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CORNERSTONE

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COVID-19 Legislative Update

May 11, 2020

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

5.11.2020. COVID-19 Legislative Update

Legislation

Supplemental IV – CARES 2.0. / Phase 4

Timeline: It's unlikely that we see text before Wednesday. The timeline on introduction is still unclear, but could be relatively soon, as House Democratic Leadership has scheduled caucus calls to discuss what's in the bill. The Speaker's original goal for introduction was today. **Leader Hoyer has indicated that Members will receive 72-hour notice before a vote. If a bill is introduced tomorrow (Tuesday), the earliest a vote could occur would be Friday.**

Process/Politics: It is worth emphasizing that a bill as introduced by House Democrats will be far from what product becomes law, as Republicans have yet to join negotiations. Any House vote on the Democratic bill will likely be partisan. **House Leadership has announced five caucus calls to take place tomorrow and Wednesday so members can ask questions about the bill.** The calls are the following:

- 11:00 a.m. Health – Chairman Pallone (E&C) and Chairman Scott (Ed & Labor) will discuss provisions on testing, healthcare, aid to healthcare workers, pensions.
- 12:30 p.m. Business and Individual – Chairwoman Waters (FinServ) and Chairwoman Velazquez (Small Biz) will discuss PPP, small business provisions, rent and mortgage assistance.
- 4:00 p.m. State and Local – Chairwoman Lowey (HAC) will discuss aid to states and municipalities.
- 5:30 p.m. Direct Assistance/UI – Chairman Neal (WM) will discuss direct assistance to families, small business, unemployment.

Policy: As it stands currently, the overall package is around \$3 trillion. The Ways & Means portion submitted to leadership last week is over \$1 trillion alone. State and local aid is roughly \$1 trillion. **There are several front liners and Blue Dog types expressing concern that the bill has ballooned too much, so leadership is now deciding if and where they choose to cut some pieces out.**

There has been a lot of chatter around the Rep. Jayapal paycheck guaranty proposal, which is similar to what Sen. Warner has proposed. A separate approach is the [bill Reps. Murphy and DelBene](#) put out on Friday to expand the employee retention tax credit. The Murphy-DelBene proposal was a part of the Ways & Means submission to leadership. **It is possible that versions of both proposals end up in the bill, for multiple 'wins' for different Members.** Another provision that is at the Leadership level, and was part of the Ways & Means submission, is a bill by Reps. [Thompson-Kind-Panetta-Horsford](#) that assists companies with fixed costs like rent and utilities.

Passed Legislation

New Implementation Information and Guidance

- 5/11 – White House released a summary of economic relief actions up to date [here](#).
- 5/11 – SBA released updated PPP statistics, including recent state by state information [here](#).

Previously Reported Implementation Information and Guidance

Small Business Loans & Treasury Main Street Lending

- 5/8 – SBA's Inspector General released a report on the implementation of the Paycheck Protection Program. The report found the Administration's administration of the program did not align with the law in four ways: prioritization of underserved/rural markets, loan proceeds eligibility for forgiveness, guidance on loan deferment, and registration of loans. Report [here](#).
- 5/7 – The Washington Post [reported](#) that the SBA has imposed a new loan limit on the department's Economic Injury Disaster Loans (EIDL), moving the loan limit from \$2 million to \$150,000. The department also [announced](#) that it would only be accepting applications from agricultural businesses onward.
- 5/6 – Treasury released an updated FAQ for the Paycheck Protection Program. FAQ [here](#).
- 5/3 – Treasury and SBA released a data set for the most recent tranche of P3 funds. Data [here](#).
- 4/30 – The IRS issued [guidance](#) that most expenses funded by forgiven Paycheck Protection Program (PPP) loans are non-deductible for federal income tax purposes.
- 4/30 – The Federal Reserve released the term sheets and other information relating to its expansion of scope and eligibility of the Main Street Lending Program. Term sheets and other information [here](#). Other information on other facilities and programs [here](#).

The move was aimed at ensuring access to the PPP loan program for smaller lenders and their customers.

- 4/28 – SBA announced it would no longer accept PPP loan applications submitted by robotic processing systems.
- 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](#).
- 4/24 – SBA issued a procedural guidance on participation sales [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 – 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](#)

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](#)
- 4/29 – Treasury FAQ on Employee Retention Tax Credit [here](#)

Public Health Systems, Education, and Healthcare

- 5/1 – As part of the \$100 billion dedicated to hospitals and health providers in CARES, HHS has distributed funding to “hotspot” hospitals and providers. HHS distributed \$12 billion to 395 hospitals who provided inpatient care for 100 or more COVID-19 patients through April 10, 2020. \$2 billion of the funding was distributed based on low-income/uninsured data (Medicare and Medicaid disproportionate share and uncompensated care payments). Money went out on Tuesday and Wednesday.
- 4/27 – Outline of the Provider Relief Fund with additions from COVID 3.5 [here](#).
- 4/27 – Education Sec. Betsy DeVos [announced](#) that more than \$300 million in discretionary grant funds will be available for states to use to create adaptable, innovative learning opportunities for K-12 and postsecondary learners in response to COVID-19. The grants will be funded through the Education Stabilization Fund (ESF), authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Program to Part B suppliers effective immediately. Press release [here](#).

- The announcement came as a surprise to Democrats, who were actively negotiating with the department officials on modifying the program.
- 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.
- 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.
- 4/22 – CARES Act Provider Relief Fund overview [here](#). State by state breakdown of first payment [here](#).
- 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. See [here](#) for the specific allocations for each college.

Economic Stabilization

- 4/30 – Transportation Secretary Elaine Chao announced the FAA will begin awarding the AIP and other discretionary grants funding through the CARES Act. Press release [here](#). Complete list of grants [here](#). Map of airports receiving funding [here](#).
- 4/10 – Treasury Q&A on Loans to Air Carriers and Eligible Businesses and National Security Businesses [here](#). Loan application [here](#).
- 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](#).

State, Local, and Tribal Governments

among tribes. Treasury plans to submit a new data request soon, with a portal open as early as next week. Tribes will likely have a few weeks to respond to the request and then Treasury will take a couple of weeks to process the data and determine a formula. The next round of funding will be based on employment and expenditure data of Tribes and tribally-owned entities.

- 5/5 – Treasury released distribution details regarding the tribal portion of the Coronavirus Release Fund. The first 60% of the fund will be distributed to tribes based on population used in the Indian Housing Block Grant (IHBG) and will include a floor of \$100,000. The remaining 40% will be distributed based on the number of individuals employed by the Tribe, including employees of tribally owned entities. Treasury still needs to collect and verify employment data before distributing the second round of funding. Amounts for ANCs will not be distributed, as litigation is still pending. Press release [here](#). Details [here](#).
- More than a dozen tribes have sued the Treasury Department over its guidance identifying Alaska Native Corporations (ANCs) as eligible entities for the fund. Last 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. The court on Monday preliminarily [enjoined](#) Treasury from disbursing funds to ANCs.
- 5/5 – Treasury released an updated FAQ regarding distribution of CARES Act state/local funds. FAQ [here](#).
- 4/27 – USDA announced that Kansas and Virginia have been approved to operate Pandemic Electronic Benefit Transfer (EBT), authorized by the Families First Coronavirus Response Act (FFCRA), which provides assistance to families of children eligible for free or reduced-price meals dealing with school closures.
- 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.
- 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.

- 5/7 – Leadership announced the remaining members of the House Select Committee on the Coronavirus Crisis. Members of the Committee are listed below:
 - Chair Jim Clyburn (D-SC) – Chair
 - Maxine Waters (D-CA)
 - Carolyn Maloney (D-NY)
 - Nydia Velázquez (D-NY)
 - Bill Foster (D-IL)
 - Jamie Raskin (D-MD)
 - Andy Kim (D-NJ)
 - Steve Scalise (R-LA) – Ranking Member
 - Rep. Jim Jordan (R-OH)
 - Rep Blaine Luetkemeyer (R-MO)
 - Rep. Jackie Walorski (R-IN)
 - Rep. Mark Green (R-TN)
- 4/29 – Speaker Pelosi [announced](#) the Democratic members of the House Select Committee on the Coronavirus Crisis, to be chaired by Majority Whip Jim Clyburn.

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.

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](#).

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: While the Senate returned last week, the House has yet to confirm when it will return. Whip Clyburn indicated on a call last week that **the House will likely return next week. Leader Hoyer has indicated that Members will receive 72-hours notice before votes occur.**

Hearings and Meetings: The Senate held the first in-person hearings last week, with limited attendance and required social distancing protocols.

markups this month. **The plan remains to move through COVID Phase 4 before turning to FY21.** The bills are almost all of the way there and each subcommittee is due to give final briefs to the full committee front office this week, starting Wednesday. We still **expect a rapid-fire markup process.** The hope is that all 12 subcommittees can go through subcommittee markups over the course of a week – whenever the markups begin – with most of the full committee markups in the following week. **Both majority and minority committee staff would like to rely minimally on remote procedures** and are planning to do markups in larger than normal hearing rooms (Cannon Caucus Room or CVC theater) to accommodate proper social distancing. The expected order is the following: LHHS; AG; CJS; SFOPs; E&W; DOD; MilCon; FSGG; Interior; THUD; Homeland; and Leg Branch. HAC-D will be limited in marking up the classified portion of the bill, as staff cannot do so remotely and will need to complete it upon return to their offices. The Senate is scheduled to markup their bills the last week of June.

NDAAs: HASC [intends](#) to schedule the markup once the House schedule is clear. SASC is looking to markup NDAAs 2021 the week of June 8, with the goal to have a bill to floor before the 4th of July recess.

Remote voting/virtual protocols: Leadership has committed to holding a vote on a temporary rule change the next time the House is in session. House Republicans have not been enthusiastic about the prospect of remote markups and Floor action.

The Virtual Congress Task Force continues to have productive discussions towards some sort of remote or proxy voting system. A lot of the discussion is between Leadership and Chairs. However, just within the Democratic Caucus, there is disagreement. Majority Leader Hoyer supports allowing remote markups and generally using video technology to allow much of the work of Congress to move forward. While most Democrats are on board with at least doing committee hearings remotely, **there are differing opinions on remote markups.**

The McGovern proposal for proxy voting is the main starting point for how to handle Floor votes remotely. However, there are front liners and other Members who would rather have Members back in Washington, showing that Congress is taking action and working hard. **Rank-and-file Democratic members are also feeling a growing frustration over not being able to impact the legislative process by virtue of not being in D.C. and physically close to Chairs, Leadership, and other leaders.** Geography is another factor – Members who find it easy to get to DC (such as within driving distance), are more amenable to being back in DC. Age is also a factor.

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

Note: It has been over a month since a member of Congress has tested positive for COVID-19.

Tested Positive (0):

Currently Self-Quarantined (1): **Sen. Lamar Alexander (R-TN)**

Velazquez (D-NY), Rep. Neal Dunn (R-FL)

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 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), 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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