

Memorandum

To: State Aging and Disability Directors

From: Damon Terzaghi & Adam Mosey, ADvancing States

Re: House Education & Labor, Ways & Means Committee Reconciliation Legislation

Date: September 8, 2021

House Education & Labor, Ways & Means Reconciliation Legislation

Background:

This afternoon, the House Education and Labor Committee released a draft of its legislation for the Budget Reconciliation package that would implement a large portion of President Biden's infrastructure proposal. Education and Labor has jurisdiction over the Older Americans Act (OAA), among other items, and the proposals contain significant amounts of funding for OAA programs. The full legislative text is available at:

<https://docs.house.gov/meetings/ED/ED00/20210909/114029/BILLS-117-CommitteePrint2-S000185-Amdt-1.pdf>

In addition to the Education and Labor proposal, the House Ways and Means Committee released their portion of the reconciliation proposal yesterday. The Ways and Means committee proposal includes funding for nursing home workforce development, elder justice, and adult protective services. Ways and Means also includes proposals to expand Medicare services and include coverage of dental, vision, and hearing services. The Ways and Means provisions are online at:

<https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=114030>

Key Provisions:

The Committee's legislation allocates \$1.3 billion to Older Americans Act programs, including the following:

- \$75 million for the Research and Evaluation Center created by the 2020 OAA Reauthorization;
- \$655 million for title III-B HCBS supportive services, including:
 - III-B direct services;
 - Activities to improve the availability of services, which includes workforce initiatives;
 - Acquisition, modification, or renovation of facilities; and
 - Construction or modification of multipurpose senior center facilities.

- \$140 million for Title III-C nutrition services, which includes funding for technology, kitchen equipment and delivery vehicles. The nutrition funding is consolidated and there are no specific allocations for congregate vs. home-delivered meals.
- \$150 million for Title III-E caregiver supports;
- \$50 million for Title VI Native American services;
- \$50 million for the long-term care ombudsman program (LTCO);
- \$59 million for technical assistance centers or national resource centers supported under the OAA, including all centers that were funded through Title IV in 2021;
- \$15 million specifically for the technical assistance/national resource centers that provide services to older adults who are underserved due to sexual orientation or gender identity;
- \$1 million to support expanding reach of aging services that address social isolation;
- \$5 million for multigenerational centers created by section 417 of the OAA; and
- \$100 million for SCSEP.

Importantly, this legislative proposal also includes a waiver of the state and local match that is typically required for OAA services. The waiver of match would apply to both the new funding in this bill as well as retroactively to the funding provided by the American Rescue Plan Act (ARPA). As you may recall, the matching requirements were not waived for ARPA funds and this has created challenges for states to expedite funding to the field.

The Education and Labor proposal also includes \$1.4 billion, which would be available until 2031, for workforce grants administered by the Administration for Community Living. Grants would be available to States, nonprofits, Area Agencies on Aging, labor organizations, and other entities. The grants would be for three-year increments, with the option to renew, that can be used to provide competitive wages, benefits, and other supportive services, including transportation, child care, dependent care, workplace accommodations, and workplace health and safety protections, to direct care workers. Grants could also be used for recruitment and retention strategies, workforce training and education initiatives, and career ladder programs.

In addition to the Education and Labor proposal, the House Ways and Means Committee legislation would provide:

- \$400 million for nursing home worker grants, with \$392 million provided to states and \$8 million provided to Native American Tribal Organizations:
 - State and Tribal entities may use the funding to provide grants to other organizations;
 - The funding must be used for:
 - Wage subsidies;
 - Student loan repayment or tuition assistance;

- Assistance with finding and paying for child care; and
 - Transportation assistance.
 - States that operate the grants can also elect to use the funding for:
 - An emergency reserve fund;
 - Assistance with programs and activities, such as legal assistance, necessary to address arrest or conviction records that are an employment barrier; and
 - Assist employers that provide at least 2 weeks of annual paid leave.
 - States may also reserve 10% of the funding for grant administration, to increase the supply of workers, and to provide technical assistance to subgrantees.
- Significant funding for Adult Protective Services (APS):
 - \$8 million annually for fiscal years 2023, 2024 and 2025 for the U.S. Department of Health and Human Services (HHS) to issue grants to states, collect data, perform research, and provide technical assistance;
 - \$392 million annually for FYs 2023-2025 for formula grants to state APS programs;
 - \$8 million annually for FYs 2023-2025 for grants to Native American APS programs;
 - \$75 million annually for FYs 2023-2025 demonstration programs to detect and prevent elder abuse;
- \$22.5 million in FY2023 and \$30 million in each of FY2024 & FY2025 for grants to expand and improve state LTCO programs;
- \$30 million annually in FYs 2023-2025 for LTCO training programs;
- \$125 million annually in FYs 2022-2025 for development of elder justice-focused medical legal partnerships or the development/expansion of legal assistance hotlines; and
- \$62.5 million annually in FYs 2022-2025 for grants to address social isolation and loneliness.

Next Steps:

Both the Education and Labor as well as the Ways and Means Committees intend to begin consideration of these pieces of legislation tomorrow, September 9th. Leadership in the U.S. House of Representatives has established a September 15th deadline for each committee to finalize their respective portions of the reconciliation legislation. The full House hopes to pass the final bill by the end of the month, though this timeline is ambitious and may be postponed.

The legislation will then move to the Senate, where there remains uncertainty about the outcome of the bill. The Senate must adhere to the “Byrd Rule” which limits the scope of reconciliation legislation only to provisions that are primarily related to revenue and spending. Depending on how this rule is applied by the nonpartisan parliamentarian, it could require changes to some policy items. Additionally, there remain a subset of Democratic Senators that are concerned about the size and scope of this legislation. Given that all 50 Democratic Senators must vote in favor of the bill for it to pass, it is possible that the total funding levels will need to be reduced. These negotiations are ongoing.

We will provide updates throughout the process as the House and Senate consider the legislation and, potentially, enact changes to the bill. Feel free to contact anyone on the Advancing States team with questions.