

President Donald Trump on Wednesday declared that the White House coronavirus task force will continue work “indefinitely” as a result of its popularity with the American public. Less certain is the timetable for a public rollout and subsequent legislative action in the US House of Representatives of Speaker Nancy Pelosi’s (D-CA) sweeping “CARES 2.0” COVID-19 response proposal. The US Senate, which is in session this week, took bipartisan action Wednesday on legislation that could be signed into law as part of a future economic recovery package.

House Democratic leaders appear to be working to reconcile differing perspectives among their members about strategy and details for the forthcoming CARES 2.0 measure. These issues include the question of when the House will return to Washington for votes, and when party leaders should attempt to engage Republicans in negotiations.

House Speaker Pelosi and Majority Leader Steny Hoyer (D-MD) held a conference call Monday evening with their caucus, during which committee chairs presented their leadership-approved priorities for the upcoming bill, many of which were detailed in yesterday’s Squire Patton Boggs COVID-19 daily report. It appears consensus within the House Democratic ranks has thus far been elusive in response to Monday’s internal preview, however. Majority Leader Hoyer acknowledged Wednesday that details are still being ironed out. It is also evident that some Democratic rank-and-file members who are likely to face tough re-election battles in their districts this fall are questioning the strategy of crafting a Democrats-only bill, noting the Republican-led Senate is certain to reject such a measure.

“Timing will be dictated by the negotiations and the committee actions in putting together a bill,” Hoyer said yesterday. “We’re going to have to determine priorities. We will not be able to do them all.”

In separate interviews yesterday, Speaker Pelosi and Majority Leader Hoyer both left open the possibility of bringing the House back next week to vote on CARES 2.0, but did not commit to doing so. A House vote on CARES 2.0 is more likely to occur the week of May 18, a House Democratic source said Wednesday.

The Senate Committee on Environment & Public Works (EPW) on Wednesday unanimously approved two water infrastructure bills that the committee’s leaders, Senators John Barrasso (R-WY) and Tom Carper (D-DE), agree are well-positioned to be incorporated into an upcoming federal COVID-19 recovery package. The bipartisan bills would green-light a long list of new US Army Corps of Engineers construction projects in many states and some US territories, and reauthorize funds that provide federal money for clean water projects.

A congressional committee source indicated Wednesday that a significant national infrastructure overhaul, an objective favored by both President Trump and senior Democratic leaders in the House, is likely to be the centerpiece of a House-initiated COVID-19 economic recovery bill that begins moving after a CARES 2.0 measure is enacted.

For additional global public policy insights related to COVID-19, please [contact us](#) to receive our daily US Executive Branch Update or COVID-19 US State Policy Report directly in your inbox. See [here](#) for the latest editions.

In the coming weeks, we will unveil a blog dedicated to global public policy focused content. Follow us on Twitter [@SPB_CapThinking](#) for the launch announcement.

Tax and Economic Development Updates

With key rulemakings to implement the Paycheck Protection Program (PPP) yet to be released, the Treasury Department has updated its [Frequently Asked Questions](#) by extending from May 7 to May 14, 2020, the repayment date for its “safe harbor,” which automatically deems borrowers have made the required certification in good faith. Additionally, Treasury has made clear that an employer that applies for a PPP loan, receives payment, and repays the loan by May 14 will be treated as though the employer had not received the PPP loan for purposes of the Employee Retention Credit. The extension of the safe harbor date comes as reports that thousands of businesses that applied for PPP loans

through online lender Lendio have yet to receive the funds from loans believed to have been approved several weeks ago. This underscores why a number of lawmakers are pressing the Small Business Administration (SBA) to make additional loan details available to the public. In fact, yesterday, following a conversation with SBA Administrator Jovita Carranza, Senator Ben Cardin (D-MD) indicated that he and other Democrats are requesting further information about the PPP, including a list of loan recipients.

Earlier this week, the SBA indicated that it had approved over US\$180 billion in loans funded by the second tranche of PPP funding. With more than half of the US\$320 billion in additional funding now allocated, it is becoming more likely that Congress will approve even more funding for the popular small business lending program. For example, Senator Cardin yesterday indicated that the PPP is “going to need more money,” as “it’s clear that we will run out of this most recent replenishment of funds.” He also confirmed our report yesterday that lawmakers are exploring various changes to the program, including by providing additional flexibility regarding what qualifies as an eligible expense, as well as how long borrowers have to spend the funds in order to qualify for loan forgiveness. According to Senator Cardin, Senate Committee on Small Business Chairman Marco Rubio (R-FL) is supportive of such changes. Notably, Chairman Rubio, along with Senate Committee on Finance Chairman Chuck Grassley (R-IA) and Ranking Member Ron Wyden (D-OR), joined Senator John Cornyn (R-TX) in introducing the [Small Business Expense Protection Act](#), which would clarify that businesses receiving PPP funding can in fact deduct expenses paid with forgiven loans.

With an eye toward the next COVID-19 package, President Trump earlier this week [tweeted](#) that “well run States should not be bailing out poorly run States, using CoronaVirus as the excuse!” He then suggested the possibility of linking any additional aid to states, municipalities, territories and tribal governments with a number of policy changes, such as eliminating payroll (and “perhaps” capital gains) taxes, providing liability protections for businesses that reopen and prohibiting sanctuary cities. That said, Congressional Republicans have yet to fully embrace some of these ideas – especially the payroll tax cut – with Senate Majority Leader Mitch McConnell (R-KY) making clear that “[i]f there’s any red line, it’s on litigation.” As previously reported, the Federal Reserve has established a Municipal Liquidity Facility (MLF), which will purchase up to US\$500 billion of short-term municipal notes from certain eligible states, counties, cities and Multi-State Entities. Further, as detailed in our [analysis](#), the Federal Reserve recently issued guidance and an updated term sheet expanding the MLF’s scope and duration. Moreover, we will be hosting a [webinar](#) tomorrow, May

8, to provide an in-depth overview of and update on issues of interest to states and municipalities, including as relate to the CARES Act and additional policy proposals under consideration as part of the ongoing federal COVID-19 response.

As the US airline industry continues to struggle amidst the ongoing public health crisis, more lawmakers are taking issue with various cost cutting (or revenue generating) measures being implemented by various airlines. For example, Senator Richard Blumenthal (D-CT) suggested that the airlines are “screwing the very taxpayers whose money is going into [their] pockets” and has urged them to provide refunds to customers who cancel their tickets. According to Airlines for America, “[i]f a passenger, under current law and regulation, is entitled to a cash refund, they are getting it”; however, the industry has also suggested that reasonable limitations on refund policies are necessary to avoid “driving companies toward bankruptcy.” Frontier Airlines has also faced specific criticism from a number of lawmakers for its plans to charge a premium on seats next to empty middle seats, resulting in CEO Barry Baffle “recogniz[ing] the concerns raised that [they] are profiting from safety” and ultimately reversing course on the idea. Beyond the US airline industry, domestic airports have also seen a negative impact from the current public health crisis and, according to the American Association of Airport Executives, may need an additional US\$10 billion in federal financial assistance given the “scale and the scope of this crisis.”

Health Updates

House Committee on Energy and Commerce Chairman Frank Pallone, Jr. (D-NJ) and Senate Committee on Finance Ranking Member Wyden [wrote](#) to Department of Health and Human Services (HHS) Secretary Alex Azar, expressing concern that the [Provider Relief Fund](#) has not distributed sufficient aid to Medicaid providers. HHS is in charge of administering the US\$175 billion in the Fund, which Congress established in the CARES Act and increased via the Paycheck Protection Program and Health Care Enhancement Act. The Fund provides grants to hospitals and other providers to support care-related expenses or lost revenue attributable to the pandemic. In their letter, the Democratic committee leaders accused HHS of ignoring congressional intent, “distributing the fund through methodologies that discriminate against Medicaid providers, impairing their ability to meet the needs of their communities and threatening their financial stability during and after the crisis.” They urged HHS to ensure Medicaid-only and Medicaid-dependent providers have appropriate and equal access to Fund distributions and called on the administration to provide full transparency on its actions. Notably, *POLITICO* reports this morning that the administration has begun to publish a list of Fund aid recipients. The [data set](#) currently includes the list of

entities that received funding from the general distribution allocation; those listed have attested payments and agreed to the Fund's Terms and Conditions as of May 4, 2020.

House appropriators continue to [discuss](#) how to provide funds for the government's current and future pandemic response efforts in the most efficient and effective manner. During a House Committee on Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies [hearing](#) yesterday, Ranking Member Tom Cole (R-OK) suggested setting up a health defense fund that would be exempt from discretionary spending caps. Former Centers for Disease Control and Prevention (CDC) Director Tom Frieden, who served as a witness during the hearing, proposed a mandatory health fund to ensure the US is prepared for public health emergencies without impacting other parts of the budget. Both lawmakers and witnesses brought up issues involving testing, accounting for reported COVID-19 cases, reopening the economy and relaxing social distancing restrictions.

Democratic lawmakers in the House and Senate are in the process of introducing legislation to address issues involving nursing homes and the pandemic. Representative Jan Schakowsky (D-IL) [introduced H.R. 6698, the Quality Care for Nursing Home Residents and Workers During COVID-19 Act of 2020](#), yesterday; Senators Cory Booker (D-NJ) and Richard Blumenthal (D-CT) [expect to introduce](#) companion legislation in the Senate shortly. The comprehensive bill addresses issues nursing homes have faced as they care for individuals during the pandemic, including: care quality, worker safety, testing, transparency, strike teams, infection control, resident rights and congregate living. (A section-by-section summary of the bill is available [here](#).) President Trump announced last week that the Centers for Medicare & Medicaid Services is providing states with US\$81 million from the CARES Act to increase nursing home inspections. With those remarks, President Trump announced the [Coronavirus Commission for Safety and Quality in Nursing Homes](#), which is to be composed of industry experts, doctors, scientists, resident and patient advocates, family members, infection and prevention control specialists and state and local authorities. The Commission is expected to convene later this month and will issue recommendations on additional steps the government can take to protect seniors.

As journalists report on the pandemic and how it is affecting the health sector, HHS's Office for Civil Rights (OCR) issued [guidance](#) for covered health care providers on media access restrictions and protected health information. OCR explains in the guidance that the HIPAA Privacy Rule does not permit news outlets or film crews to access facilities where patients' protected health information will be accessible without patients'

prior authorization. OCR adds, "It is not sufficient for a covered health care provider to require the media to mask patients' identities when airing recorded video (such as by blurring, pixilation, or voice alteration), after the fact. Prior, express authorization from the patient is always required."

Trade Updates

A group of Republican senators is pressing President Trump to limit the number of foreign guest worker visas issued as the US economy continues to respond to the COVID-19 pandemic, as reported by *POLITICO*. They argue that the action is necessary to protect unemployed Americans as the US begins to recover from massive job losses recorded since March. The senators propose that the president suspend all nonimmigrant guest worker visas for the next sixty days, with limited and only case-by-case exceptions. They propose that after sixty days, the president continue to suspend new nonimmigrant guest workers for at least one year or until unemployment levels return to normal, including at minimum H-2B visas (nonagricultural seasonal workers), H-1B visas (specialty occupation workers) and the Optional Practical Training Program (which extends foreign student visits after graduation), as well as the EB-5 immigrant visa program (which promotes foreign investment, and which the senators urged be suspended until it can be reformed). The [letter](#) was led by Senator Tom Cotton (R-AR) and signed by Senators Josh Hawley (R-MO), Ted Cruz (R-TX) and Grassley, chairman of the Senate Committee on Finance. In April, President Trump established a 60-day US entry ban for certain foreign nationals applying to permanently enter the US on "immigrant visas" (i.e., green cards). As part of that action, he directed senior officials to review nonimmigrant programs and recommend any additional measures to stimulate the US economy. Any action to limit nonimmigrant visas will be met with significant opposition from the business community especially.

On Tuesday night, Agriculture Secretary Sonny Perdue sent letters to [state governors](#) and leaders of major [meat processing facilities](#) on implementation of the executive order signed by President Trump on April 28 invoking the Defense Production Act to ensure continued operations of meat and poultry processors. Secretary Perdue directed the facilities to immediately implement guidance issued by the CDC and the Occupational Safety and Health Administration (OSHA) late last month setting out safe operating practices and protocols in light of the COVID-19 outbreak. He is also requiring those facilities that remain closed or that are considering reducing operations, and which do not have a clear timetable for reopening, to submit to his agency information on their operations and health and safety protocols developed based on the CDC/OSHA guidance. On Wednesday afternoon, Secretary Perdue said he expects these facilities to resume operation within 7-10

days. COVID-19 outbreaks across the country have led to temporary closures at these processing facilities; wholesale meat prices have increased, and these companies are facing challenges getting their product to store shelves in sufficient quantities to meet consumer demand, as a result.

As reported by *Inside Trade*, three Republican senators – Senate Armed Services Committee Chairman James Inhofe (R-OK) and Senators Dan Sullivan (R-AK) and Kevin Cramer (R-ND) – issued a [joint statement](#) on Monday confirming that they had spoken with Commerce Secretary Wilbur Ross this week in support of increased tariffs, including Section 232 national security tariffs, on imports of oil from Saudi Arabia and Russia. While not directly related to the COVID-19 outbreak, the oversupply of oil in the early weeks of the pandemic – coupled with significantly decreased demand as the world entered lockdown and air travel essentially stopped – has plunged oil prices to historically low levels. Some lawmakers and domestic stakeholders have urged the administration implement tariffs to defend North American oil production. Section 232 investigations have historically been used more frequently to examine the national security implications of petrochemical imports; while sparingly used in recent years, President Trump has resurrected this statute to implement tariffs on certain steel and aluminum goods, as well as to threaten tariffs on auto/auto parts imports, among others. So far this week, the Commerce Department has announced two new Section 232 investigations, one examining imports of transformer inputs and the other looking at imports of mobile cranes.

Auto parts manufacturers are lobbying for access to federal loans in response to the COVID-19 pandemic. As reported by *Bloomberg*, the program is still under discussion by lawmakers, but would help restart auto supply chains that are suffering from significant supply chain disruptions because of global lockdowns. With car buying dramatically down, proponents of this plan argue that these companies need more than PPP loans to make up for revenue shortfalls and resume production. Lawmakers are also [increasingly discussing](#) how they might support the auto industry's recovery more broadly, noting that the current circumstances are a result of tanking consumer demand and stay-at-home orders that forced production shut-downs, and not driven by industry or management policies.

European Policy Updates

Despite the strong policy responses of the European Union (EU) and its Member States so far, the socio-economic consequences of the COVID-19 pandemic continue to be severe for European economies. According to the [2020 Spring Economic Forecast](#) announced on Wednesday by the European Commission, the EU's economy will likely decline by a

record 7.5% in 2020 and then grow by around 6% in 2021. Given the evolution of the pandemic in each jurisdiction, the economic recovery of Member States will largely depend on the structure of their economies and their capacity to respond with stabilizing policies. The interdependence of 27 European economies also influences the recovery of individual Member States, partly due to the common currency of the 19-member Eurozone area. Unemployment rates in the EU are also set to increase, even if policy measures can limit their rise. The unemployment rate is forecasted to rise from 6.7% in 2019 to 9% in 2020 and then fall to around 8% in 2021. Consumer prices are also expected to fall significantly in 2020 as the inflation rate is forecasted at 0.6% in 2020 and 1.3% in 2021 in the EU. Further information on the EU's 2020 Spring Economic Forecast are accessible [here](#).

As countries throughout Europe begin to ease some lockdown restrictions, it remains unlikely that life will return to normal for some time. However, each business will need to consider what shape it is currently in and how it will look in the future. We prepared [this quick guide](#) to help organizations consider how and when they can “unlock.” It addresses the issues of cash flow and financing, supply and demand, employee considerations, operational costs and directors' duties.

The UK government's plans on how it intends to take the country out of lockdown are due to be publicized on Sunday, so employers will need to start thinking about how to get their people back into the workplace. This [FAQ document](#) addresses the key issues that UK employers will need to consider in the coming months.

The use of data is a critical tool in the fight against COVID-19. Undoubtedly, some of the data involved in this exercise would be personal data, particularly sensitive health data. The UK data protection regulator, the Information Commissioner's Office, published advice to the lawful and compliant usage of data to that effect. Our [FAQs](#) provide a useful overview of what businesses can do.

Oversight Updates

House Speaker Pelosi and Senate Majority Leader McConnell are [reportedly](#) closer to naming the Chair of the Congressional Oversight Commission established by the CARES Act. The five-member Commission already has four members (Bharat Ramamurti, former aide to Senator Warren; Senator Pat Toomey (R-PA); Representative Donna Shalala (D-FL); and Representative French Hill (R-AR)). As reported last week, Sheila Bair, the former chair of the Federal Deposit Insurance Corporation, a lifelong Republican but a supporter of Senator Warren's presidential bid, may be one of the top candidates for the Commission's Chair. The appointment cannot come soon enough. As

Ramamurti and Representative Hill have both emphasized, the Commission's first report to Congress is due this Saturday. Yesterday, Representative Shalala acknowledged in an [MSNBC](#) interview that currently the Commission is not conducting oversight: "We are waiting for the chair to be appointed." She did add that the four existing members are discussing questions they want answered to have a framework in place to "hit the ground running."

On Tuesday, Senate Minority Leader Chuck Schumer (D-NY) and Senator Cardin attempted to pass legislation that would mandate new daily and weekly disclosure requirements for the Paycheck Protection Program (PPP), the Economic Injury Disaster Loan (EIDL) program and other relief programs. This initiative failed, however, absent a unanimous consent vote. Disappointed with this outcome, Minority Leader Schumer [noted](#), "[w]e all know that a good amount of the money is going where it shouldn't. ... We have to have oversight." Yesterday, Senator Jeanne Shaheen (D-NH), a senior member of the Senate Committee on Small Business and Entrepreneurship, [said](#) that she will continue to demand transparency and oversight over the PPP.

Also:

- [The Washington Post](#) reported that the Department of Justice has opened a criminal investigation into Blue Flame Medical. The company sold medical supplies as coronavirus spread across the US and entered into contracts with Maryland and California, which were ultimately cancelled. Maryland confirmed that it has received federal subpoenas related to the contracts but would not reveal any additional information.
- Eleven Attorneys General from Midwestern states [urged](#) US Attorney General William Barr to investigate antitrust concerns regarding the cattle industry, which they say are especially acute during the pandemic.

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