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# CORNERSTONE

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## COVID-19 Legislative Update

May 15, 2020

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

### **5.15.2020. COVID-19 Legislative Update**

#### **Legislation**

##### ***Supplemental IV – The Heroes Act (HR 6800)***

Timeline/Process/Politics: **This evening, the House passed the Heroes Act by a vote of [208-199](#)**, with 14 Democrats voting against and one Republican (Rep. Peter King) voting for the bill. Earlier today, Congressional Progressive Caucus Co-Chair Pramila Jayapal [announced](#) that she would be voting no but would not be whipping votes against the bill. The majority of Democratic votes against the bill came from moderate Democrats. However, nine members of the Congressional Progressive Caucus (including Jayapal) voted against the [rule](#) for the bill.

Leader McConnell has continued to assert that he does not see the need for moving forward with another relief package until CARES funding has been fully disbursed. However, **Republican governors, local officials, and even the Chair of the Federal Reserve have [urged](#) Congress to pass a robust bill and move quickly with fiscal relief.** With House passage of the bill, the ball is now in the Senate's court, though it's unclear how quickly it will move. After votes on the House bill, Leader Hoyer said **the House will return for votes on May 27, adding pressure to finalize a deal before then.**

Policy: House Democrats introduced the long-awaited Heroes Act earlier this week and voted on the bill this evening. Notably absent was any provisions regarding liability protections for businesses. Leader McConnell is moving forward with drafting liability protection language. **All liability protection issues are now flowing through Sen. Cornyn's office, as his staff has begun to draft language.**

one pager [here](#). NCAI's summary on tribal provisions [here](#).

**Democrats made some changes to the bill through a manager's amendment yesterday in Rules Committee.** Manager's amendment [here](#). House Rules Committee report [here](#). See below for a summary of the changes the manager's amendment made.

- Adds \$39 million for rental assistance in rural areas.
- Provides greater flexibility for certain Labor and Health and Human services funding items.
- Adds a risk mitigation program within HHS.
- Adds a non-discrimination provision for applicants for coronavirus relief legislation.
- Prohibits the use of Paycheck Protection Program (PPP) funding to be used for lobbyists salaries.
- Removes eligibility to PPP and Main Street Lending Facility for 501(c)4s that have engaged in election and campaign activities.
- Expands the forgiveness safe harbor for PPP.
- Allows use of PPP funds for and forgiveness of expenses for PPE/other equipment necessary to protect the safety of employees.
- Makes student debt cancellation provisions more targeted. Would provide \$10,000 in student debt cancellation for “economically distressed borrowers”, defined as those who (as of March 12, 2020):
  - Had a monthly payment of \$0 under income-based repayment;
  - Was in default;
  - Had a payment that was 90 days or more past due;
  - Payment was already suspended due to forbearance options already available like economic hardship, unemployment, or cancer treatment.
- Reduces the additional amount for Railroad Unemployment Insurance Act benefits from \$1 billion to \$750 million, extends benefits for railroad workers to June 30, 2021.
- Reduces the amount for grants to community financial institutions from \$1 billion for \$250 million.
- Creates a wildlife-borne diseases epidemiology grant program through the Fish and Wildlife Service. Grants will go to States, Territories, Tribes, and DC.
- Includes employers of domestic workers in the employee retention credit.
- Alters treatment of DC to be treated as a county with regard to receiving local government relief funding.
- Require the Director of National Science Foundation to conduct a study on the spread of COVID-19-related disinformation.
- Requires every federal agency that funds or oversees scientific research to develop, adopt, and enforce a scientific integrity policy (Scientific 2 Integrity Act - Title XVI).

### **Passed Legislation**

#### ***New Implementation Information and Guidance***

employees and expenditures. Portal will likely open sometime next week. More information [here](#).

- 5/15 – Treasury released the loan forgiveness application for businesses that have received loans under the Paycheck Protection Program. Application [here](#).

### ***Previously Reported Implementation Information and Guidance***

#### **Small Business Loans & Treasury Main Street Lending**

- 5/11 – SBA released updated PPP statistics, including recent state by state information [here](#).
- 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](#).
- 4/29 – SBA announced that from 4:00-11:49pm on 4/29, SBA systems [would](#) only accept loans from lending institutions with asset sizes less than \$1 billion dollars. 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.

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

#### Public Health Systems, Education, and Healthcare

- 5/13 – HRSA announced the winners of \$15 million in telehealth grants that were authorized through the CARES Act. Press release [here](#). Awards [here](#).
- 5/1 – As part of the \$100 billion dedicated to hospitals and health providers in CARES, **HHS is distributing funding to “hotspot” hospitals and providers**. HHS will be distributing \$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 will be distributed based on low-income/uninsured data** (Medicare and Medicaid disproportionate share and uncompensated care payments).
- 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.
- 4/26 – CMS announced that it is reevaluating the amounts that will be paid under its Accelerated Payment Program (AAP) and suspending its Advance Payment 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

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 Government Funding

- 5/14 – Treasury issued a data request to disburse the second round of funding for tribes in the Coronavirus Relief Fund. The data request includes information on employees and expenditures. Portal will likely open sometime next week. More information [here](#).
- 5/12 – Treasury released its list of payments to states and qualifying localities for the Coronavirus Relief Fund. List [here](#).
- 5/8 – Treasury still has a remaining \$3.2 billion to distribute among tribes and plans to submit a new data request soon, with a portal open soon after. 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

- 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), and
    - 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.

### Oversight

- 5/7 – The remaining members of the House Select Committee on Coronavirus Crisis were named. Minority Whip Scalise’s priorities for the committee [here](#). Full Committee membership 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)

- 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](#). Fact sheet [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: The Senate returned last week and the House has planned votes on Friday. After the vote, Leader Hoyer said the House would return to vote on FISA legislation and possibly coronavirus-related legislation the week of May 27.

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

Appropriations: While there is no specific markup schedule set, HAC still hopes to begin 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.

The FY21 **Senate Appropriations schedule has officially slipped**. They are no longer saying bills will be marked up prior to July 4, and the timing is likely delayed a minimum of 3 weeks. Chairman Shelby late last week said he'd like to start marking up bills in June, but that the Homeland Security and VA/MILCON bills might not be marked up due to no agreement on 302b allocations. **As for caps, Senate Republicans have reached an agreement among themselves to support exempting a Veterans Affairs health care program from budget caps**. The agreement still needs sign off from the White House. This move could free up \$11 billion for other non-defense discretionary spending priorities.

NDAAs: HASC [intends](#) to schedule the markup once the House schedule is clear. Both HASC and SASC are looking to markup NDAA 2021 the week of June 8, with the goal to have a bill to floor before the 4th of July recess. Dates could slip depending on availability of floor time. No SASC hearings are expected until after NDAA markup. HASC finished drafting the Chairman's Mark two weeks ago and SASC finished drafting last week. Both are reviewing the draft and will be making final tweaks over next two weeks.

Remote voting/virtual protocols: This evening, **the House passed the McGovern-Lofgren resolution (H.Res 965) to allow proxy voting and remote hearings and markups**. The House passed the bill by a party line vote (217-189). House Republicans have not been enthusiastic about the prospect of remote markups and Floor action.

### **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)

Recovered (7): 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), 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 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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