

Coronavirus Notice: Daily Legislative Updates

March 24 Legislative Updates

Coronavirus “Phase 3” Negotiations Ongoing

Senate leaders are this afternoon indicating they could be close to a third emergency supplemental deal to respond to the economic crisis caused by the Coronavirus, even as House Democrats released their own \$2.5 trillion counteroffer.

Treasury Secretary Steven Mnuchin met repeatedly with Senate Minority Leader Chuck Schumer (D-NY) throughout Monday to resolve Democrats’ complaints about the Republican legislation. On that notion, Senate Minority Leader Schumer indicated that negotiations were on the “2-yard line.” Speaker of the House Nancy Pelosi (D-CA) signaled that a deal on the third Coronavirus stimulus package initially drafted by Senate Republicans is imminent.

The ‘Phase 3’ bill, estimated to cost \$2 trillion, would provide hundreds of billions of dollars to small business and impacted industries, such as airlines. The bill would also give direct payments to Americans and includes some income caps. Here is the [latest version](#) of Division A, the policy provisions part of the bill. Assuming bipartisan agreement, the Senate is expected to vote on the package tonight or tomorrow. Then, assuming Senate passage, Speaker Pelosi has said she hopes the House can reach an agreement to pass the package through the House by unanimous consent. However, initial reports from House Republicans indicate they fear at least one member will object.

On a call with his caucus this afternoon, House Majority Leader Steny Hoyer (D-MD) said there is talk of a fourth and fifth bill aimed at providing relief from the Coronavirus. Senator Roy Blunt (R-MO) told reporters that he believes the Senate will recess after voting on Phase 3 for approximately three weeks and return to consider Phase 4.

Dept. of Labor Releases Guidance on FFCRA

On Tuesday, March 24, 2020, the U.S. Department of Labor’s Wage and Hour Division (WHD) released guidance on the Families First Coronavirus Response Act (FFCRA) paid leave provisions. The FFCRA designates funds for American businesses with fewer than 500 employees to provide paid leave for employees who may have health needs or who may have to care for family members. The paid leave provisions are set to take effect on April 1, 2020 through Dec. 31, 2020.

The guidance provides employers and employees with information, including:

- 1) How an employer calculates the total number of employees for coverage;
- 2) How small businesses can secure an exemption;
- 3) How to calculate hours for part-time employees; and
- 4) How to determine wages employees are entitled to under the law.

The WHD released a [Fact Sheet for Employers](#), a [Fact Sheet for Employees](#), and a [Questions and Answers Sheet](#). The WHD’s COVID-19 and the Workplace [webpage](#) also provides additional information on COVID-19 related to the Fair Labor Standards Act the Family and Medical Leave Act.

Help Inform FFCRA Assistance Materials, Strategies

The U.S. Department of Labor will be hosting a national online dialogue to provide employers and employees with an opportunity to offer their perspective as the department develops compliance assistance materials and outreach strategies related to the implementation of the Families First Coronavirus Response Act (FFCRA). The ideas and comments gathered from this dialogue will inform compliance assistance guidance, resources, and tools, as well as outreach approaches, that assist employers and employees in understanding their responsibilities and rights under the FFCRA. Input is needed by March 29, 2020. Anybody who is interested can participate online at <https://ffcra.ideascale.com> from March 23 through March 29, 2020 or can join a Twitter chat hosted by @ePolicyWorks on March 25, 2020 at 2 p.m. using the hashtag #EPWChat.

March 23 Legislative Updates

Third Coronavirus Stimulus Bill Stalled

Following one failed procedural vote on March 22 and another on March 23, the Senate is continuing to negotiate details of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act would provide checks directly to many individual taxpayers, provide additional loan support and funding for small businesses, as well as provide targeted relief to passenger and cargo air carriers and other industries severely impacted during this crisis. Currently, the outlook of the CARES Act is uncertain. Senate Minority Leader Chuck Schumer (D-NY) said Monday afternoon he was close to a deal with Treasury Secretary Steven Mnuchin that would have the support of Senate Democrats and the White House. [Click here](#) to view NAPA summary.

Important changes made over the weekend include expanding the individual rebate program slightly by eliminating the \$2,500 minimum income requirement, increasing the amount for business relief to \$500 billion, and increasing the amount included for Small Business Interruption Loans from \$300 billion to \$350 billion and extending forgiveness eligibility to firms that rehire laid-off employees by April 1, 2020.

On the other side of the Capitol, House Speaker Nancy Pelosi (D-CA) introduced a competing bill backed by House Democrats, the Take Responsibility for Workers and Families Act. She said the House bill would boost unemployment insurance and prevent companies that receive federal help from firing workers, increasing executive pay or buying back stock. The House measure would fund hospitals' virus response and would call for the president to use the Defense Production Act to shore up critical supplies. According to a statement from Pelosi's officer, it would also increase funds for schools and food assistance as well as help states expand early and absentee voting.

March 20 Legislative Updates

Coronavirus Aid, Relief, and Economic Security (CARES) Act Summary

On March 19, Senate Majority Leader Mitch McConnell (R-Ky.) introduced the Coronavirus Aid, Relief, and Economic Security Act – or CARES – Act. The aim of the CARES Act is to provide emergency financial and health care assistance to individuals, families, and businesses affected by the coronavirus pandemic. See below to read more about the provisions included in the CARES Act.

Small Business Interruption Loans

The CARES Act expands the Small Business Administration's (SBA) 7(a) loan program. The 7(a) loan program is the SBA's primary, non-disaster lending program. The bill proposes to broaden the program's authority significantly by including all small businesses and non-profit entities with 500 or fewer employees. Businesses with more than 500 employees would be allowed to qualify if the covered industry's SBA standard size allows for more than 500 employees. For eligibility purposes, the bill requires lenders to, instead of determining a business's repayment ability, to determine whether a business was operational on March 1, 2020, and had employees for whom it paid salaries and payroll taxes.

The Act increases the Federal government's guarantee of 7(a) loans to 100% through Dec. 31, 2020, and appropriates \$299.4 million for the cost of fully guaranteeing the loans. It also eliminates the limit on SBA's 7(a) lending authority, which is currently \$30 billion for 2020. Businesses will be able to completely defer 7(a) loan payments for not more than one year, and the SBA will issue guidance on the deferment process within 30 days of enactment.

Eligible expenses include payroll support, such as paid sick or medical leave, employee salaries, mortgage payments and any other debt obligations. Any borrower who receives a 7(a) loan for any of the above reasons is not allowed to receive an SBA economic injury disaster loan (EIDL) for the same purpose, or to comingle funds from another loan for the same purpose.

Relief for Businesses

The provision allows corporations to postpone estimated tax payments due after the date of enactment until Oct. 15, 2020. There is no cap on the amount of tax payments postponed. It also 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. All employers are responsible for paying a 6.2 % 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 Dec. 31, 2021, and the other half by Dec. 31, 2022.

Leave Program Modifications

The measure would amend the emergency sick leave program enacted under the second coronavirus response measure. Paid sick leave requirements for employers would expire after a worker has been paid for 80 hours of leave or returned to work after taking leave, whichever is earlier. Certain workers laid off on or after March 1, 2020, would be eligible to receive family leave benefits if they're rehired.

The measure would expand the Labor Department's authority to issue regulations to exempt businesses with fewer than 50 workers from paid sick leave requirements related to caregiving for another quarantined individual or child whose school or day care has closed.

The measure would apply the same caps on the amount employers would be required to pay per employee for the leave programs, which are:

- \$200 per day, or \$10,000 total, for family leave related to care for a child whose school or day care has closed because of the coronavirus.
- \$511 per day, or \$5,100 total, for sick leave related to a worker's quarantine or diagnosis.
- \$200 per day, or \$2,000 total, for sick leave related to caregiving for another quarantined individual or child whose school or day care has closed.

Next Steps

One reason for a possible delay is there are fundamental differences over what should be included in Phase 3 that need to be resolved. "We need to work together quickly and do something big and bold that helps the American people," said Senate Minority Leader Chuck Schumer (D-N.Y.), before the start of the meeting. "Sen. McConnell's bill is not pro worker at all, it puts corporations ahead of people." Many Democrats have echoed the Minority Leader's comments and Speaker Pelosi has made similar statements. Democrats continue to insist that their priority in talks will be on individuals and health care infrastructure. Negotiations are ongoing.

Outside interest groups are trying to inject clean energy taxes and infrastructure into the stimulus debate. The League of Conservation Voters, the Sierra Club, and more than a dozen other green groups sent a [letter](#) to congressional leaders today asking them to exclude any support for fossil fuel companies and to boost industries "leading the transition to clean energy and net-zero carbon emissions." Instead, they want money for public transit agencies suffering low ridership amid the pandemic and extensions for clean energy tax incentives, as

companies put off business and delay rooftop solar installations.

Various other groups, including the Carbon Capture Coalition, are also [asking](#) for their priorities to be included. Some Republicans are pressing for oil and gas relief. Gulf Coast lawmakers, including House Minority Whip Steve Scalise (R-La.) and Rep. Dan Crenshaw (R-Texas), [want](#) the Interior Department to temporarily cut royalties for oil and gas drillers on public lands and waters.

NAPA expects a Phase 3 bill to be passed this week. NAPA understands a Phase 4 bill focused on appropriations for affected industries and possibly other emergency bills will follow, depending on how the pandemic progresses.

March 19 Legislative Updates

DHS Outlines Critical Infrastructure Workforce

On March 19, the Department of Homeland Security (DHS) [outlined](#) the types of employees in the public health, law enforcement, food, defense, and 12 other "critical" industries who should maintain their usual work schedules to aid the nation's response to the coronavirus outbreak. The breakdown within the 16 critical infrastructure sectors is a recommendation, not a federal mandate, and DHS leaves the final decisions to state and local governments. Some states are including construction and mining in their notices while others simply allude to our industry. The initial list of "Essential Critical Infrastructure Workers" is developed "to help state and local official as they work to protect their communities, while insuring continuity of functions critical to public health and safety, as well as economic and national security." The list identified workers that are essential to critical infrastructure viability including working construction and the transportation and logistics industries, which includes highways and the public work industries (see details in bulleted list below). NAPA is working in coalition with other materials associations to urge inclusion of the construction workforce as an essential business.

Note that the transportations system sector has been identified as essential critical infrastructure and includes: Highway and Motor Carriers: Encompasses more than 4 million miles of roadway, more than 600,000 bridges, and more than 350 tunnels. Vehicles include trucks, including those carrying hazardous materials; other commercial vehicles, including commercial motorcoaches and school buses; vehicle and driver licensing systems; traffic management systems; and cyber systems used for operational management.

Public Works: Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues.

<https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>

Third Coronavirus Emergency Supplemental Update

With the Senate passing the Second Coronavirus Emergency Supplemental and President Trump signing the bill into law on March 18, attention now shifts to a third package. The first package focused on funding the health care sector's response to COVID-19. The second package, HR 6201 Families First Coronavirus Response Act, focused on providing funding for families, food banks, unemployment, and childcare. The third bill will focus on stimulating the economy.

Senate Majority Leader Mitch McConnell (R-KY) stated that the Senate will remain in session until the third package is finished. He would not predict when a bill would be ready for a vote, but he was quick to remark that the Senate is moving at a rapid pace. There are indications on Capitol Hill that Senate Republicans will release their version of a third coronavirus response package on March 20.

According to Senate Republicans, the fourth package will be based on four "pillars:" 1) small business relief, 2) direct payments to individuals, 3) "targeted lending" to affected sectors, and 4) more appropriations for the

healthcare system, hospitals, and medical supplies. In terms of targeted lending, McConnell unequivocally stated these would not be “bailouts” to affected small businesses and key sectors but would be loans that must be repaid. Senate Democratic leadership priorities include worker protections, “a massive infusion of resources” for the healthcare infrastructure, a new form of unemployment insurance, student loan payoffs and checks for Americans greater than the \$1,000 amount that has been floated.

On the other side of the Congress, Speaker of the House Nancy Pelosi (D-CA-12) sent a [letter](#) to House Democrats, late last night, indicating that House Leadership has three areas of concern for the next bill: 1) unemployment insurance, 2) increased Medicaid funding, and 3) further assistance to small businesses.

It’s unclear if the bill will run into partisan roadblocks. While McConnell wants agreement within his caucus first, Senate Minority Leader Schumer (D-NY) and Pelosi have said they would prefer to hold immediate bipartisan negotiations among congressional leadership.

As work on “phase 3” is underway, McConnell also noted that a fourth package will likely follow.

House Schedule Adjusted

House Majority Leader Steny Hoyer informed members via a [Dear Colleague letter](#) that he will be adjusting the House schedule to require less time at the Capitol in an effort to halt the virus’ spread among lawmakers. This follows the news that at least two members of Congress have tested positive for the novel coronavirus, and others have self-quarantined after potential exposure. Lawmakers will not be required to return to Washington, D.C. until the next stimulus package is ready for a vote. Hoyer also confirmed that the House would adjust voting procedures to comply with guidance from federal health agencies, which have strongly warned against all gatherings of more than 50 people. Democrats have considered ideas like holding the vote open longer to limit the number of lawmakers on the floor at one point. Hoyer did not address the possibility of allowing members to vote remotely from their districts. Speaker Nancy Pelosi has privately dismissed the idea of voting outside of the Capitol in past meetings, as have House GOP leaders, though lawmakers and aides have acknowledged that the situation is fluid.

March 18 Legislative Updates

NAPA Signs on to Request for Additional AIP Funding

NAPA along with several other organizations [signed a letter](#) urging Congress to take immediate action to help mitigate the adverse effects COVID-19 has had on the aviation industry. Specifically, the organizations are asking Congress to authorize an additional \$10 billion in Airport Improvement Grants (AIP) to help continue airport capital projects and programs that are currently underway, including facility projects that are mission critical. ACI-NA reports that airports are currently projecting almost \$9 billion in lost revenues due to the reduction in travelers. Airport operating revenue is expected to drop by \$7.6 billion and PFC revenues are anticipated to drop by \$1.1 billion. This loss in revenues will have immediate impacts on airport construction projects and programs that are currently underway.

NAPA Submits H.R. 6201 Concerns to Senators

President & CEO of NAPA Dr. Audrey Copeland wrote a [letter](#) to Senators Mitch McConnell and Chuck Schumer requesting improvements to H.R. 6201, the Families First Coronavirus Response Act. Copeland explained that NAPA cannot support legislation that requires businesses with 500 and fewer employees to provide 12 weeks of paid leave, assume liquidity, and a tolerance for debt that simply does not exist at this time. Ninety percent of the construction industry businesses are small, with 20 or fewer employees that depend upon reliable cash flows to meet the capital-intensive demands of maintaining existing payrolls with construction project execution needs. As such, NAPA fears that these mandates will accelerate layoffs and supply chain issues resulting in mass small and medium business closures among so many employers already exposed to cash-flow difficulties.

NAPA Signs on to Coalition Letter

NAPA, along with 104 other organizations, signed on to a [letter](#) to Senators Mitch McConnell and Chuck Schumer, asking Congress to consider improvements to H.R. 6201, the Families First Coronavirus Response Act. The letter proposes that a better approach would be a public program administered by the federal government to provide compensation for COVID-19 related leave. One example is the proposed program in [H.R. 6198](#), under which the Social Security Administration (SSA) would provide financial assistance to American workers impacted by COVID-19.

Trump Administration Seeks \$1 Trillion for an Economic Stimulus Package

On March 17, Treasury Secretary Steven Mnuchin proposed a \$1 trillion economic stimulus package to Senate Republicans in order to combat the economic strain and downturn the coronavirus has caused. The proposal comes on the heels of two major pieces of legislation that lawmakers have pushed to address the growing crisis. It is the most far-reaching economic rescue packages since the financial crisis in 2008.

The proposal authorizes \$300 billion for the creation of the Small Business Interruption Loans Program. The federal government would provide a 100% guarantee on any qualifying small business interruption loan. Qualifying loan terms are:

- Eligible borrowers: Employers with 500 employees or less (phased out)
- Loan amounts: 100% of 6 weeks of payroll, capped at \$1,540 per week per employee (approx. \$80,000 annualized)
- Borrower requirement: Employee compensation must be sustained for all employees for 8 weeks from the date the loan is disbursed.
- Lender: U.S. financial institutions
- Streamlined underwriting process: Lender verifies the previous 6-week payroll amount and later verifies that the borrower has paid 8 weeks of payroll from date of disbursement.
- Authority for the Treasury Department to issue regulations establishing appropriate interest rate, loan maturity, and other relevant terms and conditions

Also included in the \$1 trillion economic stimulus proposal would be \$50 billion to the Airline Industry Secured Lending Facility, which would authorize the use of the funds for secured lending to U.S. passenger and cargo air carriers. The Treasury Department indicated it will later determine appropriate interest rates. Requirements on borrowers would include, 1) specified continuation of service requirements, and 2) limits on increases in executive compensation until repayment of the loans.

Another provision would appropriate an additional \$150 billion and authorize use of those funds for secured lending or loan guarantees to assist other critical sectors of the U.S. economy experiencing severe financial distress due to the COVID-19 outbreak.

The proposal would also temporarily permit the use of the exchange stabilization fund to guarantee money market mutual funds.

The largest chunk of the stimulus package would be economic impact payments. This provision would authorize and appropriate funds for two rounds of direct payments to individual taxpayers, to be administered by the IRS and Bureau of the Fiscal Service: \$250 billion to be issued beginning April 6 and \$250 billion to be issued beginning May 18. Amounts sent to each taxpayer would be fixed and tiered based on income level and family size, and each round of payments would be identical in amount.

Read More: [The Washington Post](#)

Senate Passes Second Economic Impact Package

On March 18, the Senate passed by a vote of 90 to 8 the second economic impact package, sending it to the President's desk for signature. While there were objections from some Republican senators, Leader McConnell (R-KY) described it as, "a well-intentioned bipartisan product assembled by House Democrats and President Trump's

team that tries to stand up and expand some new relief measures for American workers." The bill passed after votes on amendments offered by Senators Paul (R-KY), Johnson (R-WI), and Murray (D-WA) failed.

Trump Administration Requests Additional \$48.5 Billion in Emergency Funding to Combat the Coronavirus
On March 17, the Office of Management and Budget (OMB) made public in a [letter](#) to Congress its budget requests for an additional \$48.5 billion in supplemental funding for cabinet departments and federal agencies to respond to the coronavirus outbreak.

Acting Director of the Office of Management and Budget Russell Vought stated the "aim of this request is to maintain that capacity and ensure that resource needs created by the pandemic response are met," and "it is not intended as a broad-based solution to the major economic dislocation wrought by the virus, nor is it the primary means by which the Federal Government plans to address the hardships of families, individuals, and communities who have been touched by the disease."

Read More: [CNN](#)

FCC Keep Americans Connected Pledge

On March 13, the Federal Communications Commission (FCC) launched its "Keep Americans Connected Pledge" to ensure that vulnerable communities and populations keep their access to internet and phone service during the coronavirus pandemic. Providers that sign the pledge promise to:

1. Not terminate service to any residential or small business customers because of their inability to pay their bills due to the disruptions caused by the coronavirus pandemic;
2. Waive any late fees that any residential or small business customers incur because of their economic circumstances related to the coronavirus pandemic; and
3. Open its Wi-Fi hotspots to any American who needs them.

Almost 200 providers have signed the pledge, including major corporations such as Verizon and Comcast. You can see if local providers in your community have signed on by going [here](#) and clicking on "pledges."

March 16 Legislative Updates

President Trump Issues Coronavirus Guidance

Today, the President announced [new guidelines](#) to be distributed to state and local leaders to assist communities in fighting COVID-19, aiming to drastically slow the spread of the disease over the next 15 days.

Senate Update: Families First Coronavirus Response Act

Last week, with the House passing the Families First Coronavirus Response Act (H.R. 6201), the second emergency supplemental funding bill to combat the spread of the novel coronavirus, Senate Majority Leader Mitch McConnell (R-KY) cancelled a previously scheduled recess for this week in order to finalize the package. With respect to the second supplemental funding bill, Majority Leader McConnell indicated the Senate still needs to receive the final version of the House bill and that Senators are taking time to carefully review the legislation.

McConnell went on to further state that he has spoken at length with the chairmen of several key committees about next steps. This runs parallel with Speaker of the House Nancy Pelosi's (D-CA-12) previous statement that this second supplemental to combat COVID-19 will not be the last.

As indicated by McConnell, the next areas of focus are:

- Helping Americans overcome financial challenges in the weeks and months ahead;
- Securing the nation's economy, particularly Main Street small businesses; and
- Readyng the healthcare system and supporting medical professionals.

- The timeline for passage remains unclear. While H.R. 6201 passed the House on March 14, the Senate is not expected to consider it until later this week. The Senate came back into session on March 16. The first item on the agenda was a surveillance bill, also passed by the House last week. The unanimous consent of every senator is needed in order to consider H.R. 6201 before finishing work on the surveillance bill. Given that some Republican senators have expressed hesitations about H.R. 6201, it is unclear if there will be unanimous consent to consider the bill.

Department of Health and Human Services, Federal Emergency Management Agency Update

On March 13, President Donald Trump declared a nationwide emergency concerning the novel coronavirus (COVID-19) pursuant to powers delegated to him under Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the "Stafford Act"). With the designation of COVID-19 as a "disaster" for legal purposes, the Stafford Act is in play.

The March 13 declaration increases federal support to the Department of Health and Human Services (HHS), which has been designated as the lead federal agency for the ongoing federal response to COVID-19. While the Federal Emergency Management Agency (FEMA) is directed to assist state, local, tribal, territorial governments and other eligible entities with the health and safety actions, they will be in support of HHS and in coordination with state, tribal and territorial governments. Therefore, FEMA has stated it will not and cannot duplicate assistance provided by HHS.

With the two agencies working in tandem, and HHS taking the lead, top staff in the House and the Senate met with HHS and FEMA, as well as Centers for Disease Control (CDC) officials and requested a line-by-line explanation of what eligibilities will be handled by which of the two agencies. From what the NAPA Government Affairs team understands, that agreement between HHS and FEMA on which agency will take what may be far from completion.

Also, there are questions as to how the President will secure \$50 billion of emergency funding through his national emergency declaration. Under the Disaster Relief Fund, there is only \$594 million currently available for public health emergencies. Congress has asked for more information on the \$50 billion number that the President has referenced. Congress would likely be skeptical of the President trying to access the previously appropriated \$40 billion for natural disaster relief and Pre-Disaster Mitigation portions of the Disaster Relief Fund for this emergency.