

ANALYSIS

Collectively the draft proposals, which have been referred to as the HEALS Act, would cost just over \$1 trillion. Recognizing that this is just the beginning of the legislative process, here are some of the key provisions of most interest to the Federation system:

- **Paycheck Protection Program (PPP):** Under the Senate Republican proposal, PPP loan forgiveness would be automatic for small loans of under \$150,000 and loan forgiveness would be easier for loans under \$2 million. \$190 billion in new funding would be set aside for a second round of additional PPP funds would be available for businesses (including nonprofits) with 300 or fewer employees, *but only* if they can demonstrate a 50% reduction in revenue for the first or second quarter of 2020 compared to the prior year. For either unspent first round funding or new second round funding, the bill would expand eligible PPP expenses to include additional expenses for reopening like personal protective equipment and adaptive investments to comply with federal health and safety guidelines related to COVID-19 and damages caused by “public disturbances;”
- **Employee Retention Tax Credit (ERTC):** *The CARES Act contained an ERTC provision* to encourage businesses (and nonprofits) of all sizes to retain their employees in an active or furloughed status during the COVID-19 crisis. This refundable tax credit was only available if employers was forced to at least partially suspend operations due to COVID-19 or experienced at least a 50% decline in gross receipts for a quarter compared to the prior year. Under the CARES Act, an employer had to choose between applying for ERTC and PPP, and, as enacted in CARES, PPP was more beneficial for most applicants. Under the HEALS Act, an employer could now be eligible for both programs (although could not double dip for the same incurred expenditures), and the available ERTC could be for up to 65% of the first \$10,000 in wages and benefits per employee per quarter. The qualifying reduction in gross receipts would be reduced from 50% under the CARES Act to 25% in this draft legislation;
- **Individual Payments:** As in the CARES Act, the legislation contains another round of individual stimulus payments of \$1,200 for each taxpayer with incomes under \$75,000, and these payments are completely phased out for incomes exceeding \$99,000. The taxpayer would receive an additional \$500 for each dependent in the household, regardless of age;
- **Unemployment Benefits:** The draft legislation would increase the unemployment support for nonprofits that self-insure from the 50% included in the CARES Act to 75%. The legislation would also extend the enhanced unemployment benefit contained in the CARES Act, but only at \$200/week through September (much smaller than the current \$600 payments approved in March) and then from October through December, when combined with state unemployment insurance benefits, the legislation would only replace total income for up to 70% of lost wages.

- **Support for Schools:** The legislation would allocate \$105 billion in funds for education support. \$70 billion would be available for K-12 education, with proportional funding available for private schools based on the number of children attending private schools in the state. Of this funding, two-thirds would only be available for schools (including private schools) that reopen for in-person instruction;
- **Liability:** The legislation would provide enhanced liability protection for any business, nonprofit, school, medical provider or medical profession arising from COVID-19. This would establish a new federal cause of action for coronavirus exposure as the exclusive remedy for all claims for personal injury with a cap on damage awards and plaintiffs needing to demonstrate that a defendant was grossly negligent or engaged in willful misconduct and violated state or local public health guidelines in place at the time the incident occurred;
- **Reopening.** The legislation would establish “safe and healthy workplace tax credits,” which are refundable payroll tax credits equal to 50% of an employer’s qualified employee protection expenses such as testing for COVID-19, personal protective equipment, cleaning supplies and qualified workplace reconfiguration expenses. These new tax credits would be capped at \$1,000 for each of the first 500 employees, \$750 for each of the next 500 employees plus \$500 for each employee that exceeds 1000. The legislation would provide an additional \$16 billion for COVID-19 testing (plus reallocate \$9 billion in testing funds already approved in prior legislation), \$1.3 billion for workplace training on social distancing, and \$15 billion for child care centers to create safe environments for youngsters during the pandemic and to help parents transition back to work;
- **Additional appropriations:** Providing a total of \$306 billion in additional funding, the HEALS Act would provide \$200 million in additional funding for FEMA’s Emergency Food and Shelter Program, \$75 million for the Administration for Community Living for home and community-based services for seniors and individuals with disabilities; \$350 million for reemployment services and job search assistance at the Department of Labor, \$4.5 million for SAMHSA’s, most for the Mental Health Services Block Grant and the Substance Abuse and Prevention Treatment Block Grant; \$1.5 billion for the Low Income Home Energy Assistance Program. The legislation provides no funding to enhance the benefits for the Supplemental Nutrition Assistance Program (SNAP);
- **Telehealth:** The HEALS Act would ensure that expanded flexibility to utilize telehealth capability under Medicare made available during the pandemic would apply at least through the end of 2021, and it would also extend this flexibility to federally qualified health centers and rural health clinics;
- **State Fiscal Relief:** The legislation would provide *no* additional money for fiscal relief to help states and local governments fill their budget shortfalls, other than the support for schools, but more flexibility is granted to states and localities for the previous assistance provided in the CARES Act. There also is no additional funding provided to support Medicaid through an increase in the Federal Medical Assistance Percentage (FMAP); and
- **Charitable Tax Incentives:** There are no new or expanded charitable tax incentives included in these proposals.