

Analysis: Congress Passes \$1.9 Trillion COVID-19 Relief Package

March 10, 2021

Delivering the first major legislative victory for President Biden, Congress passed another COVID-19 relief package that, at a cost of \$1.9 trillion, is almost as much as the \$2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted a year ago in March 2020. The American Rescue Plan Act of 2021 will provide another round of stimulus checks to individuals and families, extend federal supplemental unemployment benefits, provide more funding for state and local governments, expand subsidies for healthcare insurance, and provide additional funding for COVID-19 testing, vaccination, and treatment, among a slew of other provisions that will affect many industries, businesses, and individuals. As the bill is implemented through federal agency rulemaking and regulatory process, the Buchanan Ingersoll & Rooney Federal Government Relations Team will provide additional guidance and be available to assist as necessary.

ANALYSIS OF THE AMERICAN RESCUE PLAN ACT OF 2021, relevant to:

[State & Local Governments](#)

[Rental & Housing Assistance](#)

[Individuals & Families](#)

[Small Businesses](#)

[Healthcare](#)

[Education](#)

[Transportation](#)

STATE & LOCAL GOVERNMENTS

The bill will provide an additional \$350 billion in funding for state, local, tribal, and territorial governments, including:

- \$195.3 billion for states and the District of Columbia, \$25.5 billion of which will be equally distributed among states and the District of Columbia, while the remaining will be allocated based on each state's unemployment rate;
- \$130.2 billion for local governments, including \$65.1 billion for counties, \$45.6 billion for metropolitan cities, and \$19.6 billion for towns with less than 50,000 residents that

will be based on a modified Community Development Block Grant (CDBG) formula;

- \$20 billion for tribal governments and \$4.5 billion for territories.

State and local governments can use the funds to cover costs incurred by Dec. 31, 2024 for certain purposes, including:

- Providing aid to households, small businesses or nonprofits, or aid to "impacted" industries like tourism, hospitality and travel;
- Funding government services that have been curtailed as a result of decrease in tax revenue caused by the pandemic; and
- Making "necessary investments" in water, sewer, or broadband infrastructure.

States are prohibited to use their funding to spend on pensions or to offset revenue resulting from a tax cut enacted since March 3. In addition, the Treasury Secretary can exercise authority to withhold 50% of the funding for states based on each state's unemployment rate.

Capital Projects: In addition, \$10 billion from the Treasury Department will be made available for state and local governments to invest in capital projects related to enabling remote work, education and health monitoring in response to COVID-19. The \$10 billion capital projects fund will be distributed evenly with \$100 million to each state, territory and the District of Columbia, with another \$100 million for tribal governments and Native Hawaiians.

The remaining funds will be distributed based on a formula, allocating 50% based on population, 25% based on proportion of individuals living in rural areas, and 25% based on the proportion of individuals living below 150% of the federal poverty level (FPL).

The Senate bill originally funded the \$10 billion capital projects by reducing the amount local governments would receive to \$120.2 billion. However, Senate Majority Leader Chuck Schumer (D-NY) pushed through an amendment that increased total funding for local governments back to \$130.2 billion.

FEMA Disaster Relief Fund: The Federal Emergency Management Agency's (FEMA) Disaster Relief Fund (DRF) will receive \$50 billion to reimburse state and local governments for their costs of dealing with ongoing response and recovery activities from COVID-19, as well as other presidentially-declared disasters and emergencies, with the funding to remain available through FY 2025.

In March 2020, then-President Trump invoked a coronavirus national emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which authorized FEMA to provide assistance through the DRF. In January, President Biden authorized FEMA to cover 100% of certain costs and clarified activities that are eligible for reimbursement, such as vaccination efforts, the continued deployment of the National Guard, providing personal protective equipment for critical public sector employees, and disinfecting public facilities.

RENTAL & HOUSING ASSISTANCE

Rental Assistance: Through the Treasury Department, \$21.6 billion will be provided for rental assistance payments, which will be allocated through grants to states and to localities with at least 200,000 people. Each state and the District of Columbia will receive at least \$152 million. In addition, \$305 million will be set aside for several U.S. territories and \$2.5 billion for “high- need grantees” based on their population of low-income renter households, rental market costs, and employment changes since February 2020.

Grant funding to states and localities, which will remain available through the end of FY 2025, must be used to provide financial assistance to eligible households, including for rental and utility payments. Qualifying households eligible to receive rental assistance include those receiving unemployment benefits, have experienced a reduction in household income, incurred significant costs related to the pandemic, or can demonstrate a risk of homelessness.

In addition, the \$25 billion for emergency rental assistance provided in the December COVID-19 relief package can now be used for an additional year through Sept. 30, 2022.

Homeowner Assistance: The Treasury Department will establish a \$10 billion Homeowner Assistance Fund, which will be allocated to states, territories, and tribes through grants to prevent homeowner mortgage defaults, foreclosures, and displacements. Funds can be used to reduce mortgage principal amounts, assist homeowners with mortgage and other housing payments, including flood insurance premiums, homeowners’ association fees, utility bills, and other aid needed to prevent eviction, mortgage default, foreclosure, or the loss of essential utility services. Funds can also be used to reimburse state and local governments that have already used their own funds to provide similar assistance since January 2020.

Each state, along with the District of Columbia and Puerto Rico, will receive at least \$50 million. Additional amounts will be set aside for other U.S. territories and tribes. States, territories, and tribes receiving funding will have to set aside at least 60% of their allocation to assist homeowners who make less than 100% of the local or national median income, whichever is greater.

Emergency Housing: The Section 8 Housing Choice Voucher Program will receive \$5 billion for emergency rental assistance vouchers. The Department of Housing and Urban Development (HUD) will have to provide the vouchers through public housing agencies to individuals and families who are currently or recently homeless, and to those who are fleeing domestic violence, sexual assault, or human trafficking.

Another \$5 billion will be allocated to state and local governments to provide supportive services for homeless and other at-risk individuals. Permitted expenditures include tenant-based rental assistance, housing counseling and homeless prevention services, and acquiring non-congregate shelter units, such as hotel rooms, that could be converted to permanent housing.

Low Income Home Energy Assistance Program: The Low Income Home Energy Assistance Program (LIHEAP) will receive \$4.5 billion to help families cover the cost of home heating and cooling. Another \$500 million will be provided for grants to states to assist low-income households with drinking water and wastewater services.

INDIVIDUALS & FAMILIES

Stimulus Checks: The American Rescue Plan Act of 2021 will provide another round of stimulus checks for individuals earning up to \$75,000 in the amount of \$1,400 for an individual and \$2,800 for joint filers (earning up to \$150,000). The payments will phase out completely for individuals who make more than \$80,000 and joint filers who make more than \$160,000. Children and adult dependents in qualifying households are also eligible for \$1,400 payments per dependent.

This third round of stimulus checks are in addition to the \$1,200 that was included under the CARES Act and the \$600 in direct payments that was enacted in December as part of another \$900 billion COVID-19 stimulus package.

Unemployment Benefits: Enhanced federal supplemental unemployment benefits of \$300 per week will run through September 6 – with the first \$10,200 in unemployment benefits exempt from taxes for households making less than \$150,000 a year. The enhanced benefits was a compromise agreement forced by Sen. Joe Manchin (D-WV), who had delayed the initial Senate proceedings for about 9 hours because of concerns that employers won't be able to hire enough workers as businesses start to reopen. To offset the cost of the enhanced employment benefits and exemption from taxes, lawmakers agreed to extend for an extra year through 2026, limits on losses some business owners can claim against other income. Those limits, created by the 2017 tax law, were suspended by last year's coronavirus relief package.

Child Tax Credit: The credit will be expanded to \$3,000 from \$2,000 – and to \$3,600 for children under six years old. Because the credit will be “fully refundable”, the entire credit could be provided as a refund if it exceeds an individual's income tax liability, instead of partially refundable under current law. The increased credit amount will be phased out beginning at an adjusted gross income level of \$75,000 for individuals and \$150,000 for joint filers. Once the credit reaches \$2,000, the current law phase-outs levels, \$200,000 for individuals and \$400,000 for joint filers, will apply.

Earned Income Tax Credit: The EITC will be expanded for taxpayers without children for 2021 by increasing the credit percentage and phase out thresholds. Individuals 19 years and older will be eligible for the credit – eliminating the upper age limit.

Individuals who have children with no Social Security numbers can also claim the childless EITC, while individuals who are separated can claim the EITC if they file separate returns and live with a qualifying child for more than half the taxable year. In addition, the amount an individual can earn from investments that is not counted towards income when determining EITC eligibility will be increased from \$3,650 to \$10,000, which will be adjusted for inflation.

Child & Dependent Care Tax Credit: For 2021, the child and dependent care tax credit will be fully refundable, while the maximum that can be claimed will be increased from 35% to 50% of costs for income levels up to \$125,000 (an increase from \$15,000). In addition, the amount of dependent care costs that can be used in calculating the tax credit will increase from \$3,000 to \$8,000 for a single dependent and from \$6,000 to \$16,000 for two or more dependents.

In addition, for 2021, the amount that employees may deposit into a tax-favored Flexible

Spending Account (FSA) for dependent care expenses will be increased from \$5,000 to \$10,500.

SMALL BUSINESSES

Paycheck Protection Program: The Paycheck Protection Program (PPP) will receive an additional \$7.25 billion in funding – for a total of \$813.7 billion since its establishment last year. Eligibility rules are broadened to cover more tax-exempt groups, including 501(c)(5) labor organizations, 501(c)(7) social and recreation clubs, and 501(c)(8) fraternal benefit societies, as well as religious educational groups that might otherwise be barred under the Small Business Administration (SBA) rules. The tax-exempt groups can't employ more than 300 employees per location or spend more than \$1 million annually or 15% of their time on lobbying activities.

State Small Business Credit Initiative: The State Small Business Credit Initiative, which provides funding for state-run small business financing programs, will receive \$10 billion to provide support to small businesses responding to the economic effects of the pandemic and ensure business enterprises owned and controlled by socially and economically disadvantaged individuals have access to credit and investments. Of the \$10 billion, \$1.5 billion will be for states to support businesses owned by socially and economically disadvantaged people; \$1 billion will be for an incentive program to boost funding for states that show robust support for such businesses; and \$500 million will be to support very small businesses with fewer than 10 employees.

Economic Injury Disaster Loan: The Economic Injury Disaster Loan (EIDL) program will receive \$15 billion to provide additional payments to eligible entities, including:

- \$10 billion for covered entities – recipients with 300 or fewer employees and with economic losses of at least 30% over eight weeks compared with a similar period before the pandemic – that didn't receive their full eligible advance payments under the December COVID-19 relief package; and
- \$5 billion to be set aside to make new supplemental payments of \$5,000 to covered entities with 10 or fewer employees that had economic losses of more than 50% during the covered period.

Restaurant Revitalization Fund: The SBA will administer a \$28.6 billion Restaurant Revitalization Fund for eligible recipients that include restaurants, bars, food trucks, and caterers. State or local government-operated businesses, businesses with more than 20 locations or that are publicly-traded company are not eligible for the grant funding. Grant funds can be used on eligible expenses such as payroll, paid sick leave, mortgage, rent, utilities and supplies.

The initial bill included \$25 billion but Senate Majority Leader Chuck Schumer (D-NY) offered an amendment that was adopted and provides an additional \$3.6 billion to grants for the hard-hit restaurant industry.

HEALTHCARE

Rural Providers: Rural providers will receive \$8.5 billion for expenses and lost revenue related to COVID-19. Through previous COVID relief packages, hospitals have received a total of \$178 billion from the Provider Relief Fund.

COBRA Coverage: Premiums for COBRA coverage for individuals who are laid off or leave their jobs because of the pandemic will be subsidized at 100% through September 30. The employer or health plan could claim a refundable tax credit against its Medicare payroll tax liability for the cost of the premiums.

Affordable Care Act (ACA) Marketplace Subsidies: Subsidies to purchase health insurance through the ACA marketplaces will be expanded to include individuals who currently don't qualify because their income is too high, while also increasing subsidies for many individuals who already qualify. The healthcare law provides refundable credits for households with income between 100% to 400% of the federal poverty level (FPL). For 2021 and 2022, premiums for individuals with income at 150% of the FPL will be eliminated, while premiums for all other households will be capped at 8.5% of their income.

Individuals who underestimate their income for 2020 will not be required to repay any excess subsidies they received. For individuals who lose their jobs or are eligible for unemployment insurance in 2021, subsidies will be provided to cover the entire cost of their ACA marketplace insurance premiums.

Medicaid Expansion: As an incentive for the 12 states that have not expanded Medicaid coverage through the ACA, those states will receive an increase of 5% to its Federal Medical Assistance Percentage (FMAP) for two years if it expands coverage to eligible adults under the healthcare law.

In addition, states will have five years to extend Medicaid and CHIP eligibility to pregnant women for a year postpartum.

Disproportionate Share Hospital (DSH) Funding: Medicaid allotments for disproportionate share hospitals – which treat a large number of low-income or uninsured patients – will be modified to account for the 6.2 percentage point increase to states' FMAP under the Families First Coronavirus Response Act (P.L. 116-127). The Department of Health and Human Services will have to ensure that the total DSH payments that a state may make in a fiscal year is equal to the total payments it could have made without the FMAP increase during the pandemic.

Medicaid & CHIP COVID-19 Coverage: Medicaid and Children's Health Insurance Program (CHIP) beneficiaries will receive COVID-19 vaccines and treatment at no cost through a 100% FMAP for those programs to cover the costs of those services for one year after the COVID-19 public health emergency ends. States also have the option to provide coverage at no cost for uninsured individuals – which will also be covered through a 100% FMAP for those services.

Medicaid Drug Rebates: A cap on the rebate that drug companies provide to Medicaid, which is currently limited to 100% of the average manufacturer price (AMP), will now end in 2024. Medicaid requires a minimum 23% rebate on brand name drugs, with companies paying an additional inflation rebate when they raise prices faster than inflation. That

inflationary rebate is currently capped at 100% of the AMP to avoid making drug companies pay rebates that are greater than the price of drugs. Once the cap is reached, drugmakers can raise their prices without increasing the net rebates that must be paid.

Medicare Provisions: A “rural floor” for the wage index to hospitals in urban states – including in Delaware, New Jersey, and Rhode Island – will be reinstated. In 2019, the Trump Administration eliminated a longstanding policy to create an area floor for Delaware, New Jersey, and Rhode Island, which led to an imbalance between hospitals in those states and the hospitals they compete with in the same labor pool, such as those in neighboring states like New York and Pennsylvania. Hospitals in Massachusetts and Connecticut were reimbursed at rates up to 25 percentage points higher than Rhode Island facilities.

In addition, Medicare reimbursement for ambulance providers will be at the same rate when it’s not possible to take a patient to a Medicare-approved facility because of transportation limitations due to the public health emergency.

Defense Production Act (DPA): Purchases through the DPA will be allocated with \$10 billion to procure medical supplies and equipment related to COVID-19. Under the DPA, the President can require manufacturers to prioritize contracts related to national defense and other emergencies.

Data and Health IT Infrastructure: Money for testing and contact tracing will be used for investments in data and technology modernization while the CDC will receive funds to continue work to distribute vaccines including enhanced data sharing and improvements to information technology.

The following programs and agencies within the **Department of Health and Human Services (HHS)** will also receive funding to respond to the pandemic:

- \$47.8 billion to detect, diagnose, trace, and monitor COVID-19 infections, while requiring HHS to implement a national strategy for testing, contact tracing, surveillance and mitigation of COVID-19;
- \$8.5 billion for vaccine activities at the Centers for Disease Control and Prevention (CDC), including \$7.5 billion to prepare, promote, administer, monitor and track vaccines and \$1 billion to improve vaccination rates;
- \$7.66 billion to expand the public health workforce, including grants to state, local, and territorial health departments that increase the number of contact tracers, social support specialists, community health workers, public health nurses, epidemiologists, lab personnel, disease intervention specialists and communications personnel;
- \$7.6 billion for testing and vaccinations at community health centers (CHCs);
- \$6.09 billion for tribal health programs;
- \$6.05 billion to support manufacturing and purchasing vaccines and therapeutics;
- \$3 billion for block grant programs under the Substance Abuse and Mental Health Services Administration (SAMHSA) to provide community mental health services and prevention and treatment of substance abuse;

-
- \$1.75 billion for genomic sequencing, analytics and disease surveillance;
 - \$800 million for the National Health Service Corps, as well as \$100 million reserved for state student loan repayment programs, \$200 million for the Nurse Corps Loan Repayment program, and \$330 million for teaching health centers that operate graduate medical education;
 - \$750 million for CDC global health activities efforts, including global health security, global disease detection and response, global health protection, global immunization, and global coordination on public health;
 - \$500 million for the Food and Drug Administration (FDA) to continue evaluating COVID-19 vaccines and therapeutics;
 - \$500 million for CDC data modernization and forecasting;
 - \$250 million for states to establish “strike teams” that could be deployed at skilled nursing facilities (SNFs) with high rates of COVID-19; and
 - \$200 million for HHS to develop protocols to prevent the spread of COVID-19 infections at SNFs.

In addition, \$24 billion will be allocated to HHS for grants for child care providers to use towards payroll, rent, personal protective equipment, mental health support, and other needs. The Child Care and Development Block Grant, which subsidizes child care for low-income families, will receive about \$15 billion. Head Start, which supports preschool for low-income children, will receive an additional \$1 billion.

EDUCATION

K-12 Funding: Grants of \$125.8 billion will be provided to states to support statewide and local funding for elementary and secondary schools and public postsecondary institutions. Funding can be used for a number of education-related expenses, including inspecting and improving school facilities to ensure adequate air quality, providing mental health services, reducing class sizes, implementing social distancing guidelines, and purchasing personal protective

At least 20% of the funding will have to be used to address learning loss, including through summer learning or enrichment, after-school programs, or extended-day or extended-year programs.

States that receive the grants cannot reduce their spending levels on education as a proportion of their budgets during fiscal 2022 or 2023, compared with the average level from fiscal 2017 through 2019.

An amendment by Sen. Maggie Hassan (D-NH) was approved and included in the final package that will require elementary and secondary schools that receive federal COVID-19 funding to release plans for a “safe return to in-person instruction” within 30 days of receiving the funds.

Higher Education: Institutions of higher education will receive \$39.6 billion through emergency financial aid grants, which can be used to implement public health measures and

support financial aid applicants regarding potential adjustments related to the pandemic. Institutions receiving funding must use at least 50% of their allocation to provide emergency financial aid grants to students.

In addition, taxable income will be excluded for any student loans discharged between Dec. 31, 2020 and Jan. 1, 2026.

Emergency Connectivity Fund: Through a \$7.17 billion Emergency Connectivity Fund managed by the Federal Communications Commission (FCC), schools and libraries can buy and distribute Wi-Fi hotspots, modems, routers and other internet devices for students to use off-premise for schoolwork. Funds will remain available through June 30 the year after the current COVID-19 pandemic ends.

Programs within Education Department will also receive:

- \$2.75 billion for private schools that serve a significant percentage of low-income students;
- \$850 million for support to outlying U.S. territories;
- \$190 million for grants to educational organizations serving American Indians, Native Hawaiians, and Alaska Natives; and
- \$100 million for the Institute of Education Sciences to conduct research related to addressing learning loss caused by the pandemic.

Outside of the Education Department, the Bureau of Indian Education will receive \$850 million for support to schools and programs it funds or operates and for tribal colleges and universities; the Institute of Museum and Library Services will receive \$200 million for library improvements; the National Endowment for the Arts will receive \$135 million for grant funding; and the National Endowment for the Humanities will receive \$135 million for grant funding.

TRANSPORTATION

Federal Transit Administration (FTA): The FTA will receive \$30.5 billion to provide grants to transit agencies for operating expenses, including reimbursement for payroll, operating costs to maintain service due to lost revenue caused by the pandemic, and paying administrative leave of operations or contractor personnel because of a reduction in service. Of the \$30.5 billion:

- \$26.1 billion will be allocated for the Urbanized Area Formula Grants, which shall be apportioned to urbanized areas based on data contained in the National Transit Database;
- \$2.21 billion will be for urban area and rural area grantees that need additional assistance because of the pandemic;
- \$1.7 billion will be for Capital Investment Grants;
- \$317.2 million will be for rural areas formula grants;

-
- \$100 million will be for bus operators; and
 - \$50 million will be for the Enhanced Mobility of Seniors and Individuals with Disabilities formula grant.

Rail Funding: Amtrak will receive \$1.7 billion for FY 2021, including funds for the Northeast Corridor and to restore the frequency of long-distance routes.

Relief for Airports: Airport sponsors, or public agencies and private owners of public-use airports, will receive \$8 billion, which will be available through the end of FY 2024. Airports that were allocated in excess of 4 years of operating funds to prevent, prepare for, and respond to the pandemic in FY 2020, are not eligible for the funding. Airports that receive funding will be required to retain at least 90% of personnel employed as of March 27, 2020, through September 30. The Secretary of Transportation could provide a waiver from the requirement based on a determination that an airport is experiencing economic hardship or the requirement reduces aviation safety or security.

Aviation Manufacturer Jobs Protection: The Secretary of Transportation will establish a \$3 billion payroll support program for aviation manufacturers, including manufacturers of aircraft, aircraft engine, propeller, or a component, part, or systems of an aircraft or aircraft engine under a Federal Aviation Administration (FAA) production approval. Eligible employers include those that involuntarily furloughed or laid off at least 10% of their workforce or experienced a 15% decrease in revenue in 2020 compared to 2019. An eligible employee group applies to a maximum of 25% of employees earning less than \$200,000 a year.

The program will allow a 50% federal cost-share to cover wages and benefits for eligible employees for a maximum of six months. Employers will cover the other 50% and will have to maintain compensation at their April 1, 2020, levels.

Employers receiving other pandemic assistance, such as through the Paycheck Protection Program, will not be eligible.

Airline Payroll Support Program: The program will receive \$15 billion, of which \$14 billion will be for eligible air carriers and \$1 billion for eligible contractors for the continuation of payment of employee wages, salaries, and benefits. Among other restrictions, participating airlines and contractors cannot lay off workers or reduce pay rates until September 30 or when the assistance is exhausted, whichever is later, while being required to also comply with restrictions on stock buybacks, dividend payments, and executive pay.

As the Biden Administration and the 117th Congress continue to navigate the COVID-19 pandemic, the **Buchanan Ingersoll & Rooney Federal Government Relations Team** will continue to monitor developments as various agencies implement provisions of the relief package and provide the most in-depth, up-to-date insight and analysis – while also assisting our clients in navigating the legislative and regulatory process. For additional information and assistance in navigating the American Rescue Plan Act of 2021, please contact [Michael Strazzella](#), Federal Government Relations Practice Group Leader.

Contributors

MICHEAL P. STRAZZELLA

TIMOTHY COSTA

TERRENCE HEUBERT

EDWARD G. HILD

WILL LE

ROBERT L. SHUSTER

ELIZABETH WESTBROOK

JAMES C. WILTRAUT JR.

CHARLES J. KOLLING JR.

Related Services & Industries

CORONAVIRUS (COVID-19)

EDUCATION

**GOVERNMENT RELATIONS & PUBLIC
POLICY**

HEALTHCARE

TRANSPORTATION

Related Offices

WASHINGTON