

Policy Update: Congress Poised to Pass Massive Spending Package to Support COVID-19 Recovery

Lewis-Burke Associates LLC – March 26, 2020

With both human and economic costs rising, the Senate passed by a vote of 96-0, H.R. 748 the *Coronavirus Aid, Relief, and Economic Security* (CARES) Act. The House is expected to take and pass the bill Friday morning. There are concerns that parliamentary maneuvers could delay that timeline. The CARES Act would be the single largest spending package in U.S. history, supporting more than \$2 trillion in funding. Congressional leaders on both sides of the aisle have indicated that this third supplemental spending package is likely to be followed by a fourth stimulus package.

Most of the spending is going to support unemployment benefits, support for small businesses, emergency aid for hospitals, loans for affected industries, and disaster aid funds for states and local governments, among other efforts. A future package may potentially include additional tax credits, infrastructure spending, and support for continued recovery. The CARES Act also supports aid for institutions of higher education and more than \$300 billion for federal funding agencies like the National Institutes of Health (NIH), the National Endowment for the Humanities (NEH), and the Department of Defense, among others. The information below highlights how funding will be allocated by policy area and federal research funding agencies.

Lewis-Burke will continue to provide updates as CARES Act federal guidance and funding opportunities are announced.

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Higher Education and Workforce Development

The CARES Act includes several provisions related to higher education offering both new regulatory flexibility in federal financial aid and education grant programs as well as new emergency education grant funding for states, institutions, and students.

Of the nearly \$31 billion provided for the **Department of Education** for education stabilization in the CARES Act, the bill would fund \$3 billion for states to use to support elementary, secondary, and higher education as well as \$14.25 billion for institutions of higher education. Funding for states would come with a maintenance of effort requirement, that the Secretary of Education could waive. Eligible uses of funding include support to address technology costs associated with a transition to distance education. Of the higher education-specific emergency fund, over \$12 billion would be allocated to institutions based on a formula weighted toward institutional share of full-time Pell students. At least 50 percent of those grants would have to be used by institutions for emergency grants for students. Nearly \$1.3 billion would be specifically available for minority-serving institutions and specific grants for institutions with demonstrated unmet need due to the COVID-19 crisis. Institutions of higher education would be required, to the greatest extent practicable, to continue to pay employees and contractors during the period of any disruptions or closures related to the pandemic.

Higher education-related regulatory provisions of the bill of interest include:

- Waiving the institutional matching requirement for campus-based aid programs.
- Allowing institutions to transfer unused work-study funds to be used for supplemental grants.
- Allowing institutions to award additional Supplemental Educational Opportunity Grants (SEOG) funds to students impacted by COVID-19.
- Permitting institutions to issue Federal Work-Study payments to students who are unable to work due to work-place closures as a lump sum or in payments similar to paychecks.
- Excluding a term in which a student drops out due to COVID-19 from lifetime subsidized loan and Pell grant term limits.
- Waives requirement of students and institutions to return Title IV funds if student drops out due to COVID-19 and waives drop-out impact on Satisfactory Academic Progress.
- Requires Secretary of Education to defer, for six months, federal student loan payments without penalty to borrowers.

- Provides local workforce boards with additional flexibility to use funds received under the Workforce Innovation and Opportunity Act for administrative costs, including for online resources.
- Allows Secretary of Education to waive allowable uses on TRIO, GEAR UP, Title III/V, Title VII grants to permit funding to go towards COVID-19 efforts.
- Permits institutions to request waivers from the Secretary of Education for financial matching requirements in competitive grant programs in the Higher Education Act.
- Allowing Governors to utilize reserved workforce funds on rapid response activities in response to the pandemic.

Funding is also provided via the **Department of Labor (DOL)** for states to respond to the workforce impacts and layoffs resulting from the pandemic. This funding would support the Dislocated Worker National Reserve funding stream.

Health

The CARES Act also contains several provisions regarding health coverage for COVID-19 diagnostics and prevention, shortages of equipment and prescription drugs, funding for grant programs, and authorization of telehealth and other emergency waivers.

Specifically, the CARES Act would:

- Provide an additional \$945.4 million in funding for the **National Institutes of Health (NIH)** to support research on COVID-19 diagnostics, therapeutics, vaccine development, and underlying risk factors. When combined with the NIH funding provided in the first COVID-19 emergency supplemental package, this brings total new funding at NIH for COVID-19 related research activity to \$1.78 billion.
 - The \$945.4 million includes \$706 million for National Institute of Allergy and Infectious Disease (NIAID); \$103.4 million for the National Heart, Lung, and Blood Institute (NHLBI); \$60 million for the National Institute of Biomedical Imaging and Bioengineering (NIBIB); \$36 million for the National Center for Advancing Translational Sciences (NCATS); \$10 million for the National Library of Medicine (NLM); and \$30 million for the Office of the Director (OD).
- Provide \$100 billion for the **Public Health and Social Services Emergency Fund** to reimburse eligible healthcare providers for healthcare related expenses or lost revenues directly attributable to COVID-19. Funds will be distributed through grants or other mechanisms to eligible entities, which include public entities and Medicare or Medicaid enrolled suppliers and providers. Funds are to remain until expended.
- Provide an additional \$27 billion to the Public Health and Social Services Emergency Fund for development of countermeasures and vaccines, purchase of medical supplies and diagnostics, workforce modernization, improving medical surge capacity, addressing blood supply chain, improving telehealth access and infrastructure, and other preparedness and response activities. This includes \$3.5 billion for the **Biomedical Advanced Research and Development Agency (BARDA)** for manufacturing and purchase of vaccines, diagnostics, therapeutics, and small molecule active pharmaceutical ingredients. The bill would also remove the cap on use of Other Transaction Authority (OTA) to distribute funding at BARDA.
- Provide \$250 million for the Hospital Preparedness Program.

- Provide \$4.3 billion to support the **Centers for Disease Control and Prevention (CDC)** for public health preparedness and response, including an additional \$1.5 billion for state and local preparedness grants, \$500 million for Global Health Security, and \$300 million for the Infectious Disease Fund through the end of FY 2022. This funding can be used for grants to construct or renovate facilities to improve preparedness and response capabilities at the state and local level.
- Increase telehealth flexibilities within Medicare for the duration of the emergency period, under 1135 waivers. Specifically, the bill would expand the authority of the Secretary of the **Department of Health and Human Services (HHS)** to grant waivers of most telehealth requirements, including the requirement which mandated a healthcare professional to have treated the telehealth service recipient in the prior three years. Originally, Congress granted the Secretary the authority to waive only the requirements that the service recipient be located in a rural area and travel to a clinic or other designated location to receive the service, though the Centers for Medicare and Medicaid Services (CMS) had declined to enforce the prior relationship requirement.
- Provide an additional \$16 billion for the Strategic National Stockpile to procure personal protective equipment (PPE) and other medical supplies for federal and state response activities and move control of the Strategic National Stockpile to the Assistant Secretary for Preparedness and Response (ASPR).
- Provide \$275 million to expand services and capacity for rural hospitals, telehealth, and the Ryan White HIV/AIDS program. It would also reauthorize the Telehealth Network Grants at the **Health Resources and Services Administration (HRSA)** through fiscal year (FY) 2025 at a level of \$29 million per year and the Rural Health Care Services Outreach Grants and the Rural Health Network Development Grants, among other programs at HRSA designed to support rural health, through FY 2025 at a level of \$79.5 million per year.
- Provide \$425 million to the **Substance Abuse and Mental Health Services Administration (SAMHSA)** to address mental health and substance use disorders resulting from the pandemic, including \$100 million for SAMHSA's Emergency Response Grants and \$50 million for suicide prevention programs.
- Provide \$80 million to the **Food and Drug Administration (FDA)** for vaccine development, countermeasure planning, and advanced manufacturing of medical products, among other activities.
- Reauthorize several of HRSA's Title VII expired health professions workforce programs and Title VIII nursing workforce development programs through FY 2025, with a particular focus on primary care, geriatrics, and rural health. Creates a new coordination effort to examine health profession training programs.
- Delay Disproportionate Share Hospital (DSH) payment cuts through the end of FY 2021.
- Provide funding for expiring healthcare extenders through November 30, 2020, including community health centers, the National Health Service Corps, and the Teaching Health Centers Graduate Medical Education (THCGME) programs.
- Appropriate an additional \$1.32 billion in supplemental funding for community health centers.
- Reauthorize the Healthy Start program within the Maternal and Child Health Bureau at HRSA through FY 2024 at \$122.5 million per year.
- Clarify authority for certain lab-developed COVID-19 tests and diagnostic kits to be used on patients in advance of receiving Emergency Use Authorization (EUA) from the FDA.

- Clarify the requirement that all COVID-19 testing (including use of tests without EUA from the FDA) is to be covered by private and government-provided insurance without any cost sharing or prior authorization.
- Clarify coverage eligibility for uninsured individuals regarding no-cost testing and services related to COVID-19.
- Require insurers to reimburse providers for COVID-19 diagnostic testing at the negotiated rate, or if no rate has been negotiated, at the cash price listed by the provider. Providers would be required to publicly list a cash price for COVID-19 diagnostic testing on a public website.
- Require health insurance plans to cover COVID-19 vaccines or immunizations within 15 days of being recommended by the CDC Advisory Committee on Immunization Practices.
- Direct the FDA to prioritize review and inspection of prescription drug applications that could prevent or mitigate the effects of a public health emergency and authorize the Secretary of HHS to expedite development and review of a new animal drug at the FDA in cases where the drug could prevent or treat a zoonotic disease that could threaten humans.
- Direct HHS and the National Academies of Sciences, Engineering, and Medicine (NASEM) to conduct a study and report on the security of the U.S. medical product supply chain.
- Provide liability protection to health care professionals acting in a volunteer capacity during the public health emergency.
- Require HHS to issue guidance on allowable patient record sharing during the public health emergency.
- Suspend a two percent Medicare sequester between May 1, 2020 to December 31, 2020.
- Provide hospitals with a 20 percent increase in payments for Medicare patients through an Inpatient Prospective Payment System (IPPS) add-on payment weighing factor for COVID-19.
- Extend telehealth services to Federally Qualified Health Centers and Rural Health Clinics during the public health emergency.
- Authorize the Secretary of HHS to waive the requirement for face-to-face visits between physicians and home dialysis patients during a public health emergency and to permit the face-to-face visits prior to recertification of eligibility for hospice care to be conducted via telehealth.

Tax Provisions and Cash Assistance

The CARES Act includes “recovery rebates” for individuals of up to \$1,200 and an extra \$500 per child, for individuals or married tax filers under certain income thresholds. As it relates to tax policy, the bill would provide a temporary universal charitable deduction of up to \$300, including for those who do not itemize. It would also suspend income limitations for individuals on cash gifts and raise the current corporate contribution limitation. Public colleges and universities would continue to be excluded from the employer tax credits for COVID-19 emergency paid leave. The CARES Act also allows employers to contribute up to \$5,250 per year toward an employee’s student loans, while excluding it from the employee’s income.

Federal Agency Funding Updates

New Federal Contracting Authority

The package includes a provision (section 3610) that grants federal agencies the authority to reimburse contractors and subcontractors for paid leave, including sick leave, if they cannot perform work on site or remotely on behalf of the agency during the current public health emergency. This authority would

allow agencies to maintain support for activities located at federally-owned, contractor-operated facilities (e.g., DOE National Laboratories) as well as services at federal facilities provided by contractors (e.g., maintenance services and program administration). The authority would only apply for the duration of the current COVID-19 disruptions.

Business Relief & Economic Development

Business relief and economic development support are major priorities in the proposed stimulus. The final package would provide robust support to businesses affected by the pandemic with increased oversight and workforce assurances championed by Democrats, as well as significant funding for federal small business and economic development programs. Key provisions include:

- \$1.5 billion for Economic Development Assistance Programs at the **Economic Development Administration (EDA)**. These programs provide a range of support for economic development and diversification programs and projects. In the past, this has included funding for the construction of innovation facilities and entrepreneurial support programs at universities. This amount of funding would be well above EDA's entire fiscal year (FY) 2020 appropriations level of \$333 million.
- \$349 billion in loans to small businesses (>500 employees) and some non-profits including 501(c)(3) organizations from the **Small Business Administration (SBA)**. Loans could be used for payroll support, such as employee salaries, paid sick or medical leave, insurance premiums, and mortgage, rent, and utility payments.
- \$17 billion for SBA to cover six months of payments for small businesses with existing SBA loans and \$10 billion for SBA emergency grants to provide immediate relief for small business operating costs.
- \$500 billion in loans for other businesses directly impacted by COVID-19, including \$29 billion in relief for airlines with strict lending criteria.
- \$265 million would be authorized for SBA Small Business Development Centers (SBDCs) and Women's Business Centers to provide enhanced resources for consultation on federal support for small businesses impacted by COVID-19.
- \$10 million would be authorized for Minority Business Centers (MBCs) for additional technical assistance.

Domestic Security

The CARES Act would provide additional resources through programs to support federal, state, and local security needs. Key provisions include:

- \$45.9 billion for the **Department of Homeland Security (DHS)**, including \$45 billion for state and local disaster relief through the **Federal Emergency Management Agency (FEMA)** and \$9 million for the **Cybersecurity and Infrastructure Security Agency (CISA)** for supply chain and information analysis and for impacted critical infrastructure coordination.
- \$850 million for the **Department of Justice's (DOJ)** Byrne-Justice Assistance Grant Program (JAG). JAG grants provide formula funds for state and local law enforcement needs. In the past some universities have partnered with law enforcement agencies on projects that leverage JAG funds. Importantly, the supplemental funds would at least temporarily lift the Trump Administration's longstanding ban on JAG awards for "sanctuary" cities and states. This ban has prevented some localities and public universities in "sanctuary states" from accessing JAG funding.

National Science Foundation

The package would provide \$75 million for the National Science Foundation (NSF) Research and Related Activities account “to prevent, prepare for, and respond to coronavirus, domestically or internationally.” The Appropriations Committee bill summary notes that this funding is intended for “research at molecular, cellular, physiological and ecological levels to better understand coronavirus genetics, modes of action, transmission, virulence and population dynamics.” The bill would additionally provide \$1 million for NSF operations and agency functions to handle disruptions from the pandemic.

National Institute of Standards and Technology

The bill would provide \$6 million for the National Institute of Standards and Technology (NIST) Scientific and Technical Research and Services account to “prevent, prepare for, and respond to coronavirus, domestically or internationally, by supporting continuity of operations, including measurement science to support viral testing and biomanufacturing.” The bill would also provide \$50 million for the Manufacturing Extension Partnership to “assist manufacturers to prevent, prepare for, and respond to coronavirus,” and \$10 million for Manufacturing USA to “to prevent, prepare for, and respond to coronavirus, including to support development and manufacturing of medical counter measures and biomedical equipment and supplies.”

Department of Defense

The package includes \$10.5 billion for the Department of Defense (DOD), focused primarily on the protection of military armed forces, their families, and military retirees from coronavirus. Funding of \$3.8 billion is included for the Defense Health Agency, of which \$415 million is directed for research, development, test and evaluation (RDT&E) activities to further develop vaccines and anti-viral pharmaceuticals and support laboratory operations. The package also includes \$1 billion for the Defense Production Act to allow DOD to invest in manufacturing capabilities that will increase the production rate of personal protective equipment and medical equipment in the U.S.

Department of Energy

The package provides \$99.5 million under the Office of Science to support research and development efforts related to COVID-19 at national laboratory scientific user facilities, including new equipment, technologies, and personnel support. Funding support is for user facilities at Department of Energy (DOE) national laboratories supported by both the Office of Science and the National Nuclear Security Administration.

Consistent with the March 12 Office of Science Dear Colleague letter soliciting input from the research community on how to use DOE user facilities to help with the COVID-19 response, the primary area of interest is on the fundamental biology of COVID-19. For example, DOE is interested in predictive modeling for viral stability and evolution in changing environmental conditions, using synthetic biology for key target viral proteins to rapidly develop improved vaccines or therapeutics, and developing high-throughput multiplex technologies to characterize virus-host interactions to design better therapeutic treatments and tools for precision microbiome engineering. To effectively carry out this research, DOE is making available light sources and neutron sources for protein characterization; cryo-electron microscopy centers for high resolution molecular structure of virus particles; Nanoscale Science Research Centers to develop antiviral surfaces and materials; and high-performance computing facilities for modeling and simulation coupled with machine and deep learning techniques to study a range of

areas, including examining underlying protein structure, classifying the evolution of the virus, and understanding mutation.

A provision in the package (section 3610) also provides new federal contracting authority to help compensate DOE national laboratories and other DOE contractors and subcontractors who cannot perform work at a laboratory or site and cannot telework during the COVID-19 public health emergency. Without this authority, management and operating contractors and subcontractors cannot be compensated. As such, the goal of this section is to enable DOE to maintain a stable workforce which can resume duties and responsibilities as quickly as possible once the public health emergency ends, especially at major user facilities.

National Aeronautics and Space Administration

The CARES Act includes \$60 million for the National Aeronautics and Space Administration (NASA). This amount is \$15 million less than initially included in the Senate's version released last Friday. The White House did not include NASA in its supplemental appropriations request. The entire supplemental appropriation would be allocated to the Safety, Security, and Mission Services account, with intent "to prevent, prepare for, and respond to coronavirus, domestically or internationally."

The legislative package would temporarily expand agencies' authorities to allow support for federal contractors whose work cannot be performed remotely. NASA would be able to maintain compensation for those facing disruptions, including contract personnel at NASA field centers and universities or companies involved in developing major space missions that cannot be executed via telework.

National Oceanic and Atmospheric Administration

The package provides \$20 million to the National Oceanic and Atmospheric Administration (NOAA) Operations, Research, and Facilities (ORF) account to support "continuity of operations, including National Weather Service life and property related operations."

Department of State and USAID

The package provides \$1.115 billion for the Department of State, U.S. Agency for International Development (USAID), and the Peace Corps. This will support U.S. citizens and diplomatic facilities and programs overseas including local support and evacuations. The bill provides the Department of State \$350 million for migration and refugee assistance and provides USAID \$258 million for international disaster assistance.

Department of Veterans Affairs

The CARES Act provides the Veterans Health Administration with an additional \$14.4 billion to respond to COVID-19 related impacts on "health care delivery, and for support to veterans who are homeless or at risk of becoming homeless." Medical Community Care would receive an additional \$2.1 billion, while the VA's health IT systems also would receive additional funding of \$2.1 billion.

Department of Transportation

The CARES Act includes \$36.1 billion for the United States Department of Transportation (DOT). The vast majority of this assistance would be distributed as grants to airports (\$10 billion) and transit

agencies (\$25 billion) impacted by the sharp decline in travelers. Other DOT modal administrations would receive funding to cover unexcepted costs due to disruptions from COVID-19.

U.S. Department of Agriculture

The package provides support to numerous USDA activities, but does not include funding for USDA's research enterprise. Of the funding provided:

- \$15.810 billion is for the Supplemental Nutrition Assistance Program (SNAP), with the majority of funding going into a contingency reserve for the Secretary to allocate as necessary.
- \$8.8 billion is provided for Child Nutrition programs.
- \$9.5 billion for providing support for agricultural producers, including producers of specialty crops, producers for local food systems (farmers markets, restaurants, schools), livestock and dairy producers.
- Funding is included for Rural Development (\$20.5 million) for the costs of loans for rural business development and the Rural Utilities Service (\$25 million) for telemedicine and distance learning services in rural areas. An additional \$100 million is provided for grants to provide broadband service in eligible rural areas.
- Animal and Plant Health Inspection Service (\$55 million), Agricultural Marketing Service (\$45 million), and the Food Safety Inspection Service (\$33 million) all receive funding to go toward salary and staffing.
- \$750,000 is provided to the Office of the Inspector General for the purpose of carrying out audits and investigations of projects carried out through supplemental funding.

Environmental Protection Agency

In total, the CARES Act includes \$7.23 million for the Environmental Protection Agency (EPA). Most of the supplemental appropriations would be spread across the Science and Technology (S&T) and Environmental Programs and Management (EPM) accounts.

Within the overall amount for EPA, S&T would receive \$2.25 million. This would include \$1.5 million for "research on methods to reduce the risks from environmental transmission of coronavirus via contaminated surfaces or materials." It is likely that research activities associated with COVID-19 will be funded intramurally. The rest of the S&T funding would be for cleaning and disinfecting equipment or facilities.

The remainder of the EPA total would include \$3.91 million for EPM to support continuity of operations and "expediting registration and other actions related to pesticides to address coronavirus." Additional funding would be used to secure agency facilities and Hazardous Substance Superfund sites and improve EPA's telework capabilities.

National Endowment for the Arts (NEA), National Endowment for the Humanities (NEH), Institute for Museum and Library Services (IMLS)

The package provides \$75 million in additional funding for each endowment. For both NEA and NEH, 40 percent of the respective \$75 million in funding for each endowment will go to states, while the remaining 60 percent will be distributed through regular grant making. IMLS would receive \$50 million to support digital access and technical support services. These funds would also not require a match from entities receiving funding.

Sources and Additional Information:

- The bill text of the CARES Act is available at <https://www.majorityleader.gov/sites/democraticwhip.house.gov/files/Senate%20Amendment%20to%20H.R.%20748%200.pdf>.
- The Republican Senate Appropriations Committee's section by section summary is available at https://www.appropriations.senate.gov/imo/media/doc/Coronavirus%20Supplemental%20Appropriations%20Summary_FINAL.pdf.
- The Democratic Senate Appropriations Committee's section by section summary is available at <https://www.appropriations.senate.gov/imo/media/doc/032520%20Title-By-Title%20Summary%20FINAL.pdf>.