

## House Democrats' Updated Version of the Heroes Act

Released September 28, 2020

Executive Summary

### Restaurant Recovery Fund

A \$120 billion grant program would be established under the House version of the RESTAURANTS Act from Rep. Earl Blumenauer (D-OR). It would be administered by the Treasury Department to provide restaurants with a grant for the difference between the business's 2019 revenues and estimated 2020 revenues for each quarter. These funds would go to payroll and other eligible expenses, and would need to be used by June 30, 2021.

Restricted restaurants include:

- Publicly traded organizations or their affiliates, or;
- Any restaurant that is part of a chain with 20 or more locations doing business under the same name.

### Paycheck Protection Program (PPP)

**Eligibility for a Second Draw:** A business must demonstrate a gross receipts loss of 25% or more in either the first, second, or third calendar quarter of 2020 when compared to the same calendar quarter in 2019.

- Businesses have less than 200 full-time employees.
- No special exemption for NAICS 72, hotels and restaurants.
- Excludes publicly traded entities.
- Prevents eligible recipients with more than one location from receiving more than \$10 million in total PPP loans across all those locations.

Includes all nonprofits no matter their size or type of nonprofit, with a revenue reduction requirement for nonprofits larger than 500 employees.

- 501(c)(3) with under 500 employees remain under current rules
- 501(c)(3) with over 500 employees must meet a revenue test, similar to that of the secondary loan program
- Other 501(c) entities under 500 employees must meet the lobbying restrictions
- Other 501(c) entities over 500 employees must meet the lobbying restrictions and the revenue test
- Expands PPP loans to destination marketing organizations

**Covered Period:** Selected by the borrower, between 8 and 24 weeks so that the forgiveness calculation that uses the term "covered period" aligns properly.

**Forgiveness:** Creates a 3-tier system for loans under \$50,000, between \$50,000 and \$150,000; and keeps the \$150,000+ the same.

- **Under \$50,000:** Borrower certifies to the SBA that they have met PPP requirements AND maintain documents in case of audit.

- **From \$50,000 to \$150,000:** Borrowers must submit PPP certifications to their lender AND maintain documents in case of audit.
- **Over \$150,000:** Current documentation submission process.

**Eligible Expenses:** Payroll, rent, and utilities in addition to PPE, supplier costs, and costs related to property damage from public disturbances.

**Deductions:** Ensures small businesses can make tax deductions for expenses paid with forgiven PPP loans.

**Credit elsewhere test for borrowers:** The current “no credit elsewhere test” remains in place for first round; for PPP2, loans greater than \$350,000 will apply the 7(a) credit elsewhere test.

### **Employee Retention Tax Credit (ERTC)**

This legislation includes the “JOBS Credit Act,” bipartisan proposal from Reps. Stephanie Murphy (D-FL) and John Katko (R-NY) that has been strongly supported by the Association.

- Increases the amount of wages eligible for tax credits 50% to 80%.
- Increases the cap on eligible wages for per employee from \$10,000 for the year to \$15,000 per quarter (limited to \$45,000 for the calendar year).
- Expands the 100-employee cap for eligible “working” employees under a large employer to 1,500 full time employees

These changes make the credit worth up to \$36,000 per employee. It clarifies that group health plan expenses are qualified wages even when no other wages are paid to the employee. This provision also clarifies that wages paid by an employer for lost tips will not trigger the wage limitation in section 2301(c)(3)(B) of the CARES Acts. Lastly, it permits qualified wages to be taken into consideration for purposes of the ERTC if a PPP loan is not forgiven.

### **Emergency Paid Leave Requirements**

Extends emergency paid leave requirements to January 2021 (same as HEROs)

### **OSHA Workplace Standard**

Mandates OSHA to issue an Emergency Temporary Standard to address workplace safety.

### **Taxpayer Direct Payments**

Additional direct payments of \$1,200 per taxpayer and \$500 per dependent.

### **Unemployment Insurance**

Federal Supplemental Unemployment Insurance restored at \$600/per week through January 2021, as well as increased funding to assist the states with processing unemployment insurance claims and support the UI system.

### **Workforce Training and Apprenticeships**

Appropriates \$2.1 billion to support worker training and ensures any funds for apprenticeships support Registered Apprenticeships (opposed to Industry Recognized Apprenticeships).