

## **Key Provisions of the FY21 Senate Budget Reconciliation Bill**

### **Initial Summary -- March 6, 2020**

On March 6<sup>th</sup>, the Senate passed the \$1.9 trillion American Rescue Plan under the FY21 Budget Reconciliation process. \$168 billion in education funding has been included in the new recovery package with \$125.8 billion for K-12 public schools. \$350 billion is included in direct general aid for state and local governments (\$220 billion for states, territories, and tribal governments and \$120 billion for general purpose local governments as well as a \$10 billion Critical Infrastructure Program). \$7 billion has been provided for the E-Rate program of the FCC. Adjustments are included to small business Paycheck Protection Program funds and an additional extension of Unemployment Insurance is included as well. Further investments in COVID public health measures for vaccines, testing, tracing, supplies, therapeutics, logistics, mitigation, research, and personnel are also included. Budget reconciliation procedures allowed for passage with a simple majority vote in each chamber of Congress but restricted the bill to only relevant budget-related provisions and did not allow for extraneous policy provisions under the Senate's esoteric "Byrd Rule" – which resulted in striking the \$15 phased-in minimum wage and subminimum wage provisions as well as other policy provisions. House action on the Senate amendments is expected quickly.

#### **K-12 Highlights:**

- \$125.8 billion for Elementary and Secondary Education (with no private school equitable services requirements) and \$39.6 billion for higher education (Includes no Governor's Emergency Education Relief Fund)
- Reserves 20% of each school district allocation for learning loss activities
- Provides for additional \$2.75 billion to the States to offer services and assistance to private school students under the Education Assistance to Nonpublic Schools program (EANS) authorized under the year-end FY21 Consolidated Appropriations bill
- \$40 billion for childcare and \$1 billion for Head Start
- \$7 billion for E-Rate funding through the FCC
- Increases and extends of the Pandemic Electronic Benefits Transfer program (P-EBT) to provide cash benefits for eligible free and reduced priced lunch students not attending school during to emergency closures and remote services, but does not provide further emergency reimbursements for school meal programs

## **Summary of Key Senate Reconciliation Provisions**

### **Education and Related Programs**

\$168 billion in education recovery funding is included in the Senate stimulus package of which \$125.8 billion is dedicated to K-12 schools, \$39.6 billion for higher education, and \$2.75 billion for private schools.

The \$126 billion Elementary and Secondary School Emergency Relief Fund will be allocated to the states based on the state's relative proportion of the Title I Part A funding in the most recent fiscal year. Not less than 87.5% of the state allocation must be subgranted to school districts based on their relative share of Title I Part A funds in the most recent fiscal year. Within the state's reservation of funds, at least: 5% is for learning loss activities, 1% for summer enrichment, 1% for afterschool programs, 2.5% for education technology, and ½% for state administration and other emergency needs. Not less than 20% of the school district's formula allocation must be reserved to address learning loss through evidence-based interventions such as extended time activities that respond to academic, social and emotional needs and the disproportionate impact of the pandemic on certain at-risk student groups. School districts must develop and make available to the public, including with a public comment period within 30 days of receiving funds, a plan for the safe return to in-person instruction and continuity of services. A previously developed plan meeting the above criteria will be deemed to satisfy this requirement. An additional \$2.75 billion is provided to the state Governors under the provisions of the year-end FY21 Consolidated Appropriations bill for the Education Assistance to Nonpublic Schools (EANS) to provide services or assistance for nonpublic schools enrolling a significant percentage of low-income students and are most impacted by the pandemic. Direct reimbursements for private schools are specifically prohibited. The ESSER III school district allocations may be used for any authorized activity under ESEA, IDEA, Perkins, and Adult Education programs as well as for other authorized expenditures similar to those allowable under the CARES Act. The bill continues to include allowable uses of funds for pandemic response, implementing health protocols, school repair and improvements to reduce risks of viral transmission, environment health hazards, and for student health needs. Maintenance, replacement, and upgrading indoor air quality systems as well as window and door replacement is also expressly authorized. Funds not awarded by the state within one year must be returned to the Education Department for reallocation to other states.

The pending Senate Reconciliation bill includes State Maintenance of Effort and both State and Local “Maintenance of Equity” provisions. The state is required to meet a proportionate maintenance of effort level for state funding of K-12 and for higher education for FY22 and FY23 at not less than the percentage of overall state budget reductions averaged for fiscal years 2017, 2018, and 2019. The Secretary of Education is allowed to waive this requirement for the purpose of relieving state financial burdens associated with the pandemic.

An additional state maintenance of equity provision is included for high-need school districts prohibiting state funding reductions for FY 22 and FY23 by an amount that exceeds the overall state per pupil reduction for that year. The high-need LEAs are defined as the school districts in rank order with the highest percentage of economically disadvantaged students which collectively serve not less than 50% of the state’s enrolled students. And, the second state maintenance of equity provision is included for the highest-poverty school districts in a state prohibiting state funding reductions for FY22 and FY23 below the funding level on per pupil basis provided for those school districts in FY19. The highest-poverty LEAs are defined as the school districts in rank order with the highest percentage of economically disadvantaged students which collectively serve not less than 20% of the state’s enrolled students.

A local school district maintenance of equity provision is also included in the bill prohibiting: 1. any reduction of per-pupil funding for a high-poverty school by an amount that exceeds the total LEA per pupil reduction for all its schools, or 2) any reduction in per-pupil FTE staffing for a high-poverty school that exceeds the total LEA per pupil FTE reduction for all its schools. A high-poverty school is defined as a school that falls within the highest quartile of schools in an LEA based on the percentage of economically disadvantaged students, as determined by the state under a measure of poverty established by the Secretary. Exceptions are allowed for small school districts and exceptional circumstances as determined by the Secretary.

#### Other Education Related Assistance

\$39 billion is provided for child care under the CCDBG and child care stabilization grant, as well as \$1 billion for Head Start. \$7 billion is provided to the FCC for school districts and libraries under the E-Rate program to support technology connected devices and home connectivity. The \$39 billion in the Higher Education Emergency Relief Fund is allocated by the Secretary primarily based on several

formula calculations derived from Pell Grant allotments to higher education institutions.

#### Nutrition Assistance

Multiple relief provisions increase funding for a variety of federal food chain and nutrition programs including commodities, crop losses, and assistance for processors and distributors, as well as for rural health care. Additional funds are provided to extend SNAP increases through September and for SNAP administration and for WIC. Access to meal funding is provided for shelters to serve young adults under age 25. Funding is also provided for food banks, commodities, and senior nutrition services. The summer extension of the pandemic electronic benefits transfer program (P-EBT) is clarified. No additional months of Emergency Operational Cost Reimbursements for school meals are authorized under the bill.

#### Health Assistance

\$14 billion is provided for vaccine development, therapeutics, supplies, and distribution, as well as \$7.6 billion for support of public health systems. \$48 billion is provided for testing, tracing, monitoring, and mitigation activities. Additional funds for various NIH programs are also provided including research, procurement, substance abuse, mental health, community health centers and personnel development. \$50 billion was provided for the FEMA Disaster Relief Fund. The pandemic expanded emergency sick, family, and medical leave initiated in the Families First Coronavirus Relief Act in March 2020 includes minor revisions and is extended again based on an employer-determined voluntary basis along with an accompanying federal payroll withholding tax credit for private sector employers through September 2021, and which now are available for state and local government employers as well. In addition, the option for former employees to continue employer health insurance benefits under COBRA has been revised for any full month after the Reconciliation bill enactment through September 2021, with the employer to paying 100% of the insurance premium to be offset with a federal payroll withholding tax credit to cover the employer's cost of the premium for both private sector and state and local government employers.

#### Paycheck Protection Program and Business Assistance Programs

Provides additional small business relief and recovery including a few modifications to the Paycheck Protection Program (PPP) "Second Draw" loans and loan forgiveness for small borrowers. There are new eligibility limits, forgiveness restrictions, and new allowable expenditures. \$25 billion is provided for restaurant relief. Additional assistance is provided for targeted emergency transportation

assistance for airlines, air manufacturers, airports, buses and public transit, and Amtrack and other rail subsidies.

#### Unemployment Compensation Extensions

The bill extends the expanded unemployment compensation payments that would otherwise end in mid-March through September 6, 2021. This would include both the pandemic unemployment assistance program (PUA) and the pandemic emergency unemployment compensation program (PEUC) at \$300 per week.

#### Individual Relief Payments

The Reconciliation bill includes \$1400 payments for individuals and their dependents. The payments phase-out at a lower threshold for higher income individuals and households.

Please let us know if you have questions on the Senate recovery legislation. There are innumerable provisions in the 600+ page bill that are not addressed in this summary, and we are still reviewing the final bill language and the few amendments that were adopted.