

Memorandum

From: Squire Patton Boggs

Date: December 22, 2020

Subject: REVISED: Preliminary Summary of COVID-19 Relief Provisions Relevant to Local Governments

Yesterday, Congress approved a nearly 6,000-page end-of-year legislative package that included 12 FY 2021 spending bills totaling \$1.4 trillion, a \$908 billion COVID-19 relief package, the Water Resources Development Act (WRDA), and an energy package, among other policy provisions.

Overnight, the President signed a new CR through December 28, which will allow time for the omnibus/stimulus to be enrolled and prepared for his signature. Of import, the timelines established in the omnibus/stimulus will not be triggered until the bill is signed and enacted into law.

We will produce analyses of the various spending and legislative components of the bill throughout the coming days. This document highlights the provisions of the COVID-19 relief package most relevant to state and local governments.

As previously reported, the package does not include significant resources for state and local governments. Below we highlight those programs through which localities can receive direct funding: the new Housing and Rental Assistance program and CDC funding for distribution and administration of the COVID-19 vaccine.

The legislation extends by one year the deadline for state and local governments to use monies provided by the Coronavirus Relief Fund (CRF), but does NOT provide any additional flexibility for utilization, such as revenue loss.

Additionally, while many reports anticipated the legislation might provide additional Federal Emergency Management Agency (FEMA) Disaster Relief funds that could potentially be tapped by local governments, it did not do so, nor did it waive existing cost share requirements. The bill does provide \$2 billion (100 percent federal match) to be paid through the FEMA Disaster Relief Fund for the express purpose of helping an “individual or household [...] meet disaster-related funeral expenses.”

HOUSING AND RENTAL ASSISTANCE

Through a new Department of Treasury program modeled on the CRF, the bill provides **\$25 billion** to states, U.S. territories, tribes, and large localities to “provide financial assistance and housing stability services to eligible households.” Financial assistance includes payment of rent, rental arrears, utilities, and home energy costs and arrears, and other expenses related to housing incurred due to COVID-19, as defined by the Secretary. This includes both retrospective and prospective rent,

although prospective rent payments are limited to three months. This is the only significant funding that the legislation provides to state and local governments. The money must be distributed within 30 days of enactment.

Of the **\$25 billion**:

- Each state (as well as the District of Columbia) shall receive at least **\$200 million**
- **\$800 million** is reserved for tribes
- **\$400 million** is reserved for U.S. territories

The Department of the Treasury will distribute the funds in the same manner as the CARES Act's Coronavirus Relief Fund (42 U.S.C. 801); however, the bill expands eligible entities to any jurisdiction with a population greater than 200,000 (vs. 500,000 under the CARES Act). In order to receive a payment, a local government must provide a certification – like with the CARES Act – to Treasury indicating that the recipient will use the funds in a manner consistent with the law. The legislation provides that any amounts granted to local jurisdictions shall be reduced from the amount given to the state in which that jurisdiction is located.

While it is unclear how much money will be distributed to eligible entities, the National Low Income Housing Coalition has provided initial [estimates](#) as to how much funding will be provided to each state. It is worth noting that the bill is silent on how Treasury will handle scenarios where two eligible jurisdictions overlap, like an eligible city within an eligible county.

Eviction Moratorium

The legislation extends the Centers for Disease Control and Prevention (CDC) eviction moratorium through January 31, 2021.

HEALTHCARE PROVISIONS

Resources for COVID-19 Testing and Vaccination

This legislation includes **\$73 billion** to support public health concerns, including distribution and administration of vaccines and continued COVID-19 testing. These expenses include the following provisions.

- **\$8.75 billion** to Centers for Disease Control and Prevention (CDC) for the distribution and administration of COVID-19 vaccines
 - This includes **\$4.5 billion** in direct funding for states, localities, and territories.
 - This also includes **\$300 million** to ensure vaccines are distributed to higher-risk and underserved populations.
- **\$22.4 billion** for testing, contact tracing, and surveillance
 - This includes **\$2.5 billion** to ensure testing is provided to higher-risk and underserved populations.
- **\$19.7 billion** for the Biomedical Advanced Research and Development Authority (BARDA) for the manufacture and purchase of vaccines
- **\$3.25 billion** for the National Strategic Stockpile

In addition, this legislation provides **\$4.25 billion** for mental health and substance abuse support through the Substance Abuse and Mental Health Services Administration. At least **\$125 million** must be set aside for tribal organizations. The mental health and substance abuse programs include:

- **\$1.65 billion** for the Substance Abuse and Prevention Treatment Block Grant;
- **\$1.65 billion** for the Mental Health Services Block Grant;
- **\$600 million** for Certified Community Behavioral Health Clinics;
- **\$50 million** for suicide prevention programs;
- **\$50 million** for Project AWARE to support school-based mental health for children;
- **\$240 million** for emergency grants to States; and
- **\$10 million** for the National Child Traumatic Stress Network.

Additional Child Care Provisions

- **\$10 billion** through the ACF Child Care and Development Block Grant for childcare, including direct support for child care providers for fixed costs and operating expenses, to help ensure working parents have access to child care so they can work or return to work.
- **\$250 million** to help Head Start programs address additional costs related to COVID-19.

TRANSPORTATION

Transit

The bill includes **\$14 billion** for transit agencies. Funds are available for operating expenses to “prevent, prepare for, and respond to coronavirus,” including the purchase of personal protective equipment and payment for administrative leave of operations personnel due to reductions in service dating back to January 20, 2020. To the maximum extent possible, funds shall be directed to payroll and public transit service.

The federal cost-share is 100 percent, and all funds must be allocated within 30 days of enactment.

Of the **\$14 billion**:

- **\$13.27 billion** is for urbanized area formula grants. No agency can receive more than 75 percent of its urbanized area’s 2018 operating costs (based on the data in the National Transit Database) in combined CARES Act funding and funding under this bill.
- **\$678.65 million** for formula grants for rural areas. No agency can receive more than 125 percent of its 2018 rural operating costs (based on the data in the National Transit Database) in combined CARES Act funding and funding under this bill.
- **\$50 million** is for formula grants for the enhanced mobility of seniors and individuals with disabilities.

Airports

The bill includes **\$2 billion** for airports, including:

- **\$1.75 billion** for primary airports and certain cargo airports “for costs related to operations, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments,” distributed via the Airport Improvement Program formulas;
- **\$45 million** for general aviation and commercial service airports, **\$5 million** of which is reserved for non-primary airports that participate in the FAA Contract Tower Program to cover “lawful expenses” to support FAA contract tower operations;
- **\$200 million** for sponsors of primary airports to provide rent and minimum annual guarantee relief to airport car rental, on-airport parking, and in terminal airport concessions at the airports, which will be allocated based on enplanements; and
- **\$5 million** for the Small Community Air Service Development Program.

In response to the CARES Act – in which some airports received tens of years of operating costs – the bill stipulates that no additional funding from this bill will be provided to any airport that was allocated more than four years of operating funds under the CARES Act. The federal cost share for this funding is 100 percent.

Highways

The bill also includes **\$10 billion** for state departments of transportation to replace amounts lost because of COVID-19. These funds are designated for preventative or routine maintenance as well as operations and personnel costs.

Other Provisions

- The legislation requires that all airports receiving funding must employ at least 90 percent of the individuals employed by the airport as of March 27, 2020 through February 15, 2021.
- The Secretary of Transportation may waive the workforce retention requirement based on economic hardship or a reduction in aviation safety or security.
- The workforce retention requirement does not apply to non-hub and non-primary airports.

USDA NUTRITION-RELATED PROVISIONS

This legislation has a number of nutrition related agricultural provisions. These include:

- **\$13 billion** to fund a six-month, 15 percent increase in Supplemental Nutrition Assistance Program (SNAP) funding;
- Suspension of work requirements for SNAP-eligible college students;
- **\$400 million** for the Emergency Food Assistance Program (TEFAP), which provides emergency food assistance; and
- **\$400 million** for the Dairy Donation program, whereby the USDA purchases milk to be processed into dairy products and distributed to nonprofit food banks and similar entities.

PAID FAMILY AND SICK LEAVE EXTENSION

The provision extends the refundable payroll tax credits for paid sick and family leave, enacted in the Families First Coronavirus Response Act, through the end of March 2021.

NOTE: There is some confusion on the emergency leave section as to whether it extends the leave requirement or simply the tax credits. According to an initial analysis by our Employment and Labor colleagues, the bill extends only the tax credits, so that if an employer allows an employee to take time off through the end of March 2021, they can claim the tax credit, but the employer can deny the request for leave after December 31 and suffer no consequences.

ECONOMIC IMPACT (DIRECT CASH ASSISTANCE) PAYMENTS

- The provision provides **\$166 billion** for direct cash assistance like the Economic Impact Payments under the CARES Act – albeit half as much. The credit is **\$600** per person, or **\$1,200** for a married couple. It also includes **\$600** per child. Based on 2019 tax returns, payments are based on income up to **\$75,000** per person, **\$112,000** if filing as a head of household, or **\$150,000** per couple, and decrease at a rate of **\$5** per **\$100** of additional income over the designated threshold.
- Treasury Secretary Steven Mnuchin said the Internal Revenue Service (IRS) could begin distributing these payments as early as next week.

UNEMPLOYMENT INSURANCE

- Provides **\$300** per week for all workers receiving unemployment benefits through March 14, 2021
- Extends Pandemic Unemployment Assistance (PUA), with expanded coverage to the self-employed, gig workers, and others in nontraditional employment, and the Pandemic Emergency Unemployment Compensation (PEUC) program, which provides additional weeks of federally-funded unemployment benefits to individuals who exhaust their regular state benefits
- Increases the maximum number of weeks an individual may claim benefits through regular state unemployment plus the PEUC program, or through the PUA program, to 50 weeks
- Extends until March 31, 2021, the emergency unemployment relief for governmental entities and nonprofit organizations provided by the Families First Coronavirus Response Act (FFCRA), providing federal support for 50 percent of unemployment benefits for state and local government and nonprofit employees

AID FOR SMALL BUSINESSES

- Provides funding for a second round of forgivable loans through the Paycheck Protection Program for small businesses and nonprofits experiencing significant revenue losses, makes programmatic improvements to PPP, funds grants to shuttered venues, and enacts emergency enhancements to other SBA lending programs.
 - **\$284.45 billion** for Paycheck Protection Program Loans. Of these:

- **\$35 billion** is reserved for entities seeking their first loans;
- **\$15 billion** would be for first and second loans from community financial institutions;
- **\$15 billion** would be required to be provided by credit unions and other financial institutions holding less than \$10 billion;
- **\$15 billion** for first loans for businesses with fewer than 10 employees or those in lower income areas; and
- **\$25 billion** set aside for second loans to groups in those same parameters.
 - In order to be eligible for a second loan, an entity would have fewer than 300 workers and be able to demonstrate a 25 percent decrease in revenue compared to an identical quarter in 2019.
- **\$25 million** for Minority Business Development Centers under the Minority Business Development Agency (MBDA) to assist minority business enterprises with technical assistance, such as applying for PPP
- **\$20 billion** for the Economic Injury Disaster Loan (EIDL) Advance program, of which **\$20 million** is for the SBA Inspector General
- Extends the covered period for EIDL Grants through December 31, 2021
- **\$3.5 billion** for continuing the Section 7(a) Debt Relief program
- **\$2 billion** to carry out SBA lending enhancements
- The legislation provides **\$15 billion** to venue operators, movie theaters, zoo operators, and nonprofit museums that can demonstrate a 25 percent decrease in revenue compared to an identical quarter in 2019.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS (CDFI) AND MINORITY DEPOSITORY INSTITUTIONS (MDI)

In addition to authorizing PPP lending through community-based lenders like CDFIs and MDIs, the package includes **\$12 billion** for CDFIs and MDIs:

- **\$3 billion** through the CDFI fund; and
- **\$9 billion** to establish a new Department of Treasury Emergency Capital Investment Program (ECIP) to expand lending and investment in low-and moderate-income (LMI) and minority communities impacted by COVID-19.

EDUCATION

The COVID-19 relief legislation provides a total of **\$82 billion** in education-related funding, including:

- **\$4.05 billion** for the Governor's Emergency Education Relief Act
 - This funding can be used at the governor's discretion for K-12 schools and institutions of higher education (IHEs).
 - **\$2.75 billion** will be specifically allocated for non-public schools.
- **\$54.3 billion** for the Elementary and Secondary School Emergency Relief Fund
- **\$22.7 billion** for the Higher Education Emergency Relief Fund, of which:

- **\$20 billion** will be allocated to all public and private nonprofit IHEs;
- **\$908 million** will be distributed to for-profit colleges to provide financial aid to students;
- **\$1.7 billion** will be set aside for Historically Black Colleges and Universities (HBCUs) and Minority Serving Institutions (MSIs); and
- **\$113.5 million** will go to institutions with the most need, or IHEs who do not fall under the original distribution formula, such as independent graduate schools.

Colleges and universities can use the funds from this bill in the same way they used the funding they were awarded in the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* ([Pub. L. 116-136](#)). The funds will be distributed to institutions of higher education via a similar formula provided for in the CARES Act, and 50% of these funds must be provided in the form of direct aid to students. Although it was included in the draft legislation, the bill does not extend the pause on payments and interest accrual of federal student loans currently extended by Secretary of Education Betsy DeVos through February 1, 2021.

The relief legislation also provides an additional **\$30 million** to the Student Aid Administration and **\$5 million** to the Department of Education Office of the Inspector General. Finally, the agreement includes various policy provisions. First, the bill includes provisions that simplify the Free Application for Federal Student Aid (FAFSA), including reducing the number of questions on the FAFSA and allowing more students to have their eligibility automatically calculated. Additionally, the bill overturns a provision prohibiting incarcerated individuals from receiving Pell Grants.

TAX EXTENDERS

In addition to COVID-19 relief, this omnibus legislation included a package of extended tax deductions, known as “tax extenders.” Some of these are especially relevant to state and local governments, including making permanent the four percent rate for calculating Low-Income Housing Tax Credits (LIHTC).

In addition to LIHTC, this legislation includes the following tax extenders.

It makes the following provisions permanent:

- Craft Beverage Excise Tax, with modifications to address importation issue
- 7.5 percent medical expense deduction
- Short-Line Railroad Maintenance Tax Credit (at a lower, 40 percent rate)
- Energy-efficient commercial buildings deduction (with updated standards)
- Higher Learning Tuition deduction (this higher learning tuition deduction is made permanent by increasing the phase-out limits in the permanent Lifetime Learning Credit)
- Volunteer firefighter income exclusion of state tax benefits (SECURE Act provision)

It extends the following tax credit to 2025:

- New Markets Tax Credit (NMTC)
- Work Opportunity Tax Credit (WOTC)
- CFC look-through
- Family Leave Credit
- Employer Paid Student Loan Income Exclusion (CARES Act provision)
- Motorsports Depreciation
- Empowerment Zones (repeal section 179 (which are obsolete) and capital gains benefits (which are expired))
- Film and Live Performances Expensing
- Oil Spill Liability Trust Fund
- Principal Residence COD at \$750,000 (reduced from \$2 million)

It extends the following tax credits through 2021:

- Private mortgage insurance (PMI) deduction
- Health Coverage Tax Credit
- Alternative fuels/mixture credit
- Second-generation biofuels credit
- Nonbusiness energy property credit
- 2-wheel electric plug-in credit
- Fuel cell motor vehicles credit
- Energy-efficient homes credit
- Alt fuel vehicle refueling property credit
- Renewable electricity credit
- American Samoa Economic Development Tax Credit
- Racehorse depreciation
- Indian business property depreciation
- Indian coal credit
- Indian employment credit
- Mine rescue training credit
- Black Lung Trust Fund