements

- This section provides funding to support states which begin “short-time compensation” programs.
 - This provision would pay 50% of the costs that a state incurs in providing short-time compensation through December 31, 2020.

Section 2110 – Grants for Short-Term Compensation Program

- This section provides \$100 million in grants to states that enact “short-time compensation” programs to help them implement and administer these programs.

Section 2111 – Assistance and Guidance in Implementing Programs

- This section requires the Department of Labor to disseminate model legislative language for states, provide technical assistance, and establish reporting requirements related to “short-term compensation” programs.

Section 2112 – Waiver of the 7-day Waiting Period for Benefits under the Railroad Unemployment Insurance Act.

- This section temporarily eliminates the 7-day waiting period for railroad unemployment insurance benefits through December 31, 2020 (to make this program consistent with the change made in unemployment benefits for states through the same period in an earlier section to this subtitle).

Section 2113 – Enhanced Benefits under the Railroad Unemployment Insurance Act

- This section provides an additional \$600 per week payment to each recipient of railroad unemployment insurance or Pandemic Unemployment Assistance for up to four months (to make this program consistent with the change made in unemployment benefits for states in an earlier section of this subtitle).

Section 2114 – Extended Unemployment under the Railroad Unemployment Insurance Act

- This section provides an additional 13 weeks of unemployment benefits through December 31, 2020 to help those who remain unemployed if benefits are no longer available (to make this program consistent with the change made in unemployment benefits for states in an earlier section of this subtitle).

Section 2115 – Funding for the Department of Labor Office Inspector General for Oversight of Unemployment Provisions.

- This section provides the Department of Labor’s Inspector General with \$25 million to carry out audits, investigations, and other oversight of the provisions in this subtitle.

Section 2116 – Implementation

- This section gives the Secretary of Labor the ability to issue operating instructions or other guidance as necessary in order to implement that subtitle, as well as allows the Department of Labor to waive Paperwork Reduction Act requirements, speeding up their ability to gather necessary information from states.

Subtitle B- Rebates and Other Individual Provisions

- This subtitle allows individual taxpayers below a certain income level and their dependent children a one-time refundable tax credit and other tax benefits to compensate for financial losses due to COVID-19 (i.e. coronavirus disease 2019).

Section 2201 – 2020 Recovery rebates for individuals

- All U.S. residents with adjusted gross income up to \$75,000 (\$150,000 married), who are not a dependent of another taxpayer and have a work eligible social security number, are eligible for the full \$1,200 (\$2,400 married) rebate.
 - In addition, they are eligible for an additional \$500 per child.
 - This is true even for those who have no income, as well as those whose income entirely from non-taxable means-tested benefit programs, such as SSI benefits.
- For the vast majority of Americans, no action on their part will be required in order to receive a rebate check as IRS will use a taxpayer’s 2019 tax return if filed, or in the alternative their 2018 return.
 - This includes many low-income individuals who file a tax return in order to take advantage of the refundable Earned Income Tax Credit and Child Tax Credit.
 - The rebate amount is reduced by \$5 for each \$100 that a taxpayer’s income exceeds the phase-out threshold.

- The amount is completely phased-out for single filers with incomes exceeding \$99,000, \$146,500 for head of household filers with one child, and \$198,000 for joint filers with no children.

Section 2202 – Special Rules for Use of Retirement Funds

- Consistent with previous disaster-related relief, the provision waives the 10% early withdrawal penalty for distributions up to \$100,000 from qualified retirement accounts for coronavirus-related purposes made on or after January 1, 2020.
 - In addition, income attributable to such distributions would be subject to tax over three years, and the taxpayer may recontribute the funds to an eligible retirement plan within three years without regard to that year's cap on contributions.
 - Further, the provision provides flexibility for loans from certain retirement plans for coronavirus-related relief.
- A coronavirus-related distribution is a one made to an individual:
 - (1) who is diagnosed with COVID-19,
 - (2) whose spouse or dependent is diagnosed with COVID-19, or
 - (3) Who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to lack of child care due to COVID-19, closing or reducing hours of a business owned or operated by the individual due to COVID-19 or other factors as determined by the Treasury Secretary.

Section 2203 – Temporary Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts

- This provision encourages Americans to contribute to churches and charitable organizations in 2020 by permitting them to deduct up to \$300 of cash contributions, whether they itemize their deductions or not.

Section 2205 – Modification of Limitations on Charitable Contributions during 2020

- This provision increases the limitations on deductions for charitable contributions by individuals who itemize, as well as corporations.
 - For individuals, the 50% of adjusted gross income limitation is suspended for 2020.
 - For corporations, the 10% limitation is increased to 25% of taxable income.
 - This provision also increases the limitation on deductions for contributions of food inventory from 15% to 25%

Section 2206 – Exclusion for Certain Employer Payments of Student Loans

- This provision enables employers to provide a student loan repayment benefit to employees on a tax-free basis.
 - Under this provision, an employer may contribute up to \$5,250 annual toward an employee's student loans, and such payment would be excluded from the employee's income.

- The \$5,250 cap applies to both the new student loan repayment benefit as well as other educational assistance (e.g., tuition, fees, books) provided by the employer under current law.
- The provision applies to any student loan payments made by an employer on behalf of an employee after date of enactment and before January 1, 2021.

Subtitle C – Business Provisions

- This subtitle allows certain employers tax credits and other tax benefits to compensate them for losses due to COVID-19.

Section 2301 – Employee Retention Credit for Employers Subject to Closure Due to COVID-19

- This provision provides a refundable payroll tax credit for 50% of wages paid by employers to employees during the COVID-19 crisis.
 - The credit is available to employers whose:
 - (1) operations were fully or partially suspended, due to a COVID-19 - related shut-down order, or
 - (2) gross receipts declined by more than 50% when compared to the same quarter in the prior year.
- The credit is based on qualified wages paid to the employee.
 - For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to COVID-19 related circumstances described above.
 - For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to shut-down order.
 - The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee.
 - The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.

Section 2302 – Delay of Payment of Employer Payroll Taxes

- This provision allows employers and self-employed individuals to defer payment to the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees.
 - Employers generally are responsible for paying a 6.2% Social Security tax on employee wages.
 - This provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021, and the other half by December 31, 2022.
 - The Social Security Trust Fund will be held harmless under this provision.

Section 2303 – Modification for Net Operating Losses

- This provision relaxes the limitations on a company's use of losses.
 - New operating losses (NOL) are currently subject to a taxable-income limitation, and they cannot be carried back to reduce income in a prior tax year.
 - This provision provides that an NOL arising in a tax year beginning in 2018, 2019, or 2020 can be carried back five years.
 - This provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income.
 - These changes will allow companies to utilize losses and amend prior year returns, which will provide critical cash flow and liquidity during the COVID-19 emergency.

Section 2304 – Modification of Limitation on Losses for Taxpayers other Than Corporations.

- This provision modifies the loss limitation applicable to pass-through businesses and sole proprietors, so they can utilize excess business losses and access critical cash flow to maintain operations and payroll for their employees

Section 2305 – Modification of Credit for Prior Year Minimum Tax Liability

- The corporate alternative minimum tax (AMT) was repealed as part of the Tax Cuts and Jobs Act, but corporate AMT credits were made available for refundable credits over several years, ending in 2021.
 - This provision accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now and obtain additional cash flow during the COVID-19 emergency.

Section 2306 – Modification of Limitation on Business Interest

- This provision temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing the 30% limitation to 50% of taxable income (with adjustments) for 2019, and 2020.
 - As businesses look to weather the storm of the current crisis, this provision will allow them to increase liquidity with a reduced cost of capital, so that they are able to continue operations and keep employees on payroll

Section 2307 – Technical Amendment Regarding Qualified Improvements Property

- This provision enables businesses, especially in the hospitality industry, to write off immediately costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building.
- The provision, which corrects an error in the Tax Cuts and Jobs Act, not only increases companies' access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue to invest in improvements as the country recovers from the COVID-19 emergency.

Section 2308 – Temporary Exemption from Exercise Tax for Alcohol Used to Produce Hand Sanitizer

- This provision waives the federal exercise tax on any distilled spirits used for or contained in hand sanitizer that is produced and distributed in a manner consistent with guidance issued by the Food and Drug Administration and is effective for calendar year 2020.

TITLE III – Supporting America’s Health Care System In the Fight Against The Coronavirus

Subpart A-Health Provisions

- **Coronavirus Aid Relief, and Economic Security Act**

PART I – Addressing Supply Shortages

Section 3101 – National Academies report on America’s medical product supply chain activity

- Directs the National Academies to Study the manufacturing supply chain of drugs and medical devices and provide Congress with recommendations to strengthen the U.S. manufacturing supply chain.

Section 3102 – Requiring the strategic national stockpile to include certain types of medical supplies

- Clarifies that the Strategic National Stockpile can stockpile medical supplies, such as the swabs necessary for diagnostic testing for COVID-19.

Section 3103 – Treatment of Respiratory Protective Devices as Covered Countermeasures

- Provides permanent liability protection for manufacturers of personal respiratory protective equipment, such as masks and respirators, in the event of a public health emergency, to incentivize production and distribution.

Subpart B – Mitigating Emergency Drug Shortages

Section 3111 – Prioritize Reviews of Drug Applications; Incentives

- Clarifies that all testing for COVID-19 is to be covered by private insurance plans without cost sharing, including those tests without an EUA by the FDA.

Section 3112 – Additional Manufacturer Reporting Requirements in Response to Drug Shortages

- Requires drug manufacturers to submit more information when there is an interruption in supply, including information about active pharmaceutical ingredients, when active pharmaceutical ingredients are the cause of the interruption.
 - Requires manufacturers to maintain contingency plans to ensure back up supply products.
 - Requires manufacturers to provide information about drug volume.

Subpart C – Preventing Medical Device Shortages

Section 3121 – Discontinuance or Interruption in the Production of Medical Devices

- Clarifies that during a public health emergency, a medical device manufacturer is required to submit information about a device shortages or device component shortage upon request of the FDA.

PART II – Access to Health Care for COVID-19 Patients

Subpart A – Coverage of Testing and Preventive Services

Section 3201 – Coverage of Diagnostic Testing for COVID-19

- Clarifies that all testing for COVID-19 is to be covered by private insurance plans without cost sharing, including those tests without an EUA by the FDA.

Section 3202 – Pricing of Diagnostic Testing

- For COVID-19 testing covered with no costs to patients, requires an insurer to pay either the rate specified in a contract between the provider and the insurer, or, if there is no contract, a cash price posted by the provider.

Section 3203 – Rapid Coverage of Preventative Services and Vaccines for Coronavirus.

- Provides free coverage without cost-sharing of a vaccine within 15 days for COVID-19 that has in effect a rating of “A” or “B” in the current recommendations of the United States Preventive Services Task Force or recommendation from the Advisory Committee on Immunization Practices (ACIP).

Subpart B – Support For HealthCare Providers

Section 3211—Supplemental Awards for Health Centers

- Provides \$1.32 billion in a supplemental funding to community health centers on the front lines of testing and treating patients for COVID-19.

Section 3212 – Telehealth Network and Telehealth Resource Centers Grant Programs

- Reauthorizes Health Resources and Services Administration (HRSA) grant programs that promote the use of telehealth technologies for health care delivery, education, and health information services.
 - Telehealth offers flexibility for patients with, or at risk of contracting, COVID-19 to access screening or monitoring care while avoiding exposure to others.

Section 3213 – Rural Health Care Services Outreach, Rural Health Network Development, and small Health Care Provider Quality Improvement Grant Programs.

- Reauthorizes HRSA grant programs to strengthen rural community health by focusing on quality improvement, increasing health care access, coordination of care, and integration of services.

- Rural residents are disproportionately older and more likely to have a chronic disease, which could increase their risk for more serious illness if they contract COVID-19.

Section 3214 – United States Public Health Service Modification

- Establishes a Ready Reserve Corps to ensure we have enough trained doctors and nurses to respond to COVID-19 and other public health emergencies.

Section 3215 – Limitation on Liability for Volunteer Health Care Professionals During COVID-19 Emergency response.

- Makes clear that doctors who provide volunteer medical services during the public health emergency related to COVID-19 have liability protections.

Section 3216 – Flexibility for members of National Health Service Corps During Emergency Period.

- Allows the Secretary of Health and Human Services (HHS) to reassign members of National Health Service Corps to sites close to the one to which they are originally assigned, with the member's agreement, in order to respond to the COVID-19 public health emergency.