Wednesday, June 24, 2020

The Trump Administration appears divided on the question of what President Donald Trump's priorities will be for the next significant federal COVID-19 response package. The Washington Post reports the president supports providing another round of “stimulus” payments to a broad range of US households to support growth by putting money directly into the hands of consumers. Some of the president’s top advisors and supporters, however, appear cool to the idea. And just days after a senior White House official told the media that the administration is preparing to put forth an infrastructure proposal of approximately US$1 trillion, Treasury Secretary Steven Mnuchin – who is the principal negotiator for the White House in talks with Congress – is expressing doubt that infrastructure spending will be featured in the consensus bill the president signs into law next month.

Via POLITICO:

    Treasury Secretary Steven Mnuchin . . .said at a Bloomberg event on Tuesday that despite the president’s abiding interest in infrastructure, it’s
probably not going to make its way into the next coronavirus package, which he thinks will come together in July. ‘The issue with infrastructure is normally these are not shovel-ready,’ he said. ‘So normally, even if we pass something, this isn’t going to impact getting people back to work in September and October.’”

_**Topics covered today include: tax and economic development, health, international trade, government oversight and US states developments.**_

The US House of Representatives, under the leadership of Speaker Nancy Pelosi (D-CA), is preparing to vote before Independence Day on a US$1.5 trillion national infrastructure bill.

Secretary Mnuchin met Tuesday with Senate Republicans, who are in the process of working with the White House to determine the GOP response to the [HEROES Act](https://www.congress.gov/bill/116th-congress/senate/bill/1999), the massive coronavirus response package passed by the Democratic-controlled House of Representatives in May as a would-be sequel to the bipartisan [CARES Act](https://www.congress.gov/bill/116th-congress/senate/bill/2/trial-examining-the-appropriation-of-devoted-funds-of-the-coronavirus-response-and-relief-act-of-2020), signed March 27 by President Trump. In comments to the media, Mnuchin said the Trump Administration is “strongly considering” pursuing another major relief bill in July. Mnuchin also indicated President Trump will not seek to close the economy again if faced with a resurgence of coronavirus hospitalizations in America.

Top US health officials, including Dr. Anthony Fauci of the National Institute of Allergy and Infectious Diseases (NIAID) and Robert Redfield of the Centers for Disease Control and Prevention (CDC), appeared Tuesday before the House Committee on Energy and Commerce, where they faced questions about how frequently they have been in communication with President Trump in recent weeks, as COVID-19 cases have increased in some parts of the country. Fauci and other officials indicated they have had limited recent contact with the White House, but rejected suggestions that they have been pressed by the president and his team to pull back on coronavirus testing and monitoring across the country.

Republicans in the Senate will move today to begin debate on police reform legislation proposed by Senator Tim Scott (R-SC) in response to national outrage over racial injustices in the wake of the killing of citizen George Floyd. Senate Minority Leader Chuck Schumer (D-NY) has indicated Democrats will block the Senate from proceeding with debate on the Scott measure in an effort to pressure Senate Majority Leader Mitch McConnell (R-KY) and other Republicans to produce a more robust bill that Democrats can support. The Democratic-led House will vote later this week on an alternative police reform proposal authored by Representative Karen Bass (D-CA).

**Tax and Economic Development Updates**

Yesterday, during an event with _Bloomberg_, Secretary Mnuchin discussed the ongoing economic crisis and acknowledged that while “the economy had a very bad second quarter...[we are] going to see a spectacular rebound off the bottom in the third quarter.” The Treasury Secretary also had a closed-door meeting with Republican Senators to discuss another potential COVID-19 economic relief package, which he suggested will come together and be passed in July. Mnuchin did
not appear optimistic that the package will include investment in infrastructure; however, he made clear that “[w]hatever we do will be much more targeted and much more focused on jobs and bringing back jobs.” One specific idea that both he and White House economic adviser Larry Kudlow have acknowledged is on the table: another round of stimulus checks for taxpayers. There are also ongoing discussions about including a number of tax incentives to help with economic recovery efforts. That said, as Politico reports, there are some potential issues with providing such incentives on an accelerated basis:

Here’s how it would work: Companies normally have to push forward tax incentives — like, say, the research and development credit — to future years if they couldn’t actually use it this year. What business groups are calling for would essentially allow companies to use their 2020 tax incentives as refundable tax credits, giving them that quicker influx of needed money.

But some experts watching the debate wonder whether this idea would cause administrative problems. Perhaps the big one: The IRS would likely have to issue payments before auditing them and basically hope for the best — or perhaps have to double back later to audit the credit.

Supporters of accelerating the credits say they haven’t even heard about those kinds of concerns. Rob Damschen of the National Association of Manufacturers said in a statement that ‘administrative difficulties of such a process have not been raised in extensive conversations on this important issue,’ while arguing that the proposal would offer ‘a critical and timely source of capital to support companies’ efforts to reopen and bring back workers.’

And yet, the administrative difficulties are clear to others, who say that it’d be a mistake to pay out for tax credits with little oversight. ‘Unscrupulous taxpayers could create straw businesses, apply for tax credits, and then dissolve the businesses after receiving the refund,’ said Steve Rosenthal of the Urban-Brookings Tax Policy Center, adding that it’s ‘hard to audit a business that no longer exists.’

Yesterday, the Board of Governors of the Federal Reserve, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and National Credit Union Administration – in conjunction with the state bank and credit union regulators – issued interagency guidance “to promote consistency and flexibility in the supervision and examination of financial institutions affected by the COVID-19 pandemic.” According to the regulators, “[s]tresses caused by the spread of COVID-19 have led to significant economic strain and adversely affected global financial markets,” thus the interagency guidance instructs examiners to consider the “unique, evolving, and potentially long-term nature of the issues confronting institutions due to the COVID-19 pandemic and to exercise appropriate flexibility in their supervisory response.”

Additionally, yesterday, the Consumer Financial Protection Bureau issued an interim final rule “to make it easier for consumers to transition out of financial hardship caused by the COVID-19 pandemic and easier for mortgage servicers to assist those
consumers.” The rule makes clear that servicers do not violate Regulation X by offering certain COVID-19-related loss mitigation options based on an evaluation of limited application information collected from the borrower. Additionally, the rule specifies that the loss mitigation option must meet certain criteria to qualify for an exception from the typical requirement to collect a complete application. The rule also provides servicers relief from certain requirements under Regulation X that normally would apply after a borrower submits an incomplete loss mitigation application.

**Health Updates**

While several topics were addressed during the House Committee on Energy and Commerce’s marathon six-hour committee hearing on the administration’s response to the COVID-19 pandemic, many questions remain. One of the most pressing and controversial issues of the day was whether the administration is slowing testing of the virus. In his opening statement, Chairman Frank Pallone, Jr. (D-NJ) said, “at [Saturday’s] rally [the president] suggested that his staff slow down testing to mask the true level of infection across the country. This was an extremely reckless action, and unfortunately it continues the president’s pattern of ignoring the advice of his own public health experts.” The panelists met this question with swift denial. NIAID Director Fauci said, “I know for sure that, to my knowledge, none of us have ever been told to slow down on testing” and that, “we’re going to be doing more testing, not less.” Department of Health and Human Services (HHS) Assistant Secretary Brett Giroir and Food and Drug Administration (FDA) Commissioner Stephen Hahn also refuted being asked to reduce testing, with Commissioner Hahn adding that he expects the United States will be able to conduct 40 to 50 million tests per month by the fall. In a related development, following a letter sent to Vice President Mike Pence and HHS Secretary Alex Azar, House Committee on Oversight and Reform Select Subcommittee on the Coronavirus Crisis Chairman James Clyburn (D-SC) issued a statement that read, “If the President orders administration public health officials to reduce testing, they should resist to the fullest extent permissible under the law—and immediately notify Congress.”

The development of a vaccine was also top of mind for some members of the committee. When questioned about the timing, Dr. Fauci said, “I still think there is a reasonably good chance that by the very beginning of 2021 that, if we’re going to have a vaccine, that we will have it by then.” However, he warned, “we need to be careful that we don’t jump because of our need to get vaccines for those who need it, that we do not definitively prove safety and efficacy before we make decisions about distribution.”

Finally, as the debate over the wearing of face coverings continues, Dr. Fauci definitively encouraged individuals to do so in public. He said, “Plan A: Don’t go in a crowd. Plan B: If you do, make sure you wear a mask.” The statement comes on the heels of Republican governors in the states of Florida, Arizona and Texas – states where the number of cases have seen a dramatic increase – promoting the utilization of face coverings in public. Dr. Fauci also justified the timing of the recommendation of wearing masks, explaining, “we did not want to divert masks and [personal protective equipment (PPE)] away from [healthcare providers], to be used by the people” in the initial stages of the pandemic.
Meanwhile, across the Capitol, the Senate Committee on Health, Education, Labor and Pensions (HELP) held a hearing on ways in which the US may be better prepared for the next pandemic. Former Senate Majority Leader Bill Frist (R-TN) called for an annual mandatory appropriation for public health of approximately US$4.5 billion. Former CDC Director Julie Gerberding echoed that statement, saying, “we need to make sure that we find a budget mechanism that allows the sustained funding to not be subject to budget caps and not be something that gets involved in horse-trading when the budget process rolls around every year.” House Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee Ranking Member Tom Cole (R-OK) supported that idea in a hearing earlier this month, comparing the mandatory spending to the Pentagon’s Overseas Contingency Operations Account. The panelists also agreed on several other recommendations made by HELP Committee Chairman Lamar Alexander (R-TN) in his white paper on pandemic preparedness issued on June 9.

Trade Updates

According to The New York Times, the European Union (EU) is considering whether to bar travelers from the United States when the bloc reopens its borders as of July 1. EU officials are reportedly concerned with the rate of coronavirus transmission in the US. In March, when the pandemic was spreading across Europe, President Trump banned citizens from most European countries from traveling to the United States. Critics argue that limiting US travel to Europe could have significant economic impacts, among others, but officials contend that the criteria are being kept as scientific and nonpolitical as possible.

Congress may vote on withdrawing from the World Trade Organization (WTO) later this summer. US law permits lawmakers to bring up a resolution on WTO membership every five years. Senator Josh Hawley (R-MO) and Representatives Peter DeFazio (R-OR) and Pallone filed resolutions in the Senate and House, respectively, earlier this year, and the House and Senate parliamentarians have confirmed that lawmakers could vote on them by late July. Congress is unlikely to approve the measures – and despite criticizing the bloc, the administration has stopped short of calling for withdrawal – but the votes will give lawmakers an opportunity to debate the merits of the WTO more broadly.

On Tuesday, the Office of the US Trade Representative (USTR) confirmed that it will begin accepting comments on the next round of tariffs in the large civil aircraft dispute on Friday, June 26. Comments must be submitted by July 26 through USTR’s portal in order to be considered. Further information is available here.

Oversight Updates

Yesterday, the Pandemic Response Accountability Committee (PRAC), the new council of 21 existing Inspectors General created under the CARES Act, announced the release of a tool to track the federal government’s contract spending for pandemic relief. Available on the PRAC’s website, the tool allows the public to download the data set and examine contracts by category, such as medical services and equipment, PPE and safety supplies for government workers.

In a report released yesterday, the Government Accountability Office (GAO) found
that the Department of Transportation failed to coordinate a national aviation preparedness plan for communicable disease outbreaks that the GAO recommended in 2015 during the Ebola outbreak. The GAO also found that the Federal Aviation Administration conducted limited research on disease transmission during flights or in airports, despite the GAO’s prior recommendations. According to the GAO, a national preparedness plan would have served as a mechanism for the public health and aviation sectors to coordinate their efforts during the pandemic more effectively and could have helped “minimize unnecessary disruptions to the national aviation system.”

Senators Elizabeth Warren (D-MA) and Cory Booker (D-NJ) are opening an investigation into Tyson Foods, JBS USA, Cargill and Smithfield Foods after reports that the meatpacking companies exported a record amount of product to China, while sounding alarms on impending meat shortages and increasing prices in the US.

Also yesterday, Senator Warren and eleven other senators wrote a letter to the director of the Department of Justice Executive Office for Immigration Review (EOIR), questioning the decision to reopen some immigration courts and resume some hearings amid the ongoing pandemic. The senators expressed concern that the EOIR is “rushing to reopen the courts without a rigorous process or sufficient communication with stakeholders,” which could compromise the health of the people in the courts and the fairness of the proceedings.

Congressional scrutiny of the Paycheck Protection Program (PPP) continues, this time with Representative Clyburn, chair of the House Committee on Oversight and Reform Select Subcommittee on the Coronavirus Crisis. Chairman Clyburn is requesting that the Small Business Administration (SBA) Inspector General investigate reported errors in SBA systems that resulted in over 1,000 duplicate PPP loans being issued. Citing a Reuters report, Chairman Clyburn expressed concern that the error may have cost taxpayers more than US$100 million.

Additionally:

- **TIME** reports that Secretary Mnuchin said in an interview on Tuesday that the Administration “never agreed to full transparency” with regard to the PPP. Echoing his earlier statements, Mnuchin cited confidentiality concerns, but this time he compared releasing the details of smaller loans to releasing information on people who received enhanced unemployment benefits, which no one is demanding. Mnuchin added, however, that, “as it relates to oversight committees that keep information confidential, they will have access to more information.”
- Another person was charged yesterday with PPP-related crimes, including with three counts of wire fraud, one count of false statements to a bank and four counts of money laundering. The defendant allegedly claimed to have over 120 employees who did not exist in support of his applications for US$3 million in PPP loans. Having ultimately received US$1.5 million, the defendant used the money primarily for personal purposes, including purchasing a Tesla.

**State Updates**
Determining when, where, or if masks must be worn has become a contentious issue. Mandates vary by state and even by municipality. Federal recommendations on masks and face coverings have also changed in the last two months. Initially, the CDC said face coverings were only necessary for people showing symptoms of the coronavirus. Then, as it became clearer that at least 35% of COVID-19 infections could be asymptomatic, the CDC recommended everyone wear a face mask in addition to staying six feet apart to slow the spread of the virus.

Fifteen states and the District of Columbia (D) have made mask wearing mandatory by their mayors or governors. They include: California (D), Connecticut (D), Delaware (D), Hawaii (D), Illinois (D), Kentucky (D), Maine (D), Maryland (R), Massachusetts (R), Michigan (D), New Jersey (D), New Mexico (D), New York (D), Pennsylvania (D), and Rhode Island (D). New CDC guidance on the use of masks is expected to be released soon.

This post was also written by Meg Gilley.

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