

COVID-19 Legislative Update 4.6.2020.

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Good evening,

Please see below for updates on legislation related to COVID-19. As legislative activity has slowed after the passage of the third bill, the cadence of this update will reflect that change and will no longer be sent out daily (until circumstances change).

4.6.2020. COVID-19 Legislative Update

Legislation

Supplemental IV – “CARES 2”

Timeline/Process: Speaker Pelosi continues to aim for putting the next package on the floor during the week of April 20. Whether members can safely return to vote by that time is unclear. However, committee staff have been drafting with a sense of urgency. To have a package pass in late April or early May, **the next package will need bipartisan, bicameral agreement.** The implementation and challenges with implementation have, to a certain extent, pushed members to recognize that the goals of CARES have not been reached. **If the bill ends up staying within the confines of CARES, it may have a better chance to be passed by voice vote/unanimous consent,** and thus not require members to return for the vote.

The House seems to be the driving body for this package, as Speaker Pelosi began the drafting process last week. The Energy and Commerce Committee and Ways and Means Committee will be delivering health-related legislative language to leadership tomorrow. On Friday, Leader McConnell sent his [strongest message yet](#) that there would be another package, specifically mentioning prioritizing health care. Some Republicans have voiced concern at the Pelosi-led process and are worried a dynamic similar to how Phase 2 was drafted and negotiated could play out.

Policy: As mentioned earlier, Speaker Pelosi has [indicated](#) that the next supplemental will be **similar to the recently passed CARES Act, with focuses on small business assistance, unemployment benefits, direct payments to individuals and families, and additional funding for public health.** The bill will likely include significant plus ups to programs outlined in CARES and provisions from the Pelosi bill from two weeks ago. **A notable exception to this rule might include increased investments in broadband,** as it has bipartisan appeal and may be more important in the short term – as it impacts distance learning and telemedicine – as opposed to waiting for inclusion in an economic stimulus.

Other provisions could include:

- Additional **funding for health infrastructure, community health centers, and hospitals;**
- Additional loan assistance to small (and possibly mid-sized) businesses – **there is a growing sense that there might be appetite to improve/expand/refine the program;**
- Expansion and increased length of **unemployment benefits;**
- Additional **direct payments** to individuals and families;
- Additional **money for states and local governments** to help offset revenue losses;
- Additional funding and support for D.C.;

- **Hazard pay for:**
 - 1) federal workers (25% pay increase during duration of crisis),
 - 2) other public sector workers (nurses/doctors, city/state employees, ambulance drivers etc.),
 - 3) private sector workers (grocery store workers, “essential” workers, healthcare workers in private settings).
- Additional student loan relief;
- Increases in SNAP/**nutrition assistance**;
- \$100 billion for rental assistance, ban evictions for renters, funding for housing homeless populations in hotels/motels (House Financial Services memo on potential provisions [here](#));
- Additional funds for **election assistance** and vote-by-mail infrastructure/implementation;
- Additional **oversight** mechanisms and requirements;
- Requirement of the appointment of a [military czar](#) to handle **production/distribution of critical medical equipment**;
- Additional funding for the U.S. Postal Service;
- Other actions to rescue distressed industries;
- Retroactive repeal of the \$10,000 SALT cap for tax years 2018 and 2019;
- Additional health policy provisions (**open enrollment for the ACA**);
- Additional investments in broadband.

Supplemental V – Phase 4? (TBD)

Leadership in both the House and Senate have recognized that an economic stimulus package will be necessary at some point, but there is still significant disagreement on timing, scope, and size. House Democrats have been driving the process, as committees have already begun soliciting input from members and drafting legislative text. Additionally, most of what may be included in the bill has already been crafted. Speaker Pelosi has indicated that the [Moving Forward Framework](#) Democrats released in January will serve as the base of the infrastructure piece of whatever bill Democrats introduce. Additionally, [the LIFT Act](#), which covers the infrastructure pieces of the E&C jurisdiction, was [released](#) last May and is already in bill form. WRDA could also be included. Additionally, there is an attitude among Democrats to create a package that goes beyond traditional infrastructure and addresses climate change.

Democratic proposals for an infrastructure package will likely include:

- **\$434 billion for highway and transit programs**, including \$319 billion on highway investments, \$105 billion for transit, and \$10 billion for safety investments
 - Investments in materials that reduce carbon pollution and are resilient to climate change
 - Investments to develop electric charging stations and alternative fueling options for vehicles
- **\$55 billion for rail investments, with a focus on high-speed options**
- \$30 billion for investments in airports/airways
 - Incentives for the development of sustainable aviation fuel/new technology to reduce carbon pollution from air travel
- \$19.7 billion for the Harbor Maintenance Trust Fund
- **\$50.5 billion for clean water/wastewater investments**
 - \$40 billion for the Clean Water State Revolving Fund

- Establishment of new EPA program dedicated to mitigation of industrial chemical discharge, including PFAS
- \$25 billion for clean drinking water
 - \$1.5 billion for a new Low-Income Household Drinking Water Program – modeled off LIHEAP – would give money to states/tribes to help individuals pay for drinking water
- \$34 billion for clean energy
 - Modernization of the electric grid and make it more efficient and reliable as well as secure
 - Funding for energy efficiency (retrofits, weatherization, conservation projects)
- **\$86 billion for broadband investments**
 - Would include provisions developed by Whip Clyburn’s Broadband Task Force (draft legislation has yet to be introduced)
 - Broadband Conduit Deployment Act, which would require roads receiving federal funding to include placement of broadband conduits during construction
 - Digital Equity Act, which would create two programs within NTIA. One program would allocate money to states for planning/programming around digital equity and the other program would be competitive grants for local governments/organizations to increase affordability and provide training
 - Include language from the Promoting Access to Broadband Act, which would help states raise awareness around the FCC’s Lifeline program
- \$12 billion for 9-1-1 modernization and public safety investments
- Reinstatement of Build America Bonds
- Inclusion of green energy tax incentives

Passed Legislation

Senate Majority Leader Mitch McConnell released a paper attached [here](#) compiling available coronavirus resources in all three laws.

Supplemental III – Coronavirus Aid, Relief, and Economic Security (CARES) Act

After a unanimous vote by the Senate, the House passed the bill on March 27 and the President signed the bill into law shortly after. Final text [here](#). Democratic summary [here](#). Republican section by section [here](#).

Implementation

Speaker Pelosi [announced](#) the creation of a House Select Committee on the Coronavirus Crisis, which will be focused on oversight of how the funds appropriated in CARES and other supplementals is spent. Majority Whip Clyburn will chair the committee. **Other members of the committee have yet to be announced.**

Leader Schumer announced today that he will appoint Bharat Ramamurti to the Congressional Oversight Commission. The Commission was created by CARES to oversee implementation of the economic relief provisions in the bill. Ramamurti was the Deputy Policy Director for Economic Policy on the presidential campaign of Sen. Elizabeth Warren (D-MA).

Title I – Small Business Loans

- The Treasury Department has released [affiliation guidelines](#) for the small business loan program.

- The Treasury Department released an [interim final rule](#) last week on the small business provisions in the bill. **Applications opened on Friday** for eligible entities (other than independent contractors and the self-employed). **With such high demand, it's likely that funding will be exhausted within the next few days.** Some lenders, mostly larger banks, indicated that on such short notice, they would be unable to begin providing loans immediately. See [here](#) for a memo Cornerstone put together on the interim final rule. There were several changes to initial guidance, notably:
 - Borrowers can apply to multiple programs if they own multiple businesses.
 - 1099 employees are not eligible to be counted on payroll – they need to file for their own claims (applications open 4/10 for 1099 employees and self-employed).
 - Under the current rule, the definition of non-profits appears to be limited to (c)(3)s and (c)(19)s, while (c)(6)s and (c)(7)s are not included. The Hill has been active in their advocacy for non-profits and the SBA loan program, so this exclusion could be changed in future legislation.
- Treasury FAQs on the Paycheck Protection Program
 - Top-line overview of the program [here](#)
 - Lender information [here](#)
 - Borrower information [here](#)
 - Borrower application [here](#)
- Senate Small Business Committee FAQ on Paycheck Protection Program [here](#)
- FAQ on Small Business Administration's loan programs [here](#)

Title II – Individual and Business Tax Relief

- IRS has indicated that the **earliest Americans could receive relief payments from CARES is next week.** Those who will receive their relief through paper checks could take as long as 20 weeks to receive payment.
- After pushback from many Members of Congress, the IRS [revised](#) its earlier determination that those who do not normally file a tax return would need to do so in order to receive relief. Its website now explains that the IRS will use information from other federal forms (Form SSA-1099 or Form RRB-1099) to disburse payments to senior citizens, Social Security recipients, and railroad retirees who are not otherwise required to file a tax return. IRS's FAQ page on individual economic relief [here](#).
- Senate Finance Committee FAQ on the Employee Retention Tax Credit [here](#)
- Treasury Guidance on Employee Retention Tax Credit [here](#)
- Treasury FAQ on Employee Retention Tax Credit [here](#)
- House Ways and Means FAQ on Rebates [here](#)
- House Ways and Means FAQ on Unemployment Compensation [here](#)

Title III – Public Health Systems, Education, and Healthcare

- Factsheet on accelerated and advance payments for providers/suppliers [here](#)
- House Energy and Commerce Republican Factsheet on relief for hospitals [here](#)

Title IV – Economic Stabilization

- The **Treasury Department released guidance** on payroll support to airline industry employees, and on loans to the airline industry and businesses critical to national security. Guidance for payroll support [here](#). Guidance on procedures and minimum requirements for loans [here](#). Treasury press release [here](#).

Division B – Appropriations

- As you know, the CARES Act (the third COVID-19 supplemental), provided \$100 billion for hospitals and other health care entities that are responding to the coronavirus pandemic. HHS is still working through the details about how the funds will be distributed and for which purposes. According to our sources, **official guidance might not be released until late this week. None of the below information has *officially* been shared by HHS, and therefore is subject to change.**
 - It is unclear whether the funding will be awarded through grants or some other mechanism. HHS also wants to avoid an elaborate application process.
 - The awards will allow flexibility in terms of allowable uses (i.e. childcare for hospital workers, since it is essential to the function of providing care). **HHS is working now to create a new web portal or other mechanism to quickly receive funding requests and allow HHS to make payments directly to providers.** A third-party private contractor may be brought in to assist HRSA in making the payments.
 - **HRSA will take the functional lead for issuing the awards.** But the HHS Office of the Secretary, CMS and other HHS operating divisions will be involved to provide policy guidance and other assistance.
 - There will likely be a first round of funding that is broad and general, and then subsequent targeted rounds.
- Last week **the FCC announced a two-part, \$200 million COVID-19 telehealth program.** The press release may be found [here](#); and the FCC order approved on Wednesday can be found [here](#).
 - The program will consist of two parts: a telehealth program (which should have an application in the next few weeks), and a Long-term Connected Care study pilot program, which will take several months to launch.
 - The FCC hopes to have an application available in two weeks for the COVID-19 telehealth program; the Connected Care Pilot will be a few months off.
 - Connected Care Pilot will give priority to low-income communities.
 - Telehealth funding will be able to cover broadband, associated medical equipment and communications equipment, but will not cover indirect costs.
- House Appropriations overview for local governments/nonprofits [here](#)

Cornerstone resources on certain areas of the bill:

- Memo for **health care** providers [here](#)
- Memo on the **Small Business Administration loan programs** [here](#)
- Memo outlining the **workers and families** assistance programs [here](#)
- Memo outlining **technology** opportunities [here](#)
- Memo outlining **FEMA** opportunities [here](#)
- Memo on the bill's **higher education** provisions [here](#)
- Memo for non-profits [here](#)

Other resources:

- Speaker Pelosi COVID toolkit [here](#)
- Updated Senate Republican Policy Committee memo [here](#)
- Senate Republican COVID Policy Response overview [here](#)
- Leader Schumer coronavirus resources page [here](#)

Implementation Timeline – see below for a **DRAFT** outline of implementation dates

- 4/1 – DOL implements paid leave provisions
- 4/1 – DOT shall publish streamlined procedures for air carriers to apply for grants for Air Carrier Worker Support (Sec. 4113)
- 4/3 – SBA **Paycheck Protection Program opens** for applications to all eligible entities (other than independent contractors and the self-employed)
- 4/6 – DOT shall publish applications procedures for loans for businesses, states, and municipalities, including air carriers (Sec. 4003)
- 4/10 – SBA Paycheck Protection Program opens for application for independent contractors and self-employed
- 4/11 – Treasury must submit by this date, a report to both Appropriations Committees with a plan on how appropriations (+\$579M) will be used to implement payments
- 4/13 – Treasury issue **guidance on Coronavirus Relief Fund** (\$150B to States/Tribes/local governments)
- 4/13 – **IRS payments begin** this week for individuals with direct deposit
- 4/26 – HUD Emergency Solutions Grants (ESG) releases first tranche (\$2B) based on normal formula allocated within 30 days
- 4/26 – HUD CDBG releases first tranche (\$2B) based on normal formula within 30 days
- 4/26 – Education Department will issue notice to invite applicants to Governor’s Emergency Funds. Secretary will approve or deny no later than 30 days after receipt (deadline fluctuates)
- 4/26 – Education Department will issue notice to invite applicants to Elementary and Secondary School Emergency Funds. Secretary will approve or deny no later than 30 days after receipt (deadline fluctuates)
- 4/26 – Election Security Grants must be issued to states

No specific statutory deadline for implementation

- **HUD CDBG** releases third tranche (\$2B) based on a need-based formula
- **Congressional Oversight Commission** publishes first report no later than 30 days after the first exercise of authority by Treasury/Federal Reserve
- No deadline written for institutional aid for **higher education institutions**
- **Indian Health Service** (\$1.03B) has no statutory deadline to get funds out, but IHS is consulting with Tribes and UIOs now and seems to already have a plan.
- **Defense Production Act** DOD provisions (\$1B)
 - Funds are available upon enactment until expended.
 - Waives for two years requirement for congressional approval for projects in excess of \$50 million and another provision requiring the return of unobligated funds in excess of \$750 million to Treasury.
 - Waives for one year from date of enactment provisions requiring a 30-day delay in projects over \$50 million.
 - All other funds expire Sept. 30, 2020.

Supplemental II – Families First Coronavirus Response Act (HR 6201)

The Senate passed the House bill on March 18 and the President signed the bill into law that evening. Bill text [here](#). Factsheet [here](#). Bill section by section [here](#). A summary of paid leave provisions, incorporating changes made by technical correction, is [here](#).

Implementation: The IRS clarified that the payroll tax credits provided under FFCRA to businesses with 500 or fewer employees will be based on the paid leave provided to employees from 4/1/2020 – 12/31/2020.

Supplemental I –Coronavirus Supplemental

Signed by the President March 6. Text [here](#), summary [here](#).

Congress

Session: House is in a pro forma session until April 20. D.C. is currently under a shelter-in-place order, and Maryland and Virginia have similar orders in place. In a Dear Colleague last week, Speaker Pelosi advised members to keep their schedule flexible and said that, in order to make up for lost time, the House may meet during weeks previously scheduled as District Work Periods. The Senate is in recess until April 20.

Appropriations: As of right now, the appropriations markup schedule is unchanged. Reports have indicated that it will likely be delayed, however. Most House bills have subcommittee markup dates the weeks of April 21 and April 28, while the Senate has not yet set its markup dates. This year's NDAA markup has been "indefinitely postponed". Reps. Adam Smith and Thornberry (HASC Chair and RM) sent a [letter](#) to the committee members saying that they will schedule the date of the markup once the House schedule for the next few months becomes clear.

Remote voting: Speaker Pelosi and Leader McConnell have both voiced opposition to members' voting remotely, but as more members of Congress have begun self-quarantining and the pandemic makes travel more treacherous, in-person voting has become more difficult. Remote voting is being discussed to some extent in both chambers. The House Committee on Rules Majority released a staff report on voting options. The [report](#) discusses unanimous consent, proxy voting, as well as the logistics (and security concerns) of remote voting. Additionally, the House Sergeant at Arms and the Attending Physician released [guidance](#) for voting, including procedures for voting in shifts for roll call votes. In the Senate, Sens. Durbin, Portman, and Klobuchar working on a way for Senators to vote remotely, but Leader McConnell, as of right now, is not supportive.

Other Floor Action: The House issued [guidance](#) today indicated that Floor materials are to be submitted through a secure email address instead of dropped off at the Speaker's Lobby or Cloakrooms. Members are still allowed to drop off materials in person. Speaker's Dear Colleague on the guidance [here](#).

Hearings and Meetings: While most hearings and markups for the next week or so have been cancelled, some committee staff are working to see whether holding hearings virtually is possible. The Senate Armed Services Committee has developed a "[paper hearing](#)" model in lieu of in-person hearings. The Senate Commerce Committee plans to hold a [paper hearing](#) tomorrow on how big data has been used in response to coronavirus. The House Administration Committee is working on a report on best tools to be able to do virtual meetings.

Members of Congress in Quarantine or Treatment (new additions in bold)

Tested Positive (6): Sen. Rand Paul (R-KY), Rep. Ben McAdams (D-UT), Rep. Mario Diaz-Balart (R-FL), Rep. Joe Cunningham (D-SC), Rep. Mike Kelly (R-PA), Rep. Nydia Velazquez (D-NY)

Currently Self-Quarantined (9): Sen. Mike Lee (R-UT), Sen. Mitt Romney (R-UT), Rep. Josh Harder (D-CA), Rep. Katie Porter (D-CA), Rep. Seth Moulton (D-MA), Rep. Lizzie Fletcher (D-TX), Rep. Josh Gottheimer (D-NJ), Rep. Ayanna Pressley (D-MA), **Rep. Mikie Sherrill (D-NJ)**

Completed Quarantine (29): Sen. Ted Cruz (R-TX), Rep. Mark Meadows (R-NC), Sen. Lindsay Graham (R-SC), Rep. Don Beyer (D-VA), Rep. Sharice Davids (D-KS), Rep. Doug Collins (R-GA), Rep. Paul Gosar (R-AZ), Sen. Cory Gardner (R-CO), Sen. Rick Scott (R-FL), Rep. Matt Gaetz (R-FL), Rep. Jason Crow (D-CO), Rep. Julia Brownley (D-CA), Rep. Ben Ray Luján (D-NM), Rep. Gwen Moore (D-WI), Rep. Stephanie Murphy (D-FL), Rep. John Yarmuth (D-KY), Rep. Adam Schiff (D-CA), Rep. Vincente Gonzalez (D-TX), Rep. Drew Ferguson (R-GA), Rep. David Schweikert (R-AZ), Rep. Anthony Brindisi (D-NY), Rep. David Price (D-NC), Rep. Ann Wagner (R-MO), Rep. Kathleen Rice (D-NY), Rep. Matt Cartwright (D-PA), Rep. Tom Cole (R-OK), Rep. Steve Scalise (R-LA), Rep. Frederica Wilson (D-FL), Rep. Andy Kim (D-NJ), Rep. Kendra Horn (D-OK)

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