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Subject: COVID-19 Legislative Update 4.27.2020.
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Attachments: [image001.png](#)

Good evening,

Please see below for updates on legislation related to COVID-19. Updates are sent every Monday, Wednesday, and Friday evening.

4.27.2020. COVID-19 Legislative Update

Legislation

Supplemental IV – CARES 2.0. / Phase 4

Timeline: Attention has turned to the next bill, termed “CARES 2.0” by some and “COVID 4” by others. The House is still scheduled to return on May 4, but a bill likely won’t be ready for a vote until mid- or late-May. There have been rumblings that Speaker Pelosi may unveil the next coronavirus supplemental as early as later this week, but as some committees have yet to pass legislative text on to leadership, next week is more likely. House Democrats still see Phase 4 as the next step in supplementals with a vote in May, followed by an infrastructure-focused bill in June.

Process/Politics: It’s likely that House Democrats will take the lead on drafting the next bill. However, as far as negotiations with Republicans goes, finding common ground on this bill may be more difficult than earlier supplementals. Republicans have [said](#) they want to slow down and see how the spending so far has been used before moving forward. Additionally, **there continues to be a push for remote voting**. The New Democrat Coalition sent letter today supporting remote voting. If House leadership agrees to proxy voting, the process could move quicker.

Policy: Phase 4 will likely be a large package, totally at least \$1 trillion. The bill Speaker Pelosi introduces will likely **heavily mirror many of the priorities reflected in the “Take Responsibility for Workers and Families Act”**, which House Dems released prior to Senate passage of CARES. Text [here](#), summary [here](#), and one pager [here](#). Ways and Means has been working on provisions to provide another round of stimulus checks, more unemployment assistance, and tax incentives to help address supply chain issues.

Highlights from the Democratic “Take Responsibility for Workers and Families Act”, some of which were implemented in CARES include:

- **\$150 billion for hospitals, CHCs, government medical systems**, including \$80 billion in low-interest loans to hospitals;
- \$1,500 to individuals in direct cash payment, up to \$7,500 for family of five;
- Expansion of Earned Income Tax Credit, Child Tax Credit;
- **Expands paid sick days and family medical leave** (extends to 12/31/2021, paid sick leave required regardless of size of the company);
- Health extenders extended to end of the fiscal year;
- **\$500+ billion grants and interest-free loans (some forgivable) for small businesses**,

additional \$184 billion for low-interest disaster loans;

- **\$200 billion state stabilization fund**, \$15 billion in Community Development Block Grant for local governments;
- \$60 billion for schools/universities (\$50 billion for states' school funding and \$10 billion for higher education);
- **\$10 billion in grants to airports, \$40 billion in grants to airlines and ground support contractors (\$21 billion in loans)**, \$100 million in grants to maintain service to small communities.
- Housing support, including **\$100 billion for emergency rental assistance** to low-income renters at risk of homelessness, \$32 billion for state housing agencies, and \$1.1 billion for HUD multi-family housing programs;
- \$25 billion for **public transportation** to ensure continued operations;
- Over \$250 million for investments in **telemedicine** (ReConnect, Distance Learning and Telemedicine), \$2 billion for broadband **hotspots/devices** to for distance learning, and \$1 billion for the expansion of **broadband access** to low-income Americans.

Last week, the President [called](#) for aid to state and local governments, infrastructure investment, a payroll tax cut, and tax breaks for restaurants, sports, and entertainment interests. Some Republican members have said they want a more **economic stimulus and recovery-focused bill, with funding for infrastructure like broadband, roads, and bridges**. Republicans have also voiced concern around **energy industry losses** and its implication for the broader economy.

Earlier today, the Republican Study Committee released a 37-point [proposal](#) outlining plans for combatting COVID-19 and facilitating economic recovery. Highlights include:

- Offset future COVID-19-related deficits and implement a **"spending control" mechanism** such as tying spending to annual revenues or potential GDP;
- Sanction Chinese officials, end visas for Chinese government officials, prohibit distribution of *China Daily*, pressure the Chinese government to **allow the CDC access to China**, and direct a Congressional probe of the World Health Organization and its relationship with China;
- Further expand **telemedicine** services, relax restrictions of drone deliveries for medical purposes;
- Remove barriers to production of drugs, ingredients, and medical devices and allow businesses to instantly expense investments in R&D and physical capital;
- Direct the FDA to **fast-track any COVID-19 related drug or device** approved in an allied country;
- Waive certain federal hiring requirements and alter the GS wage scale to give greater compensation to those with in need skills;
- Give all federal agencies access to death data, require sharing of death data by states, to ensure benefits are not distributed to deceased individuals;
- Streamline certain **federal permitting** processes related to NEPA and endangered species' habitats.
- Ensure gig workers are treated as **independent contractors** and not as employees;
- Allow investments in workers' education to be tax deductible;
- Allow employers to offer **alternatives to overtime** and pay above what is specified in a union contract;
- Relax **public housing** voucher requirements;
- Allow students in short-term **career and technical education** to be eligible for Pell Grants;

- Allow 529 Accounts for homeschooling funds;
- Remove CARES Act language that prohibits providers who receive funding from HUD's Emergency Solutions Grants (ESG) program to require participants to use certain support services.

Passed Legislation

New information and guidance regarding passed legislation:

- 4/27 – Outline of the Provider Relief Fund with additions from COVID 3.5 [here](#).
- 4/26 – CMS suspended the Advance Payments Program, to the surprise of Democrats, who were actively negotiating with the department officials on modifying the program. For providers who have already applied for the program, the announcement doesn't affect them. Press release [here](#).
- 4/24 – SBA released updated data on Economic Injury Disaster Loans [here](#) and EIDL Advance [here](#).
- 4/24 – SBA released an interim final rule on requirements for Promissory Notes, Authorizations, Affiliation, and Eligibility. Interim Final Rule [here](#). Additional eligibility criteria and requirements for certain loans [here](#).
- 4/24 – SBA issued a procedural guidance on participation sales [here](#).
- Treasury released an interim final rule for the Paycheck Protection Program on how lenders will calculate loan amounts for employers with seasonal employees. Rule [here](#).

Supplemental 3.5 – Interim Emergency Coronavirus Relief, formally titled “Paycheck Protection Program and Health Care Enhancement Act” (HR 266)

The President signed the bill into law on April 24. Text [here](#). Section by section [here](#). Summary of hospital and testing provisions [here](#). DPCC one pager [here](#). Senate Democrats [summary](#) of health provisions. Overview of [commitments](#) regarding health funding and Medicare advance payments the Administration made as part of negotiations.

Highlights include:

- **\$310 billion total for PPP** with \$250 billion unrestricted and a \$60 billion set aside for smaller institutions:
 - \$30 billion for assets less than \$10 billion;
 - \$30 billion for assets between \$10 billion and \$50 billion.
- \$50 billion for EIDL loans;
- \$10 billion for EIDL Advance grants;
- \$2.1 billion for SBA administrative expenses.
- The bill also **clarifies agriculture enterprises are eligible for PPP** (they were eligible for 7(a) in the past, but they weren't eligible for EIDL because they received disaster relief from USDA in the past).
- The bill did not expand PPP eligibility to 501(c)(6)s and 501(c)(7)s, but lawmakers have brought up the issue with Secretary Mnuchin, specifically regarding local and regional chambers of commerce. **Treasury is currently looking into is whether they have enough regulatory authority to expand eligibility** or if that requires a legislative fix.
- **\$75B for hospitals and providers** (summary of hospital and testing provisions [here](#));

\$25 billion for testing, broken into the following categories:

- **\$11 billion for states, localities, territories, and tribes** to develop, purchase, administer, process, and analyze COVID-19 tests, scale-up laboratory capacity, trace contracts, and support employer testing.
 - \$2 billion for **states** using the Public Health Emergency Preparedness grant formula;
 - \$4.5 billion provided to **hotspot** areas;
 - \$750 million for **tribes, tribal organizations, and urban Indian health organizations** in coordination with IHS.
- \$1 billion for the **CDC** for surveillance, epidemiology, laboratory capacity, contact tracing, public health data, and analytics infrastructure modernization;
- \$1.8 billion to **NIH** for testing and associated technologies and for partnerships to research and implement the activities;
 - (Note: This bill will roughly double the amount that Congress has appropriated for NIH for COVID-19 purposes so far.)
- \$ 1 billion for **BARDA** for advanced research, development, manufacturing, production and purchase of COVID-19 tests and related supplies;
- \$22 million for the **FDA** for diagnostic activities;
- \$825 million for **Community Health Centers** and **rural health clinics**;
- \$1 billion to cover costs of testing for the **uninsured**;
- \$6 million for the HHS **Office of Inspector General**.

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](#).

Small Business Loans

- 4/24 – Data on Economic Injury Disaster Loans [here](#), EIDL Advance [here](#).
- 4/23 – The Treasury Department [asked](#) all publicly traded companies that received funds under the program to return the funds within two weeks.
- The Treasury Department released an [interim final rule](#) on the small business provisions in the bill. See [here](#) for a memo Cornerstone put together on the interim final rule.
- Treasury FAQs on the Paycheck Protection Program
 - Top-line overview of the program [here](#)
 - Lender information [here](#), Borrower information [here](#), borrower application [here](#)
 - PPP FAQ [here](#) (as of 4/23)

Individual and Business Tax Relief

- IRS guidance on deferral of payroll taxes [here](#)
- House Ways and Means factsheet on Economic Impact Rebate portal [here](#)
- IRS's FAQ page on individual economic relief [here](#).
- Treasury Guidance on Employee Retention Tax Credit [here](#)
- Treasury FAQ on Employee Retention Tax Credit [here](#)

Public Health Systems, Education, and Healthcare

- 4/23 – As part of negotiations on 3.5, the Administration made [commitments](#) on **how the next \$60 billion in the health relief fund will be distributed**. HHS has committed that it will

send out an additional \$60 billion dollars in the coming weeks, much of it coming within the next 10 days. That funding will be distributed as follows:

- \$10 billion for hotspots, which will be for the **top 100 counties with Covid-19 cases** to date. Payments are expected to be **distributed by next Wednesday, April 29**. The funding will be based on total ICU beds and Covid-19 patient admissions, cumulatively for the period from January 1 to April 10. An additional weighting factor, using Medicaid DSH status, will provide a greater proportion of this funding to those that treat underserved patients.
- \$10 billion in additional hotspot funding, expected to go out in the next 45 days.
- \$10 billion for **rural health care**.
- \$400 million for **Native American health care systems**. Payments are expected to be distributed on Friday, April 24.
- \$20 billion to reconcile the inequities from the initial \$30 billion, which was based on Medicare fee-for-service payments and left out providers that rely heavily on non-FFS payers. When combined with the initial \$30 billion, this **total will be calculated based on the provider's portion of 2018 net patient revenue**. Of this total, \$9.3 billion will be released by Friday, and the remaining \$10.7 billion **will require providers to submit an application attesting to their revenue**. Those payments will go out weekly on a rolling basis.
- \$10 billion to cover the **cost of providing treatment for the uninsured. Applications will be accepted within 10 days**, with payments going out within 30 days.
- 4/22 – CARES Act Provider Relief Fund overview [here](#). State by state breakdown of first payment [here](#).
- 4/23 – As part of negotiations on 3.5, the Administration made [commitments](#) on changes to **Medicare advance payment policies**. The administration committed that, by the end of this week, Secretary Mnuchin and Chief of Staff Meadows will release a letter stating that they will:
 - Use their administrative authority to **reduce the interest rate** down from what is currently 10.25 percent to a rate that is more in line with a traditional federal interest rate.
 - Use their administrative authority to **extend the repayment period** beyond 12 months.
 - Work with Congress and support legislation in Corona 4 that will **place the liability for these payments in Treasury's General Revenue fund**, rather than the Medicare Hospital Insurance and Supplemental Medical Insurance Trust Funds. The expansion of these programs must not adversely affect Medicare's solvency or result in premium increases for seniors.
- 4/9 – Secretary DeVos indicated that she would be moving to "immediately distribute" the \$6 billion in CARES for emergency financial aid grants to college students. The grants can be used by college students for technology, course materials, food, housing, and healthcare. DeVos distributed the funding to colleges, which are meant to then distribute the aid among students. The Department did not issue guidance on how colleges are to structure the program, but colleges will be required to sign a form certifying that the funds were used in accordance with the law. See [here](#) for the specific allocations for each college.

Economic Stabilization

- 3/30 – 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](#).
- 4/10 – Treasury Q&A on Loans to Air Carriers and Eligible Businesses and National Security Businesses [here](#). Loan application [here](#).

State, Local, and Tribal Government Funding

- 4/13 – Treasury launched its [web portal](#) for payments to state, local, and tribal governments. Treasury announced that eligible government entities must provide required information by Friday, April 17 to receive payment within the 30-day window allowed under CARES and those that miss that deadline may not receive funding. Submission page [here](#). Some highlights from the announcement below:
 - Funds are only allowed to be used for expenses which:
 - Are necessary expenses during the coronavirus emergency;
 - Were not accounted in the most recent budget (as of March 27, 2020);
 - Were incurred between 3/1/2020 – 12/30/2020.
 - Eligible local governments are those below the state level (county, municipality etc.) with a population higher than 500,000. See [here](#) for data sources and the distribution methodology. See [here](#) for a list of eligible local government units.
 - Amounts paid to governments will be based on population and the amounts allocated to states will be reduced by the total amount provided to local governments in the state.
 - Payments to Tribal Governments will be determined by the Treasury Secretary in consultation with the Interior Secretary and Tribes. While consultation has been completed, **more than a dozen tribes have sued the Treasury Department** over its guidance identifying Alaska Native Corporations (ANCs) as eligible entities for the fund. On Wednesday, Secretary Mnuchin said that the department would not be releasing funding until Tuesday, April 28 – two days after the deadline outlined in the CARES Act.
- 4/22 – Treasury issued guidance on the state/local/tribal governments fund [here](#)
 - The guidance further defines what expenses qualify as “necessary expenditures” and provides examples as well as examples of ineligible expenses.

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](#).

Supplemental I – Coronavirus Supplemental

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

Congress

Session: Earlier today, Leader McConnell [confirmed](#) that the **Senate will return next week** on May 4. Leader Hoyer [said](#) on a call with House Democrats that the **House would also return May 4, but mostly for committee work** and minimal floor activity. D.C. is currently under a stay-at-home order, and Maryland and Virginia have similar orders in place. Speaker Pelosi has advised members to keep their schedule flexible and said that the House may meet during weeks previously scheduled as District Work Periods.

Appropriations/NDAA: While timing continues to be unclear, House Appropriations Committee (HAC) will likely stick to the original subcommittee order of markups, just shifting everything back by 2-3 weeks. The first markups were slated to begin April 22. **SAC has given subcommittees direction to stick with the original plan of marking up all of the bills in June.**

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. **SASC Chairman**

Inhofe has said he aims to writing the FY21 NDAA by the end of May but is flexible considering the circumstances.

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Remote voting: **After pushback from Republicans, Speaker Pelosi pulled a proxy voting proposal, and instead tasked a bipartisan group to review proposals for proxy voting and procedures to reopen the House.** The group includes Majority Leader Hoyer, Minority Leader McCarthy, Chairman McGovern (Rules), Ranking Member Cole (Rules), Chairwoman Lofgren (House Admin), and Ranking Member Davis (House Admin). **There continues to be a push for [remote voting](#).** The New Democrat Coalition sent letter today supporting remote voting. The resolution proposed by Chairman McGovern [here](#) and includes protocols for proxy floor voting, and remote committee hearings and markups. Rules Majority proxy voting FAQ [here](#). Leader McConnell, as of right now, is not supportive of any form of remote voting.

Other Floor Action: The House has issued [guidance](#) 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: Next week when the House is back, **there will be in-person committee hearings** and markups, but member attendance will be staggered and scheduled in large committee rooms to ensure members practice social distancing measures. **Leader Hoyer has been working with Leader McCarthy to develop an official remote working plan.** Under current rules, the House does not allow virtual hearings. Chairman McGovern's proxy voting proposal would also allow remote hearings and markups.

The Senate Rules Committee Democrats released a one-pager guidance on "paper hearings", which stated "paper hearings" are not official hearings. The Senate Sergeant at Arms is exploring technology that would allow for remote hearings, though Leader McConnell remains opposed to any form of remote voting. The Senate has [advised](#) offices to avoid using the video conferencing app Zoom over data security concerns. The Senate has not yet officially banned the application though.

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

Tested Positive (1): Rep. Neal Dunn (R-FL)

Currently Self-Quarantined (0):

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

Completed Quarantine (37): 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 Lujan (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), Sen. Mike Lee (R-UT), Sen. Mitt Romney (R-UT), 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)

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