TAX

Ways and Means Chairman Neal Tells the Conference of Mayors that House Democrats will be Rolling Out a Plan to Help States and Localities

Key Points:
- House Democrats will be rolling out a plan to assist states in localities with budget shortfalls due to COVID-19.
- Republicans have argued states and localities have already received significant funding in the first three COVID-19 relief packages. Ranking Member Brady specifically cited Medicaid, Unemployment Insurance, and disaster relief. President Donald Trump has stated he would want to obtain some immigration concessions form Democrats with regards to sanctuary cities or assistance to “poorly managed states.” Senate Majority Leader McConnell (R-KY) warned against potential “blue state bailouts,” for states like New York, New Jersey, and Illinois. Meanwhile, Moody’s Analytics has reported the state most in need is Louisiana, and Leader McConnell’s home state of Kentucky is also at risk of serious budget shortfalls.

The question remains will the GOP be in favor of this relief. House Ways and Means Committee Ranking Member Representative Brady (R-TX) made the argument states and localities have already received a significant amount of funding in the first three COVID-19 relief packages. Ranking Member Brady specifically cited Medicaid, Unemployment Insurance, and disaster relief. President Donald Trump has stated he would want to obtain some immigration concessions form Democrats with regards to sanctuary cities or assistance to “poorly managed states.” Senate Majority Leader McConnell (R-KY) warned against potential “blue state bailouts,” for states like New York, New Jersey, and Illinois. Meanwhile, Moody’s Analytics has reported the state most in need is Louisiana, and Leader McConnell’s home state of Kentucky is also at risk of serious budget shortfalls.

On Wednesday, House Ways and Means Committee Chairman Neal (D-MA) told the Conference of Mayors via Zoom, that House Democrats will be rolling out their plan to assist states and localities with budget shortfalls due to decreased revenue from COVID-19. The revenue mechanisms include tax-advantaged borrowing programs known as “Build American Bonds.” Chairman Neal told the nation’s mayors that “we will insist on our side that the package include direct assistance to all of you.”

The question remains will the GOP be in favor of this relief. House Ways and Means Committee Ranking Member Representative Brady (R-TX) made the argument states and localities have already received a significant amount of funding in the first three COVID-19 relief packages. Ranking Member Brady specifically cited Medicaid, Unemployment Insurance, and disaster relief. President Donald Trump has stated he would want to obtain some immigration concessions form Democrats with regards to sanctuary cities or assistance to “poorly managed states.” Senate Majority Leader McConnell (R-KY) warned against potential “blue state bailouts,” for states like New York, New Jersey, and Illinois. Meanwhile, Moody’s Analytics has reported the state most in need is Louisiana, and Leader McConnell’s home state of Kentucky is also at risk of serious budget shortfalls.

Key Points:
- House Democrats will be rolling out a plan to assist states in localities with budget shortfalls due to COVID-19.
- Republicans have argued states and localities have already received significant funding in the first three COVID-19 relief bills.

On Wednesday, House Ways and Means Committee Chairman Neal (D-MA) told the Conference of Mayors via Zoom, that House Democrats will be rolling out their plan to assist states and localities with budget shortfalls due to decreased revenue from COVID-19. The revenue mechanisms include tax-advantaged borrowing programs known as “Build American Bonds.” Chairman Neal told the nation’s mayors that “we will insist on our side that the package include direct assistance to all of you.”

The question remains will the GOP be in favor of this relief. House Ways and Means Committee Ranking Member Representative Brady (R-TX) made the argument states and localities have already received a significant amount of funding in the first three COVID-19 relief packages. Ranking Member Brady specifically cited Medicaid, Unemployment Insurance, and disaster relief. President Donald Trump has stated he would want to obtain some immigration concessions form Democrats with regards to sanctuary cities or assistance to “poorly managed states.” Senate Majority Leader McConnell (R-KY) warned against potential “blue state bailouts,” for states like New York, New Jersey, and Illinois. Meanwhile, Moody’s Analytics has reported the state most in need is Louisiana, and Leader McConnell’s home state of Kentucky is also at risk of serious budget shortfalls.

Key Points:
- House Democrats will be rolling out a plan to assist states in localities with budget shortfalls due to COVID-19.
- Republicans have argued states and localities have already received significant funding in the first three COVID-19 relief bills.

On Wednesday, House Ways and Means Committee Chairman Neal (D-MA) told the Conference of Mayors via Zoom, that House Democrats will be rolling out their plan to assist states and localities with budget shortfalls due to decreased revenue from COVID-19. The revenue mechanisms include tax-advantaged borrowing programs known as “Build American Bonds.” Chairman Neal told the nation’s mayors that “we will insist on our side that the package include direct assistance to all of you.”

The question remains will the GOP be in favor of this relief. House Ways and Means Committee Ranking Member Representative Brady (R-TX) made the argument states and localities have already received a significant amount of funding in the first three COVID-19 relief packages. Ranking Member Brady specifically cited Medicaid, Unemployment Insurance, and disaster relief. President Donald Trump has stated he would want to obtain some immigration concessions form Democrats with regards to sanctuary cities or assistance to “poorly managed states.” Senate Majority Leader McConnell (R-KY) warned against potential “blue state bailouts,” for states like New York, New Jersey, and Illinois. Meanwhile, Moody’s Analytics has reported the state most in need is Louisiana, and Leader McConnell’s home state of Kentucky is also at risk of serious budget shortfalls.

Key Points:
- House Democrats will be rolling out a plan to assist states in localities with budget shortfalls due to COVID-19.
- Republicans have argued states and localities have already received significant funding in the first three COVID-19 relief bills.

On Wednesday, House Ways and Means Committee Chairman Neal (D-MA) told the Conference of Mayors via Zoom, that House Democrats will be rolling out their plan to assist states and localities with budget shortfalls due to decreased revenue from COVID-19. The revenue mechanisms include tax-advantaged borrowing programs known as “Build American Bonds.” Chairman Neal told the nation’s mayors that “we will insist on our side that the package include direct assistance to all of you.”

The question remains will the GOP be in favor of this relief. House Ways and Means Committee Ranking Member Representative Brady (R-TX) made the argument states and localities have already received a significant amount of funding in the first three COVID-19 relief packages. Ranking Member Brady specifically cited Medicaid, Unemployment Insurance, and disaster relief. President Donald Trump has stated he would want to obtain some immigration concessions form Democrats with regards to sanctuary cities or assistance to “poorly managed states.” Senate Majority Leader McConnell (R-KY) warned against potential “blue state bailouts,” for states like New York, New Jersey, and Illinois. Meanwhile, Moody’s Analytics has reported the state most in need is Louisiana, and Leader McConnell’s home state of Kentucky is also at risk of serious budget shortfalls.
Chairman Neal made the case that while earlier rounds of legislation included funding for small businesses, individuals, and hospitals, they have lacked needed unrestricted funding for state and local governments. Chairman Neal also cited his positive relationship with Treasury Secretary Mnuchin and noted he does not want this issue to become contentious. In the absence of direct aid from Congress, the Federal Reserve has taken steps to help state and local governments by buying their bonds since the pandemic took hold of the U.S. economy, a backstop meant to keep issuance flowing while preventing costs from ballooning.

**Other Issues in Play for COVID-4/CARES 2**

During the virtual meeting, Chairman Neal encouraged the nation’s mayors to continue pushing for infrastructure investment, citing the President’s desire to complete such projects. Leader McConnell has signaled he would not be in favor of including infrastructure in this round of legislation. In a press conference earlier this week President Trump expressed desire to complete funding for infrastructure in this package or in a separate bill like Congressional Republicans have wanted. Additionally, Chairman Neal has discussed the expansion of employee retention credits under the fourth round of COVID-19 relief funding, which would be made public sometime near the date the House returns on May 11. Under the Coronavirus Aid Relief and Economic Security Act (CARES Act) the employee retention credit offers eligible businesses a refundable tax credit of 50% of up to $10,000 in wages paid if their business has been impacted by COVID-19. The credit applies for wages paid to employees between March 12, 2020 and January 1, 2021.

**IRS Provides FAQs on Employee Retention Credit**

The IRS issued lengthy FAQ’s on the details of how the employee retention tax credit will be applied and various aspects of determining wages and eligible businesses. Broadly speaking, the employee retention credit provides a 50% credit against FICA taxes for wages paid to retained workers when a business is closed by government order due to COVID-19.

**IRS Provides Guidance, Makes Clear Loss of Deductibility for Funds from PPP**

IRS issued guidance his week regarding the deductibility for Federal Income Tax purposes of certain otherwise deductible expenses incurred in a taxpayer’s trade or business when the taxpayer receives a loan (covered loan) pursuant to the Paycheck Protection Program (PPP) under section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)). Income associated with the forgiveness under the PPP is excluded from gross income for purposes of the Code pursuant to section 1106(i) of the Coronavirus Aid Relief and Economic Security Act (CARES Act); in order to avoid a double benefit of a deduction without corresponding income, or a “double dip.”

**IRS Updates FAQ Section Regarding NOL and 965**

The IRS updated their frequently asked questions (FAQ) page regarding Net Operating Losses (NOL) and Code Section 965. The FAQ page was updated Thursday to answer taxpayer questions regarding NOL and Section 965 under the Coronavirus Aid Relief and Economic Security Act (CARES Act).

For more information about tax issues you may email or call Christopher Hatcher at 202-659-8201. Josh Hansma contributed to this section.
FINANCIAL SERVICES

Paycheck Protection Program Reopens After Congress Provides Additional Funding

Key Points:

- The SBA resumed accepting PPP applications after Congress provided additional funding for the program.

On Monday at 10:30 a.m., the Small Business Administration (SBA) resumed accepting Paycheck Protection Program (PPP) applications. Congress passed legislation providing an additional $310 billion for the program last week. The PPP provides forgivable loans to small businesses affected by the coronavirus, so long as the companies use the funding for wages, interest on mortgages, rent payments, leases and utilities, among other restrictions.

The SBA restricted access to program from 4:00 pm to Midnight on Wednesday to lenders with assets of $1 billion or less, in order to “ensure access to the PPP loan program for the smallest lenders and their small business customers.” The announcement noted “SBA and Treasury will evaluate whether to create a similar reserved time again in the future.”

Federal Reserve Expands Main Street Lending Program, Municipal Liquidity Facility, and PPP Liquidity Facility

Key Point:

- For the Main Street Lending Program, the Federal Reserve created a new loan option, lowered the minimum loan size, and expanded the pool of eligible businesses.
- Counties with populations of at least 500,000 residents and cities with populations of at least 250,000 residents will now be eligible for the Municipal Liquidity Facility. The termination date for the program was extended to December 31, 2020.
- All SBA approved lenders will now be able to access the PPPLF. Previously only depository institutions could access the facility.

On Thursday, the Federal Reserve announced that it was expanding the scope and eligibility for its Main Street Lending Program. A Federal Reserve press release noted that the changes to the program included:

- Creating a third loan option, with increased risk sharing by lenders for borrowers with greater leverage;
- Lowering the minimum loan size for certain loans to $500,000; and
- Expanding the pool of businesses eligible to borrow.

The release explained “Under the new loan option, lenders would retain a 15 percent share on loans that when added to existing debt do not exceed six times a borrower’s income, adjusted for interest payments, taxes, and depreciation and other appropriate adjustments.”

Under the revised program businesses with up to 15,000 employees or up to $5 billion in annual revenue are now eligible. Under the initial program terms, companies with up to 10,000 employees and $2.5 billion in revenue were eligible. The minimum loan size for two of the loan options was also lowered from $1 million to $500,000.

Additionally, on April 30, the Federal Reserve announced it was expanding access to its Paycheck Protection Program Liquidity Facility (PPPLF) to additional lenders and expanding the collateral that can be pledged. Under the expanded program, all PPP lenders approved by the SBA, including non-depository institution lenders, are now eligible to participate in the PPPLF. Eligible borrowers will be able to pledge
whole PPP loans that they have purchased as collateral to the PPPLF.

On April 27, the Federal Reserve announced that it was expanding the scope and duration of its Municipal Liquidity Facility (MLF). The facility, as revised, will purchase up to $500 billion of short-term notes issued by U.S. states, U.S. counties with a population of at least 500,000 residents, and U.S. cities with a population of at least 250,000 residents.

The revised facility will now accept notes with maturities up to 36 months, as compared to 24 months prior to the revision. The Federal Reserve also extended the termination date for the facility to December 31, 2020 in order to provide eligible issuers more time and flexibility.

Upcoming Meetings and Events

May 4

Investor Advisory Committee: The SEC will hold a meeting of its Investor Advisory Committee. The meeting will include panels on: (1) Public Company Disclosure Considerations in the COVID-19 Pandemic Context; and (2) Public Company Shareholder Engagement/Virtual Shareholder Meetings in the COVID-19 Pandemic Context.

May 5

Nominations: The Senate Banking Committee will hold a hearing to consider the nominations of Brian Miller, to be Special Inspector General for Pandemic Recovery, U.S. Department of the Treasury; and Dana Wade, to be Assistant Secretary, U.S. Department of Housing and Urban Development.

May 6

SEC Open Meeting: The SEC will hold an open meeting to consider “Whether to adopt a final order, following the issuance of a proposed order on January 8, 2020 for public comment, that would require the national securities exchanges for equities and FINRA to propose a single, new national market system (NMS) plan to increase transparency and address inefficiencies, conflicts of interest and other issues presented by the current governance structure of the three NMS plans that govern the public dissemination of real-time, consolidated equity market data for NMS stocks.”

May 7

CFTC Energy and Environmental Markets Advisory Committee: The Commodity Futures Trading Commission (CFTC) will hold a meeting of its Energy and Environmental Markets Advisory Committee (EEMAC) via conference call. The meeting will include discussions of: (1) the proposed position limits for spot months, single month, and all-months-combined, and (2) the proposed bona fide hedge exemptions from such position limits and related procedures.

May 8

Small Business Capital Formation Advisory Committee: The SEC will hold a meeting of its Small Business Capital Formation Advisory Committee via videoconference. The Advisory Committee will discuss: (1) the SEC’s proposed rule on Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets; and (2) how small businesses are coping with COVID-19.

For more information about financial services issues you may email Joel Oswald or Alex Barcham.
HEALTH

Democrats Release Legislation on Defense Production Act

Key Points:
- Members announced new legislation to federalize the medical supply chain using all authorities available under the Defense Production Act in response to the pandemic.
- The bill also includes oversight and transparency requirements for the supply chain for medical supplies and equipment.

On April 29, Senator Tammy Baldwin (D-WI) introduced the “Medical Supply Transparency and Delivery Act.” The bill is cosponsored by all Senate Democrats except Senator Kyrsten Sinema (D-AZ). Representatives Tim Ryan (D-OH), Jason Crow (D-CO), Elissa Slotkin (D-MI), and Katie Porter (D-CA) will be introducing a companion bill in the House.

To assist in the COVID-19 response, the bill would require a weekly, publicly available national assessment to determine the national supply of critical medical equipment, identify manufacturers ready to fill orders, stockpiles that can be refurbished, manufacturers that could expand production of personal protective equipment and medical supplies, and supplies that can be redistributed to new hotspots. The report must also include outreach to essential employees and health care workers.

The bill would establish an Executive Officer who will have all authorities available under the Defense Production Act to oversee acquisition and logistics for COVID-19 equipment production and delivery. The Executive Officer will be a civilian position within the Department of Defense. The Executive Officer would be required to issue major purchase orders for supplies identified in the assessments, oversee distribution of critical medical supplies, and ensure all unused supplies in excess of need will be turned over to the Strategic National Stockpile. To increase transparency, all states’ requests for assistance, criteria for amount and destination of distribution, metrics for determining hotspots and future areas of concern, and procurement benchmarks should be publicly posted.

In addition, the bill would require the establishment of a plan for both viral and antibody COVID-19 testing. A plan should also be established for rapidly scaling up production of a COVID-19 vaccine.

Read the text of the Senate bill here.

CMS Announces Additional Regulatory Waivers to Support COVID-19 Response

Key Points:
- The Centers for Medicare and Medicaid Services issued additional regulatory waivers and rule changes to deliver expanded care and provide greater flexibility to the health care system.
- The new rules help to support COVID-19 diagnostic testing, increase hospital capacity, expand telehealth, and augment the health care workforce.

On April 30, the Centers for Medicare and Medicaid Services announced additional steps it is taken to reduce regulatory barriers and continue to expand flexibility for the delivery of care during the COVID-19 emergency. Many of these temporary changes will apply immediately and be available for the length of the public health emergency. Providers will not need to apply for the blanket waivers.

To increase access to testing, Medicare will no longer require an order from a treating physician or other practitioner before a beneficiary can get a COVID-19 test for Medicare payment.
purposes. Pharmacists will also be able to perform certain tests if they are enrolled in a Medicare laboratory. This will allow Medicare beneficiaries to be tested as “parking lot” test sites being operated by pharmacies. Medicare and Medicaid will also cover certain antibody tests and processing of approved tests allowing beneficiaries to self-collect at home.

In addition, CMS continues to take steps to expand hospital capacity such as allowing certain inpatient rehabilitation facilities to accept patients from acute-care hospitals experiencing a surge and allow for payment of outpatient hospital services being delivered in temporary locations. To bolster the workforce, CMS is implementing provisions in the CARES Act to allow additional practitioners to provide home health services and permitting physical and occupational therapists to delegate maintenance therapy services to assistants in outpatient settings. CMS is waiving limitations on certain practitioners providing telehealth services including physical therapists, occupational therapists, and speech language pathologists.

Read further details on the announcement here and all action on CMS waivers here.

Upcoming Hearings and Meetings

May 6

**COVID-19:** The House Appropriations Committee will hold a hearing on “COVID-19 Response:”

**COVID-19:** The Senate Homeland Security and Governmental Affairs Committee will hold a hearing on “Roundtable - COVID-19: How New Information Should Drive Policy.”

**Health Agenda:** Bloomberg Government will host a webinar on “How the COVID-19 Crisis has Reshaped the Health Agenda.”

**Telehealth:** Brookings will host a briefing on “Telehealth before and after COVID-19.”

May 7

**Testing:** The Senate Health, Education, Labor and Pensions Committee will hold a hearing on “Shark Tank: New Tests for COVID-19.”

**Opioids:** The National Academy of Medicine will host a webinar on “Helping People With Addiction Stay Connected During COVID-19.”

For more information about healthcare issues you may email or call Nicole Razinski Bertsch or George Olsen at 202-659-8201.

TRADE

U.S. Department of Commerce Tightens Export Rules on China, Russia and Venezuela

Key Points:

- The Commerce Department announced a new export control policy to make it more difficult for China, Russia and Venezuela to acquire dual-use U.S. technology that has both civilian and military uses.

On Monday, the Commerce Department announced a new export control policy, that is slated to take effect on June 29, to make it more difficult for China, Russia and Venezuela to acquire so-called dual-use U.S. technology that has both civilian and military uses.

The new export control policy will expand a requirement for obtaining a license to export U.S. goods and technology and further tighten restrictions on semiconductor equipment, sensors and other technologies for end use by any military users in the three countries. The Semiconductor Industry Association (SIA) called the rule unnecessarily broad, suggesting it
could harm the industry. “While we understand military-civil fusion trends demand smart and targeted national security responses, we are concerned these broad rules will unnecessarily expand export controls for semiconductors and create further uncertainty for our industry during this time of unprecedented global economic turmoil,” SIA President John Nueffer said in a statement on Monday.

The Commerce Department’s action will also remove license exceptions for the three countries that allowed for license-free export of dual-use goods even if they were going exclusively to a civilian end user. The department is considering applications for export licenses for covered products to China, Russia and Venezuela under a “presumption of denial,” the Federal Register notice states. A presumption of denial does not mean licenses won’t be granted but it does mean the onus is on the exporter to prove a good is destined for a civil end-use or end-user, Kevin Wolf, a partner at Akin Gump and a former assistant Commerce secretary for export administration at the Commerce Department’s Bureau of Industry and Security (BIS) said.

The Commerce Department also issued a proposed rule that would remove an exception that allowed U.S.-origin goods controlled for national security reasons to be re-exported among a certain group of countries. Currently, License Exception Additional Permissive Reexports (APR) authorize the export from a third country (i.e., a reexport) of items that were originally exported to that third country from the United States or that are otherwise subject to U.S. export controls.

**White House Establishes Labor Panel to Guide USMCA Implementation**

**Key Points:**

- On Tuesday, the White House formed an interagency committee to help facilitate the enforcement and monitoring of labor obligations outlined in the U.S.-Mexico-Canada Agreement (USMCA).
- The panel will be co-chaired by the Office of the U.S. Trade Representative (USTR) and the Labor Department and will include representatives from the State, Treasury, Agriculture, Commerce, and Homeland Security departments, as well as the U.S. Agency for International Development.
- The USMCA will officially enter into force on July 1.

The White House on Tuesday formed an interagency committee to help facilitate the enforcement and monitoring of labor obligations outlined in the USMCA. The committee, which was established by an April 28 executive order, was outlined in detail in the USMCA implementing bill approved by Congress earlier this year. The panel will be co-chaired by the Office of the U.S. Trade Representative (USTR) and the Labor Department and will include representatives from the State, Treasury, Agriculture, Commerce, and Homeland Security departments, as well as the U.S. Agency for International Development.

The panel will coordinate U.S. efforts to “monitor the implementation and maintenance of the labor obligations of Canada and Mexico, to monitor the implementation and maintenance of Mexico’s labor reform, and to recommend enforcement actions with respect to Canada or Mexico, as provided for in section 715 of the Act,” the executive order states. The committee will be responsible for requesting and reviewing relevant information from the three
governments and from the public; coordinating visits to Mexico to assess the implementation of Mexico’s labor reform and compliance with labor obligations; receiving and reviewing quarterly assessments from labor attachés about Mexico’s performance; and other tasks.

The panel will evaluate whether Mexico is providing adequate funding to implement and enforce its labor reform measures. Specifically, the committee will determine whether the country has provided funding consistent with commitments outlined in its labor reform implementation budget, which includes $176 million for 2021; $325 million for 2022; and $328 million for 2023. The panel will also analyze the extent to which Mexico has implemented labor courts at the federal and state levels, as well as independent entities for conciliation and union collective bargaining agreement registration “consistent with the timeline set forth for Mexico’s labor reform.”

Last Friday, the Trump Administration notified Congress that the USMCA will enter into force on July 1. USMCA countries must now agree to uniform regulations needed to guide the application of USMCA’s auto rules of origin. Such regulations will allow the three parties to address potential compliance issues. According to the U.S. implementing legislation, the regulations implementing the auto rules of origin must be issued by the date that USMCA enters into force, but are expected by June 1.

For more information about trade issues you may email or call Christopher Hatcher at 202-659-8201. Ryan Sigmon contributed to this section.

This Week in Congress was written by Alex Barcham.