

MEMO

From: Mercury

Date: April 24, 2020

Subject: Congressional COVID-19 Response and Additional CARES Act Funding

This document is designed to provide a legislative update regarding Congress' continuing response to the COVID-19 public health emergency. Because negotiations for future stimulus packages are ongoing and priorities for both parties remain in flux as Members attempt to identify policies and funding levels that garner bipartisan support, this document will be updated regularly. In the meantime, if you have questions, concerns or would like to discuss anything in further detail, please do not hesitate to reach out to us.

CARES "INTERIM SPENDING PACKAGE"

Last night, the House voted 388-5 in favor of the Senate-passed amendment to H.R. 266 - The Paycheck Protection Program and Health Care Enhancement Act, which would extend aid to small businesses, hospitals, and additional coronavirus testing. Four Republicans, Reps. Andy Biggs (R-AZ), Ken Buck (R-CO), Jody Hice (R-GA), Thomas Massie (R-KY) and Democrat Rep. Alexandria Ocasio-Cortez (D-NY) were the five "no" votes while Rep. Justin Amash (I-MI) voted "present."

Members of Congress returned to Washington for the votes yesterday, which took place in nine different waves to limit the number of people on the floor at one time. In addition to voting on the interim spending bill, the House also voted to establish a new investigative committee to monitor the Trump administration's implementation of nearly \$3 trillion in coronavirus relief measures. The measure passed on a party line vote of 212-182, with Republicans unanimously criticizing the effort as a veiled attempt to damage Trump politically.

House Speaker Nancy Pelosi (D-CA) reiterated that she intends to name House Majority Whip Jim Clyburn (D-SC) to lead the new select committee, citing his work overseeing the federal response to Hurricane Katrina. The new panel will be established as a 12-member subcommittee of the House Oversight Committee, but it allows the speaker to name seven members and House Republican Leader Kevin McCarthy (R-CA) to name five. McCarthy previously told Pelosi he would hold off on appointing Republicans until he sees whom Democrats select.

Pelsoi also cancelled plans to vote on rule changes to allow for “proxy voting” after hearing concerns from House Minority Leader Kevin McCarthy (R-CA) who expressed strong concerns from the Republican minority.

The legislation, which was passed Tuesday by the Senate, will be signed into law by President Trump today at noon in an Oval Office ceremony at the White House.

The \$484 billion emergency stimulus package negotiated by congressional leaders and the administration includes:

- \$310 billion in additional lending authority for the Paycheck Protection Program, with some funds set aside to support loans issued by smaller lenders.
- \$60 billion for separate SBA economic injury disaster loans (EIDL)
- \$75 billion for hospitals.
- \$25 billion for virus testing.

The measure omits additional funding sought by Democrats to support states and cities, and it does not change the eligibility rules for businesses to receive loans under the Paycheck Protection Program.

The legislation would be designated as an emergency requirement for budgetary purposes. Though the measure is the fourth major package to respond to the coronavirus pandemic, congressional leaders and the administration have described it as an interim step as they negotiate the next stimulus package, generally being referred to as “Phase Four.”

SMALL BUSINESS LOANS

Paycheck Protection Program

Under the bill, the SBA’s 7(a) small business loan program – which now includes the Paycheck Protection Program – would support \$659 billion in total lending, a **\$310 billion increase**. The total would be more than 20 times the 7(a) lending limit for fiscal 2020 set by Congress late last year. Total appropriated funding for the SBA to fully guarantee the loans would increase to \$670.3 billion.

The SBA would have to guarantee at least:

- **\$30 billion** in loans issued by insured depository institutions or credit unions with \$10 billion to \$50 billion in consolidated assets.
- **\$30 billion** issued by insured depository institutions or credit unions with less than \$10 billion in assets, or community lenders such as community development financial institutions and minority depository institutions.

The measure also would provide an additional \$2.1 billion for the SBA to administer coronavirus response programs.

Disaster Loans

The CARES Act provided \$10 billion to expand the SBA's Economic Injury Disaster Loan (EIDL) program to cover businesses, cooperatives, employee stock ownership plans, and tribal businesses with 500 or fewer employees, as well as sole proprietors and independent contractors. It also included a waiver of some exemptions based on size and affiliation for certain sectors.

The bill would provide a second tranche of \$10 billion to replenish the Economic Injury Disaster Emergency Advance Grant which provides as much as \$10,000 to EIDL recipients to pay sick leave to workers affected by Covid-19, retain employees, and make other covered payments. Advance funds don't have to be repaid.

It would also provide \$50 billion for additional SBA guarantees under its broader disaster loan program. Small agricultural businesses with 500 or fewer employees would be permitted to obtain funds under both disaster programs.

HEALTH-CARE FUNDING

Hospitals & Healthcare Providers

The measure would provide \$75 billion for health-care providers through the Public Health and Social Services Emergency Fund (PHSSEF). The money could be used to reimburse providers for coronavirus-related expenses and lost revenue.

Funds would be distributed under the same terms as the third package, which provided \$100 billion for those purposes. Funding could go to public entities, providers enrolled in Medicare and Medicaid, and other for-profit and nonprofit entities that provide diagnoses, testing, or care for individuals with Covid-19.

Testing

The measure provides \$25 billion for COVID-19 testing, including for active infections and previous exposure, through the Public Health and Social Services Emergency Fund.

Funding could be used for manufacturing and distributing tests, procuring supplies such as personal protective equipment needed to administer tests, developing rapid point-of-care tests, and conducting surveillance and contact tracing. As much as \$1 billion of the testing funds could be used to cover tests for the uninsured.

The funding would include \$11 billion for states, localities, territories, and American Indian tribes and would be distributed based on the following:

- At least **\$4.25 billion** would be allocated to **states, localities, and territories** based on their relative number of Covid-19 cases.
- At least **\$2 billion** would be allocated to **states, localities, and territories** based on a formula that applied to the Public Health Emergency Preparedness cooperative agreement in fiscal 2019.

- At least **\$750 million** would be allocated to **tribes** in coordination with the Indian Health Service.

Recipients would have to submit a testing plan to HHS that includes the number of tests needed, monthly estimates of lab and testing capacity, and information on how it will use testing to ease community mitigation policies.

The measure would also set aside the following amounts:

- **\$1 billion** for the **Centers for Disease Control and Prevention** for activities such as surveillance, contact tracing, and lab capacity expansion.
- **\$1 billion** for the **National Institutes of Health** to develop testing and accelerate research on rapid testing, plus **\$500 million** for the **National Institute of Biomedical Imaging and Bioengineering** and **\$306 million** for the **National Cancer Institute**.
- **\$1 billion** for the **Biomedical Advanced Research and Development Authority** for research, manufacturing, and purchasing tests.
- **\$600 million** for **community health centers** and **federally qualified health centers**, as well as **\$225 million** for **rural health clinics**.
- **\$22 million** for the **Food and Drug Administration**.

The Health and Human Services Department would have to issue reports on testing, diagnoses, hospitalizations, and deaths that include data on demographic characteristics of those affected. The department would also have to submit a strategic testing plan to Congress, including how it will increase domestic testing capacity and address disparities in communities.

Oversight

The HHS inspector general would receive \$6 million of the bill's funds for oversight.

FUTURE ECONOMIC STIMULUS PACKAGES

Once the interim spending bill is signed into law, the focus among the House and Senate will be how fast that money gets out the door. Conversations over a much larger Phase 4 deal are also underway, but there is division over what that bill should look like and how quickly it will make its way to the floor.

The next phase of economic stimulus likely will be the last before the 2020 elections, and any stalemate will escalate the political consequences with control of the Senate, House and White House at stake. There is also a risk negotiations for another comprehensive stimulus bill drag on for months as both parties engage in increasingly bitter exchanges over what should come next and who will be to blame if the economy doesn't rebound.

The Trump administration and congressional Republicans say they believe they have weeks until they need to begin serious negotiations while House Majority Leader Steny Hoyer told reporters yesterday that the goal is to complete the next package by May 4 and vote soon after. Among their priorities: aid for state and local governments, monthly cash assistance, protections for renters, money to boost mail-in voting and free health care coverage for coronavirus patients, among other things.

In a telephone interview Tuesday, after passage of the Senate's \$484 billion coronavirus relief bill, McConnell made clear that the full Senate must be in session before Congress begins work on any "Phase 4" legislation. McConnell indicated Senators are becoming increasingly frustrated with the extended recess prohibiting normal time for floor debate and legislative discussion on additional spending measures expressing caution over "racking up" the national debt due to deficit spending.

McConnell has also downplayed Democrats' requests for more funding to state and local governments instead saying they should file for bankruptcy protection if needed. He hasn't completely ruled out sending money to state governments, but has indicated he wants strings attached to any additional funds.

What was initially labelled "Phase 4" legislation has now become the next target for Congress, as legislators in both the House and the Senate have become hesitant about moving another massive stimulus bill until both chambers can vote and debate in person. McConnell and Hoyer have indicated both houses are still scheduled to return May 4th.

Several weeks ago Speaker Pelosi announced an initial list of priorities for the potential fourth stimulus package. These included extending small business provisions, unemployment benefits, and direct payments to families and individuals provided in the CARES Act. The House Financial Services Committee majority also released a draft of phase four priorities, which included provisions that would ban home evictions, establish an Emergency Rental Assistance Fund, monthly direct payments for families and individuals, provide no-interest loans to community financial institutions to support small businesses, and more.

Where does the Trump administration stand?

President Trump, who met this week with New York Gov. Andrew Cuomo (D), said aid to state and local governments would be part of a so-called "Phase 4" stimulus, as would money for road projects and expanding broadband service. "Infrastructure is going to be a big part," Trump said at a White House briefing. "We have to rebuild our country."

At the same briefing, Treasury Secretary Steven Mnuchin declined to put a price tag on the next package, but Cuomo and other governors have called on the federal government to provide at least \$500 billion into state aid alone.

While Trump has expressed his preferences for the next bill, it should be read with caution as Congress and Treasury Secretary Mnuchin assembled roughly \$3 trillion in spending without any meaningful engagement from the President.

As the focus shifts to "Phase 4" legislation, we are hearing the Trump administration is focused on three broad planks:

1. Some sort of infrastructure measure;
2. A tax break of some variety and;
3. Policies that would help bring manufacturing back from China.

Republicans both on Capitol Hill and in the White House view aid to state and local governments as the leverage point to achieve their policy goals.

Infrastructure -It is unlikely the next legislative package will include the \$2 trillion infrastructure dream discussed at times throughout the year, but the White House is still interested in a somewhat narrow plan to boost 5G cellular technology and broadband access which could be met with bipartisan support.

Tax Cuts - The administration is still interested in a payroll tax cut, but understands that it would be a heavy lift to get it through Congress. One idea the administration has is to delay the collection of payroll taxes administratively, and then try to have Congress do something in the lame-duck session to forgive the taxes.

China – As a continued theme by President Trump, top advisers inside the White House and several Republicans on Capitol Hill, the administration is likely to push for policies that reduce the U.S.'s reliance on China. The White House may come out to support 100% expensing if companies bring back the manufacturing of PPE, drugs and other critical infrastructure from China. There is also talk of trying to lower the corporate tax rate for companies that bring back the manufacturing of generic drugs. The broad, overall goal is to bring the supply chain for critical infrastructure back from China.