

SIDE BY SIDE: SENATE GOP HEALS ACT VS. HOUSE DEMOCRATIC HEROES ACT

COVID-19 Relief Legislation: HEALS Act vs. HEROES Act

Provision	HEALS Act	HEROES Act
Liability	<ul style="list-style-type: none"> Creates an exclusive federal cause of action for COVID-exposure lawsuits. Provides a safe harbor for businesses that undertake reasonable efforts to comply with public health and safety guidelines. In cases where defendants do not take such efforts, plaintiffs must demonstrate that the defendant's gross negligence or willful misconduct caused the plaintiff's coronavirus infection. Preempts state laws that impose broader liability for COVID-19 exposure, while allowing states to further limit liability. Runs retroactively from December 1, 2019 until October 1, 2024. Limits liability for certain products such as PPE and hand sanitizer if they meet specific FDA requirements. 	<p>No provision included.</p>
State and Local	<ul style="list-style-type: none"> No additional money for state/local governments but allows them to use CARES Act money to make up lost revenues. The date for using the money is extended to 90 days after the end of the fiscal year. States must maintain their own budgeted spending levels. 25 percent of state CARES Act funds must be given to local governments. 	<ul style="list-style-type: none"> Allocates \$500 billion in new funding for state governments Provides \$375 billion for all cities and counties. This includes: <ul style="list-style-type: none"> \$187.5 billion for all counties based on population \$187.5 billion for all cities

	<ul style="list-style-type: none"> • States may not impose any restrictions on the use of CARES Act money by their local governments other than those set in Treasury’s Coronavirus Relief Fund Guidance. <ul style="list-style-type: none"> ○ No funds can be used for pensions or retirement benefits, nor can they replenish a state or local rainy-day fund. • Establishes uniform procedures that state and local governments would look to in terms of imposing their state and local taxes on out-of-state residents. 	<ul style="list-style-type: none"> ○ \$131.25 billion allocated under the formulas used to distribute CDBG funding (if you are an entitlement city) • \$56.25 billion for non-entitlement cities allocated via population • Expands the use of Coronavirus Relief Funds to cover lost, delayed, or decreased revenue stemming from the public health emergency.
<p>Health Care Providers</p>	<ul style="list-style-type: none"> • Allocates an additional \$25 billion to the Provider Relief Fund. • Provides \$7.6 billion to community health centers. • Pushes back the time that the providers would need to start repaying loans from the Medicare hospital accelerated and advance payments program from Aug. 1 until Jan. 1, 2021, providing more time on the back end should these entities need it. • Extends CARES Act coverage for on-site clinics under high deductible health plans through the end of 2021. • Gives \$1.6 billion in supplemental appropriations for the Indian Health Service (\$605 million) and Indian Health Facilities (\$1 billion). 	<ul style="list-style-type: none"> • Codifies the Health Care Provider Relief Fund under the Health Resources and Services Administration (HRSA). • Allocates an additional \$100 billion appropriation for the fund. • Creates outlier payments for Medicare patients with a COVID-19 diagnosis whose costs exceed the established prospective payment rate. Hospitals would be reimbursed for 100 percent of the additional cost. • Lowers interest rates required to be paid on loans to hospitals under the accelerated and advance payments program. • \$2.1 billion for the Indian Health Service
<p>Medical Supply Chain</p>	<ul style="list-style-type: none"> • Provides \$5.3 billion in supplemental Defense funding for COVID-19 Defense Production Act (DPA) purchases. • Requires the Strategic National Stockpile to purchase PPE and other medical supplies domestically. • Creates a 30 percent investment tax credit for U.S. manufacturers of PPE. • Supports manufacturing surge capacity in the U.S. • Establishes state stockpiles of medical products and supplies needed during a public health emergency, such as personal protective equipment, ventilators, and other medical products. 	<ul style="list-style-type: none"> • Establishes grant programs and other mechanisms to expand domestic manufacturing for a COVID-19 vaccine. • Provides the Strategic National Stockpile the ability to create incentives for medical supply manufacturers to geographically diversify their production. • Convenes a National Academies of Sciences, Engineering, and Medicine panel to recommend strategies to end the U.S. medical supply chain’s reliance on foreign countries.

	<ul style="list-style-type: none"> • Requires states to submit a stockpiling plan to HHS for maintaining the state stockpile, and coordinate with the state and relevant state preparedness plans. <ul style="list-style-type: none"> ○ HHS would be tasked with providing guidance and technical assistance to states on maintaining their stockpiles. • Ensures that state stockpiles will be appropriately administered and maintained by directing the Secretary to establish an auditing process. <ul style="list-style-type: none"> ○ Funds will be withheld if a state fails to submit a state stockpiling plan or meet certain benchmarks and other metrics. 	<ul style="list-style-type: none"> • Expands the use and oversight of Defense Production Act (DPA) authorities to increase the production and supply of critical medical supplies and equipment.
<p style="text-align: center;">COVID-19 Testing & Tracing</p>	<ul style="list-style-type: none"> • Includes \$16 billion in new money to assist states with testing and tracing efforts. • \$200 million in CDC funding for modernizing public health data reporting. • Improves coordination between FDA and CDC to pinpoint and prioritize testing supply and component needs for tests that detect COVID-19. • Prohibits patient information from being used for anything other than diagnostic and serologic testing purposes. 	<ul style="list-style-type: none"> • \$75 billion for a nationwide COVID-19 test and trace effort coordinated by CDC. <ul style="list-style-type: none"> ○ Initiative would award grants to local health departments for testing, contact tracing, surveillance, containment, and mitigation of COVID-19. • Makes the requirement for free coverage of COVID-19 testing retroactive to the beginning of the COVID-19 public health emergency. • Mandates modernizations to certain public health data systems.
<p style="text-align: center;">Mental Health</p>	<ul style="list-style-type: none"> • Provides \$4.5 billion for the Substance Abuse and Mental Health Services Administration (SAMHSA). <ul style="list-style-type: none"> ○ Includes set asides for the Mental Health Services Block Grant (\$2 billion), Substance Abuse and Prevention Treatment Block Grant (\$1.5 billion), Certified Community Behavioral Health Clinics (CCBHC) (\$600 million), suicide prevention programs (\$50 million), and emergency grants to states (\$250 million). 	<ul style="list-style-type: none"> • \$3 billion for the Substance Abuse and Mental Health Services Administration. <ul style="list-style-type: none"> ○ This includes funding for the Substance Abuse Prevention and Treatment Block Grant (\$1.5 billion), the Community Mental Health Services Block Grant (\$1 billion), and for grants to address COVID-19-related behavioral health needs, including to

		support delivery of services through telehealth modalities (\$265 million).
Telehealth	<ul style="list-style-type: none"> Permits the HHS Secretary, through interim final rule, to maintain waivers expanding telehealth in Medicare through the length of the PHE or December 31, 2021, whichever is later. Specifies that FQHC and RHC telehealth expansion is maintained for five years beyond the end of the PHE. Requires a MedPAC report on the impact of telehealth flexibilities on access, quality, and cost by June 15, 2021. Allows employers to offer telehealth as an excepted benefit to employees who are not full-time or do not qualify for their employer's coverage. 	<ul style="list-style-type: none"> \$500 million to provide health care, including telehealth services to Native Americans, and to purchase medical supplies and personal protective equipment. \$140 million to expand broadband infrastructure and information technology for telehealth and electronic health records system purposes. Allows the VA to improve access to telehealth capabilities for homeless veterans during the COVID-19 public health emergency.
Treatment & Coverage	<ul style="list-style-type: none"> Allocates \$26 billion in supplemental appropriations for vaccine and treatment distribution, manufacturing, and development. \$15.5 billion for National Institutes of Health (NIH) to reopen labs and continue COVID research. Allows individuals to roll over unused flexible spending account money from 2020 into 2021 Provides \$3.4 billion for the Centers for Disease Control and Prevention (CDC), including \$1.5 to support state, local, and tribal needs and \$500 billion to enhance seasonal flu vaccination efforts. Maintains 2021 Medicare Part B premium and deductible at 2020 levels. 	<ul style="list-style-type: none"> Requires coverage of COVID-19 treatment, including drugs, with zero cost sharing in Medicare, Medicaid, group health plans, Exchange plans, and other government payers. Creates a special enrollment period (SEP) for Medicare Parts A and B as well as for the Exchanges Provides \$3.5 billion to BARDA for therapeutics and vaccines.
Medicaid	No provisions included.	<ul style="list-style-type: none"> Increases the Federal Medical Assistance Percentage (FMAP) to state Medicaid programs by 14 percentage points from July 1, 2020 through June 30, 2021. <ul style="list-style-type: none"> The original 6.2 percent increase established in the previous relief legislation would be in effect through the end of June

		<p>2020 and from July 2021 through the end of the emergency declaration.</p> <ul style="list-style-type: none"> • Provides a ten percent increase to FMAP for Home and Community-Based Services (HCBS). No FMAP could rise above 95 percent.
Nursing Homes	<ul style="list-style-type: none"> • Creates federal “strike teams” to supplement state technical assistance for nursing homes. The teams may do assessment, testing, and implementation of infection control practices. • Authorizes efforts to enhance testing and infection control in nursing homes, including through online training courses and enhanced diagnostic testing of individuals in and out of nursing homes. • Requires that HHS provide state governors with a list of all Medicare- and Medicaid-enrolled nursing facilities reporting increased COVID-19 cases during the previous week. 	<ul style="list-style-type: none"> • Provides \$150 million for state “strike teams” for nursing facilities supporting clinical care, infection control, and staffing. • Creates a payment incentive program for skilled nursing facilities to be designated COVID-19 treatment centers.
PPP and Business Relief	<ul style="list-style-type: none"> • The legislation would provide a second bite at the apple for certain businesses that have already received PPP money including \$190 billion in additional PPP funding. <ul style="list-style-type: none"> ○ In order to receive a second PPP loan, companies would have to demonstrate a 50 percent reduction in gross revenues over the same quarter last year. Eligible businesses would include businesses with at most 300 employees (down from the 500 employees in the first round) or that meet one of the SBA’s revenue threshold. ○ Under the second round of PPP, loan size would once again amount to 10 weeks of payroll, although the maximum loan would be lowered to \$2 million. ○ Borrowers would have more flexibility in using their loans, including for supplier payments, 	<ul style="list-style-type: none"> • Expands eligibility for the small business Paycheck Protection Program (PPP) to all 501(C) non-profits. • Provides eligibility and support for local news media outlets. • Increases flexibility for PPP loan forgiveness to include 24 weeks of expenses—up from the current eight weeks. • Gives borrowers to the end of the year—rather than only until June 30—to rehire laid-off workers and avoid a reduction in forgiveness. • Establishes a hold-harmless provision preventing reductions in forgiveness if they cannot find the same worker or one with different skills. • Removes regulatory actions that limited forgiveness of non-payroll operating expenses to 25 percent of total forgiveness.

	<p>worker protection measures, cloud services, payroll software, and property damage arising from civil unrest.</p> <ul style="list-style-type: none"> • Provides eligibility for non-lobbying 501(c)6 non-profits with 50 or fewer employees for a loan of up to \$500,000. <ul style="list-style-type: none"> ○ Chambers of commerce and destination marketing organizations would be eligible with up to 300 employees. • Confirms that no enforcement action will be taken against a lender for relying on borrower certifications. • Creates a simplified application process for loans less than \$2 million. The legislation also updates calculations for seasonal employers. • Provides \$10 billion for an equity investment facility through the SBA’s Small Business Investment Company program. 	<ul style="list-style-type: none"> • Establishes daily, weekly, and monthly reporting requirements to Congress for the small business programs established under the CARES Act. • Boosts the Economic Injury Disaster Loan (EIDL) grant program with an additional \$10 billion.
Financial Services	<ul style="list-style-type: none"> • Provides student loan borrowers to continue pushing off payments beyond the Oct. 1 cutoff. • Simplifies student loan repayment options for borrowers by establishing a 10-year mortgage-style and income-based repayment plans. 	<ul style="list-style-type: none"> • Suspends negative credit reporting and debt collection until 120 days after the end of the COVID-19 crisis and restricts “unreasonable repayment conditions” thereafter. • Establishes a legal safe harbor for providing banking services involving state-legal cannabis businesses. • Extends the CARES Act’s federal student loan payment and interest suspensions an additional year, through September 2021. • Sets aside \$2 billion to the Community Development Financial Institutions (CDFI) Fund, of which \$800 million would be set aside for minority-owned lenders.
Workforce Protection	<ul style="list-style-type: none"> • Establishes a refundable payroll tax credit equal to 50 percent of an employers’ qualified employee protection expenses to cover PPE, cleaning supplies, and “qualified workplace reconfiguration expenses.” 	<ul style="list-style-type: none"> • \$200 billion to provide hazard pay for essential health care workers and first responders. • Requires the Occupational Safety and Health Administration (OSHA) to promulgate a rule

	<ul style="list-style-type: none"> ○ Limits are \$1,000 per employee for the first 500 employees; \$750 for ○ each employee between 500 and 1,000; and \$500 for each employee above 1,000. 	<p>requiring employers to establish infection control plans.</p> <ul style="list-style-type: none"> ● Prevents employers from retaliating against workers who report infection control issues.
Stimulus Payments	<ul style="list-style-type: none"> ● Provides another \$1,200 direct payment per individual, \$2,400 for couple. ● Retains the \$500 allocation for each qualifying dependent and clarifies that the additional \$500 will be provided to taxpayers with dependents of any age. 	<ul style="list-style-type: none"> ● Provides an additional \$1,200 in direct payments to individuals and households, and retains the \$75,000 threshold established under the CARES Act. ● Boosts the amount for each dependent from \$600 to \$1,200, capping it at three dependents per filer.
Unemployment	<ul style="list-style-type: none"> ● Extends the enhanced unemployment insurance benefits. <ul style="list-style-type: none"> ○ Lowers weekly bonus from \$600 to \$200. ● Phases out UI payments with a wage replacement program to cover 70 percent of lost wages. ● Increases supplemental emergency unemployment relief for government entities and nonprofit organizations from 50 to 75 percent. ● Provides \$2 billion to help states upgrade their UI systems. 	<ul style="list-style-type: none"> ● Extends the \$600 unemployment insurance boost through the end of the year. ● Extends the unemployment relief provided to government entities and non-profit organizations through that same date. ● Provides technical corrections that allow states to waive the 50 percent owed by employers
Tax Reform	<ul style="list-style-type: none"> ● Increases the applicable percentage of qualified wages reimbursed through the Employee Retention Tax Credit to 65 percent of certain wages paid during the pandemic. ● Expands the Work Opportunity Tax Credit to include 2020 qualified COVID-19 unemployment recipients. ● Creates a safe harbor to allow marketplace platform companies to provide COVID-19 related assistance to gig economy workers without jeopardizing the service provider's independent contractor status under the tax code. ● Temporarily expands the business meal deduction to 100 percent until the end of 2020. 	<ul style="list-style-type: none"> ● Increases the applicable percentage of qualified wages reimbursed through the employee retention credit to 80 percent. ● Restores and makes permanent the limitation on excess business losses of non-corporate taxpayers. ● Allows carryback of net operating losses arising in 2019 and 2020 for certain taxpayers. ● Boosts the earned income and child and dependent care tax breaks. ● Extend subsidies for paid sick and family leave from Families First Coronavirus Response Act through end of 2021. ● Repeals tax breaks Congress gave to businesses

		in the CARES Act that allow them to claim tax refunds by applying recent losses against previous years' taxes.
Education	<ul style="list-style-type: none"> • Allocates \$105 billion for education purposes, including \$5 billion to the Governor's funds (which is flexible for K-12 or higher ed); \$29 billion to higher ed; \$70 billion for K-12. • Of the \$70 billion for K-12: <ul style="list-style-type: none"> ○ Of the funding allocated directly to school districts and private schools, one-third would be available to all school districts and private schools immediately. ○ The remaining two-thirds would be available specifically to help schools with the additional costs to reopen for in-person instruction, with funding awarded based on certain minimum opening requirements and other criteria established by the state. 	<ul style="list-style-type: none"> • Provides more than \$100 billion in additional education funding. <ul style="list-style-type: none"> ○ This includes \$90 billion in grant funding for states to distribute amount k-12 schools and public colleges, as well as \$10 billion for distressed higher education institutions and \$1.7 billion for historically black colleges and universities (HCBU).
Child Care	<ul style="list-style-type: none"> • Provides \$16.7 billion to the Administration for Children and Families (ACF), including \$5 billion for the Child Care Development Block Grant (CCDBG), • Provides \$10 billion in "Back to Work" child care grants, which authorizes short-term assistance for child care providers to assist with opening and reopening efforts. <ul style="list-style-type: none"> ○ States would be allowed to build out programs to help child care providers reopen and maintain operations for nine months. • Reimburses states for 80 percent of increased costs of providing assistance and short-term help through the Temporary Assistance for Needy Families (TANF) program. 	<ul style="list-style-type: none"> • Establishes a new child care stabilization fund that would require HHS to award grants to state agencies for the purpose of providing subgrants to qualified child care providers. • Increases the overall authorization level for the Social Services Block Grant (SSBG) to \$12.15 billion and would directly appropriate \$850 million to fund child and family care through the SSBG. • Provides \$10 billion in supplemental appropriations to the Administration for Children and Families (ACF), including \$7 billion for Child Care Development Block Grants (CCDBG).
Food Security	<ul style="list-style-type: none"> • Provides \$200 million for the Federal Emergency Management Agency's (FEMA) Emergency Food and Shelter Program. 	<ul style="list-style-type: none"> • Provides a 15 percent increase to the maximum Supplemental Nutrition Assistance Program (SNAP) benefit.

		<ul style="list-style-type: none"> • Allocates \$3 billion in supplemental appropriations to provide emergency financial relief to school meal providers.
Broadband	No provisions included.	<ul style="list-style-type: none"> • Authorizes \$2 billion for a temporary expansion of the FCC’s Rural Health Care Program (RHCP) to partially subsidize their health care providers’ broadband service. • Allocates \$1.5 billion to close the “homework gap” by way of funding for Wi-Fi hotspots and connected devices for students and library patrons. • Sets aside \$4 billion for emergency home connectivity needs. • Prohibits telecom providers from cutting off service or charging late fees to consumers unable to pay their bills during the outbreak <ul style="list-style-type: none"> ○ This codifies a voluntary pledge that some internet service providers (ISPs) have committed to through the end of June.
Pensions & Retirement	<ul style="list-style-type: none"> • Clarifies that money purchase plans are included in the retirement plans that qualify for the CARES Act provision allowing individuals to make penalty-free withdrawals from certain retirement plans for COVID-related expenses. 	<ul style="list-style-type: none"> • Creates an expanded partition program allowing the Pension Benefit Guarantee Corporation (PBGC) to take on increased financial obligations in distressed multi-employer pensions plans. • Provides a variety of other relief to multi- and single-employer plans such as the extended amortizations of funding shortfalls.
Housing	<ul style="list-style-type: none"> • Allocates \$2.2 billion in supplemental appropriations to maintain current Section 8 rental assistance for low-income families experiencing a loss of income. • Provides \$1 billion in assistance for Public Housing Agencies. 	<ul style="list-style-type: none"> • Establishes a \$75 billion Housing Assistance Fund for homeowners impacted by the pandemic and expand the CARES act’s eviction and foreclosures moratorium to include all homeowners. • Provides an extra \$100 billion in emergency aid for low-income renters. • Allocates \$750 million to assist people living in project-based rental assistance properties.

<p>Transit</p>	<ul style="list-style-type: none"> • Provides \$13.3 billion in supplemental appropriations for the Departments of Transportation, Housing and Urban Development, and Related Agencies. • \$10 billion of these funds will be allocated toward the Airport Improvement Program with a revised formula. 	<ul style="list-style-type: none"> • Allocates additional supplemental appropriations to Transportation, Housing and Urban Development, and Related agencies. • This includes: (1) \$15.75 billion in transit emergency relief grants; (2) \$75 million to the Federal Aviation Administration to cover janitorial services at air traffic control towers and hazard pay; and (3) \$15 billion in grants to support the ongoing work of state and local transit agencies.
<p>Defense</p>	<ul style="list-style-type: none"> • Provides \$29.4 billion in supplemental appropriations for Defense. <ul style="list-style-type: none"> ○ Of that amount, \$2.6 billion is for operations and maintenance ○ Roughly \$11 billion for payments to contractors authorized through section 3610 of CARES. ○ \$8.05 billion is set aside for procurement and acquisition efforts aimed at supporting the defense industrial base. 	<p>No provision included.</p>
<p>Trust Funds</p>	<ul style="list-style-type: none"> • Requires the Treasury Secretary to submit to Congress a report identifying each Federal trust fund program that spent more than \$20 billion in the fiscal year prior to enactment and is projected to have inadequate balances at any point prior to the end of FY 2035. <ul style="list-style-type: none"> ○ Treasury must submit the report between January 4 and January 11, 2021. • The Committees would be required to develop reports containing findings, conclusions, and recommendations with respect to providing solvency for the respective programs. 	<p>No provision included.</p>