

With the rapid spread of coronavirus disease 2019 (COVID-19), commonly known as the “coronavirus” or COVID-19, lawmakers are proposing and voting on policies to aid people and industries affected by the virus. Several legislative packages have already been enacted, and our elected officials continue to negotiate bills to assist our communities and economy.

## Enacted into Law

Congress initially reacted to community spread of the virus by swiftly passing a US\$8.3 billion emergency supplemental appropriation ([P.L. 116-123](#)), enacted on March 6 (Phase 1). The emergency appropriation includes funds for states, cities, tribes and territories to prepare for and mitigate the spread of the virus. It also includes funds for federal agencies working on diagnostic tests to identify the virus, therapeutic interventions to reduce its impact and a vaccine to stop coronavirus spread. Funding for specific programs is identified in the [committee summary](#).

Congress immediately transitioned to working on a second bill that it hopes will begin to blunt the economic effects of the virus. [H.R. 6201](#), the Families First Coronavirus Response Act, was enacted on March 18 (Phase 2). The bill includes food safety support needed in the wake of school and business closures; enhanced unemployment insurance benefits; new federal emergency paid leave benefits and refundable tax credits for small businesses to defray the cost of the paid leave; an increase in Medicaid matching funds to support healthcare providers; and policies to ensure that COVID-19 testing is significantly expanded and free to everyone in the US. Additional information can be found in the [committee summary](#).

## Work in Progress

Congress has already started work on a third bill, which would provide economic stimulus in excess of US\$1 trillion in response to the financial fallout related to the pandemic (Phase 3). This package is expected to provide direct economic assistance to families and sectors of the economy impacted by the public health emergency. The Trump Administration is initially working with Senate Republicans to craft the package before negotiating with Democrats on a final version of the legislation expected to become law. Senate Majority Leader Mitch McConnell (R-KY) has assigned a group of senators to lead task forces addressing small business liquidity, financial assistance to Americans, aviation assistance and healthcare as it prepares the economic stimulus bill. Senate Democrats are prioritizing funding to address issues of hospital capacity and the availability of medical supplies (e.g., ventilators, protective masks and other equipment). Leader McConnell has indicated that the Senate will not adjourn until it passes a broad stimulus legislation. The House of Representatives is expected to return from recess to consider the stimulus legislation following Senate approval.

Our Public Policy Team is engaged in all government actions regarding COVID-19. The following are our thoughts on the next steps Capitol Hill may take, in conjunction with Administrative actions, to pass relief legislation.

## Policy Prognosis

### Tax

As announced by Treasury Secretary Steven Mnuchin, Phase 3 is expected to include various tax measures as part of federal stimulus efforts. Among the provisions expected to be included is one that would call for direct payments to American individuals and businesses. While the exact amount of such payments – and likely income/revenue thresholds – have yet to be identified, the goal of this policy is to put money directly into the hands of eligible American taxpayers to ensure they are able to meet their short-term obligations and continue spending to support the economy. Additionally, while it is unclear whether a payroll tax cut will be included in this next phase, it remains among the options the Trump Administration is discussing with congressional Republicans to help with long-term economic recovery.

Beyond this, congressional Democrats have also begun to push that certain policies be considered as part of this next package. For example, House Speaker Nancy Pelosi (D-CA) is urging that Congress consider including refundable tax credits. There will likely be a strong push to include expanded versions of the Child Tax Credit and Earned Income Tax Credit, among others that Democrats have long supported.

Additionally, Secretary Mnuchin has announced that individuals can defer up to US\$1 million of tax liability (US\$10 million for corporations) for up to 90 days. The Administration may also delay the estimated quarterly tax payments (due April 15) that self-employed workers and businesses pay.

### Labor and Employment

Technical corrections to Phase 2 dramatically narrowed the scope of the paid family and medical leave provisions that Speaker Pelosi and Secretary Mnuchin had initially agreed to, angering many in the Democratic Caucus. The bill limited eligibility for employees who miss work to care for a child under 18 if the child’s school or daycare is closed or their child care provider is unavailable due to COVID-19 – eliminating eligibility for those absent (a) based on the order or recommendation of a public official or healthcare provider to stay out of their workplace because, generally, they had contracted or had symptoms of COVID-19 or (b) to care for a family member under similar circumstances.

The sick leave provisions of Phase 2 provide paid sick leave benefits to employees for a variety of COVID-19 related absences, including having symptoms or caring for others with symptoms. Nonetheless, while some groups that lost paid family leave eligibility may be eligible for benefits under the paid sick leave provisions of the bill, Speaker Pelosi appears committed to restoring the paid leave benefits that were cut by the technical corrections bill. She has also prioritized giving sick workers longer periods of leave in the next phase of legislative action.

Under Phase 2, employers will receive a payroll tax credit for the cost of both the paid family and medical leave and paid sick leave benefits required. Small businesses, concerned about cash flow and the cost of paid leave, had hoped that the Senate would address their concerns before voting on the bill and are likely to continue lobbying efforts for relief during the Senate's next legislative efforts. Employers with more than 500 employees are not subject to the paid leave requirements.

## Trade

The coronavirus has caused severe, but widely varying disruptions across the US economy, including increased consumer demand of particular goods, reduced production due to lack of key inputs from abroad or quarantined employees, and dramatic US stock market drops responding to unprecedented levels of uncertainty. While the Trump Administration has imposed travel restrictions, it has been clear these restrictions do not extend to goods, keeping the US open to reciprocal trade. However, companies that rely on cargo shipments normally shipped in the body of passenger planes could face severe impacts as flights to Europe and other parts of the world halt in response to these and other countries' travel restrictions.

Amid this uncertainty, the US business community continues to advocate for relief in Washington DC, be it via additional congressional economic stimulus efforts or additional steps that Congress or the Administration could take to further stabilize the US and global economies. The Administration is reportedly considering proposals to boost foreign investment and US job creation through the EB-5 investor visa program, including by dramatically increasing the number of EB-5 immigrant visas (green cards) offered annually from 10,000 to 75,000 and cutting in half – from US\$900,000 to US\$450,000 – the minimum investment required under the program. Other avenues include the possibility that President Trump could unilaterally lift tariffs and provide an automatic cost savings to manufacturers across the US. Congress could also act on tariff relief without the President's support. Some leaders are also considering relocating manufacturing capabilities long outsourced abroad back within domestic borders. Meanwhile, the global response to the pandemic continues to evolve, but these times are almost certain to have lasting effects on how we do business for many years to come. For a more in-depth analysis of the impact of COVID-19 on trade, please see another client alert [here](#).

## Healthcare

In a presidential election year, where healthcare is polling as the most important issue to voters, the US healthcare system is staring down a global pandemic poised to stress it to its breaking point. Health experts are worried the US is not adequately prepared, pointing to a lack of capacity, supplies and workforce. Over the last two weeks, Congress and Trump Administration officials have kicked their response into high gear in an effort to get ahead of the pandemic. Congress flooded federal health agencies with billions in added funds targeting state and local preparedness and response activities; increases to personal protective equipment in the Strategic National Stockpile; research and development funding for diagnostic tests; therapeutic remedies; and vaccines. The Trump Administration has used emergency authority and new flexibility to dramatically expand access to telehealth services for Medicare beneficiaries; give states authority to approve diagnostic tests; allow certain health plans to waive cost-sharing for coronavirus treatment and testing; and waive other healthcare provider rules.

Two months ago, the healthcare policy debate was focused primarily on whether Congress could reach agreement on a plan to eliminate surprise medical bills and a separate proposal to rein in the cost of prescription drugs. Lawmakers were focused on resolving these differences by May 22, when several other Medicare and Medicaid policies known as "extenders" were intentionally set to expire and a health-related legislative vehicle would be available. Recently, hospitals and insurers pitched in the surprise billing battle announced a truce for care related to coronavirus, allowing both sides to avoid potential bad press that could tip the scales one way or the other. The cost of testing, and potential cost of to-be-developed therapies and vaccines also became hot-button issues, but lawmakers quickly reached an agreement to provide funding for tests and vaccines.

The Senate Democrats' proposal for Phase 3 includes hospital funding for personal protective equipment, respirators and additional beds. The White House is requesting US\$45.8 billion in supplemental funding for agencies to address a surge in confirmed cases, which it says is separate from its stimulus proposal that tops US\$1 trillion. How Congress ultimately addresses the healthcare programs expiring on May 22, and healthcare policy proposals like surprise billing and drug pricing, remains to be seen. Its action will likely be dictated by how the US healthcare system holds up over the next month.

## Travel

In a January 31 [Presidential Proclamation](#), President Trump instituted travel restrictions on non-US citizens coming from China, which he [expanded](#) to Iran on February 29. In a [Presidential Proclamation](#) issued Wednesday, March 11, the Administration expanded travel restrictions to non-US citizens who were physically present within the European Schengen Area. On March 14, President Trump [extended](#) the travel restrictions to foreigners traveling to the US from the UK and Ireland. On March 18, President Trump and Canadian Prime Minister Justin Trudeau [announced](#) a restriction on all non-essential travel between the US and Canada. President Trump has indicated that he will take measures restricting travel along the southern border as well.

On March 16, President Trump released a new set of [guidelines](#) encouraging Americans to avoid discretionary travel.

### Restrictions

At the time of writing, President Trump stated that he was not considering a full national lockdown, although he did state that the Administration may look at lockdowns for coronavirus “hotspots.” Some cities have preemptively ordered restrictions; on March 16, six counties in the Bay Area began a “shelter in place” policy, effectively shutting down the city. New York City Mayor Bill de Blasio stated that city officials are “absolutely considering” similar restrictions.

The Department of Defense issued a memorandum restricting domestic travel for service members, Defense Department employees and family members, effective March 16 to May 11. The restrictions include personal travel, with anything other than “local leave” prohibited.

France, Spain and Italy have restricted non-essential travel. European Union Commission President Ursula von der Leyen announced that the EU will be introducing temporary restrictions on non-essential travel to the EU.

### Transportation

Much of the focus in transportation is on the airline industry, which is facing a sharper economic downturn than seen in the aftermath of 9/11. There are ongoing discussions on Capitol Hill regarding federal relief. Airlines have asked for approximately US\$60 billion in grants, loans and tax relief. Airports have asked for US\$10 billion in Airport Improvement Grants (AIP), along with a program waiver that will allow them to use the emergency AIP grants for operational expenses and debt service payments.

Senate Republicans have already met to discuss a bailout package for the airlines to be included in the third coronavirus bill. Senate Committee on Commerce, Science and Transportation Chairman Roger Wicker (R-MS) indicated his support for both loan guarantees and cash infusions. Secretary Mnuchin is reportedly planning on including money for airlines in the stimulus package the White House is putting together.

Federal relief is not limited to airlines – the American Public Transportation Association, which represents approximately 1,500 public transportation systems across the country, has asked Congress for US\$12.9 billion to help offset lost revenue due to system sanitization.

## Energy

During the convergence of the coronavirus and in response to rapidly declining oil prices driven by the international economic downturn, oil and gas producers are working to ramp down production and overall spending. President Trump announced on March 13, that he had directed the Department of Energy to purchase additional oil to fill the Strategic Petroleum Reserve. Globally, Republican senators sent a [letter](#) on March 16, to Crown Prince Mohammad bin Salman asking Saudi Arabia to slow down their production of oil and gas in an effort to stop prices from continuing to fall.

With regard to the renewable energy sector, as a result of the coronavirus pandemic, the industry is facing supply chain issues, labor shortages and a decrease in global demand. There are concerns that immense layoffs are expected in the coming weeks and the prediction is that jobs are not likely to return even after the coronavirus subsides. Even though some solar panel and wind turbine factories in China have come back into commission, the renewable energy industry is more concerned with the global economic slowdown that has already impacted their sales rather than pure production obstacles. The industry is growing concerned it may not be able to participate in the Investment Tax Credit (ITC), because many of their overseas manufacturing companies have made “force majeure” claims, as COVID-19 has impacted their ability to meet contractual obligations for production on time. While government funding has understandably been dedicated to public health efforts, policymakers may need to begin to consider energy industry assistance.

While the anticipated economic stimulus package is expected to prop up the airline, cruise and hotel industries, there could be an appetite to widen relief to other impacted industries possibly large and small. With the volatility in the oil and gas markets, some suggest relief could instead be contemplated around decarbonization and transitioning to more sustainable low-carbon energy sources that are not subject to impulses of cartels. Measures that would provide relief to the renewable energy industry for consideration could revolve around extensions of solar and wind tax credits, changes to safe harbor and commence construction provisions, and related financial measures to alleviate tax equity tightening that is threatening the industry.

## Education

The Department of Education, Centers for Disease Control and Prevention (CDC), and grant-giving agencies, such as the National Institutes of Health and National Science Foundation, are working to support college campuses. The CDC issued [“Interim Guidance for Administrators of US Institutions of Higher Education \(IHEs\)”](#) on March 2, describing ways to help stop the spread of COVID-19, including the implementation of emergency operation plans and the development of information-sharing systems with partners such as local health departments.

On March 5, the Office of Postsecondary Education issued [“Guidance for Interruptions of Study Related to Coronavirus \(COVID-19\).”](#) The guidelines provide broad approval to these institutions to shift classes online to accommodate students temporarily during the outbreak. In addition, the department is permitting accreditors to waive their standard distance education requirements for students who were enrolled in classes where their attendance was disrupted due to COVID-19.

There is concern about the economic impact of COVID-19 on those with student loans. On March 13, President Trump announced that he would suspend the collection of interest accrued on all federal student loans until further notice, in response to the coronavirus pandemic. Over 42 million Americans owe more than US\$1.5 trillion in outstanding federal student loans. President Trump did not detail who would qualify for the interest freeze, or how borrowers could access the benefit, but some lawmakers are pushing for student loan forgiveness as part of the next coronavirus stimulus package. The Office of Management and Budget requested US\$40 million for higher loan servicing costs and increased consultation to borrowers about their repayment options in its emergency supplemental package released March 18. Lawmakers have also introduced several bills aimed at supporting higher education students whose semesters were disrupted by the unexpected closures, including by exempting students from having to pay federal financial aid secured for semesters disrupted by the COVID-19 outbreak.

## How We Can Help

We have created a Coronavirus Task Force composed of multijurisdictional, multidisciplinary practitioners with legal, policy, regulatory, industry and sector experience and insight. Many on the team have weathered past crises on a global scale and have a deep understanding of the complexities faced by businesses navigating unforeseen, disruptive and potentially detrimental circumstances. We help clients with sound advice and guidance to overcome challenges, minimize risks and build resilience, in order to maintain business continuity or get back to normal operations as quickly as possible. We are uniquely positioned – on substance and strategic locations around the world – to provide practical advice and support services. For additional information, guidelines, advisories and resources, please visit our [Coronavirus COVID-19 resource hub](#).

## Contacts

Please contact our Public Policy Leadership with any questions on this publication.

### **John B. Breaux**

Senior Counsel, Washington DC  
T +1 202 457 5290  
E [john.breaux@squirepb.com](mailto:john.breaux@squirepb.com)

### **Trent Lott**

Senior Counsel, Washington DC  
T +1 202 457 5290  
E [trent.lott@squirepb.com](mailto:trent.lott@squirepb.com)

### **Edward Newberry**

Global Manager Partner- Public Policy, Investigatory and Regulatory Solutions, Washington DC  
T +1 202 457 5285  
E [edward.newberry@squirepb.com](mailto:edward.newberry@squirepb.com)

### **Robert Kapla**

Partner, Washington DC  
T +1 202 457 6192  
E [robert.kapla@squirepb.com](mailto:robert.kapla@squirepb.com)