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Client Alert: Collaboration in Congress: The Road to Finally Passing an End-of-Year COVID-Relief Bill

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Introduction

Late on Sunday, December 27th, after initially raising concerns about the pandemic relief measure that had overwhelmingly passed Congress days before, President Trump signed the measure into law, ending a long political stalemate and beginning the process of sending financial relief to American families and small businesses, further aiding the American economy. As with the CARES Act enacted in March, this bill, the "Consolidated Appropriations Act, 2021," passed the House and Senate overwhelmingly, on a bipartisan vote of 359-53 in the House, followed swiftly by a 92-6 vote in the Senate.[1] With an official price tag of approximately $900 billion, it is the second largest stimulus measure ever enacted by Congress.[2]

This COVID-relief bill – so-called "Phase Four" of Congress's Coronavirus relief and response efforts[3] – had been the subject of discussion and negotiation in Washington, D.C. (Washington) for several months prior to the November 3rd election, with the Democrat-led House introducing and passing two larger packages on mostly partisan votes, and Senate Republicans unsuccessfully attempting to pass two smaller versions as well. Most of those bills were partisan exercises, providing "markers" of what could be sufficient political support among the respective parties in each chamber, while Treasury Secretary Mnuchin and Speaker Pelosi engaged in ongoing negotiations behind the scenes in an effort to reach a broader compromise that could muster bipartisan support, pass Congress, and be signed by the President. Unfortunately, those talks never reached a successful conclusion, with the House, Senate, and administration far apart on the aggregate cost of the package and on difficult policy issues, such as additional funding for state and local governments, the extension of the unemployment insurance assistance provided in the CARES Act, and liability protections for businesses, schools, and health care providers. Ultimately, Congress left Washington to face the voters in November having failed to deliver on what many argued was critically-needed relief for struggling Americans and a struggling economy.

Changing Political Dynamics Post-November

What changed after the election that made relief a reality in the "lame duck" session of Congress, which many thought was unlikely? Several developments occurred that arguably changed the political dynamics and ultimately broke the stalemate that existed prior to the election:

1. *The election itself.* In the months leading up to the election, many Republicans questioned Speaker Pelosi's and House and Senate Democrats' commitment to compromising on COVID relief; in other words, acquiescing to a smaller bill that didn't meet all of their priorities. As these Republicans argued, with the polls as optimistic as they were for Democrats leading into November, why accept a smaller deal advocated by Republicans, accept difficult policy compromises, and give President Trump a political win when it looked likely that Democrats would have unified control in Washington and be able to write a bill entirely to their liking in January? That calculation changed on November 4th, as Republicans won more Senate seats than anticipated and Democrats nearly lost their majority in the House. Arguably, both sides were stung by accusations that they were unable to come together to reach a deal for the American people. Further, the incoming Biden Administration, with a full plate in January of transition priorities and administration appointments, stood to benefit from an initial "down payment" on relief that they can build on in 2021 as an early administration priority.

2. *Georgia special elections.* In two Senate runoff elections on January 5th, the Democratic challengers, Jon Ossof and Raphael Warnock, prevailed over their incumbent Republican opponents, Senator Kelly Loeffler and Senator David Perdue, effectively giving Democrats control of the Senate. But after the November 3rd election, the outcome of those races was unclear and the Senate majority hung in the balance, with the winner of the upcoming runoffs set to determine control. The polling at the time was showing a tight race (arguably, with Republicans having a slight early edge), and the Democratic candidates were using the relief stalemate as a political bludgeon against the incumbents. Delivering on critical COVID relief quickly became a bigger, and more urgent priority.

3. *Repurposing of funds.* It was clear throughout the summer that spending fatigue had set in among Republicans after three significant and costly stimulus packages. Indeed, while Speaker Pelosi was insisting on a relief bill larger than $2 trillion through the summer and fall, it was clear that GOP Leader McConnell could not secure majority Republican support for a bill larger than $1 trillion. Hence, both Senate Republican proposals were in the range of $500 billion. While the official cost of the final bill ended up to be around $900 billion, the true cost is far smaller. Several hundred billion dollars of unused PPP money are being repurposed for a renewed PPP. In addition, over $400 billion in CARES Act funds allocated for the Federal Reserve's emergency lending programs are being rescinded in this bill, freeing up hundreds of billions more. Taken together, the "net" cost of the final bill is actually lower than $900 billion and comes closer to McConnell's earlier proposals, which arguably helped tamp down some of the fiscal concerns raised by Republicans.
4. *The Senate centrist compromise.* Perhaps most importantly, a group of centrist Republican and Democratic senators worked tirelessly over the Thanksgiving recess to develop a compromise proposal that helped provide a path through the long stalemate. This group, which included Democratic Senator Joe Manchin and Republican Senator Mitt Romney, among others, was frustrated by Congress's failure to act and, as has happened in the past with similar bipartisan "gangs" in the more collegial Senate, worked together to bridge the divide. They were bolstered by a compromise proposed earlier by a similar group in the House, the bipartisan House Problem Solvers Caucus. To these senators' great credit, they hashed out a compromise that enjoyed bipartisan support among the group and was released in early December, costing around $1 trillion.
5. *Separating the two most controversial provisions.* While the bipartisan Senate group was able to reach a compromise among themselves on the difficult issue of liability protections, their proposal was unable to bridge the broader divide in Congress on the issue. The concept of splitting off that issue

along with state and local aid – the two most controversial pieces – and dealing with them later, an idea floated initially by Leader McConnell, began to gain traction. With both sides agreeing to separate and deal with those issues later, it provided a path for finalizing the details on the less controversial elements where it was easier to find bipartisan agreement

A 5,593 Page "Omnibus": Packaging COVID Relief with the Annual Spending Bills

The government funding deadline Congress faced also presented an opportunity for action after the election – both a potential vehicle on which to include a negotiated COVID-relief deal and a deadline by which to act. Each year, Congress must pass 12 annual "appropriations" bills to fund the federal government for the upcoming fiscal year. Each of those individual bills is supposed to be passed by the start of the next fiscal year, October 1st, but as has been the case over the last several years, the individual bills have gotten bogged down in fights over policy and funding. When that happens, Congress must either pass a long-term extension of current-year funding – which presents hardships for federal agencies – or cobble all the bills together into a big "omnibus" package that neither side loves, but that provides enough policy wins for both sides to build sufficient support for passage. This year, there seemed to be broad consensus that a large omnibus funding package was better than the alternative – a long-term continuing resolution (CR) – and congressional appropriators needed to reach a deal that could muster support. In addition, Congress had reached agreement earlier on the aggregate budge levels, which can often be the biggest source of disagreement. While Congress was forced to pass two temporary funding extensions to push back the fiscal year deadline and provide time for negotiators, the ingredients and support were there for a large omnibus funding deal to come together. The $1.4 trillion package that resulted provided a must-pass legislative vehicle – and a deadline for action.

Ultimately, all of it came together at the last minute – as it often does. Members were unfortunately asked to review and vote on over 5,500 pages of legislative text in just six hours (rules requiring a minimum period of time for members to review the bill were waived in the House). It is unfortunate that the breakdown in the budgeting process in Congress continues to lead to these last-minute omnibus bills, but the good news is that in the end, Congress was able to find bipartisan agreement and pass a bill they thought the President would sign (which he ultimately did, after raising some objections) to fund the government and provide much-needed relief to the American people. The legislation also became a vehicle for a litany of other must-pass legislative items (see below).

See the final text of the final legislation, and a section-by-section summary.[4]

Major Elements of COVID Relief

Division M – "Coronavirus Response and Relief Supplemental Appropriations Act, 2021"

Division M includes the appropriations portion of the relief package, *i.e.*, emergency COVID-related relief funding for various programs and agencies. These supplemental emergency funds are in addition to the regular annual funding that was also a part of the bill. Some of the highlights of the emergency COVID-related relief funding include:

- $9 billion to the Centers for Disease Control and Prevention (CDC) to "distribute, administer, monitor, and track coronavirus vaccination"
- $20 billion for the Biomedical Advanced Research and Development Authority (BARDA) for manufacturing and procurement of vaccines and therapeutics
- $25.4 billion to the Public Health and Social Services Emergency Fund to support testing and contact tracing

- $3 billion in additional grants for hospital and health care providers (through the Provider Relief Fund (PRF), which was authorized in the CARES Act)
- $4.25 billion to the Substance Abuse and Mental Health Services Administration (SAMHSA) to provide increased mental health and substance abuse services and support
- $82 billion for the Education Stabilization Fund, flexible funding to support the educational needs of states, school districts, and institutions of higher education
- $54.3 billion for the Elementary and Secondary School Emergency Relief Fund, formula funding to states and school districts to help schools respond to Coronavirus
- $22.7 billion for the Higher Education Emergency Relief Fund, including $20.2 billion for public and private, nonprofit institutions of higher education
- $2 billion to the Federal Aviation Administration (FAA) for Grants-in-Aid for Airports for the operations and personnel cost of airports, including economic relief for retailers at the airport (*i.e.*, concessionaires) and for assistance to communities with small airports
- $10 billion to support State Departments of Transportation and certain local transportation agencies
- $1 billion to support Amtrak
- $14 billion for operating assistance for urban and rural transit agencies

Division N – "Additional Coronavirus Response and Relief"

Division N, divided into 10 separate titles, contains the remainder of the COVID-relief deal and includes policy and additional funding priorities. Below is a summary of the main provisions.

Title I – Health Care. Title I provides a temporary increase in Medicare payments for physicians and other health care providers and delays a previously-scheduled cut in Medicare payments to

most providers (*e.g.*, sequestration), both of which are designed to provide additional financial relief to health care providers during the COVID emergency.

Title II – Assistance to Individuals and Families. This title includes an extension of unemployment compensation programs authorized in the CARES Act, additional payments to individuals and families (Economic Impact Payments), and targeted tax relief.

A. **Unemployment Compensation.** The CARES Act expanded federal unemployment insurance assistance available to unemployed workers by creating three 100 percent federally funded programs on top of the unemployment insurance traditionally provided through the states: Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC). The bill extends and phases out the programs.

    - The FPUC, which added an additional $600/week of unemployment compensation, phased out in July. President Trump extended the program through executive action using FEMA disaster dollars, but it was only temporary and required a state match. Republicans disagreed with extending the program at the $600 level, arguing that it was a disincentive to hiring, while Democrats supported an extension. The disagreement was one of the major sticking points in the negotiations. The bill extends the FPUC at a lower number, $300/per month, through March 14, 2021.
    - It also extends and phases out the PEUC program, which provides additional weeks of federal support when state unemployment runs out, to March 14th. In addition, it provides additional weeks (13 to 24) for those who would otherwise exhaust benefits.
    - It extends and phases out the PUA, a program created in the CARES Act, 100 percent

federally funded, for workers who traditionally had not been eligible, *i.e.*, self-employed or "gig" workers. It extends the program to March 14th and provides additional weeks (up to 50) for those who would otherwise exhaust their benefits.

B. **Economic Impact Payments (EIP).** Title II includes a second round of direct payments, building and expanding upon those issued by the IRS earlier this year under the CARES Act. The full credit amount is $600 per individual, $1,200 per couple, and $600 for children. It is available for individuals with adjusted gross income (AGI) at or below $75,000 ($112,500 for heads of household), and couples with AGI at or below $150,000. The rebate check is considered a tax refund and thus is not taxable. The IRS, using information already in its system, has already begun making payments. More information on how EIPs will work..

C. **Other Tax Relief.** Title II contains several additional tax provisions:

- *Extension of certain deferred payroll taxes (Sec. 274).* On August 8, 2020, the President issued a memorandum allowing employers to defer withholding their employees' share of social security taxes from September 1, 2020, through December 31, 2020. It also required employers to increase withholding and pay the deferred amounts ratably from wages and compensation paid between January 1, 2021, and April 31, 2021. Most employers did not participate, although the Federal Office of Management and Budget (OMB) instructed federal agencies to do so. This provision extends the repayment period through December 31, 2021. Penalties and interest on deferred unpaid tax liability will not begin to accrue until January 1, 2022.
- *Regulations or guidance clarifying application of educator expense tax deduction (Sec. 275).* This section requires the Secretary of the Treasury to issue guidance providing that personal protective equipment (PPE) and other supplies used for the prevention of the spread of COVID-19 are treated as eligible expenses for purposes of the educator expense deduction. The guidance is retroactive to March 12, 2020.
- *Tax treatment of Economic Injury Disaster Loans (EIDL) and PPP loans.* The bill provides additional relief to small businesses, clarifying that any forgiven loan or grant amount under the PPP and EIDL program shall NOT be included as gross income to businesses and that they can still deduct the business expenses covered with proceeds of the forgiven loan or grant. This provision was of particular interest to recipients of PPP loans after the IRS had determined, and remained fairly dug-in on its position that allowing expenses covered by PPP loans to also be deductible would amount to a "double benefit." There was tremendous bipartisan support in Congress for overturning the IRS's position.
- *Extension of payroll tax credit for sick and family leave.* The Families First Coronavirus Response Act (FFCRA) provided a refundable payroll tax credit for paid sick and family leave mandated under the law.[5] While this legislation does NOT extend the mandated leave, it does extend the tax credit through March 2021 for employers that continue to offer paid sick and family leave to their employees.

Title III – Continuing the Paycheck Protection Program and Other Small Business Support

The PPP was perhaps the most popular and successful aspect of the original CARES Act, supporting millions of small businesses and tens of millions of jobs. The original PPP expired in August, and there was strong bipartisan support for reopening and strengthening the program and giving the most hard-hit small businesses the opportunity for a second loan ("second draw"). It also includes additional EIDL relief and other important small business provisions, including:[6]

- $284.5 billion for the renewed PPP program
- Authorizes "second draw" loans for small businesses with less than 300 employees and a revenue reduction of 25 percent
- Expands the definition of "covered expenses," making certain operations expenditures, property damage costs, supplier costs, and worker protection expenditures allowable and forgivable uses of PPP funds
- Expands the PPP program to include 501(c)(6) nonprofit organizations and quasi-governmental destination marketing organizations (DMOs), as well as certain newspapers, broadcasters, and radio stations
- Provides $20 billion to restart and extend the EIDL Advance Grant program, and an opportunity for EIDL recipients in certain low-income areas who had received less than $10,000 in their original EIDL Advance Grant to apply for the rest
- Creates a new $15 billion grant program for eligible venues, theaters, museums, and zoos

Last Wednesday, January 6th, the Small Business Administration (SBA) released guidance for the renewed PPP program, issuing two interim final rules (IFR): an 82-page IFR entitled "Business Loan Program Temporary Changes; Paycheck Protection Program as Amended," which consolidates the rules for PPP forgivable loans for first-time borrowers and outlines changes made by the relief bill, and a 42-page IFR entitled "Business Loan Program Temporary Changes; Paycheck Protection Program Second Draw Loans," which lays out the guidelines for second-draw loans. The programs went live on Monday, January 11th. The updated application, and more information about the renewed program, can be found at SBA.gov.

Title IV – Transportation

This title includes $15 billion for payroll support for airline employees. The original Payroll Support Program (PSP) for passenger air carriers, cargo air carriers, and contractors, authorized in the CARES Act, expired at the end of September. The bill extends that relief. In addition, the transportation title provides $2 billion in economic assistance to other transportation services providers, including motor coach and bus operators, school bus companies, and U.S. flag passenger vessel operators.

Title V – Banking

In this title, Congress extends the eviction moratorium, originally authorized in the CARES Act and set to expire on December 31, 2020, by one month, to January 31, 2021. The CARES Act put in place a moratorium on evictions for 120 days from enactment, which expired in July. In September, the CDC announced an order putting in place another eviction moratorium through the end of the year. That is phased out under the bill.

The Banking title also provides $24 billion in "emergency rental assistance." The funding will be allocated to states and cities with populations of 200,000 or more (grantees) who will then allocate it to eligible households. No less than 90 percent of the funds are to be used for "direct financial assistance, including rent, rental arrears, utilities and home energy costs, utilities and home energy costs arrears, and other expenses related to housing." Grantees may use up to 10 percent of the funds to cover administrative costs. In general, grantees provide funds directly to landlords and/or utility service providers. If a landlord does not wish to participate, the grantee may provide funds directly to the eligible household. See a committee-prepared summary of the rental assistance and eviction moratorium provisions.

Title VI – Labor Provisions

This very short title creates more flexibility for students wishing to enroll in the Federal Job Corps program, specifically waiving drug testing requirements for students enrolling virtually and expanding the age qualification criteria due to the public health emergency.

Title VII – Nutrition and Agriculture Relief

In Subtitle A, "Nutrition," among other mostly temporary provisions, the bill increases the monthly Supplemental Nutrition Assistance Program (SNAP) benefit by 15 percent through June 2021, excludes Pandemic Unemployment Compensation (PUC) from household income for purposes of SNAP eligibility, and expands SNAP eligibility to college students eligible for a federal or state work study program or whose family contribution is zero. In addition, it provides $400 million for the Emergency Food Assistance Program (EFAP) through September 2021, as well as $13 million to the Commodity Supplemental Food Program, a USDA-administered program designed for low-income older Americans.

In addition, in the "Agriculture" subtitle, the bill provides $11.2 billion to the Secretary of Agriculture to provide financial assistance to various agricultural producers, growers, and processors.

Title VIII – United States Postal Service

In a provision that hasn't received much attention, Title VIII converts the $10 billion loan provided to the U.S. Postal Service under the CARES Act into a grant.

Title IX – Broadband Internet Access Service

Expanding broadband access, especially in rural and low-income communities, has been a bipartisan priority for some time. Congress took this opportunity, in the midst of a pandemic that has starkly demonstrated the importance of universal broadband access, to expand broadband services across all communities and improve supply chains. Specifically, the bill provides $300 million for a broadband deployment program at National Telecommunications and Information Administration (NTIA) to support broadband infrastructure deployment to unserved areas, with a priority on rural areas. It also establishes a $3.2 billion temporary, emergency broadband benefit program at the Federal Communications Commission (FCC) to help low-income Americans get connected or remain connected to the Internet. The bill also fully funds the previously-enacted "rip and replace" program by providing approximately $2 billion for communications providers with 10 million subscribers or less to replace equipment in their network that has been deemed to pose a national security threat.

Title X – Miscellaneous

Title X rescinds funding for the Federal Reserve's 13(3) lending facilities authorized in the CARES Act, an issue that was the subject of eleventh-hour negotiations between Pennsylvania Senator Patrick Toomey and Senate Democrats. Senator Toomey had expressed concern about allowing the facilities and funding to continue, indicating it was allocated for a specific emergency and could be abused in the future if it was not limited. Senator Chuck Schumer on the other hand wanted to ensure those and similar tools remained available to the incoming Biden Administration. Ultimately, they reached a compromise that rescinds the unobligated balances (approximately $429 billion) allocated to the Exchange Stabilization Fund (ESF) for the lending programs. The bill also sets December 31, 2020, as the date for termination of the Federal Reserve's authority to make new loans, asset purchases, or modifications through the existing CARES Act facilities, but also clarifies that it does not prevent the use of ESFs to support future programs and facilities that are substantially similar.

A Vehicle for Other Provisions: Other Notable Aspects of the Omnibus Bill

In most cases when Congress enacts an end-of-year omnibus funding package, for good or bad, it ends up being a catch-all bill to which other pending yet unrelated policy items are attached. This omnibus was no different. In addition to the COVID-relief package, several other major legislative items were included, some of which represent significant bipartisan accomplishments.

- Ending "surprise" medical bills. The surprise billing legislation is at the top of that list. It is quite significant in the health care space, and represents the end of months of discussion – and vigorous debate – among key members of Congress, the White House, and various health care stakeholders. "Surprise" medical bills are those received unwittingly by an insured patient who is treated by a provider that is out of their insurance network, typically for an emergency room visit but also for scheduled medical procedures. President Trump had endorsed a fix to the issue and called on Congress to address it nearly two years ago, and there was bipartisan support for banning the practice. But as is always the case, the devil was in the policy details. Discussions between several of the key committee leaders in the House and Senate, including outgoing Senator Lamar Alexander, the chairman of the Senate Committee on Health, Education, Labor, and Pensions (HELP), eventually led to a framework deal, but that proposal became bogged down in a battle between insurers and employers on one side, and providers on the other. Members of the House Ways and Means Committee had also expressed concerns about that agreement, as did the House "Doctor's Caucus," a group of Republican physicians. While there was widespread agreement that the practice should be banned, the debate was over the details of who would pay and how that payment would be determined. The entire effort appeared dead in the water late in the year, but leadership pressure to get something done on the issue finally forced the committees to come together. Under the deal that was ultimately reached, the "No Surprises Act," patients are protected from surprise bills and do not have to pay more than their in-network cost sharing. If a provider is not satisfied with the payment they receive, they can initiate an open negotiation period with an insurer. If no resolution is reached, they can pursue a dispute resolution process where an independent arbitrator considers relevant factors and determines a fair payment amount. The protections go into effect on January 1, 2022. In addition, the measure requires that patients be given a true and honest medical bill in advance of all scheduled procedures so they know what to expect. View a section-by-section summary of the No Surprises Act.
- Health care extenders and other health policy. There are a host of other health care related provisions in the legislation, including regular extensions of current law, but also some new, fairly significant health policy changes. For example, in an effort to help hospitals facing continued cost pressures as a result of the pandemic, the bill eliminates $4 billion in Medicaid disproportionate share hospital (DSH) cuts that were scheduled to go into effect in FY2021, and further eliminates the cuts in the subsequent two years. In a fairly significant policy change, the bill also creates a new "Rural Emergency Hospital" (REH) designation in Medicare that, for those who participate, allows rural hospitals to receive a fixed monthly payment plus a 5 percent add-on to the Medicare outpatient payment rates. It is designed to help rural hospitals maintain access to care by providing 24/7 emergency care along with outpatient services while ceasing inpatient care. Read a summary of many of the key health provisions.
- Tax extenders. In what has become an annual congressional ritual, the bill also includes "tax extender" provisions, temporary, targeted tax benefits that were set to expire last year (or had recently expired). Many members of Congress have expressed concern about the uncertain economy created by having to deal with expiring tax breaks every year or two, arguing that as a policy matter, those provisions should either be eliminated altogether or made part of the Code permanently to provide greater certainty for businesses. This bill took a hybrid approach, making some of the more pro-growth provisions permanent, creating a longer-term extension for those that have broad political support, and beginning the process of repealing those whose value has expired or been exceeded as a result of the Tax Cuts and Jobs Act of 2017. See a summary of the tax provisions included in the legislation.

Here are a few noteworthy ones:

- *Reduction in the medical expense deduction floor.* This provision allows individuals to deduct unreimbursed medical expenses that exceed 7.5 percent of AGI instead of 10 percent. This was made permanent.

    - *Craft Beverage Modernization Act.* These provisions make the reduced excise tax rates for small brewers and distillers, which were included in the 2017 Tax Cuts and Job Act (TCJA), but only for two years, permanent. The provisions also include improvements to the administration of the lower rates and tighten anti-abuse rules.

    - *Work Opportunity Tax Credit (WOTC) and New Markets.* The bill provides five-year (5) extensions to several provisions, including most notably the New Markets Tax Credit and the WOTC.

    - *Employee retention tax credit modifications.* The bill extends and expands the employee retention tax credit (ERTC) included in the CARES Act. Specifically, beginning on January 1, 2021, and through June 30, 2021, the credit is increased from 50 percent to 70 percent. Moreover, eligibility is expanded by reducing the required year-over-year gross receipts decline from 50 percent to 20 percent, among other changes. Importantly, retroactive to the effective date included in the CARES Act, it provides that employers who receive PPP loans may still quality for the ERTC with respect to wages that are not paid for with forgiven PPP funds.

    - *Temporary allowance of full deduction for business meals.* This provision, otherwise known as the "three martini lunch" deduction, has received a lot of media attention. It provides a 100 percent deduction for business meal food and beverage expenses provided by a restaurant that are paid or incurred in 2021 and 2022. Currently, the deduction is available for only 50 percent of such expenses.

    - *Temporary special rules for health and dependent care flexible spending arrangements.* This provision provides further flexibility for taxpayers to rollover unused amounts in their health and dependent care flexible spending arrangements from 2020 to 2021 and from 2021 to 2022. It also permits employers to make a 2021 mid-year prospective change in contributions amounts.

Conclusion

The 5,593-page omnibus bill includes a number of other unrelated legislative provisions not mentioned above. The one thing those provisions had in common was support from key members of Congress for getting them done before the end of the year, and the end-of-year omnibus legislation presented the best opportunity. These more notable of those items include: the Intelligence Authorization Act for FY2021, legislation considered annually by Congress that authorizes and sets policy for our nation's intelligence agencies; the Water Resources Development Act (RDA) of 2020, legislation considered every couple of years that authorizes federal participation in water infrastructure projects like flood control, dredging, and harbor maintenance; an authorization for a new Smithsonian American Women's History Museum and National Museum of the American Latino; public lands legislation; consumer protection matters; and bankruptcy.

In the end, while the process leading to the omnibus was far from perfect and partisan disagreement delayed action, Congress was able to come together, meet their annual funding obligations, and pass much-needed economic and financial relief for the American people. The question now is whether yet *another* package of relief is on the immediate horizon, and if so, what it is likely to include. President-elect Biden has made clear that battling the pandemic will be his "first priority, the second priority and the third priority." Moreover, he has characterized this latest package as a mere "down payment," calling for trillions of dollars in additional aid last week, including a boost to stimulus checks to $2,000.

While we can expect to hear more on his proposals in the coming days, it will probably include many of the priorities included in earlier Democratic proposals left on the cutting room floor, including additional money for state and local governments. And you can expect that there will be strong partisan disagreement, despite an election where the voters arguably sent a message for the parties to work together. Specifically, while the Democrats will effectively control a 50-50 Senate, with Vice President-elect Kamala Harris casting the tie-breaking vote, another large package will encounter resistance from Republicans in the Senate and House on fiscal concerns, and you can expect they will continue to insist on including liability protections. With the Senate legislative filibuster still in place and unlikely to be changed anytime soon, any legislation will also require some bipartisan buy-in, because the Senate GOP will have leverage to block a strictly partisan bill. The other question, then, is whether Democrats will be able to use a tool called "budget reconciliation" to enact some of their stimulus priorities, a procedure that requires only 51 votes in the Senate, but also limits the policy that can be included. More recent questions concern how quickly they will be able to act given the prospect of a second House impeachment and the focus on confirming the new administration's appointees. In short, stay tuned for the first few months of the New Year, as we likely still have not heard the last word from Congress on COVID relief.

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[1] The Consolidated Appropriations Act, 2021, P.L. 116-260, was signed by President Trump on December 27, 2020.

[2] The American Recovery and Reinvestment Act of 2009, passed in response to the financial crisis and subsequent economic downturn, injected $831 billion into the U.S. economy through a combination of spending and tax cuts.

[3] The major bills include: 1) the initial $8.3 billion emergency relief bill passed by Congress at the very early stage of the pandemic and signed by the President on March 6, 2020, P.L. 116-123, the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020; 2) the Families First Coronavirus Response Act, P.L. 116-127, signed on March 18, 2020, and 3) the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, P.L. 116-136, enacted on March 26. The president also signed legislation, the Paycheck Protection Program (PPP) and Health Care Enhancement Act, P.L. 116-139, on April 24, 2020, to provide additional funding for the PPP and for hospitals and additional testing.

[4] The COVID-relief portion of the package can be found in Division M and N of the bill. The annual appropriations bills are contained in Divisions A through L.

[5] The FFRCA, P.L. 116-127, was enacted on March 18, 2020.

[6] This title may be cited as the "Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act."