

A tacit consensus seems to be emerging in Washington, DC that another major federal COVID-19 relief package will be enacted this summer, but not negotiated until some time in mid-to-late June, as deadlines for the expiration of key CARES Act relief programs begin to loom. Republicans are testing the viability of economic measures that could be featured in the forthcoming legislation, including a “back-to-work” bonus championed by US Senator Rob Portman (R-OH). Democrats in the US House of Representatives, who passed a US\$3 trillion coronavirus response bill through their chamber weeks ago on a party-line vote, may turn their attention soon to advancing additional proposals – including a national infrastructure overhaul – that could become factors in the upcoming negotiations as well.

Law360’s Alan Ota, a veteran congressional correspondent, [reports](#):

“House Democrats are looking to bundle a five-year renewal of highway funding and a batch of tax-favorable victory savings bonds in an emerging economic recovery package aimed at spurring growth and countering effects of the COVID-19 pandemic.

“House Ways and Means [Committee Chairman Richard Neal (D-MA)] said he and other senior House Democrats will pivot after the Memorial Day break to try to advance a five-year highway reauthorization bill with bond financing options as part of an economic recovery package aimed at creating jobs and spurring growth. . . . Such priorities are being developed as separate measures for now, but lawmakers in both parties also say they could be swept into talks on a second round of economic impact payments and expanded tax incentives for families with children in the House-passed [US\$3] trillion Health and Economic Recovery Omnibus Emergency Solutions Act, or

[HEROES] Act.

“[Neal] said House Democrats would try to address Senate GOP concerns that the [HEROES] Act puts too much stress on relief measures and not enough on economic stimulus measures, while laying groundwork for their own follow-on recovery package possibly including tax incentives and the highway bill. Neal said he was continuing talks with Treasury Secretary Steven Mnuchin in the hope of cutting a deal on potential revenue-raising measures for the highway bill.”

Ota goes on to quote several influential Republican senators as saying they support the concept of eventually coupling some of the relief measures already approved by the House with economic proposals aimed at spurring a steady recovery of the American economy.

One of the senators quoted is Portman, whose idea of providing a weekly US\$450 “back-to-work” bonus for individuals who return to the workforce is [gaining traction](#) rapidly among Republicans as an alternative to an extension of the expanded unemployment assistance measures established by Congress earlier this year as the nation’s economy shut down.

On Tuesday, White House National Economic Council director Larry Kudlow praised Senator Portman’s proposal, which the Ohio senator’s staff describes as a measure to help “boost the economy and incentivize individuals to return to work as we begin to reopen safely.” Senate Majority Leader Mitch McConnell (R-KY), speaking to constituents in his home state, affirmed he envisions the Senate beginning serious deliberations about the next significant COVID-19 response package “in the next month or so.”

Loan forgiveness for struggling enterprises that rehire workers, a key feature of the CARES Act’s Paycheck Protection Program (PPP), is set to expire at the end of June, while the enhanced unemployment benefits authorized by Congress this spring are set to end in July. These and other approaching deadlines are likely to bring congressional Republicans and the White House back to the negotiating table with Democrats as July approaches and states proceed with plans for a phased reopening.

Tax and Economic Development Updates

With the current date (June 30) through which PPP loan applications will be accepted just over a month away – and the eight week loan forgiveness period beginning to expire at the end of this week for some of the PPP's earliest loan recipients – the House of Representatives is set this week to vote on its bill that would extend the period to use funds for purposes of loan forgiveness to the earlier of 24 weeks or December 31, 2020.

According to House Majority Leader Steny Hoyer (D-MD), “there is a general consensus, both House and the Senate, that the time frame that was set was too short.” That said, there now appears to be concern from certain key stakeholders about some of the other changes in the House bill. For example, UNITE HERE – a labor union representing workers in the hotel, gaming, food service, manufacturing, textile, distribution, laundry, transportation and airport industries – has sent a [letter](#) to House Speaker Nancy Pelosi (D-CA) and Senate Minority Leader Chuck Schumer (D-NY) suggesting that the bill's elimination of the requirement that PPP loan recipients spend at least 75% of their loan proceeds on payroll expenses “moves us in exactly the wrong direction, by creating a disincentive for employers to retain or rehire workers, which increases the unemployment rate and exacerbates the strain on state Medicare Programs.” Note, too, Democrats are also taking issue with another recent PPP development: the Small Business Administration's (SBA) decision that Planned Parenthood centers are ineligible for PPP loans they have already received. Over 40 Democratic senators sent a [letter](#) to the Treasury Department and SBA urging that the SBA “stop ideologically-driven action against Planned Parenthood organizations through the unequal application of the affiliation rule in order to score political points for this administration by attacking nonprofit health care providers.”

Looking beyond implementation of the current stimulus measures, it is notable that Senate Majority Leader McConnell yesterday acknowledged that “[i]n the next month or so we'll be talking about possibly another [relief] bill.” In addition to continuing to press for liability protections – though not any that would “protect anyone from gross negligence or intentional misconduct” – the Majority Leader also appears open to the “possibility” of additional aid for state and local governments. Another issue that will need to be negotiated as part of any next package relates to calls for an extension of the US\$600 expanded unemployment payments enacted as part of the CARES Act. While Democrats would like to see the program extended through year's end, Republicans have made clear they oppose any extension of this plus-up. Instead, as noted above, Republicans appear to be coalescing around Senator Portman's proposal that would provide, for a limited time, unemployed workers

with a US\$450 weekly bonus on top of their wages if they go back to work. There also are many struggling industries seeking additional federal aid as part of any future relief package. In fact, on Monday, Amtrak sent a [letter](#) to Vice President Mike Pence and Speaker Pelosi requesting US\$1.5 billion in supplemental funding for fiscal year 2021 to ensure its ability to continue operations.

Additionally, yesterday, Representative Carolyn Maloney (D-NY) introduced [H.R. 7011](#), the Pandemic Risk Insurance Act, which would create the Pandemic Risk Insurance Program within the Treasury Department to serve as a backstop to help pay for losses resulting from insurance companies offering business interruption policies for pandemics. Recall that last week, the American Property Casualty Insurance Association, National Association of Mutual Insurance Companies and Independent Insurance Agents and Brokers of America released a proposal – the Business Continuity Protection Program – that would allow businesses to pay into the new program in order to be eligible for payments to cover up to 80% of their payroll and other expenses for three months in the event of a public health emergency. According to Representative Maloney, that proposal “is not going to pass”; however, she also recognized yesterday the need to “sit down at the table to try to work [] out” an appropriate solution.

Health Updates

With the reopening of state economies and workers traveling back to offices and businesses, lawmakers and other stakeholders are carefully monitoring the United States' testing capabilities, including the development, manufacturing and distribution of tests and testing supplies. First reported in *POLITICO* this morning, Representatives Diane DeGette (D-CO) and Larry Bucshon, MD (R-IN) plan to introduce two pieces of legislation today to boost laboratory access and capacity for COVID-19 testing. The first bill, the [Diagnostic Testing for Public Health Labs Act of 2020](#), directs the Centers for Disease Control and Prevention (CDC) to award grants to public health laboratories to assist these entities in acquiring high-throughput diagnostic equipment. The second bill, the [Rapid Testing for Communities Act of 2020](#), directs the CDC to award grants to providers for acquiring equipment and supplies capable of performing same-day clinical laboratory diagnostic testing in a point-of-care setting. On Tuesday, CDC released [Interim Guidelines for COVID-19 Antibody Testing](#), which focus on the serological tests that can help determine if a person has had prior exposure to COVID-19, even if the individual was asymptomatic. (These tests contrast with molecular and antigen tests, which help diagnose active COVID-19 infections.) CDC cautions, “Data that will inform serologic testing guidance is rapidly evolving”; it remains unclear whether individuals with antibodies develop immunity from the coronavirus. CDC states antibody tests should not be

used to make decisions on returning individuals to their workplaces or to determine residential groupings in congregate settings, such as dormitories.

The Government Accountability Office (GAO) released a Science and Technology Spotlight report on [COVID-19 vaccine development](#). GAO notes, “The United States is funding multiple efforts to develop vaccines. Developing a vaccine is a complicated process that is costly, typically requires 10 years or more, and has a low success rate, although efforts are underway to accelerate the process.” The report describes several technologies and initiatives that may help accelerate vaccine development – genomic tools, multiple vaccine mechanisms and collaboration and partnerships – as well as current development challenges – virus mutations, risk from the accelerated process and manufacturing and supply issues. Last week, the bipartisan leadership of the House Committee on Energy and Commerce and its Subcommittee on Oversight and Investigations [urged](#) the administration to establish a COVID-19 vaccine strategy and plan for the eventual manufacturing and distribution of a new and effective vaccine.

Oversight Updates

Yesterday, Glenn Fine, the Principal Deputy Inspector General (IG) for the Department of Defense (DoD), abruptly resigned from his role, effective June 1. On March 30, when Fine was both the DoD’s Acting IG and Principal Deputy IG, he was appointed to serve as the chair of the Pandemic Response Accountability Committee (PRAC). However, on April 7, Fine became ineligible for that role when President Trump removed him from his position as the Pentagon’s Acting IG. Representative Maloney, Chair of the House Committee on Oversight and Reform, and two Democratic other lawmakers [called](#) Fine’s resignation “a direct result of President Trump’s actions” and “another blow to accountable democracy.”

Christi Grimm, the Health and Human Services’ Principal Deputy IG, [testified](#) before the House Oversight and Reform Committee yesterday. Grimm discussed over a dozen ongoing probes into the Administration’s coronavirus response, including an audit into the US\$50 billion that the Department of Health and Human Services (HHS) is disbursing to health care providers. Grimm vowed that President Trump’s firings and demotions of IGs (including his recent effort to effectively oust Grimm after her April report on hospital resource shortages amidst the pandemic) would not affect those investigations. “We are plowing ahead,” she said.

PRAC [announced](#) yesterday that it will hold a virtual public listening forum titled “Stakeholder Perspectives on Oversight of the Federal COVID-19 Spending and Response” on June 3. This forum is meant to give stakeholders an opportunity to provide input into areas where the PRAC should focus its attention to enhance

transparency and accountability over coronavirus relief funds. The list of speakers is not available yet, but PRAC says that they will represent a cross-section of the pandemic response, including state and local government, businesses, financial institutions, the health care sector, non-profits and government transparency organizations.

Additionally:

- Two people were charged with price gouging and related crimes yesterday. One person, a [licensed pharmacist](#), allegedly bought US\$200,000 worth of N95 masks and then sold them at inflated prices, charging customers up to 50% more than he paid himself. [Another individual](#) allegedly attempted to deceive and price gouge New York City into paying him approximately US\$45 million for personal protective equipment that he did not possess and was not authorized to sell.
- The Office of the Inspector General for HHS issued its strategic [plan](#) for coronavirus response and recovery. The plan has four goals: (1) protect people by assisting in and supporting ongoing COVID-19 response efforts and fighting fraud that endangers the public; (2) protect funds by preventing, detecting and remedying waste or misspending of coronavirus funds and related fraud; (3) protect infrastructure by protecting the security and integrity of IT systems and health technology; and (4) promote effectiveness of HHS programs.
- On May 29, the House Committee on Oversight and Reform’s National Security Subcommittee will hold a member [briefing](#) with representatives from the Department of Justice, the Federal Bureau of Investigation, and the Department of Homeland Security Cybersecurity and Infrastructure Security Agency to address the growing number of cyber-related incidents targeting US healthcare and research institutions, federal government agencies, and international and non-governmental public health organizations during the coronavirus pandemic.
- The House Committee on Energy and Commerce’s Subcommittee on Oversight and Investigations will hold a [hearing](#) titled “On the Front Lines: How Governors are Battling the COVID-19 Pandemic.” As part of the Subcommittee’s oversight, the hearing will focus on testing, contact tracing and surveillance. Several governors are expected to testify at this hearing on June 2.

State Updates

Virginia has successfully rolled out its new web-based artificial intelligence (AI) powered health assessment tool designed to help individuals determine whether they have contracted COVID 19, and if so, what actions to take. Governor Northam announced the launch of **COVIDCheck** late last week. It is a free online risk assessment tool that allows users to answer a series of questions and receive a personalized, real-time assessment of their risk and recommendations for what to do next, such as self-isolation, seeing a doctor or seeking emergency care organized by zip code, three day follow-ups and advice about symptoms.

Nursing homes continue to be a focus of attention during the COVID crisis. The **Nevada** Attorney General is advising nursing home residents and their families to not sign over **COVID relief payments** from the federal government to their long-term care provider. According to Attorney General Aaron Ford, the payments are styled as tax credits and cannot be taken for federal programs. Attorneys general across the nation have been dealing with a wave of inquiries about whether the payments can be garnished or must be turned over to various types of debtors.

President Trump and former Vice President Joe Biden are not the only two dealing with the new phenomena of “mask shaming.” In a recent press conference, **North Dakota** Governor Doug Burgum talked about **wearing a bike helmet** as a good example of why we should avoid the mask/no mask divide: “When we were kids, nobody wore bike helmets. And when you transition into a world where when you see somebody wearing a bike helmet, you don't think that they're goofy or nerdy. You just think that the parents and the kids are being smart because we know we can stop senseless brain injury from simple accidents. . . . There's a time to wear a helmet and there's a time to not. There's a time to wear a mask and there's a time to not.”

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