Summary of H.R. 748-CARES Act (McConnell Phase 3 Bailout Bill)

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*This is a preliminary and summary document.

H.R. 748-CARES Act

- Senate GOP proposal
  - H.R. because revenue bills have to official start in the House.

- Title I—Guaranties of Forgiveable Loans to Small Businesses
- Title II—Unemployment Insurance Expansion and Tax provisions
- Title III—Support for the Health Care System and Miscellany.
- Title IV—Direct Government Loans

H.R. 748-CARES Act-Title I

- Forgivable small business loan guaranty program.

- Small Business Administration (SBA) currently has ~$150B in loans guarantied.
  - Loans made by banks.
  - Collateralized, often with personal guaranty.
  - SBA normally guaranties 50%-85% of loans and charges a fee of 2-3% for doing so.

- Title I program is $300B in small business loan guaranties for "paycheck protection program"
  - Loans made by banks, but guarantied by government at 100%.
  - Loan proceeds restricted for use on payroll (on employees earning up to $100k), rent, mortgages, utilities, interest payments; no acquisitions.
  - Loan amounts up to 2.5x 2019 payroll.
  - No collateral, no personal guaranty, no guaranty fee.
  - 5.50% interest rate (100bp is a servicing fee for banks).

- Principal is fully forgivable, but not interest.
  - But forgiven principal will be treated as income for tax purposes.

H.R. 748-CARES Act-Title II

- Expands existing unemployment insurance (UI) program.
  - Greater eligibility
  - Increased benefits

- Tax provisions
  - Tax credits paid in advance (Mnuchin Mnoney).
    - $1200/adult + $500/child.
    - Phased out for higher income (at around $200k income for household, no money).
  - Delay of employer payroll taxes.
    - Provides immediate liquidity source for businesses.
    - But still owed.
  - NOL and interest deduction provisions.

H.R. 748-CARES Act-Title III

- 6 months of interest free deferment for some federal student loans.
  - Covers Direct Loans and federally-held FFEL loans.
  - Does not cover Perkins Loans or commercially-held FFEL loans.
  - Does not freeze administrative collection efforts against borrowers in default.
- Other important stuff we won't focus on here:
  - Health care supply provisions.
  - Medicare/Medicaid provisions.

H.R. 748-CARES Act-Title IV

- $500B in four loan programs:
  1) $50B for passenger airlines
  2) $8B for freight airlines
  3) $17B for "businesses essential to national security"
  4) $425B for Treasury to backstop Federal Reserve lending to "eligible businesses" under section 13(3) of Federal Reserve Act.

- Eligibility
  - No definition of national security essential businesses.
  - Small businesses will not qualify for $425B facility because they can obtain credit otherwise via title I SBA facility.

- First three programs are direct loans from Treasury; fourth program is for loans made by the Fed.
  - Backstop of Federal Reserve 13(3) lending is necessary because many 13(3) borrowers will not be sufficiently creditworthy on their own to qualify under Fed's 13(3) regulations.
  - Fed loans are not forgivable. Unclear if the Treasury direct loans are forgivable.

- Terms and conditions are largely up to Treasury Secretary.
  - No limitations on use of proceeds other than regarding stock buybacks and exec comp caps.
  - Exec comp capped at 2019 levels for those earning over $425k.
  - Required maintenance of existing employment "to the extent practicable".
  - Fed may still have its own terms/conditions for 13(3) lending programs.

- $100M in administrative costs authorized, with Treasury Secretary given full discretion about hiring for program administration.

H.R. 748-CARES Act-Issues

- Consumer aid is limited.
  - No debt collection moratorium other than for some federal student loans.
  - No increase in SNAP benefits or Social Security Disability Insurance
- Oversight is lacking.
  - Enormous discretion given to Treasury Secretary
    - Who gets a direct loan and on what terms
    - No requirement of equal treatment
    - Employment of administrators
  - No Special Inspector General, no Oversight Panel, no COVID Inquiry Commission, unlike 2008 bailouts.
  - No reports on identity of recipients required for six months (*i.e.*, until close to November Presidential election).
- Few strings attached.
  - Weak executive compensation and stock buyback limits
  - No dividend or other distribution limitations
  - Prohibition on voting equity interests and not required to take equity stakes.
  - No limitations on use of funds.
- Airline bailout compares poorly to auto manufacturer bailout in 2009.