CNE
Puerto Rico's Think Tank

Third Economic Stimulus Package in Response to COVID-19 Coronavirus Aid, Relief, and Economic Security (CARES) Act

HIGHLIGHTS - WHAT'S IN IT?

Put simply, a lot. This $2 trillion-dollar package is the largest economic stimulus package in U.S. history. As such, the 880-page bill includes provisions to help local and state governments, small businesses, nonprofits, victims of the disease, and so on. Below are some provisions that you may find relevant and helpful as we pour into every page of the legislation.

Pandemic Unemployment Assistance

Provides unemployment assistance to assist individuals not traditionally eligible under State or Federal law. Individuals will self-certify they are unemployed, partially unemployed, unable or unavailable to work as a result of the public health response and emergency measures triggered by the COVID-19 pandemic. This provision applies to all five territories – Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands – Washington DC, and the Republic of Palau.

Relief for Small Businesses

Small businesses and nonprofit organizations play critical roles in the broader economy. For that reason, when small businesses face adversity, the Small Business Administration (SBA) steps in to provide low-interest, long-term loans for physical and economic damage caused by disasters. However, the scope and scale of the economic disruptions due to the coronavirus will require measures that go beyond the traditional SBA disaster loans. This bill increases the pool of individuals that can apply for SBA loans extending eligibility to self-employers, nonprofits, tribal organizations, veteran's associations, and others. It also offers pardons for indebtedness for qualifying borrowers. See below.

Section. 1102. Paycheck Protection Program

The CARES act establishes a guaranteed loan program, the Paycheck Protection Program, for small businesses, nonprofit organizations, veteran organizations, and tribal businesses with no more than 500 employees, as well as sole proprietors, independent contractors, and self-employed individuals to cover payroll costs, commissions, emergency sick leave, insurance premiums, retirement benefits, rent, utilities and other expenses for the period beginning on February 15, 2020 through June 30, 2020. Proceeds to cover payroll costs are capped for employees earning an annual salary over $100,000.

The maximum loan amount will be calculated on the applicant's average total monthly expenses for payroll costs multiplied by 2.5, and capped at $10 million.

Eligible recipients will need to self-certify that funds will be used to retain workers, and sustain operations affected by the economic conditions of the coronavirus. Waives traditional Administrator fees, as well as personal guarantees, collateral requirements, and the need to provide evidence the recipient is unable to receive credit elsewhere.

Loans are to be provided at interest rates not to exceed 4%. Lenders are required to allow for loan payment deferments of no less than 6 months and no longer than one year.

Section 1106. Loan Forgiveness.

Those borrowers that benefit from the Paycheck Protection Program will also be eligible for forgiveness of indebtedness for payroll costs, interest payments on mortgages, rent obligations and utilities. The amount of loan forgiveness shall not exceed the principal amount of the loan. One of the provisions reduces loan forgiveness amount proportional to the reduction in number of employees.

Above the Line Charitable Donations

We are pleased that lawmakers are supporting individual donations to charity and non-for-profit organizations, one of the provisions CNE advocated for. Negotiators included in Section 2205 language that would allow for non-itemized charitable deductions of up to $300 made by individuals. Currently, only those taxpayers who choose to itemize can claim the deduction. Charitable donations help sustain the important work of the third sector and thus, we are pleased the federal government included this provision that incentivizes and rewards individual generosity.

Public Health Emergency Preparedness and Child Care Assistance

The package includes $4.3 billion in funding for the Centers for Disease Control and Prevention, with a special set aside of $1.5 billion for territories, tribes, tribal organizations, and urban Indian health organizations, to respond to the public health crisis.

In addition, the package appropriates $3.5 billion in payments to states, territories and tribes to supplement funds for child care assistance for low-income families.

State and Local Law Enforcement Assistance

The funding bill includes $850 million for the Edward Byrne Memorial Justice Assistance Grant (Byrne-JAG) to meet local needs preventing, preparing, and responding coronavirus, in the U.S. or abroad. Puerto Rico is expected to receive at least $8 million dollars from this program towards that end.

WHAT'S MISSING?

Despite the additional funding to sustain Puerto Rico's Nutritional Assistance Program in the short-term, the carve out for territories in the Coronavirus Relief Fund, and the emergency cash transfers for individuals, the aid in this package falls short of what will be required for Puerto Rico to adequately respond to the health effects and the economic consequences from the coronavirus COVID-19 pandemic. This is why it is crucial to secure additional funding. In light of this, and in anticipation of a fourth economic stimulus package, CNE will renew its calls for:

Increase in Nutrition Assistance Program (NAP) funding

The Supplemental Nutrition Assistance Program (SNAP) is a federal entitlement program that provides food assistance to low-income families. In the aftermath of disasters, states (and some territories) automatically transition to the Disaster Supplemental Nutrition Assistance Program (D-SNAP) which allows them to dynamically respond to increased needs. Puerto Rico, on the other hand, receives a limited annual block grant to run NAP with significantly less benefits and funding, and devoid of the resources to respond to increased needs in the face of disaster. That is why after Hurricane Maria, Congress appropriated additional funds to provide the island temporary increases to address the increased needs of current and new participants. Though it is hard to estimate at this time the extent of economic damage from this crisis, an additional $200 million to be shared between three territories simply does not go far enough. Even if we assume a conservative burn rate of $100 million per month, this appropriation will only provide Puerto Rico with funding for little more than one month. In a letter to Congressional leadership dated March 18, 2020, Puerto Rico's governor requested $1.27 billion dollars to meet anticipated needs.

Further Increases to Medicaid

Medicaid programs in the U.S. benefit from an open-ended financing structure, receiving federal funds based on actual costs and needs. The federally-funded contribution to these programs, known as the Federal Medical Assistance Percentage, or FMAP, is calculated relative to income. For the territories, however, the FMAP is statutorily capped, regardless of poverty levels; aside from a temporary 2-year reprieve legislated by Congress to increase Puerto Rico's FMAP to 76%. Under normal circumstances, if Puerto Rico's FMAP were "calculated by the same statutory formula used for the 50 states and D.C., Puerto Rico's FMAP would be 83%, although the unbounded FMAP would be 93.34%. It is evident, we are not facing normal circumstances. The existing FMAP needs to be revised up so as to account for this unprecedented economic and health crisis. This is not an extraordinary request. For example, in the aftermath of the 2017 Hurricanes, the Bipartisan Budget Act of 2018 (P.L 115-123), increased Puerto Rico's FMAP to 100%. Prior to that, during the American Recovery and Reinvestment Act (P.L. 111-5), Puerto Rico was given the choice of selecting (1) an FMAP increase of 6.2 percentage points coupled with a 15 percent increase in its annual cap, or (2) a 30 percent increase in its annual federal Medicaid spending limit. At this time, anything less is insufficient.

Cancellation of FEMA's Community Disaster Loans (CDLs)

CDLs are provided to local governments that have suffered a substantial loss to their revenue base as a result of a disaster. Traditionally these loans were converted into grants, at the discretion of FEMA "if a borrower can demonstrate that they have a cumulative 3-year operating deficit following the disaster and associate that deficit with a disaster-related loss in revenue." Shortly after the 2017 hurricanes, however, Congress authorized $300 million in CDLs to 76 municipalities in Puerto Rico and tweaked language to restrict loan cancellations. As opposed to CDLs provided to other states, loans provided to Puerto Rico can only be canceled at the discretion of the Secretary of Homeland Security, in consultation with the Secretary of the Treasury. Puerto Rico's long-standing financial shortfalls threaten its ability to rapidly respond to and mitigate harm from the coronavirus. This is especially true for 65% of its 78 municipalities that recorded deficits in 2018. In the aftermath of recent disasters—the hurricanes, earthquakes and others—mayors have acted as first responders. But they are facing the unrealistic, and conflicting, demands of providing adequate services at the same time they are forced to implement a massive austerity program. The amount of the payment waiver could go a long way to help struggling municipalities facing steep costs related to healthcare needs.

Expansion of Puerto Rico's Local Earned Income Tax Credit (EITC)

The U.S. government created the federal EITC in 1975 to reduce the tax burden for low- and moderate-income working families. Its creditability has served as an incentive to promote work in the formal workforce and as a result, reduce poverty. It has become one of the federal government's largest antipoverty programs. In Puerto Rico, however, the situation is quite different. By excluding its participation in the federal EITC, Puerto Rico is systemically denied an effective tool to overcome its extreme poverty (Puerto Rico's poverty rate is 43%, which is more than double the rate of the highest-ranking state, Mississippi at 19.7%). Notwithstanding these challenges and the fiscal austerity measures being imposed on Puerto Rico, in 2018 it created a modest local EITC. Without federal support, Puerto Rico will not be adequately equipped to significantly increase labor force participation and reduce poverty. This is why a federal supplement that builds upon Puerto Rico's credit is crucial to help the most vulnerable recover from the hurricanes, earthquakes, and the economic impact of the COVID-19. In earlier drafts of the stimulus package the federal expansion was included, but at the last minute, congressional negotiators failed to include it in the final bill.

Streamlining of Emergency Funding

Existing limitations and restrictions in federal programs (for example, CDBG) adversely affect Puerto Rico's fiscal and economic situation. For example, much of the health care infrastructure that was damaged by the hurricanes nearly three years ago has yet to be fixed. In the municipality of Vieques, the only critical care facility on the island-municipality was completely destroyed by Hurricane Maria. Furthermore, according to the 2015 Puerto Rico Primary Care Assessment, 72 of Puerto Rico's 78 municipalities are deemed "medically underserved areas" whose residents have limited access to health services and providers. What's more, the recent earthquakes have forced the island's government to allocate limited resources to the southwestern region of Puerto Rico to address the emergency. There are still people living under tents as a result of these earthquakes, posing an alarming contagion risk, when the rest of the island is being asked to shelter in place. If relief aid lags behind a bureaucratic government process, the delays could unintendedly give rise to widespread panic and increased business closures. Removing onerous provisions, streamlining available funding, and waiving any future matching funds requirements is critical to rebuild infrastructure and adequately respond to any future crisis.

Temporary Waiver of the Jones Act

Puerto Rico depends on imports from the mainland, including for 85% of its food supply. At the same time, Puerto Rico's shipping industry is governed by the Merchant Marine Act of 1920, commonly known as the Jones Act. The Jones Act requires any goods shipped to Puerto Rico from a U.S. port be carried in a U.S. owned, U.S. manned, U.S. built, and U.S. flagged vessel. The net effects of the Jones Act on Puerto Rico's economy are inconclusive, yet it is clear that in the aftermath of a disaster, these requirements only create bottlenecks in the supply and distribution chain of necessary goods. At a minimum, a temporary waiver would prove helpful in allowing Puerto Rico to ship in food and emergency supplies at a lower cost. The Trump administration established a good precedent when it granted Puerto Rico a 10-day temporary waiver after Hurricane Maria and as well as temporary Jones Act waivers for Florida and Texas immediately after Hurricanes Irma and Harvey.