BAD BALANCE: MCCONNELL'S CORONAVIRUS BILL OFFERS WORKING FAMILIES TOO LITTLE & CORPORATIONS TOO MUCH

Big Business Gets Wish Lists Fulfilled While Millions of Poor Are Left Out

Senate Majority Leader Mitch McConnell's proposed legislative response to the coronavirus crisis, the "Coronavirus Aid, Relief, and Economic Security (CARES) Act,'' puts corporate interests before public needs. The relief offered struggling individuals and families is woefully inadequate; to state and local governments at the front lines of the crisis, nonexistent; while the benefits promised corporations are ill-focused and excessive.

The McConnell plan is flawed and fails to meet these key principles needed in a stimulus plan:

- **Exploits the coronavirus emergency to give long-desired tax breaks to corporations, breaks that would do little to mitigate the general economic crisis.** The plan would:
  - Give a windfall to many underserving corporations by allowing them to get rebates on previous taxes paid by retroactively lowering past income. This would revoke a key tax increase that corporations had agreed to under the 2017 Trump-GOP tax law in exchange for lower tax rates. The cost of this would be at least $200 billion, and probably much more.
  - Temporarily loosen new restrictions imposed by the 2017 tax law on the deduction of interest. This was another tradeoff in that legislation, a revenue raiser meant to cover some of the losses from lower tax rates. Loosening the cap on interest deductions could be very costly, as it would apply to all businesses, whether affected by the coronavirus pandemic or not.
  - Give in to the restaurant industry demand to make a change to the 2017 tax law that it argues unfairly disadvantages it. Democrats have heretofore refused to fix the so-called "retail glitch" without a commensurate benefit for working families, like expansion of the Earned Income Tax Credit (EITC). Especially in the present crisis, restaurant owners should not receive relief unless restaurant employees do as well.

- **Fails to get financial assistance quickly into the hands of working families and state and local governments reeling from the crisis and bearing the costs.**
  - Only about $216 billion of the total $1 trillion in spending—just 20%—will go to individual payments. More than 8 million of the poorest Americans will be left out of the program entirely.
  - The plan entirely omits the massive federal aid needed by state and local governments to weather the mounting emergency. By comparison, the federal response to the Great Recession provided $280 billion in assistance to states and localities.

- **Fails to ensure the interests of taxpayers and workers are adequately protected in any federal assistance offered to businesses. In proposing more than $200 billion in federal loans and loan guarantees for airlines and other industries particularly hard hit by the crisis.** The plan fails to:
  - Adequately limit CEO compensation as a condition of those loans.
  - Demand any meaningful sacrifice on the part of wealthy shareholders, such as preventing stock buybacks and dividend payments for the duration of any loan.
  - Guarantee the jobs, wages and collective bargaining rights of regular employees.

Perhaps the McConnell plan's biggest failing is that it fails to put its massive proposed aid to corporations and their wealthy shareholders in historical perspective. Any big new fiscal policy like this one must account for the regressive nature of the last one: the 2017 tax overhaul, which cost nearly $2 trillion and is primarily benefitting wealthy households, big corporations and pass-through businesses owned by the richest 1%. Not only was the top income tax rate cut and the estate tax weakened but the rich also reaped huge rewards from corporate and business tax giveaways. Corporations were handed a $1.35 trillion income tax rate cut and a further $400 billion tax cut on profits they had spent years stashing offshore. The new 20% income deduction for so-called "pass-through" businesses cost another $400 billion, with 60% of this tax break going to the richest 1% by 2024.

Following is a more detailed preliminary analysis of the McConnell plan, along with recommended principles for drafting a stronger and more equitable response to the coronavirus pandemic.

The McConnell plan uses the coronavirus emergency to give long-desired tax breaks to corporations, breaks that would do little to mitigate the general economic crisis.

The Trump-GOP tax law gave corporations a massive tax cut by slashing the corporate tax rate from 35% to 21%. To partially offset the cost, the law also included some corporate revenue raisers, including limitations on deductions for losses and interest payments. The McConnell plan would roll back these revenue raisers and make other changes in the law benefitting business without offering any equivalent benefits to struggling workers and their families.

The McConnell plan would:

- **Give a windfall to many underserving corporations by allowing them to get rebates on previous taxes paid by retroactively lowering past income.** To reduce the revenue lost from slashing corporate taxes, the 2017 tax law eliminated the ability of businesses to "carry back" losses to previous years, though it also extended their ability to subtract such current "net operating losses" (NOL) from future earnings. Corporations accepted limits on their use of NOLs in exchange for lower tax rates.

The McConnell plan would now not only restore "carry back" losses but extend from two to five the number of previous years' profits that current losses could be applied against. Paired with the limitless ability to use current losses to reduce future-year reported profits and therefore taxes, this new and expanded carry back provision is a huge giveaway. While Congress estimated at the time the tax law was enacted that the change in NOL rules would increase tax revenue by over $200 billion, the cost of the currently proposed reversal of that change and then further expansion of the right to carry back losses will undoubtedly be a great deal higher given the pandemic. That's because corporations will be absorbing enormous losses in the coming months that they will be able to use to generate big tax refunds from previous, profitable years' filings.

- **Temporarily loosen new restrictions on the deduction of interest.** As a partial tradeoff for the temporary allowance of businesses to immediately write off big-ticket purchases ("expensing"), their ability to deduct interest was limited. The McConnell plan would loosen the interest deduction limits for the 2019 and 2020 tax years, allowing businesses to deduct half their interest costs rather than just 30%. And it would apply to all businesses, whether affected by the coronavirus pandemic or not—a costly and unnecessary allowance. The tighter interest rules were estimated at the time the tax law was enacted to raise more than $250 billion over 10 years. This temporary relaxation will cost the government some part of that.

- **Give in to the restaurant industry demand to make a change to the 2017 tax law that it argues unfairly disadvantages it.** In the present crisis, restaurant owners should not receive relief unless restaurant employees do as well. The McConnell plan's fix to the so-called "qualified improvement property" (QIP) glitch for restaurants should be paired with an economic boost of equal or greater size for working Americans, as was proposed in the Economic Mobility Act. That measure would increase the earned income tax credit in 2019 and 2020 for individuals with no qualifying children and make the child and dependent care tax credits fully refundable during the same period.

The McConnell plan fails at the most urgent task at hand: getting financial assistance quickly into the hands of working families and state and local governments who are reeling from the crisis and bearing the costs.

Direct support to working families is the most humane and efficient way to prevent the economic crisis from spiraling out of control, since the money is desperately needed and will be immediately spent. Such payments should be ongoing and generous. By proposing only a single "recovery check" and capping its value at $1,200 per adult and $500 per child, the McConnell plan is recklessly stingy and fails to meet the moment.

- **Only about $216 billion of the total $1 trillion in spending—just 20%—will go to individual payments and 8 million of the poorest Americans will be left out of the program entirely**. According to estimates from the Institute on Taxation and Economic Policy, because of minimum income requirements in the plan about 1 out of 5 adults and children among the bottom fifth of taxpayers would not benefit at all. That's more than 8 million low-income adults (5.6 million) and low-income children (2.8 million) who are left out when they need help most. Even among members of this poorest fifth cohort of American households who do qualify for aid, they are slated to receive only about 50% ($880) of the average payment for everyone ($1,560).

The McConnell plan would provide married couples with a credit of up to $2,400 ($1,200 for unmarried taxpayers) and $500 per child, phasing out at income of $150,000 for married couples and $75,000 for unmarried taxpayers. But the credit would be limited to a family's tax liability before accounting for refundable credits. An alternative plan by Senators Booker, Bennet and Brown would provide a flat payment of up to $4,500 for each member of a household. An initial payment of $2,000 per person would be followed by additional payments if economic conditions continue to deteriorate.

- **The McConnell plan fails to provide any of the massive federal aid needed by state and local governments who are at the front lines of the crisis.** Such aid is required to keep health and human needs programs fully operational over the coming months. By comparison, the federal response to the Great Recession—the American Recovery and Reinvestment Act of March 2009—provided $280 billion to state and local governments.

  State and local public services will soon be overwhelmed in the absence of a federal backstop. Washington should immediately increase funding for food aid (SNAP) and get aid quickly out to the states to shore up vital safety net programs like Medicaid (through higher FMAP payments), unemployment insurance, and more. State and local governments are constrained by balanced budget requirements—only the federal government has the financial flexibility to fully respond to the crisis.

- **The McConnell plan, thankfully, does not incorporate a favored and flawed proposal of President Trump's: a payroll tax cut.** As pointed out in a recent letter to Congress from 72 national organizations, the incremental nature of payroll tax cuts takes too long to put enough money into workers' pockets and such cuts favor the most highly compensated when the real crisis is among the lowest-paid. Instead, the McConnell plan approaches payroll taxes from the employer's side, freeing up business revenue during the emergency by deferring current employer payroll taxes, with half of the deferred amount due by the end of 2021 and the other half by the end of 2022. The Social Security trust fund will be made whole in the meantime through general revenues.

The McConnell plan fails to put sufficient conditions on crisis-impacted industries getting assistance, such as forbidding stock buybacks, shareholder dividends and excessive executive pay.

The loans and loan guarantees offered by the plan must be contingent on meaningful sacrifice by top executives and shareholders, while all ordinary employees—including franchise workers and contractors—must benefit from the assistance and be protected by the conditions put on that aid.

- **The McConnell plan limits federal assistance for impacted industries to secured loans and loan guarantees, rather than grants, but taxpayers are not guaranteed to benefit from future gains.** There is a provision allowing taxpayers to share in any future gains of corporations receiving aid via warrants, stock options or stock but it is left to the Treasury Secretary's discretion to pursue such gains on behalf of the American people. Such recouping of our national investment should be made mandatory.

- **The plan fails to adequately limit CEO compensation as a condition of those loans.** The only requirement is that higher paid employees (those making over $425,000 last year) not receive an *increase in pay* over the next two years. So, a CEO making $10 million last year could continue to receive that same excessive level of compensation, even as the company struggles to survive and taxpayers prop up the business. Also, executive "golden parachutes" will continue to shine, as the only restriction put on severance packages is that they do not exceed twice last year's compensation. So that $10 million-a-year CEO could receive a termination package worth $20 million.

- **No sacrifice at all is demanded of wealthy shareholders as a condition of the loans.** There is no prohibition on using the borrowed funds made possible by taxpayers to buy back stock, which artificially inflates share prices for existing owners; or to pay those owners regular dividends. Big firms repurchased over $1 trillion of their own shares in the first year of the new tax law, lavishing more money on their already wealthy shareholders. Companies in two industries that have called for government bailouts—airlines and airplane manufacturers—are no exception in this regard. This failure to demand any meaningful sacrifice on the part of CEOs and wealthy shareholders at companies saved from collapse through government rescue is totally unacceptable. A minimal condition of federal aid should be a moratorium on stock buybacks and dividend payments for the duration of the loan.

- **Workers at rescued companies receive no protections or guarantees.** Businesses receiving federal aid should be made to pledge as a condition of the loans that there will be no layoffs, pay cuts or interference with collective bargaining.

- **The airline industry and others that might receive aid under the McConnell plan have not historically demonstrated socially responsible behavior and so should face particularly tough conditions and strict scrutiny.** Only one industry—commercial aviation—is specifically guaranteed assistance by the McConnell plan: $50 billion for passenger airlines, $8 billion for cargo haulers. Others, including the cruise industry and oil and gas producers, have also been mentioned as possible aid recipients and so could be sharing in the $150 billion set aside by the plan for "other eligible businesses."

  Airlines were among the biggest winners from the 2017 tax law: seven big carriers have collectively paid just a 2.3% tax rate on over $30 billion in profits in the two years since the law was enacted, according to the Institute on Taxation and Economic Policy. Cruise lines, meanwhile, use phony foreign residency to altogether avoid U.S. taxes and regulations, including of often harsh working conditions. Fossil fuel firms dodge taxes through overgenerous depletion allowances, expensing of exploration and development costs, and avoidance of corporate income taxes that cost billions of dollars.