

TO:
FR:
DT: 7/23/2020
RE: CARES 2.0 Summary

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Liability Reform (*Senate Judiciary*)

- Will include personal injury liability limitation (business liability protection), medical malpractice liability limitation, product liability limitation, and labor/employment liability protection.
- *Charles can provide a couple pages of detailed information on this if needed.

Revision to the Unemployment Benefits Program (*Senate Finance*)

- Goal is to make sure that no one is being paid more by not working. May include a lower, temporary flat payment disbursed during a transition period that is in addition to state unemployment. This amount would exist until states could transition to making a payment more closely tied to lost wages.
- Would work to prevent further layoffs by providing support to non-profits and state and local governments who are facing large unemployment insurance bills. These organizations are billed for 100% of the cost of unemployment claims, and the CARES Act provided 50% reimbursement to them. This provision would cover 75% of their cost to help them retain their employees.
- Would require those who apply for the pandemic unemployment insurance program (gig workers/self employed) to prove lost income, not just self-certify that they are eligible.
- Requirement and some funding for states to upgrade their unemployment insurance program, so that they could handle a surge in claims, be able to more easily adjust benefits, and better detect and prevent fraud.
- Would provide states with funding to help outside of unemployment insurance with the Temporary Assistance for Needy Families (TANF) program.

Employer Payroll Credit (*Senate Finance*)

- May include revisions to the employer payroll credit to ensure it's working for small and medium sized businesses. Also evaluates how larger businesses are able to use that credit and whether additional steps are needed to help them hire and not just retain workers that are coming off unemployment.

New COVID Related Incentives For Employers (*Senate Finance*)

- Will contain incentives for helping employers deal with increased costs from employee protection expenses. These incentives could help cover things like PPE, testing, testing supplies, reconfiguration and retrofitting.

Gig Economy (*Senate Finance*)

- Will contain a provision on the gig economy and how those independent contractors are operating, and dealing with the additional costs relating to additional health and safety requirements they need to meet to get back to work.

Payroll Tax Cut (*Senate Finance*)

- Senate Finance is still evaluating the possibility of a payroll tax cut in this bill, including the length of time it'd take to implement that relief, and how broadly it would apply and the frequency for employers to see a reduction in their payroll taxes.

Business Meal Deduction (*Senate Finance*)

- May include the proposal of increasing the deductibility of business meal expenses from the current 50% level to 100%.

Direct Economic Impact Payments (*Senate Finance*)

- Will probably include another round of economic impact payments to individuals. Bill writers are evaluating the issues that have come up in order for the Treasury Department to deploy and deliver those payments in a sufficient manner.

Health Related Items (*Senate Finance*)

- To prevent a spike in the Medicare Part B Premium for 2021, hold the premium that's in place for 2020 (\$104 a month base level) – shortfall would be made up with \$3 surcharge
- Advances on payments that Medicare providers could get as a result of the CARES Act. There was \$100 billion in advances in the CARES Act that was very popular, and this bill would push back the time that the providers would need to start repaying these loans from August 1st 2020 until January 1st 2021, and then provide more time on the back end.
- This bill would specify that telehealth expansion authorities for Medicare would be in place through the end of next year or until the end of the public health emergency.
- Individuals can roll over unused flexible spending account money from 2020 into 2021
- CARES Act coverage for on-site clinics under high deductible health plans would be extended through the end of 2021
- \$50 million in mandatory funds for states that would help individuals with foster kids that have aged out and that COVID related needs (includes housing)
- \$10 million additional dollars to help courts deal with moving many of their welfare hearings to an online format.

State and Local Funding (*Senate Finance*)

- As background, the CARES Act gave \$150 billion in “Coronavirus Relief Funds” to state and localities to cover COVID related expenditures through the end of 2020.

- This bill extends the end date that states and localities can use this money from December 30, 2020, to 90 after the last day of a government's fiscal year 2021.
- It also expands allowable uses of funds to cover revenue shortfalls, the period of which you can cover is March 1st 2020 to the last day of the government's fiscal year 2021
 - Conditions for that money include a requirement that the government has to distribute as least 50% of the money it has received to downstream governments.
 - Recipients also cannot use funds for pensions and post-employment benefits or for replenishing rainy-day funds.
 - Recipients cannot oppose additional restrictions on downstream governments for the disbursement of funds.
- New accountability provisions for reporting and record keeping that are in line with DoT's IG, where the IG would periodically report to Congress on use of funds.

Tax Provision (*Senate Finance*)

- This bill looks at uniform procedures that state and local governments would look to in terms of imposing their state and local taxes on out-of-state residents as well as the withholding rules that would apply on workers that would normally work in one state but are working remotely in a different state due to COVID-19.

Paycheck Protection Program (*Small Business*)

- Extends authorization for the program through December 31st, 2020.
- This bill would provide a second draw from the PPP for certain businesses. Would allow businesses including the self-employed and independent contractors that meet the SBA's revenue size standard or have 300 or fewer employees, and demonstrate at least a 50% reduction in gross revenue (comparing a 2020 quarter to the same in 2019).
- Whereas the first PPP was for 500 employees or less, this would move it to 300 or fewer employees and require a 50% reduction in revenue in order to get this second loan.
- The size of this loan would be 2.5x the average monthly payment cost with a maximum amount of \$2 million.
- Makes "covered supplier costs" and "covered worker protection expenditures" (both must be essential to the PPP recipient's operations) allowable/forgivable uses for PPP funds.
- Cloud services, payroll software, and property damage cost due to recent rioting is also now covered as a forgivable expense.
- This proposal increases the lender's safe harbor provision so that no enforcement action can be taken against a lender who in good faith relied on a certification/documentation submitted by a borrower.
- Expands eligibility to 501(c)(6) non-lobbying organizations (small chambers of commerce) that have 50 or fewer employees with a covered loan no more than \$500k.
- Creates a more simplified application process for loans up to \$2 million
- Expands the seasonal employer definition to one who operates for no more than seven months in a year or earns no more than 1/3 of its receipts in any six months in the prior calendar year.
- Includes Farm Credit Administration lenders in PPP

- Establishes a long-term working capital product for businesses who need working capital.
- Will allow for eligible small business to access a longer-term 7a loan, that's a regular 7a loan up to 2x their annual revenue up to a limit of \$10 million
 - Businesses eligible for this must meet the SBA's revenue standard or employ 300 or fewer employees.
- Establishes a revolving fund that harnesses private sector investment. This fund would operate without federal funding but needs a one-time appropriation to be established. Similar to an SBIC venture.

Appropriations

- Total package of provisions below is \$302.8 billion
- The majority of this goes to Labor-HHS with \$235.1 billion
- Of the remaining part, roughly 1/3 of it is for farmers, 1/3 is for defense, and the balance is for various agency expenses such as fee shortfalls.
- **Regarding farmers, there is \$20 billion of additional funding to growers, producers, and processors who are impacted by COVID-19**
- Defense is \$21.3 billion. Of that amount, \$2.6 billion is for operations and maintenance (construction of facilities for temporary separation of individuals deploying or returning from overseas). \$5.3 billion is COVID-19 Defense Protection Act (DPA) purchases. Roughly \$11 billion for payments to contractors authorized through section 3610 of CARES.
- \$1.5 billion to NASA for furloughs (3610 payments)
- Couple hundred million dollars for TSA
- Just short of a billion dollars for FEMA grants (assistance to firefighter grants, emergency food and shelter program)
- \$1.6 billion for customs and border protection (fee shortfalls to continue immigration processing)
- \$1.6 billion for the Indian Health Service
- MILCON-VA: No new funding, there are a handful of provisions that allow for transfers of funds provided in CARES for certain purposes to other purposes suffering COVID-19 impact
- State and Foreign Ops: \$425 million for consular and border security (fee shortfall issue)
- \$5 billion for GAVI (vaccine alliance and distribution abroad)
- T-HUD: \$13 billion
 - \$10 billion of which is for the Airport Improvement Program (AIP) – that same amount was provided in CARES.
- Labor-HHS is divided into four buckets:
 - Getting back to work
 - Developing, manufacturing, and distributing vaccines and treatments
 - Maintaining access to care
 - Getting our children back into schools
- On getting back to work, there is..
 - \$25 billion for testing
 - \$1.3 billion for workforce training

- \$15 billion for child care.
- On vaccines and therapeutics
 - \$26 billion for distributing, manufacturing, and development
 - \$15.5 billion for NIH to reopen labs and continue COVID research
- On maintaining access to care
 - \$7.6 billion to community health centers
 - \$25 billion to hospital and provider fund
 - 4.5 billion for mental health, suicide prevention, and substance abuse treatment
- On getting our children back to schools
 - \$105 billion total
 - \$5 billion for Governor's Fund which they can use for elementary and secondary or institutions of higher education
 - \$25 billion to higher education, going directly to schools and they can use that money for student aid
 - \$70 billion to elementary and secondary schools
 - 10% reserved for private schools
 - Remainder into two pots
 - First pot goes out within 15 days from the Secretary and states will have 15 days to distribute
 - Additional pot will be reserved for schools going back and having physically in their opening plan. More expense related for cleaning, more teacher aid, and more.
- Bill would include Senator Romney's TRUST ACT
 - Would create congressional committees to evaluate how to bolster solvency or make other changes to improve the following programs:
 - Social Security Old-Age and Survivors Insurance
 - Social Security Disability Insurance
 - Medicare Hospital Insurance
 - Highway Trust Fund.
 - Once the TRUST Act is passed, Treasury would have 30 days to deliver a report to Congress on the status of the funds.
 - Congressional leaders would form a rescue committee for each trust fund. Those committees would be tasked with coming up with legislation to repair those funds' solvency and identify other improvements the programs may need.
 - At least two members of each party would be required to work on the legislation.
 - The proposal also says that any qualifying bills that emerge from the process get expedited consideration in both the House and Senate.