



LEGISLATIVE BRIEF

The Updated Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act

Prepared by:
Ellen Fern (efern@bosepublicaffairs.com)
Austin Hall (ahall@bosepublicaffairs.com)
Dwayne Moore (dmoore@bosepublicaffairs.com)

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OVERVIEW

On Monday September 28th, House Democratic leadership introduced their updated and pared down \$2.2 trillion relief package, the [Health and Economic Recovery Omnibus Emergency Solutions \(HEROES\) Act](#). The House’s new proposal largely represents a slimmed-down version of the House Democrats’ \$3.4 trillion HEROES Act, which passed the chamber in May. While the introduction of the new bill, along with a negotiated deal to avert a government shutdown as the fiscal year drew to a close on September 30, seemed to spur new energy into a new round of negotiations between Speaker of the House Nancy Pelosi (D-CA) and Treasury Secretary Steve Mnuchin, discussions seemed to stall on a new COVID response package and as a result, the House passed the Updated HEROES Act on Thursday night by a partisan vote of 214-207. This bill will now be sent to the Senate where it is not expected to pass, leaving numerous constituency groups, stakeholders and vulnerable Members of Congress greatly frustrated and disappointed.

While Speaker Pelosi expressed her strong desire Friday afternoon to pass a bill to support struggling airlines outside of comprehensive negotiations after the industry announced impending and significant layoffs, and the White House seems to continue to want a package, time is running short. On Friday, the House recessed until after Election Day; the Senate is scheduled to recess after next week, and talks will need to make significant progress over the coming days in order to get a bill that can pass both chambers and get to the President’s desk for his signature.

This memo provides a summary of the major provisions of the package.

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Relief to Individuals and Families

Direct financial assistance

The legislation proposes another round of direct financial assistance from the US Treasury to American citizens in the form of a check or direct deposit following the structure of the CARES Act with a few programmatic modifications. The bill appropriates \$359 million for tax credit implementation to provide for the payments. Payment amounts are dependent on the latest tax filings (2019 or 2018) and vary based on income levels and dependents per household.

- A full payment of \$1200 – in the form of a refundable tax credit – is available for every individual with a cap on individuals making up to \$75,000 and married couples making up to \$150,000.
 - An additional \$500 will be available for each child per household.
 - The value for each payment will decrease by \$5 for every \$100 earned up to \$99,000.

However, the Updated HEROES Act does expand on the CARES Act by also making all dependents below age 24 eligible for the \$500 qualifying child amount in calculating the direct payment amount. The CARES Act calculation only included dependents below age 17, making full time university students ineligible for assistance. Other changes from the CARES Act include:

- Allows payments for taxpayers who filed their taxes using a Taxpayer Identification Number (TIN) rather than a social security number; and
- Exempts past-due child support from impacting the payment amount.

Expands Refundable Tax Credits

The bill would expand refundable tax credits for low-income individuals and provide for greater flexibility. This includes:

- Earned Income Tax Credit (EITC) - For 2020, the minimum age to claim the childless EITC is reduced from 25 to 19 (except for full-time students) and the upper age limit for the childless EITC is increased from age 65 to age 66.
 - The bill also proposes an increase of the earned income and phase-out thresholds to where the maximum credit would increase from \$538 to \$1,487.
- Child Tax Credit (CTC) - The bill would make the CTC fully refundable for 2020 taxes.

The bill also eliminates the limitation on the deduction for state and local taxes for taxable year 2020. This is better known as the SALT deduction.

Investments in Unemployment Insurance (UI)

The bill extends much of the assistance established under the CARES Act for workers who have become unemployed due to the pandemic at the same level, which has been one of the main sticking points in negotiations between the House, Senate and the White House.

- Pandemic Unemployment Compensation will supplement UI state benefits by \$600 per week, which the Updated HEROES Act extends through January 31, 2021.
- Extends Pandemic Unemployment Assistance for workers not otherwise eligible for regular state UI or who have exhausted their state UI benefits through January 31, 2021.
- The benefit will be taxable but will not impact determinations in Medicaid or CHIP eligibility.
- The bill also extends the provision and makes a technical correction that reduces the amount nonprofits, tribes, and government entities must reimburse states for their workers' benefits by 50%.
- The bill also clarifies that individuals who unable to work due to remaining home to take care of their children are eligible for the unemployment benefit and that individuals who are no longer working for a business that is not fully closed are eligible as well.

Other provisions or investments to support individuals and families

- Supplemental Nutrition Assistance Program (SNAP) - \$10 billion in additional funding.
 - Women, Infants, and Children (WIC) \$400 million in funding.
- Child Nutrition Programs - \$3 billion in additional funding. Requires the Secretary of Agriculture to hold harmless commodity payments, special assistance payments, and state administrative expenses for the 2019-2020 school year.
- Social Services Block Grant - \$ 25 million to support child and family care for essential workers.
- Local food banks- \$450 million for local food banks.

Municipalities and Community Agencies**Local FEMA Match**

The bill adjusts the Federal share of FEMA assistance for COVID-19-related emergencies and major disasters to 100 percent. Adjusts the floor for Federal share of FEMA assistance from 75 percent to not less than 90 percent for any emergencies and major disasters declared pursuant to the Stafford Act in 2020.

State Coronavirus Fiscal Relief Fund

The bill provides \$238 billion in funding to assist state governments and the District of Columbia with the fiscal impacts from the public health emergency caused by the coronavirus. The District of Columbia will receive \$755 million in CARES ACT Coronavirus Relief Fund Repayment.

Local Coronavirus Fiscal Relief Fund

The bill provides \$179 billion in direct funding to assist local governments with the fiscal impacts from the public health emergency caused by the coronavirus. The funds will be split evenly between municipalities and counties and funds to municipalities will be distributed using the modified Community Development Block Grant (CDBG) formula.

Clarification of Eligible Activities and Costs for Federal Assistance

The bill clarifies the eligible costs and activities state and local governments may propose for federal assistance or reimbursement. These would include but are not limited to, housing for first responders, emergency managers and other health providers, costs for establishing and operating remote test sites, PPE and other critical supplies.

Community Development Block Grant (CDBG)

\$5 billion in total will be provided for the CDBG program, which is the same amount provided under the CARES Act. The funds would be distributed by formula based on current grantees. The bill also continues to waive the cap on funds a locality can spend on public services.

Homeland Security and Emergency Response Funding

The bill invests \$1.3 billion in multiple programs managed by the Federal Emergency Management Agency designed to assist localities and personnel on the front lines. Notable program investments include:

- Emergency Food and Shelter Program - \$200 million.
- Assistance to Firefighter Grants - \$500 million for protective equipment for firefighters.
- Emergency Management Performance Grants - \$100 million to support coordination and communications at all levels of government.

Transportation and Housing

The bill includes additional investments for transportation and housing accounts to mitigate the impacts of the coronavirus. Notable investments include:

- Transit emergency relief - \$32 billion, of which \$28.5 billion is for operating assistance grants that, in combination with funds provided in the CARES Act, will support up to 100 percent of transit agencies annual operating expenses, \$2.5 billion is for projects that received funding under the Capital Investment Grants program, and \$1 billion is for rural and paratransit providers.
- Section 8 Housing Vouchers for PHA's - \$4 billion in tenant-based rental assistance and for PHA's to carry out its operations.
- Homeless and Rental Assistance Grants - The bill provides more than \$56 billion over multiple programs to support homeless populations and low-income renters at risk of homelessness and eviction.

Family Service Programs

Social Service Block Grant - The bill would provide \$9.6 billion in funding for the Social Services Block Grant (SSBG) to support emergency services for states and localities. The bill also proposes an increase to the overall authorization of the program to \$11.33 billion.

- The bill includes specific language to require states to subgrant at least 50% of funding to county and local governments working with community-based organizations serving disadvantaged individuals.
- The bill also offers additional flexibilities for children and family service programs, including suspending the federal work participation requirements under TANF and allowing child welfare programs to provide services using electronic means in order to comply with public health guidelines.

Municipal Liquidity Fund

The bill expands eligibility for local governments to access funds up to \$500 billion in short-term credit through the Federal Reserve's Municipal Liquidity Fund (MLF).

Support for Public Health Data Systems and Health Infrastructure



The bill authorizes grants or cooperative agreements with state, local, tribal or territorial public health departments to support “the expansion and modernization of public health data systems.” Managed by the CDC, the grants would support consistency in data collection, dissemination of public health information, and the secure exchange of data between the CDC and local health departments. The bill also authorizes funding to support public health infrastructure needs, specifically:

- Provides \$6 billion in CDC formula grants to establish a core public health infrastructure program through grant awards which would be distributed to address core infrastructure needs, with no less than 30 percent of funds going to state, local, tribal or territorial health departments on a competitive basis. Additional grants to state health departments would be awarded through a formula based on population size, burden of preventable disease and disability, and core public health infrastructure gaps.
- Authorizes \$2 billion in CDC grants to state, local, and territorial health departments

Grants to Support Hiring and Training of Contact Tracers

The bill authorizes grants to local workforce development systems to support the recruitment, placement, and training of individuals in COVID-19 contact tracing and related positions, with a focus on recruiting from impacted local communities and building a culturally competent workforce. Post-employment transition assistance is an aspect of the grants.

Election Assistance

The bill would implement the *American Coronavirus/COVID-19 Election Safety and Security (ACCESS) Act*, requiring local governments to establish vote-by-mail and other election contingency plans to encourage localities to follow public health guidelines while holding elections. The bill would provide funding for the Election Assistance Commissions to make payments to eligible states for the costs of complying with these requirements.

Other provisions to support municipality operations

- Suspends the prohibition on EDA grantees specifically to use federal funding to obtain consulting assistance in developing grant applications under the CARES Act.
- Administration for Community Living - \$1.175 million across several services, including protections for seniors and individuals with disabilities, supports for family caregivers, nutrition programs, and home and community based services.

Criminal and Juvenile Justice

Violence Against Women Act (VAWA) Programs

The bill provides \$375 million for VAWA programs, including:

- \$100 million in grants to combat violence against women;
- \$100 million for sexual assault victims assistance;
- \$40 million for transitional housing assistance grants;
- \$15 million to support families in the justice system;
- \$100 million for the Family Violence Prevention Services Program;
- \$2 million for the National Domestic Violence Hotline; and
- Language regarding the VOCA deposits fix and match waiver.

Juvenile Justice Programs



The bill proposes \$100 million for juvenile justice programs, including \$50 million for Part B Formula Grants and \$50 million for programs authorized by the Victims of Child Abuse Act.

Pandemic Justice Response Act Grants

A new grant program appropriated at \$600 million to: (1) prevent, detect, and stop the presence of COVID-19 in correctional institutions, and for pre-trial citation and release grants, (2) provide Rapid COVID-19 Testing at correctional institutions, and (3) support for Juvenile Specific Services.

Tribal Governments

Tribal Coronavirus Fiscal Relief Fund

The bill provides \$9.5 billion in funding to assist Tribal governments with the fiscal impacts from the public health emergency caused by the coronavirus. The bill also allows the use of these funds, as well as the Coronavirus Relief Fund monies already received, to be used to replace foregone revenue related to coronavirus economic impacts. These funds are available until expended.

Indian Health Service

The bill appropriates \$2.3 billion to provide resources necessary to respond to the COVID-19 pandemic among Tribal communities.

Bureau of Indian Affairs

The bill grants \$900 million to support welfare assistance and other emergency response needs for tribal governments.

Healthcare

Public Health Responses

The bill authorizes multiple new programs to expand the federal government's efforts and coordination to respond to the pandemic. Notable provisions include:

- The bill requires the President appoint a Medical Supplies Response Coordinator to “coordinate the efforts of the Federal Government regarding the supply and distribution of critical medical supplies and equipment relating to detecting, diagnosing, preventing, and treating COVID-19, including personal protective equipment (PPE), medical devices, drugs, and vaccines,” including consultation with state and local governments.
- The bill requires the U.S. Department of Health and Human Services to provide an updated COVID-19 strategic testing plan no later than 30 days after the enactment of this Act, and establish a webpage available to the public that identifies FDA approved tests that can be used to detect the Coronavirus.
- The bill appropriates \$75 billion to the CDC to establish a new national system and grant program for COVID-19 testing, contact tracing, surveillance, containment and mitigation.
 - This includes a requirement for the CDC to award grants to state, local, tribal, and territorial health departments to carry out evidence-based systems for testing and contact tracing.

Access to Health Care for Individuals Affected by COVID-19

The bill supports individuals infected by COVID-19.

- The bill allows states the option to leverage Medicaid to cover uninsured individuals receiving treatment for COVID-19 without cost sharing.

- The bill also establishes zero out-of-pocket costs for COVID-19 treatment under Medicare Advantage during the COVID-19 pandemic.

Support for Healthcare Providers

The bill invests resources in support of health care providers on the front lines responding to the pandemic. Notable provisions include:

- Health Care Provider Relief Fund - Codifies the fund established in the CARES Act to reimburse eligible providers for expenses related to preventing and responding to COVID-19. \$50 billion is authorized to carry out this section.
- Ready Reserve Corps and Expanding Health Professionals Deployment Ability - Provides additional funding for the Medical Reserve Corps to ensure there are enough qualified medical professionals throughout the country to treat patients and respond to COVID-19. The bill also allows volunteer medical professionals responding to COVID-19 to have liability protections and provides the Secretary of Health and Human Services (HHS) to reassign members of the National Health Service Corps to provide additional support for areas most impacted by the virus.

Support for the Healthcare Workforce

The bill authorizes and provides investments for multiple programs targeted to support the healthcare workforce tasked with responding to the coronavirus. This includes support for doctors and nurses, coordination efforts, and additional education and training for medical professionals. This includes:

- Establishes a Public Health Workforce Loan Repayment program to support the recruitment of public health professionals to eliminate critical health workforce shortages in state and local agencies.
- Authorizes grants to schools of medicine in rural, underserved, or Minority-Serving Institutions.
- Establishes a technical assistance center through the Substance Abuse and Mental Health Services Administration (SAMHSA) to support public and nonprofit entities that provide mental health treatment to health care professionals on the front lines of treating patients with the coronavirus.

Private Health Insurance Provisions

The bill makes changes to private health insurance to expand access for enrollment and allowing enrollees to access care related to the coronavirus without cost-sharing. Notable provisions include:

- Special enrollment period - the bill provides for a two-month open enrollment period to allow individuals who are uninsured, for whatever reason, to enroll in coverage.
- Waives cost-sharing requirements for consumers seeking healthcare services related to COVID-19 for the duration of the public health emergency.
- Requires group and individual health insurers to notify consumers if their plan permits advance prescription drug refills during an emergency period.
- Provides subsidies to cover the full premium for workers to maintain their employer-sponsored health insurance through COBRA if they have been laid-off or furloughed.

Medicaid Provisions

The bill provides a 14% increase to the Federal Medical Assistance Percentage payments to state Medicaid programs through June 30, 2021 and also eliminates out of pocket expenses for Medicaid beneficiaries for COVID-19 treatment and vaccines during the pandemic.

Medicare Provisions

The bill makes several changes to the Medicare program to target health and safety at nursing facilities, including a requirement that residents of nursing homes have access to technology to conduct “televisitation” with loved ones while in-person visits are not possible during the COVID-19 public health emergency. The bill also provides \$500 million for nursing home strike teams “for the purposes of assisting with clinical care, infection control, or staffing” and provides \$210 million for infection control in nursing facilities through CMS contracts with quality improvement organizations.

Healthcare Appropriations**Public Health and Social Services Emergency Fund**

The bill allocates \$125 billion to reimburse for health care related expenses or lost revenue attributable to the coronavirus, as well as to support testing and contact tracing to effectively monitor and suppress COVID-19, including:

- \$50 billion in grants for hospital and health care providers to be reimbursed health care related expenses or lost revenue directly attributable to the public health emergency resulting from coronavirus; and
- \$75 billion for testing, contact tracing, and other activities necessary to effectively monitor and suppress COVID-19.

Center for Disease Control and Prevention

The bill designates \$13.7 billion to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus, including:

- \$2 billion for State, local, Territorial, and Tribal Public Health Departments.
- \$200 million for public health data surveillance and analytics infrastructure modernization.
- \$7 billion for a COVID-19 vaccination campaign.
- \$1 billion for evidence-based public awareness campaign on the importance of vaccinations.
- \$500 million for enhanced seasonal influenza campaign.
- \$1 billion to strengthen global public health preparedness and response capacity.
- \$2 billion for grants to State, local, Tribal, or territorial health departments to purchase personal protective equipment for essential workers.

Research and Development

- Biomedical Advanced Research and Development Authority - \$21.015 billion to respond to the virus, including:
 - \$20 billion for Biomedical Advanced Research and Development Authority (BARDA) for therapeutics and vaccines;
 - \$500 million for BARDA to support U.S.-based next generation manufacturing facilities; and
 - \$500 million for BARDA to promote innovation in antibacterial research and development.
- The National Institutes of Health - \$4.7 billion to expand COVID-19-related research on the NIH campus and at academic institutions across the country and to support the shutdown and startup costs of biomedical research laboratories nationwide.

Other provisions and investments regarding healthcare

- SAMHSA - \$8.5 billion to increase mental health support and support substance abuse treatment, including:
 - \$3.5 billion for the Substance Abuse Prevention and Treatment Block Grant
 - \$4 billion for the Community Mental Health Services Block Grant

- \$600 million for Certified Community Behavioral Health Clinics
- \$50 million for suicide prevention programs
- \$100 million for Project AWARE to support school-based mental health for children
- \$10 million for the National Child Traumatic Stress Network
- \$240 million for emergency grants to States
- No less than \$150 million of funds provided to SAMHSA to be allocated to tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes
- \$100 million to The Ryan White HIV/AIDS Program

Education

The bill appropriates \$225 billion to the Department of Education to support the educational needs of states, districts, and higher education institutions in responding to the coronavirus. More in-depth analysis of the education provisions can be found in Bose Public Affairs Group's memo [here](#).

State Fiscal Stabilization Fund

The law provides \$208 billion in funds for the Secretary to allocate to each State via the governor in addition to reserving 1% (or \$900 million) for the Bureau of Indian Affairs and outlying areas. The Secretary can also allocate up to \$30 million for administrative expenditures. The State must use the funds to maintain or restore education funding. The funds will be allocated to each State via formula with 61 percent based on the count of children aged 5-24 and then 39 percent based on the proportion of children in poverty under the Title I Basic Grants to Local Education Agencies (LEAs) formula. Similar to the CARES Act, one percent of total funding is reserved for both outlying areas and the Bureau of Indian Education (BIE) in consultation with the Department of Interior. From then on, States must distribute the funds as follows:

- \$175 billion of funds are to be used to support K-12 needs of LEAs and distributed by Title 1 formula.
- \$27 billion of funds are for Institutions of Higher Education (IHEs). The Governor shall reserve a percentage necessary to make the minimum grants.
 - IHEs will receive 75% of funding as based on the count of Pell recipients in the State and 25% of funding will be based on the relative share of the total enrollment of non-Pell recipients.
- \$4 billion for Governors to address educational needs across their states.
- \$1.04 billion for BIE schools and Tribal Colleges and Universities.

Elementary and Secondary School Emergency Facilities Aid

The bill provides \$5 billion for Elementary and Secondary School Emergency Facilities Aid grants to ensure school buildings are set up to protect the health of students and staff, including through improvements to building ventilation systems.

Higher Education Fund

In addition to the State Fiscal Stabilization Fund, the Updated HEROES Act provides \$11.9 billion in funding for colleges and universities that is available through FY2022. This funding is broken out into two pots, one reserved for Minority Serving Institutions (MSIs) and one for private, not-for-profit colleges or universities. Specifically the funds are broken out as follows.

- \$3.5 billion will be distributed via the Strengthening Institutions and Strengthening Historically Black Colleges and Universities (HBCUs) programs; Section 316 of the Higher Education Act (HEA) for Tribal Colleges and Universities (TCUs); Title V HEA grant programs that support Hispanic Serving Institutions (HSIs), and Title VII of HEA grant programs that support graduate degree attainment at HBCUs and Predominantly Black Institutions to

address needs directly related to coronavirus. The TCUs funds will be distributed according to the formula in Title III, Part A of HEA. For HBCU funds, these will be distributed to institutions based on the following formula.

- 70 percent on the ratio of Pell recipients at the individual institution divided by the total number of Pell recipients at all eligible HBCUs.
- 20 percent on the ratio of all students enrolled at the individual institution divided by the total number of all students enrolled at eligible HBCUs.
- 10 percent based on endowment.
- \$8.4 billion will be distributed via the Fund for Improvement of Postsecondary Education (FIPSE).
 - Of that funding, \$7 billion is to be provided to private, not-for-profit institutions of higher education that would not necessarily receive funding under the State Fiscal Stabilization Fund which is reserved for public institutions of higher education. 75 percent of funding is based on Pell recipients and 25 percent based on total enrollment.
 - \$1.4 billion is reserved for institutions with unmet needs, which includes ability to provide distance education and remote learning. Institutions with at least 500 students are eligible for grants of \$1,000,000.

COVID-19 National Emergency Private Education Loan Repayment Assistance

The bill would extend CARES Act student loan payment and consumer protections to private loan borrowers not covered by the CARES Act, providing up to \$10,000 in debt relief on private student loans through the Department of Treasury.

Broadband and Digital Learning Tools

The bill provides \$12 billion to close the homework gap by providing funding for Wi-Fi hotspots and connected devices for students and library patrons through the E-rate program; \$3 billion for emergency home connectivity; \$200 million for telemedicine grants; and \$24 million for broadband mapping.

Loan Relief for Federal Student Loan Borrowers

- Amends the CARES Act to provide \$10,000 of up-front debt relief for all borrowers of loans made by the Department of Education.
- The bill also directs the Department of Education to provide full debt relief for borrowers who were defrauded by for-profit institutions.
- The bill extends the duration and scope of student loan payment suspensions included the CARES Act from September 30, 2020 to September 30, 2021, including the suspension of interest accrual.
- Allows student loan borrowers to consolidate their loans without losing prior payments for the eligibility requirements for public service loan forgiveness (PSLF) and income-driven repayment plans.
- Prevents the Secretary of Education from imposing restrictions on the populations eligible for emergency financial relief under the CARES Act, which includes undocumented students.

Additional Provisions

- Ensures emergency financial aid, including emergency aid received under the CARES Act and Updated Heroes Act, is not counted as income for individuals applying for federal aid through the FAFSA.
- Helps students who are receiving or have applied for unemployment benefits.
- Maintains flexibility for institutions to pay federal work-study students even if they are unable to work due to COVID-19.

- Provides time-limited flexibility for the 2020-2021 school year to ensure 21st Century Community Learning Center subgrantees are able to provide virtual programming for school-aged children during the school day when in-person instruction is not available for all students.

Additional Appropriations

- \$50 billion for a child care stabilization fund.
- \$7 billion for child care providers.
- \$1.7 billion for Head Start programs.
- \$2.9 billion for the National Science Foundation, including \$300 million for the Education and Human Resources (EHR) directorate.

Child Welfare

Administration for Children and Families

- \$75 million for Child Welfare Services;
- \$100 million for Child Abuse Prevention and Treatment Act (CAPTA) State Grants;
- \$225 million for Community Based-Child Abuse Prevention Grants;
- \$50 million for programs authorized under the Victims of Child Abuse Act; and
- \$10 million from the additional Promoting Safe and Stable Families Program funds for the Court Improvement Program.

Labor

Worker Protections

The bill requires the Occupational Safety and Health Administration (OSHA) to issue enforceable temporary standards (ETS) for employers to ensure a safe and healthy work environment from COVID-19. Provisions include:

- Requires employers to develop and implement infection control plans based on CDC guidance.
- Requires OSHA guidance to forbid employers from retaliating against workers for reporting infection control problems.
- Includes protections for public employees in the 24 states where public employees are currently not covered by OSHA.

Emergency Paid Family, Medical, and Sick Leave

The bill expands paid family, medical, and sick leave. This includes suspending the 1,250 hour eligibility requirement and reduces the tenure eligibility requirement from 12 months to 90 days under non-emergency Family and Medical Leave Act (FMLA).

The bill also extends access to emergency paid leave by extending the duration of the program to February 28, 2021. The bill clarifies that workers must be provided with a full 12 weeks of paid emergency FMLA leave and does not count towards non-emergency unpaid FMLA leave. Employees would receive a benefit no less than two-thirds of their usual pay, up to \$200 a day.

Workforce Development Investments

The bill would include \$3.7 billion in additional funding, of which \$2.1 billion to support worker training, including \$1.6 billion in the *Workforce Innovation and Opportunity Act* (WIOA) to help the state and local workforce investment systems

respond to unprecedented demand and limited resources to assist displaced workers, and enable small- and medium-sized employers to avoid layoffs through on-the-job training support.

- \$500 million for the national dislocated worker reserve.
- \$25 million for migrant and seasonal farmworker programs.

Relief to Industry

Small Business Administration (SBA)

The bill makes several changes to the Paycheck Protection Program (PPP) established in the CARES Act and proposes more than \$35 billion in direct appropriations to carry out the revised program.

The bill creates three distinct set-asides for targeted relief for the smallest businesses, struggling non-profits, and second loans to the hardest hit businesses:

- At least 10% of remaining and future funding for loans to businesses with 10 or fewer employees, sole proprietors and the self-employed, and for loans less than \$250,000 to businesses located in LMI areas.
- Up to 30% of remaining and future funding for non-profit organizations of all sizes and types, including housing cooperatives to be allowed to take first-time PPP loans, with strict limits on lobbying activity and a prohibition on using PPP proceeds to pay lobbyists.
- Up to 50% of remaining and future funding for the secondary PPP loan program that provides second loans to small businesses with less than 200 employees and a 25% reduction in revenue year-over-year due to the pandemic.

The bill also creates a Prioritized PPP loan product to give second PPP loans of up to \$2 million to certain small entities.

- Targeted to businesses with less than 200 employees that have suffered demonstrably quarterly revenue losses of at least 25 percent. Also creates an application processing priority for very small businesses.
- Excludes publicly traded entities from being eligible for the secondary loans.
- Places limits on businesses with more than 1 physical location.

The bill also streamlines forgiveness of small-dollar loans, establishing a 3-tier system, based on loan size, to allow simplified forgiveness for loans under \$150,000.

Tax Provisions to Support Employers and Employees

The bill provides multiple tax credits and other provisions to support employers and their employees in responding to the pandemic. These include:

- Employee retention credit - increases the refundable payroll tax credit from 50% in the CARES Act to 80% of wages paid by employers to employees during the COVID-19 crisis. The bill modifies revenue requirements under the CARES Act to direct more assistance to small businesses feeling the economic impact of the pandemic.

The bill also clarifies that expenses paid through support from the PPP or with funds subject to loan forgiveness under the Economic Injury Disaster Loan (EIDL) do not result in a denial of any deduction or basis of asset for federal tax purposes.

Conclusion

The Updated HEROES Act reaffirms many of the priorities Speaker Pelosi is negotiating to include in any final agreement with the White House and Senate Republicans. As of this writing, there is some hope that an agreement will be struck to provide relief before the November 3rd election as industries such as airlines and restaurants threaten mass lay-offs, eviction



numbers are increasing, and the country heads into flu season, which medical experts caution could bring another wave of COVID-19 infections.

The text of the updated version of The Heroes Act is [here](#). A one-pager on the legislation is [here](#). A section-by-section summary is [here](#). Additional information on the state and local relief provisions is [here](#).

The Bose Public Affairs Group team will continue to monitor all relevant developments and provide additional updates as necessary.