

Coronavirus Washington, DC Update

Date: March 27, 2020

Below is a great summary of the CARES Act provided by our team in DC with highlights below. It does a very good job of breaking down the act by category. Once approved by the house, it should not take long to get signed. Remember that this is not approved yet, however, to be proactive feel free to share this overview to help folks better understand. Encourage individual groups to dive deeper into the perspective areas that might apply to them.

From Robertson Monagle and Eastaugh:

The Senate has acted on what is being called Phase III -- The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) -- the 3rd tranche of the three pieces of legislation passed to address the CV-19 crisis. The House is due to act tomorrow without change to the bill and the President has said he will sign it. We have summarized the CARES Act's major provisions from almost 900 pages of legislative text below.

In terms of cost, this is the largest bill to date (estimate of \$2.2 trillion) with a significant amount allocated to combat the economic impact of CV-19. Phase III also includes substantial spending for further public health response at all three levels of government. By way of scale, the estimated cost of the bill exceeds the annual appropriations for defense and non-defense spending combined by approximately 50 percent. As emergency spending, it is not "paid for" with offsetting program cuts or revenue increases. It supplements both existing Federal programs and benefits as well as creates new ones. It follows on Phase I (\$8.3 billion, primarily for public health programs) and Phase II (\$100 billion, primarily for social safety net programs) that we discussed in our March 16th memo. The total of the funding of three Phases combined are nearly double the amount spent to address the 2009 Great Recession from the Troubled Asset Relief Program and American Recovery & Reinvestment Act. We may see a Phase IV later this spring or summer depending on -- CV-19's further impact; shortfalls in the spending so far on overlooked segments of our society and economy; and technical correction that are inevitably needed when addressing such comprehensive legislation on short notice.

Both the House and Senate are going out of session and will remain so until at least the end of April. The Capitol and outer office buildings will need to undergo a major CV sanitizing effort, especially since a number of Members and staff have contracted CV and been on premise. The numbers of CV-19 infected Members and staff will grow in the coming weeks. We do not know yet how the crisis will affect the annual appropriations cycle or other regular Congressional business other than to push schedules back. Congressional Committees are exploring use of remote or "paper-only" hearings. Changes in voting procedures to a remote voting system have been postponed until further study.

Highlights

Public Health – CV-19 Response

- **Public Health and Social Services Emergency Fund** – This is a new program that provides \$100 billion to reimburse, through grants or other mechanisms, eligible health care providers for health care related expenses or lost revenues that are attributable to coronavirus. An eligible health care provider means public entities, Medicare or Medicaid enrolled suppliers and providers, and such for-profit entities and not-for-profit entities that provide diagnoses, testing or care for individuals with possible or actual cases of CV-19. Hospitals would also receive a 20 percent payment boost for Medicare patients admitted for CV-19. Scheduled reductions in Medicaid disproportionate share hospital payments are delayed through November 30, 2020.
- **Community Health Centers** – Extends mandatory funding due to expire at the end of May until Nov 30, 2020. Provides an additional \$1.32 billion for CHC treatment of CV-19 patients. CHCs are authorized to rely more on telehealth treatment and consultation.
- **Critical Access Hospitals** – These hospitals, many of them in rural areas, may receive up to 125 percent of their Medicare payment in a lump sum up to six months in advance. These hospitals would not be required to start paying down the advance for four months, and would also have at least 12 months to complete repayment without interest. Separately, the Medicare sequester cut of 2 percent has been postponed for a year.
- **FEMA** -- \$45 billion disaster relief through traditional assistance programs to state, local and tribal governments and certain non-profits used in natural disasters. Reimbursable activities may include medical response, personal protective equipment, National Guard deployment, and coordination of logistics
- **HHS Office of the Secretary** -- \$27 billion for development of necessary countermeasures and vaccines, prioritizing platform-based technologies with U.S.-based manufacturing capabilities, the purchase of vaccines, therapeutics, diagnostics, necessary medical supplies, as well as medical surge capacity, among other purposes. Of this amount \$250 million is for the Hospital Preparedness Program for grants and cooperative agreements to states, territories, and eligible municipalities to plan for and respond to medical surge events. An additional \$180 million is set aside for rural telehealth initiatives.
- **Tribal Health** -- \$1 billion in CV-related healthcare to tribes through the Indian Health Service.
- **National Institutes of Health** -- \$945 million for CV research and vaccine development.
- **Center For Disease Control** -- \$4.3 billion, with \$1.5 billion in grants to State, local and tribal governments to carry out surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications, and other preparedness and response activities.
- **FDA** -- \$80 million for vaccine review and other medical countermeasures.
- **USDA Rural Telehealth Broadband** -- \$25 million
- **National Science Foundation** -- \$75 million research grants
- **FCC** -- \$200 million to support telehealth medicine.
- **HHS Substance Abuse & Mental Health Services Administration** -- \$425 million
- **HHS Aging & Disability Services Programs** -- \$955 million
- **Veterans** -- \$19.6 billion for veterans health care through the VA system.
- **Strategic National Stockpile** -- \$16 billion for medical equipment purchases needed for CV-19 treatment. \$1 billion was provided earlier in Phase I.

Fisheries -- \$300 million

The CARES Act has \$300 million in NOAA fisheries disaster relief funding for commercial fishery, charter boat and some aquaculture participants who have suffered a greater than 35 percent revenue loss due to CV-19. This is separate funding from other fisheries disasters that have been previously declared for other reasons.

Separately, DHS has issued guidance on jobs it deems essential during the crisis. Food production is emphasized with seafood processing specifically mentioned. While some of the states have been relying on the guidance in setting stay at home guidance and place restrictions, it does not override state and local rules established to protect the public health from CV-19 spread.

State & Local Government Coronavirus Relief Fund -- \$150 Billion

The majority of this funding will be distributed to states based on a formula. No state can receive less than \$1.25 billion. This requirement will ensure a minimum level of funding for low population states such as Alaska. \$11 billion is set aside for territories, the District of Columbia and tribal governments. Larger municipalities (>500,000 residents) can apply directly for funding while smaller local governments will need to apply to their state governments.

Small Business Assistance -- \$377 billion

New Payroll Loan Forgiveness Program (The Paycheck Protection Program) -- \$349 billion

We are aware that many communities are starting to feel economic impact in lodging, restaurant, tourism and other service-related small businesses. Phase III includes \$349 billion to small businesses, tribal businesses and non-profits (less than 500 employees or less than 500 employees per location for chains or franchises.) for a new payroll assistance program to provide forgivable liquidity loans to small businesses to cover payroll costs and keep employees on the payroll during the disaster. **This is a separate program** from the SBA economic injury disaster loan program that has received some public attention (details on that initiative are discussed next in the memo).

The new program operates through Section 7a SBA-approved banks and lenders. Applicants may apply for up to 250% of their average monthly payroll costs. There are allowances for seasonal variations in calculating the average. They must commit to retain employees on their payroll during the crisis even if those employees are not working or working less than usual. If these terms are met the loan is forgiven. There is no collateral requirement or personal guarantee. A business has to keep an average number of employees in the loan period on payroll that is the same as the average number that is normally kept in that period. There are waivers of the loan fee costs as well as the upfront paperwork along with a presumption of approval and delegation of authority to expedite application review. Borrowers can use loan proceeds for rent and utilities as well. Loan rates are capped at 4 percent with principal forgiven if the borrower meets the employment retention criteria. If there are reductions in employment while the loan is in effect then the amount of the principal forgiven is reduced accordingly. Any forgiven debt would not be treated as taxable income. An applicant cannot have a through this program and an SBA Economic Injury Disaster Loan for the same purpose. However, loan from the latter program can be transferred into a paycheck protection loan.

The first step an interested small business should do is contact one of the approved section 7a regional or local lenders to begin the registration and pre-application process. The lists are at the links.

<https://www.sbalenders.com/bank-type/regional-sba-lenders/>

<https://www.sbalenders.com/bank-type/local-sba-lenders/>

Note One: Phase II of the Coronavirus Response Bills (The Families First Coronavirus Response Act) included language establishing paid leave for employees of small organizations (including governments) of less than 500 workers to provide up to 2 paid weeks of leave at full pay for an employees who have CV-19 or is caring for a family member with it, with an additional 2/3rd paid leave for the next 10 weeks. For areas where schools have closed, employees may take paid leave at 2/3rds pay for up 12 weeks to care for children now at home. Paid leave is capped at \$200 per day and \$10,000 in the aggregate.

SBA Economic Injury Disaster (EID) Loans

Small businesses are now able to apply for EID loans directly from SBA. Terms are up 30 years at a 3.75 percent interest rate with a \$2 million cap. The loan can cover payroll as well as other standard operating costs. Small non-profits may also apply and qualify for a lower interest rate – 2.75 percent. Applicants can seek an emergency grant to request an advance on the EID loan, of not more than \$10,000, which the SBA must distribute within 3 days.

The link is to SBA's web site to start the application process.

<https://disasterloan.sba.gov/ela/>

Employer Tax Provisions

- **Payroll Tax Credit** – creates a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis. The credit is available to employers whose (1) operations were fully or partially suspended, due to a COVID-19-related shut-down order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year. The credit is based on qualified wages paid to the employee. For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above. For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order. The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee. The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.
- **Delay of payment of employer payroll taxes** -- The provision allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees. Employers generally are responsible for paying a 6.2-percent Social Security tax on employee wages. The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022. The Social Security Trust Funds will be held harmless under this provision.

Individuals

- **Direct Payments** -- The bill provides direct payments to households: \$1,200 for individuals and \$2,400 for joint filers, with an extra \$500 per child. Those amounts phase out by 5 percent of adjusted gross income above \$75,000 for single filers and \$150,000 for married couples. The rebate amount is reduced by \$5 for each \$100 that a taxpayer's income exceeds the phase-out threshold. The amount is completely phased-out for single filers with incomes exceeding \$99,000, \$146,500 for head of household filers with one child, and \$198,000 for joint filers with no children. No action is required by the individual as the IRS will use information from the 2019 or 2018 tax filing.
- **Unemployment Insurance** – The bill includes significant funding for states' unemployment insurance systems. An additional \$600 per claimant per week for up to 16 weeks is included on top of what the claimant would normally receive under their state's unemployment system. Lastly, the bill funds an additional 13 weeks of unemployment benefits through December 31, 2020 to help those who remain unemployed after state unemployment benefits are no longer available.
- **Home Mortgages** -- Prohibits foreclosures on all federally-backed mortgage loans for a 60-day period beginning on March 18, 2020. Provides up to 180 days of forbearance for borrowers of a federally-backed mortgage loan who have experienced a financial hardship related to the CV-19 emergency. Applicable mortgages included those purchased by Fannie Mae and Freddie Mac, insured by HUD, VA, or USDA, or directly made by USDA. This section terminates on the earlier of the termination date of the national emergency concerning the coronavirus or December 31, 2020. There is a 120 prohibition on evictions from any Federally-backed rental housing.

Other Programs Of Interest

These are all existing programs or formula funding streams where rural communities receive some direct or indirect benefit. These amounts are in addition to what the programs/formulas are provided annually.

- **Essential Air Service** -- \$56 million.
- **Airlines, Carrier, Contractors And Workers** -- \$61 billion. The airlines separately will receive \$25 billion in grants and \$25 billion in low interest loans in a new program to be run by the Treasury Dept. Air cargo carriers will receive \$8 billion split evenly between grants and loans. Half of the money provided to cargo carriers and airlines is set aside for maintaining payroll support for employees. \$3 billion is provided for airport contractors for the same purpose. Separately, the Secretary of Transportation may require any carrier receiving funding to maintain existing scheduled air service.
- **FAA Airport Improvement Program Grants** -- \$10 billion. 37 percent of the funding will be allocated to all commercial service airports based on an airport's 2018 enplanements as a percentage of total 2018 enplanements for all commercial service airports. 37 percent of the funding will be awarded following the same calendar year formula but on the basis of debt service ratio. Grants are at 100 percent Federal cost share. \$100 million is included for general aviation airports.
- **Economic Development Administration** -- \$1.5 billion
- **Community Development Block Grants** -- \$5 billion

- **Army Corps of Engineers Dredging** -- The bill includes language fully dedicating Harbor Maintenance Tax collections to dredging starting in 2021. This provision will result over the long-term in a significant increase in Corps dredging funding.
- **Mass Transit Infrastructure Grants (AMHS is considered mass transit)** -- \$25 billion
- **USDA Rural Broadband Grants** -- \$100 million
- **State & Local Law Enforcement Assistance** -- \$850 million through the Byrne formula grant program.
- **Coast Guard** -- \$141 million for operations and support, including information technology and other infrastructure investment.
- **FEMA Emergency Food & Shelter Program** -- \$200 million. Separately, USDA will provide \$450 million in commodity food purchases for food banks.
- **FEMA Assistance To Firefighter Grants** -- \$100 million.
- **Low Income Housing Energy Assistance Program** -- \$900 million
- **State Child Care Block Grants** -- \$3.5 billion
- **Department of Education** -- \$30.8 billion for grants to states, higher education institutions, and local education agencies. Of this amount \$100 million is set aside for school cleaning and disinfection.
- **Corporation for Public Broadcasting** -- \$75 million in grants to local public TV and radio stations.
- **National Endowment of the Arts** -- \$75 million for State, regional and local art organizations.
- **Institute For Museum & Library Services** -- \$50 million in grants to States and tribes for expanded digital access.
- **Community Services Block Grant (CSBG)** -- \$1 billion to help communities address the consequences of increasing unemployment and economic disruption.
- **Postal Service** -- \$10 billion in borrowing authority from the Treasury.
- **USDA Rural Small Business & Industry Loan Program** -- authority to provide up to \$1 billion in additional loans.