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## US Senate CARES Act Summary

Late last night the US Senate voted unanimously to advance Phase III of the COVID-19 congressional relief packages. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) is estimated to exceed \$2 trillion with broad based relief in many forms.

The House of Representatives is expected to convene on Friday where a voice vote for passage will most likely be taken given that House members are currently in recess. All indications are the bill will not be subject to amendment.

The CARES Act consists of several Divisions and Titles and is 880 pages. Below is a top-line summary of the major components affecting your dealership. WEDA will be hosting a webinar next week through Farm Equipment to provide more in-depth analysis of the provisions in the bill relating to business lending and tax changes.

### Lending Provisions

**Small Business Loans:** \$350 billion allocated for small business loans administered by the Small Business Administration under the Paycheck Protection Program. Loans are 100% backed by federal government. Portions of loans are forgivable when used for payroll continuity.

- **Eligibility:** companies with fewer than 500 employees
- **Loan Amount:** Capped at \$10 million. Generally calculated as 2.5 times average total monthly payroll costs incurred in the one-year period before the loan is made (or for seasonal employers the average monthly payroll costs for the 12 weeks beginning on February 15, 2019, or from March 1, 2019 to June 30, 2019)
  - Loan origination fees waived; Interest capped at 4%
- **Uses:** Payroll Costs, Mortgage Payments, Rent/Lease Agreements, Utilities, Group Healthcare, Retirement Benefits, Interest on Debt incurred before covered period.
- **Forgiveness:** Indebtedness is forgiven in the amount equal to payroll costs (up to \$100,000 for each employee), interest payments on mortgages, rent, and utility payments made during the covered period (eight weeks from date of loan origination). Amount reduced based on reduction in employees.
- **Treatment of Forgiven Amounts:** Considered canceled indebtedness and excluded from gross income.

**Treasury Loans:** \$500 billion allocated to provide loans and loan guarantees. Eligible businesses must not receive adequate economic relief from other provisions in the bill. \$46 billion is set aside for distressed industries such as passenger and cargo airlines and industries important to maintaining national security.

- **Limitations:** Direct loans are largely discretionary with a maximum term of 5 years. Most bill provisions relate to prohibitions on companies receiving funds such as stock buyback, executive compensation, and dividend payments.
- **Eligibility:** Domiciled in the US with a predominately US based workforce. Borrowers are prohibited from reducing their workforce below March 24, 2020, levels until Sept. 30, 2020.

### Tax Provisions

- **Net Operating Loss Carryback:** This provision retroactively allows companies to use tax losses to offset income from prior years. Losses from 2018, 2019 and 2020 may be carried back five years, allowing companies to amend prior-year returns. This provision applies to both corporations and pass-through businesses.
- **Increase in Allowable Interest Deductions:** The maximum amount of business interest deductions is increased for 2019 and 2020 from 30% of earnings before interest, taxes, depreciation and amortization (EBITDA) to 50% of EBITDA.
- **Payroll Tax Deferral:** This provision allows an employer to defer its share of 2020 payroll tax, paying these amounts over the next two years.
- **Payment of Tax Refunds:** Tax reform imposed a one-time tax on earnings held overseas, which could be paid over eight years. The IRS has taken the position that companies cannot receive refunds until the eight-year period is completed. The bill overturns the IRS position.
- **Employee Retention Tax Credit:** This provision creates a new, temporary refundable payroll tax credit for companies affected by COVID-19 (i.e., with operations suspensions or a significant decline in gross receipts). The maximum credit is \$10,000 per employee. The credit amount is based on wages, including health benefits. For businesses with more than 100 employees, only wages paid during a period that services are not provided due to COVID-19 are counted. For companies with fewer than 100 employees, all wages are counted. This credit is for wages paid through the end of 2020.
- **Corporate Alternative Minimum Tax Credits:** This provision allows companies to accelerate recovery of corporate AMT credits.
- **Qualified Improvement Property:** This provision corrects an error in tax reform, allowing companies to write off certain facilities improvements more quickly.

### Labor Provisions

- **Paid Leave:** This provision sets a cap on maximum payments employers will be required to pay for new emergency paid leave requirements. The provision also allows employers to receive an advance tax credit on paid leave rather than having

to be reimbursed on the back end. The provision also ensures that federal contractors who are unable to work will continue to be paid.

- **Unemployment Insurance:** This provision provides additional federal funds for workers who are unemployed or underemployed. The provision also establishes short-term compensation programs for states that allow for employers to reduce workers' hours while still providing employees a pro-rated unemployment benefit.

### **Individual Provisions**

- **Individual Rebate Checks:** This provision provides checks of up to \$1,200 to single individuals and \$2,400 to married couples (increased by \$500 per child). Check amounts begin to reduce as income exceeds a threshold amount (\$75,000 for individuals/\$150,000 for married filers) and are completely eliminated once income reaches \$99,000 for individuals/\$198,000 for joint filers with no children). Income amounts are based on the taxpayer's 2018 return.
- **Distributions from Retirement Plans:** This provision waives the 10% penalty for distributions from certain retirement plans. The maximum allowable distribution is \$100,000. Individuals can recontribute these amounts to their plans over a period of up to three years. This provision is applicable to individuals diagnosed with COVID-19, whose spouse or dependents have been diagnosed or who experience adverse financial consequences from the virus.