

Corona Virus Response Update
Robertson, Monagle & Eastaugh
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This is our sixth memo on the CV crisis and covers the main provisions of the HEROES Act, what some are calling Phase IV of the Federal CV legislative relief effort (it's actually the fifth piece of legislation). The memo has a particular focus on additional proposed funding for State and local government relief as well as language to grant greater flexibility in use of that relief. We also discuss some recent funding awards from CARES Act programs.

The House passed the HEROES Act last Friday on a largely party-line vote. The 1,800 page+ bill provides an estimated \$3 trillion in additional CV-relief funding and other policy changes, with a focus on workforce and State and local government relief. There is no counterpart bill in the Senate.

Senate deliberations are likely to go much more slowly and will depend in good part on how the country recovers from a health and economic standpoint as States continue to re-open this month. The Senate Majority Leader has said there is a "high likelihood" the Senate will develop legislation but it is likely to see significant changes from the House version and may not reach the President's desk until June or July. Recent comments by Federal Reserve Chairman Powell on the need for additional Federal fiscal stimulus also creates an impetus for further legislative action. The Senate Majority Leader has stipulated that there must be liability protections from CV-related lawsuits in Phase IV. There is Republican and Administration support for additional relief to State and local governments but reticence to agree to the high funding levels proposed in the House bill and by extension the high funding level of the HEROES Act overall.

HEROES Act – State, Local, Tribal Government (SALT) Relief

The bill includes \$915 billion in State, local, tribal and territorial government relief. By way of comparison, the CARES Act provided \$150 billion. Funding is broken out as follows.

- **State governments** -- \$500 billion, with two disbursements split evenly one month from enactment and roughly one year from now. For the first payment, the State of Alaska would receive \$1 billion plus its share of CV cases vs national cases multiplied by \$49 billion plus its population vs national population multiplied by \$150 billion. Based on current data, that amount comes to a little less than \$1.5 billion. For the second payment, the State would receive \$1 billion plus its share of unemployed people vs the number unemployed nationally for the first quarter of 2021. By way of comparison, the CARES Act provided the State a total of \$1.25 billion.
- **Local governments** -- \$375 billion, also split into two disbursements over the same timeframe but on a 66 percent/33 percent split with the 66 percent payment first (tribal governments will get their entire payment within 30 days). The amount is further divided as follows. The allocation within each division is population-based. For municipalities it follows a modified Community Development Block Grant formula.

- **Counties/Boroughs** -- \$187.5 billion. Allocations are determined by the county/borough's population vs all counties/boroughs populations nationally. These are direct payments from the Treasury.
- **Larger Municipalities** (over 50,000 population) -- \$131.25 billion. Allocations are based on the CDBG formula. The only municipality in Alaska eligible for these funds would be Anchorage.
- **Smaller Municipalities** (less than 50,000) -- \$56.25 billion. The allocation is first determined by the State's population of all its municipalities versus all municipalities nationally. Funds would then be sent to the State, with the State then allocating to each of its smaller municipalities in proportion to their population within the State. If a State elects not to make payment within 30 days, then the responsibility falls to the Treasury.
- **Tribal governments** -- \$20 billion to be awarded within 30 days of enactment based on tribal expenditures vs tribal expenditures nationally. The bill disqualifies Alaska Native Regional Corporations or Village Corporations from both CARES and HEROES Act funds. Of the \$8 billion in CARES Act tribal relief, \$4.8 billion has been allocated for tribal government based on population. The Administration would like to distribute some portion of the remaining funds to Alaska ANCs, but it is delayed due to a court decision as a result of litigation brought by other tribes who protested their inclusion. A separate \$2.1 billion is included for Indian Health Service programs.

The HEROES Act provides broad flexibility in the use of its funds, stating that SALT recipients can use their allocation to "respond to, mitigate, cover costs or replace foregone revenues not projected on January 31, 2020 stemming from the public health emergency, or its negative economic impacts." The bill also provides retroactive flexibility on the use of CARES Act funding to cover lost, delayed, or decreased revenue due to the CV crisis.

CARES/HEROES Act -- State & Local Flexibility Legislation

Senator Sullivan has introduced legislation (S. 3638 -- The Coronavirus Relief Fund Flexibility Act) that would provide SALT recipients of CARES Act funding greater flexibility in the use of funds from the Act's SALT stabilization payments. The bill would permit these funds to be used to replace "government revenue shortfalls" resulting from the CV crisis during the period March 1, 2020 to December 31, 2020. The CARES Act restricts these funds solely for the purposes of public health and economic response to the CV crisis.

The bill is bipartisan. Senator Murkowski is a cosponsor and Rep. Young is a cosponsor to the House counterpart bill. Its best chance for enactment is to be included in the Phase IV CV relief legislation.

CARES/HEROES Act -- Fisheries Disaster Relief

NOAA has announced the State allocations for the award of the \$300 million of the CARES Act fisheries disaster relief. Alaska's share is \$50 million. NOAA intends to shortly transfer the funds to the Pacific States Marine Fisheries Commission to handle disbursement to affected commercial fishermen, charterboat operators, tribes, certain aquaculture fisheries, subsistence fisheries and processors.

Consistent with other fisheries disasters, the State will develop the requisite formulas as part of its expenditure plan that determine individual award amounts. The statute does require the demonstration of a 35 percent revenue loss (with the exception of subsistence fisheries) due to the CV crisis versus average annual revenues over the prior five years. **The key difference with respect to the normal fishery disaster assistance program is that there does not need to be a commercial fishery failure. The 35% revenue loss is directed at the revenues of an individual or company. Applicants will need to show a 35% revenue loss compared to person's or company's average annual revenues over the prior five years. The State can provide relief while the fishery is still ongoing. We believe affidavits will be required with respect to the link between the 35% revenue loss and Covid. For instance, a mechanical engine failure in April which leads to a revenue loss would not be eligible for relief. The closure of a processing facility due to a Covid outbreak, in contrast, that deprives a fisherman of a market might be eligible for both the fisherman and the processor. Additionally, the loss of the restaurant or food service market during the Shelter-in-Place might be eligible for both fishermen and processors. These issues may need to be addressed during the spend plan formulation process.**

The HEROES Act provides an additional \$100 million in fisheries disaster relief using the same criteria and eligibility. The bill also has \$3 billion for child nutrition programs. This is the account that funds USDA's Section 32 food commodity purchases to be used in school lunch and other food assistance programs. Seafood is eligible for USDA purchase, with the Department earlier this month announcing a \$20 million Alaska pollock purchase.

The Delegation has signed bipartisan Congressional letters seeking greater increases in both NOAA fisheries disaster relief as well as greater USDA seafood buys.

CARES Act – Rural Health Care Provider Relief

The Dept of Health and Human Services (HHS) has announced the allocation of \$10 billion from the CARES Act set aside for rural health care providers. \$69 million has been allocated for 208 providers in Alaska. This includes rural acute care general hospitals, critical access hospitals, rural health clinics, and Community Health Centers located in rural areas. The minimum base payment for rural hospitals is \$1 million plus an additional amount based on a percentage of operating expenses; for health clinics/centers the base amount is \$100,000 plus an additional amount based on a percentage of operating expenses. HHS still has CARES funding awards to make for skilled nursing facilities, dentists, and providers that solely take Medicaid.

HEROES Act – U.S. Postal Service Relief

The fiscal state of the Postal Service during the CV crisis has gotten increasing attention within Alaska given community reliance on rural post offices and the bypass mail system. During past Postal Service fiscal crises and reform efforts, both came under threat for either closure or elimination. The bill provides \$25 billion to cover the Postal Service's foregone revenue from loss of mail business.

The CARES Act authorized a \$10 billion low interest loan from the Treasury but there have been delays in loan approval as the Treasury Department has sought to make the loan conditional on the Postal Service adopting certain reforms including changing its fee structure for package delivery. The bill prohibits these conditions from being tied to approval of the loan.

Senators Murkowski, Sullivan and Rep. Young signed bipartisan letters earlier in the month advocating for the \$25 billion in Postal Service relief.

HEROES Act – Other Relief

Below is a listing of other significant relief provisions or policy changes.

- **Individuals** – Further economic impact payments will be sent for an additional \$1,200 per adult below annual income of \$75,000, with an increase in child payments from \$500 in the first payment to \$1,200 here, with a \$6,000 cap per family. Unemployment insurance coverage is extended into early 2021 including the supplemental \$600/week Federal payment. For laid-off workers with employer-provided health insurance, the bill funds the full cost of COBRA coverage for up to nine months. The child and Earned Income tax credits are increased. Paid family and medical leave requirements currently in place are extended through the end of 2021. Food stamp assistance is increased by 15 percent.
- **Essential Workers** -- \$200 billion is provided to finance a \$13/hour increase in hazard pay for frontline healthcare and other essential workers fighting the CV crisis. This includes State and local government employees, primarily in the areas of first responders, health care, public transportation and roles where there are required significant interactions with the public. Reimbursement for these costs would come from the HEROES Fund established in the Dept. of Treasury.
- **Health Care Providers** – An additional \$100 billion is provided (prior bills appropriated a total of \$175 billion) for health care provider relief. Under the measure, health care providers could receive 100% of eligible expenses and 60% of lost revenues, less any funds received under previous CV relief laws. Reimbursable expenses and lost revenues cannot include compensation for an executive. Providers would be prohibited from charging patients a balance billing amount for CV-related treatment that is greater than the cost-sharing amount that applies under the patient's health plan insurance. Providers receiving these funds also would be prohibited from charging uninsured patients for CV-related treatment. Separately, \$7.6 billion is provided for HHS's Community Health Centers program, along with \$75 billion for CDC to implement a contact tracing program.
- **Education** -- \$90 billion is funded for a State Fiscal Stabilization Fund for grants to States to support elementary and secondary schools and public postsecondary institutions. Authorized funding activities for schools include those that fall under the Elementary & Secondary Education Act. This amount is three times the size of the CARES Act funding.
- **Transportation** – Provides an additional \$15.75 billion in mass transit grants (75 percent awarded by formula, 25 percent by applying for grants directly with the Dept of Transportation) on top of CARES Act funding of \$25 billion. The formula funds are limited to those urban transit systems that serve over 3 million people (the CARES monies had no such restrictions). \$15 billion is provided for traditional highway/surface transportation program funding at 100 percent Federal cost share with State allocations consistent with the current formula. \$150 million is set aside for the Tribal Transportation Program.

- **Small business/non-profits** – SBA’s Economic Injury Disaster Loan Program will receive an additional \$10 billion. There are no new funds for the popular Payroll Protection Program but the bill includes a number of policy changes, including making eligible all non-profits under Section 501c of the tax code (this would include organizations like local tourist boards and chambers of commerce. It does not include groups organized strictly for political activities) as well as critical access hospitals (public non-profit hospitals were made eligible recently from a change by SBA in its guidance) and local news organizations; extending loan repayment from two to five years; allowing greater flexibility in loan forgiveness from the current requirement that 75 percent must be spent on payroll as well as extending the covered period from 8 to 24 weeks; setting aside 25 percent of loan amounts for small employers with less than 10 workers; ensuring that any forgiven loan does not count as income but rather as a deduction for tax purposes; and extending the application period through the end of the year. The second tranche of \$310 billion for the PPP has been spent more slowly (as of a week ago \$120 billion remained) but is likely to need additional funding by late May or June.
- **Housing** -- \$175 billion is included for new emergency rental and homeowner assistance programs. Homeowners who have trouble paying their mortgages (extends to all mortgages, the CARES Act covered just Federally-backed financing) are eligible for forbearance through a phased request process for up to a year. No renter evictions can occur for up to one year. \$11.5 billion is provided for homeless assistance. An additional \$5 billion is provided for the CBDG program.
- **Broadband** – The HEROES Act prohibits broadband and telephone providers from terminating service due to a customer's inability to pay their bill because of financial hardships caused by the pandemic. It also prohibits those providers from using data caps or charging customers for going over data caps, and requires them to open all their Wi-Fi hotspots to the public at no cost during the pandemic. It also requires the Federal Communications Commission (FCC) to expedite its Rural Digital Opportunity Fund auction to fast-track the build out of high-speed, gigabit internet service to rural America. \$9 billion is included for the FCC to set up a broadband credit program for unemployed or furloughed workers to receive a \$50 benefit (\$75 for those on tribal lands) to be used to offset the cost of monthly internet service. The subsidy for the provision of broadband rural telehealth services is raised from 65 to 85 percent.