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COVID-19 Legislative Update

May 29, 2020

Please see below for updates on legislation related to COVID-19. Updates are sent every Monday, Wednesday, and Friday evening. For past updates, click [here](#). For updates before May 8, click [here](#).

5.29.2020. COVID-19 Legislative Update

Legislation

Supplemental IV – The Heroes Act (HR 6800)

Timeline/Process/Politics: Republicans have begun moving to put together their priorities for the next coronavirus supplemental. **Internal Republican discussions are happening next week with bipartisan negotiations possibly beginning the following week.**

Conversations between House and Senate Republicans and the White House are continuing and there are ongoing conversations between Speaker Pelosi and Leader Schumer. Speaker Pelosi has been in close contact with the trial lawyers' association (AAJ) to discuss what liability protection provisions could be allowed. A final bill could come in June, July, or even as late as August, depending on negotiations.

Policy: The bill itself may be smaller in scope and overall cost than previous bills. Rather than a \$3 trillion bill, it's could clock in around \$1 or \$1.5 trillion, with Republicans' spending fatigue being the restraining factor.

In a House Republican leadership call, **Republicans indicated that there would be some form COVID-19 liability immunity in the next package** – it has become a bicameral red-line issue for Republicans. Liability protection could be a blanket protection from 2020 to 2021 for all employers but wouldn't be fully universal (as Republicans agree that there shouldn't be a shield for bad actors). It is still unclear what would determine bad actors as federal, state, and local guidance on coronavirus practices often contradict one another.

return to work. Sen. Portman and others have been working on ideas to prevent and mitigate that disincentives. Disincentive mitigation may end up in the tax space or unemployment insurance space.

The Heroes Act passed the House on May 15, and can serve as an outline of Democratic priorities (to a certain extent). Heroes Act text (as of 5/12/2020) [here](#). Section by section [here](#). One pager [here](#). State and Local one pager [here](#). NCAI's summary on tribal provisions [here](#). Manager's amendment [here](#). House Rules Committee report [here](#).

Legislation to Watch

Paycheck Protection Program Flexibility Act: Yesterday, the House passed the Paycheck Protection Program Flexibility Act (HR 7010) 417-1. The single no vote was from Rep. Thomas Massie (R-KY). It's unclear if those changes will be enough to pass the Senate. The Senate attempted to hotline a similarly focused bill last week, though the Senate bill has significant differences. **It is unclear the House-passed bill will move through the Senate or whether a conference will be necessary.**

Highlights of the House bill (H.R. 7010) below. Updated text (budget language included) [here](#).

- Allow loan forgiveness for expenses beyond the 8-week covered period.
- Removes the limitation that restrict non-payroll expenses (rent, utilities) to 25% of the loan.
- Eliminate limitations that restrict loan terms to 2 years.
- Allow businesses that take PPP loans to be eligible for payroll tax deferment.
- Extend the rehiring deadline to align with the enhanced Unemployment Insurance to offset its effects.
- Clarify safe harbor language, specifically that an "inability to return to the same level of business activity," refers to compliance with HHS, CDC, OSHA standards or any other worker/customer safety requirement related to COVID-19.
- Allows borrowers to defer payments until SBA has made forgiveness determination.

Highlights of the Senate bill below. Text [here](#). One pager [here](#).

- Extends the deadline to apply for a PPP from 6/30/2020, to 12/31/2020;
- Allows borrowers a full 16 weeks to use funds, extending it from 8 weeks;
- Expand use of funds to include PPP and investments in safety for reopening;
- Clarify the lender hold harmless provision.

Infrastructure: With the usual grain of salt that accompanies any discussion of infrastructure, it should be noted that **Chairman Pallone said on a call today that the House would move a "big" infrastructure bill by the end of June.** In addition to the usual road/rail/surface transportation items, Pallone highlighted:

- \$86 billion for improving broadband in underserved areas;
- \$25 billion for drinking water improvements;
- \$35 billion for electricity grid improvements;

Passed Legislation

Moving forward, this section will only include new information and guidance. For past information and guidance and past legislation, please refer to the [archives](#).

New Implementation Information and Guidance

- 5/28 – The Boston Federal Reserve released legal documents for eligible borrowers and lenders to participate Main Street program as well as updated FAQs on the program. Application and information pager [here](#).
- 5/28 – SBA and Treasury announced a \$10 billion set-aside of the PPP for Community Development Financial Institutions (CDFIs). Press release [here](#).
- 5/28 – SBA released an updated FAQ on the Coronavirus Relief Fund, which provides funding to state, local, and tribal governments. FAQ [here](#).

Congress

Hearings/Floor Activity: The Senate will return next week. Leader Hoyer released an updated House calendar ([here](#)) – it shows no voting days until June 30. In the [Dear Colleague](#) accompanying the calendar, Leader Hoyer explained that committee work will be the primary focus, outlining NDAA, appropriations, surface transportation reauthorization, WRDA, and expansion of the ACA as “must-pass” pieces of legislation.

Leader Hoyer also noted that should additional votes be necessary for COVID-19 related legislation, members will be given 72 hours’ notice before votes.

Appropriations: HAC is still a couple of weeks away from formulating a real markup schedule. If that’s the case, **we’re not likely to see markups commence until mid-to-late June** at best. It will take some time to develop and implement committee guidance and procedures for the new remote latitude afforded through the House Rules change. The plan remains to **move through COVID Phase 4 before turning to FY21**. 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. HAC-D will likely go in the middle of the pack, largely due to the fact they still need to work on the classified annex which hasn’t been addressed yet as staff cannot work in classified spaces.

The FY21 Senate Appropriations schedule has slipped indefinitely. Yesterday, SAC released the 302b allocations to the subcommittee clerks. **Subcommittees may poll their member rather than meet in person and save the in-person markups for full committee**, to minimize the number of times that committee members have to gather. Chairman Shelby has publicly said that the Homeland Security and the MilCon-VA spending bills are unlikely to move forward due to political disagreements over funding for the border wall. The Defense bill is unlikely to go through the formal markup process and may post a Chairman’s recommendation and explanatory statement online as was done in FY18.

This would save \$11-\$12 billion on the non-defense discretionary side and increase the odds of producing bipartisan bills. Another plan would be to agree to a budget cap adjustment similar to the Overseas Contingency Operations (OCO).

NDAA: HASC and SASC are finalizing their bills. SASC is looking to **markup NDAA 2021 June 8-10**, with the goal to have a bill to floor before the 4th of July recess. **HASC markup is unlikely to occur on June 10-12 as previously reported – HASC is continuing to work through the logistics of the markup.** Markup dates now have slipped to the week of June 22 or July 1-2.

Remote voting/virtual protocols: This week is the first week the House allowed proxy voting and remote hearings and markups. House Republicans [sued](#) House officials in attempt to block remote voting. The Senate has not moved forward with any proxy voting or remote procedures.

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

Tested Positive (0):

Currently Self-Quarantined (0):

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 (38): 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), Sen. Lamar Alexander (R-TN)



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