

The Democratic leadership of the US House of Representatives continues work on the details of Speaker Nancy Pelosi's (D-CA) sweeping "CARES 2.0" coronavirus relief package, which could reportedly see a public rollout this week. The US Senate is in session again this week and will hold a series of hearings focused on the pandemic, with an eye on shaping the next phase of the federal response. Republican officials in Washington say formal bipartisan negotiations over the next COVID-19 bill have yet to begin, and are likely weeks away.

The size of the proposed CARES 2.0 package has continued to grow as Democratic Members of Congress, disappointed that the last major bill, the [CARES Act](#), originated in the Republican-led Senate rather than in the Democrat-controlled House, have lobbied Speaker Pelosi for the inclusion of their favored ideas and priorities. Some Democratic representatives facing tough reelection battles this fall have argued for a more pragmatic approach. But Speaker Pelosi's desire to give members of her caucus the opportunity to present a bill that showcases their party's comprehensive vision for the coronavirus response effort appears to be carrying the day.

"Neither this bill nor anything resembling it will ever become law," note *POLITICO*'s Jake Sherman and Anna Palmer. "[I]t's a Democratic wish list filled up with all the party's favored policies."

Reports now speculate that the Democratic CARES 2.0 bill will have a price tag in the "trillions," with an infusion of aid to states, territories, counties and municipalities in the range of US\$750-800 billion. Additional cash "stimulus" cash payments to US households are likely to be another major component of the bill, though House Democrats are still tweaking the details of their approach. "[O]ne idea gaining steam is a paycheck-guarantee program that keeps people tied to their employers and health benefits," the [Wall Street Journal](#) reports.

Democratic leaders have not yet announced when the

House, which has been out of session since March, will be brought back to Washington, DC for consideration of CARES 2.0.

Treasury Secretary Steven Mnuchin and National Economic Council director Larry Kudlow, speaking this weekend on behalf of the Trump Administration, indicated the president is open to eventual negotiations on another major bipartisan coronavirus response bill, but said action on such a package is not needed immediately. The trillions of dollars pumped into the economy already in recent weeks must be given time to work and so their impact can be assessed and can inform the next round of federal activity, they suggested.

Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases, will testify virtually before the Health, Education, Labor and Pensions (HELP) Committee in the Senate on Tuesday. Senate hearings are also expected this week on the oversight of COVID-19 response measures and the topic of liability for businesses as the economy reopens. Senator John Cornyn (R-TX), a senior member of the Senate Judiciary Committee, is drafting legislation on the latter subject that is expected to be a touchstone for Republicans in eventual negotiations over the next bipartisan pandemic response measure.

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 CARES 2.0 expected to be revealed soon, momentum appears to be building within the House Democratic Caucus in favor of providing "triggers" that would automatically extend unemployment insurance without the need for additional legislative action. There is also discussion regarding potential changes to the employee retention tax credit (ERTC), which provides a 50% tax credit on up to US\$10,000 in wages paid per employee. In fact, led by Representative Stephanie Murphy (D-FL), a bipartisan group of lawmakers last week introduced a [proposal](#) aimed at strengthening the ERTC. The Jumpstarting Our Businesses' Success

Credit (JOBS Credit) Act of 2020 would make a number of “targeted” improvements to the ERTC “to better fulfill its goal of keeping workers connected to their jobs during this crisis,” including by: (1) increasing the credit percentage from 50% to 80% of qualified wages; (2) increasing the per-employee limitation from US\$10,000 for all calendar quarters to US\$15,000 per calendar quarter (and an aggregate of US\$45,000 for all calendar quarters); and (3) changing the threshold for treatment as a large employer from employers having more than 100 employees to employers having more than 1,500 employees (based on the average number of full-time employees in 2019) or having gross receipts above US\$41.5 million in 2019.

The Small Business Administration (SBA) Office of the Inspector General has released a [report](#), which found that SBA-imposed restrictions on Paycheck Protection Program (PPP) loans – including a requirement that borrowers use at least 75% of their loan on payroll expenses to qualify for full loan forgiveness – “could result in an unintended burden to the borrowers.” In addition to lawmakers’ concerns about the impact of these requirements, lawmakers also are focused on ensuring that PPP loans remain accessible to minority- and women-owned businesses. In fact, Senators Ben Cardin (D-MD) and Cory Booker (D-NJ) have released a [white paper](#) outlining ways to provide “immediate improvements” to the PPP. Recognizing “that traditionally underserved business owners, including minorities, women, and those in rural areas, have been disproportionately left behind,” the pair of Senators would, among other things: (1) adjust the threshold for Community Development Financial Institutions (CDFIs) and other mission-based, non-profit lenders that have not yet been approved for a loan; (2) set aside at least US\$10 billion for CDFIs that have a “demonstrable record of reaching underserved borrowers and minority depository institutions (MDIs) to support loans to underserved small businesses; and (3) set aside a portion of any additional funding for businesses based upon their employee count to ensure that the smallest businesses are actually able to access PPP funds. Their proposal is yet another indication that additional funding for – and various changes to – the PPP are likely as part of the forthcoming legislative package.

Lawmakers are also continuing to examine tax policy as part of the government response to COVID-19. In a [request](#) to the Treasury Department, Senate Finance Committee Chairman Chuck Grassley (R-IA) and Ranking Member Ron Wyden (D-OR), along with several other key Senators, requested that the Treasury Department provide an extension of the “continuity safe harbor” from four years to five years for energy production tax credit (PTC) and investment tax credit (ITC) projects that began construction in 2016 or 2017. Treasury Secretary Mnuchin took note of the request and has [responded](#) favorably,

indicating that the Treasury Department would in fact modify its guidance to extend the safe harbor. Notably, this change comes as Secretary Mnuchin and Energy Secretary Dan Brouillette are reported to be discussing the potential for a lending program to support the domestic oil and gas industry.

Health Updates

Axios [reports](#) the White House will push themes of “preparedness and confidence” this week, with several events focusing on testing. The administration has made some strides in testing over the past week, though some public health experts stress the United States should establish increased capacity and achieve additional scientific advancements before social distancing guidelines are relaxed further. On Friday evening, the Food and Drug Administration (FDA) [issued](#) the first emergency use authorization for a COVID-19 antigen test – a diagnostic test designed for rapid detection of the virus that causes COVID-19 – in laboratories and patient care settings. While the capability to rapidly test for the virus will be highly useful in many environments, FDA cautioned, “[t]here is a higher chance of false negatives, so negative results do not rule out infection.” It suggested pairing antigen tests with polymerase chain reaction tests in order to properly make treatment decisions and prevent possible spread of the virus. Additionally, last week, FDA [authorized](#) the first COVID-19 diagnostic test with the option of using home-collected saliva samples. The Department of Health and Human Services (HHS) also [announced](#) it had awarded about US\$583 million to over 1,000 health centers funded by the Health Resources and Services Administration (HRSA) to expand COVID-19 testing.

Senate HELP Committee Chairman Lamar Alexander (R-TN) emphasized the need for more testing, contact tracing, treatments and vaccines during his appearance on Sunday’s *Meet the Press*, stating that widespread testing will give Americans the assurances needed to return to work and school. Senators will have a chance to discuss these issues and question administration witnesses on Tuesday, when the Committee will hold a hearing titled “COVID-19: Safely Getting Back to Work and Back to School.” The witness panel is slated to include Director Fauci; Dr. Robert Redfield, Director of the Centers for Disease Control and Prevention; Dr. Brett Giroir, Assistant Secretary for Health of HHS; and Dr. Stephen Hahn, Commissioner of FDA. Director Fauci, Director Redfield and Commissioner Hahn are all self-quarantining after coming into contact with a White House staffer who later tested positive for COVID-19. On Sunday, the Committee [said](#) all four witnesses would appear by videoconference due to the circumstances. Later Sunday, due to exposure to a staffer in his office who tested positive for COVID-19, Chairman Alexander [announced](#) he would also self-isolate and chair the hearing remotely from Tennessee.

Hospitals and health systems shut down elective surgeries and other nonessential care as the nation first began to cope with pandemic, leading to significant financial [losses](#) for these entities. On Friday, House Committee on Ways and Means Chairman Richard Neal (D-MA) [wrote](#) to Centers for Medicare & Medicaid Services (CMS) Administrator Seema Verma, requesting the agency exercise caution when it provides additional guidance for the return of non-emergent health care delivery. He stated, "If we allow elective procedures without putting in place essential safeguards, we could face significant surges in COVID-19 cases, leading to more hospitalizations, deaths, and unnecessary delays in economic recovery." Chairman Neal expressed his opinion that the CMS notice titled "[Reopening Facilities to Provide Non-emergent Non-COVID-19 Healthcare](#)," issued on April 19, gives too much flexibility to health systems and does not appropriately protect patients and staff. He urged the agency not to promote the delivery of comprehensive health care services until it "*reinstates the recently waived patient and staff safety standards and frontline workers are assured the necessary personal protective equipment (PPE) and testing to [...] minimize risk.*" Reports from Capitol Hill indicate the House Democrats' CARES 2.0 package will include additional money for hospitals, though the draft language has yet to be released.

A bipartisan group of 123 House lawmakers sent a [letter](#) to House and Senate leadership on Friday, asking that any future coronavirus relief bill include policies to protect temporarily safety-net hospitals from losing 340B drug discount program eligibility due to the pandemic. The lawmakers explained, "To qualify for the 340B Program, hospitals that participate as Medicare disproportionate share ("DSH") hospitals, free-standing children's and cancer hospitals, sole community hospitals (SHCs), and rural referral centers (RRCs) must maintain a minimum DSH adjustment percentage on their most recently filed Medicare cost report. In addressing the surge of COVID-19 patients, hospitals are increasing bed capacity and shifting care from inpatient beds to outpatient settings to reserve space for the critically ill." Though necessary to address the pandemic, these changes could lead to a shift in payer mix that could reduce a hospital's DSH adjustment percentage and jeopardize its eligibility. The lawmakers also stated that some entities are having trouble sourcing drugs without violating eligibility requirements, due to drug shortages and other challenges associated with the pandemic.

On Saturday, HHS's Office of the Assistant Secretary for Preparedness and Response (ASPR) [released](#) the allocation plan for remdesivir, the antiviral treatment that recently received an emergency use authorization from FDA. Cases of the drug, donated by Gilead Science, Inc. and containing 40 vials of the drug each, will be distributed to the following states: Connecticut (30 cases), Illinois (140 cases), Iowa (10 cases), Maryland (30 cases), Michigan

(40 cases) and New Jersey (110 cases). An initial allocation was distributed to the following states last week: Indiana (38 cases), Massachusetts (117 cases), New Jersey (94 cases), New York (565 cases), Rhode Island (30 cases), Tennessee (7 cases) and Virginia (33 cases). The announcement explains, "State health departments will distribute the doses to appropriate hospitals in their states because state and local health departments have the greatest insight into community-level needs in the COVID-19 response, including appropriate distribution of a treatment in limited supply." ASPR expects additional deliveries to all 50 states, territories, the Veterans Health Administration and the Indian Health Service; patients may also access the drug through clinical trials. This distribution news followed a Friday [announcement](#) from the National Institutes of Health, which publicized the beginning of a clinical trial testing a COVID-19 treatment regimen of remdesivir and anti-inflammatory drug baricitinib for safety and efficacy. As we previously reported, some Democratic lawmakers have pressed for answers on the availability and affordability of remdesivir (letters [here](#) and [here](#)).

Trade Updates

Business groups are urging the administration to consider extending its duty deferral policy. As reported by *POLITICO*, companies are facing significant challenges as they seek to take advantage of the program, which allows businesses to temporarily delay payment on tariffs charged on certain March and April imports. A number of factors have made it difficult for businesses to benefit from duty deferral, namely: (1) entries containing goods subject to certain tariffs are not eligible for the policy, including costly tariffs imports on certain steel/aluminum goods under Section 232 of the Trade Expansion Act of 1962 and against a vast majority of Chinese goods imports under Section 301 of the Trade Act of 1974 (meaning companies must process those goods on separate entry documents to allow for deferral of tariffs on eligible goods); (2) companies could not recoup payments that had already been made when the policy was announced on April 19; (3) the announcement was made 48 hours before the next monthly tariffs payment deadline, leaving companies little time to prepare the necessary paperwork; and (4) it only applies to goods entered in March and April. Stakeholders continue to urge the administration to, at minimum, extend the program to May and June imports.

Oversight Updates

On Friday, the House Select Subcommittee on the Coronavirus Crisis [urged](#) five public companies to return their US\$10 million plus PPP loans. These companies are EVO Transportation & Energy Services, Inc.; Gulf Island Fabrication, Inc.; MiMedx Group, Inc.; Quantum Corporation; and Universal Stainless & Alloy Products, Inc. The panel asked the companies to say by May 11 whether they intend to return the loan proceeds. If they do not return the proceeds, the panel is seeking "all documents

and communications” between the companies and Treasury/SBA/financial institutions, including their PPP applications. Within hours of the subcommittee’s urging, one of the companies, MiMedx Group, said that it would [return](#) its loan proceeds. On Saturday, another company—EVO Transportation & Energy Services—[stated](#) it will not return its proceeds and will continue to use them for payroll costs.

The Friday request is the panel’s first official action, and in fact, the first official action by any oversight mechanism established by or in relation to the CARES Act. The Congressional Oversight Commission is still missing a Chair; the Special Inspector General Pandemic Response Accountability for Pandemic Recovery at Treasury has not been confirmed by the Senate yet; and the Pandemic Response Accountability Committee has been off to a slow start, following President Trump’s effective removal of the Committee’s Chair. (Glenn Fine became ineligible to serve as the Chair one week after his appointment, when the President removed him from his position as Pentagon’s Acting IG.) The Congressional Oversight Commission’s first report to Congress was due Saturday. In lieu of a report, the four members of the Commission named to date issued a [statement](#) to assure the public that work is underway, “even in the absence of a staff, a budget, and a chairperson.”

Also on Friday, in response to an April 23 request from Senate Minority Leader Chuck Schumer (D-NY) and Senators Sherrod Brown (D-OH) and Cardin, the SBA’s IG Hannibal “Mike” Ware issued a 40-page flash [report](#) on the SBA’s PPP. While he found that the SBA’s guidance on the PPP was “mostly aligned” with the CARES Act, the report identified several areas in which the SBA’s guidance was lacking, including prioritizing underserved and rural markets, eligibility for forgiveness and deferments.

Also:

- The Office of Special Counsel has [found](#) “reasonable grounds” to investigate whether Dr. Rick Bright was removed from a senior science post for his questioning the use of hydroxychloroquine as a treatment for COVID-19. The Office recommended that the Department of Health and Human Services reinstate Dr. Bright while it investigates his allegations.

- House Intelligence Committee Chairman Adam Schiff (D-CA), Homeland Security Committee Chairman Bennie Thompson (D-MA) and Representative Murphy, co-chairman of the moderate Blue Dog Coalition, [introduced](#) bills to create an independent bipartisan investigative commission in the next relief legislation. The lawmakers want this commission to conduct “an extensive and authoritative study” into the coronavirus response, similar to those conducted in the wake of Pearl Harbor and the September 11th terrorist attacks.

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