



July 31, 2020

HEALS Act Comparison to HEROES Act and Current Law

On Monday, July 27, Senate Majority Leader Mitch McConnell (R-KY) released the [Health, Economic Assistance, Liability and Schools \(HEALS\) Act](#)—a \$1 trillion stimulus package in response to the ongoing effects of the COVID-19 pandemic. The Brownstein Tax Policy Team has compared the tax, education, labor and small business provisions in the HEALS Act, the House Democrats COVID-19 proposal, the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, and current law.

To access our full analysis of the HEALS Act and a section-by-section summary, please [click here](#).

The provision is either current law or the baseline proposal with respect to which the others are compared.

The provision is absent from the legislation.

The provision expands upon current law.

The provision would scale back current law.

	CURRENT LAW	HEROES ACT	HEALS ACT
BUSINESS PROVISIONS			
Business Tax Relief			
Employee Retention Payroll Tax Credit	<ul style="list-style-type: none"> Provides a refundable payroll tax credit, capped at \$5,000 per employee, for 50% of wages up to \$10,000 paid by employers to employees from March 13 to Dec. 31. For employers with over 100 employees, only employees who received wages but did not work during the calendar quarter count toward eligibility—though a partial 	<ul style="list-style-type: none"> Makes various changes to the ERTC, including increasing the applicable percentage of qualified wages for the ERTC from 50% to 80%. Also adds a phase-in so that companies with at least a 10% reduction in quarterly receipts can qualify for the credit. Also increases ERTC \$10,000 employee cap to \$15,000 per employee, per quarter, and 	<ul style="list-style-type: none"> ERTC is enhanced by increasing the amount and percentage of eligible wages per employee to 65% and \$10,000 per quarter and \$30,000 aggregate for all quarters (\$19,500 credit) per employee. To be eligible under current law, an employer must have either a partial/full suspension of operations due to a COVID-

	CURRENT LAW	HEROES ACT	HEALS ACT
	<p>credit is available.</p> <ul style="list-style-type: none"> For employers with less than 100 employees, all wages are eligible for the credit. Health plan expenses are considered qualified wages even when no other wages are paid to the employee. 	<p>\$45,000 per employee overall.</p> <ul style="list-style-type: none"> Changes the large employer distinction from over 100 employees to over 1,500 employees. 	<p>19 shutdown order, or have a significant decline (at least a 50% drop) in gross receipts when compared to the same quarter in 2019. This bill also permits relief if there is a 25% drop in gross receipts in Q3 and Q4, allowing more employers to qualify.</p> <ul style="list-style-type: none"> The definition of gross receipts is expanded to include gross receipts of tax-exempt organizations. Under the CARES Act, qualified wages for large employers only included amounts paid for time the employee is not performing services. The bill raises the large employer threshold so that it only applies to companies with 501 or more full-time employees as opposed to 101 or more. The CARES Act also limited large employers so that certain pay increases did not meet the definition of qualified wages as they did not include amounts above what an employee would otherwise have been paid for working the equivalent duration during the 30 days before such period. This limitation is removed. The CARES Act provided that recipients of PPP loans were ineligible for the ERTC. The IRS provided guidance that employers that repaid their PPP loans by May 18, 2020, were eligible for the ERTC. This bill provides that an employer may have both a PPP and claim the credit after June 30, 2020, but no double benefit is permitted (i.e., forgivable PPP amounts cannot also be counted as qualified wages). The Secretary of Treasury is directed to issue guidance or regulations to prevent large employers from using leaseback arrangements to avoid the restrictions on

	CURRENT LAW	HEROES ACT	HEALS ACT
			<p>companies with over 500 full-time employees.</p> <ul style="list-style-type: none"> These amendments to the CARES Act employee retention credit are generally effective beginning July 1, 2020; however, an employer who previously filed an employment tax return may elect to treat qualified wages paid in the first two quarters of 2020 as paid in the quarter that includes the date of enactment (likely Q3) to the extent the credit was not already claimed with respect to such wages.
Expansion of Work Opportunity Tax Credit	<ul style="list-style-type: none"> The IRC §51(a) Work Opportunity Tax Credit is a federal tax credit available to employers for hiring individuals from certain targeted groups. The credit varies among targeted groups, but is most commonly 40% of \$6,000 of wages per year (\$2,400 credit) per individual. The credit is unavailable for individuals who begin work after Dec. 31, 2020. 		<ul style="list-style-type: none"> Adds "qualified 2020 COVID-19 unemployment recipient" to the list of targeted groups eligible for the IRC §51 Work Opportunity Tax Credit (WOTC). The credit is limited to 50% of \$10,000 of wages per year (\$5,000 credit) per individual (25% for those who work between 120 and 400 hours). "Qualified 2020 COVID-19 unemployment recipient" is defined as any individual who (1) is certified as having been approved to receive unemployment compensation under state or federal law for either the week of or the week before the hiring date, and (2) begins work for the employer before Jan. 1, 2021. Rehires are credit eligible, but the Secretary is directed to prescribe regulations to prevent abuse (i.e., to prevent terminating an employee to simply rehire them once on unemployment and credit eligible). Effective for individuals who begin work for an employer after the enactment date.
Safe and Healthy Workplace Tax Credit			<ul style="list-style-type: none"> Creates a refundable 50% payroll tax credit equal to the sum of qualified employee protection expenses, workplace reconfiguration expenses and workplace technology expenses.

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			<ul style="list-style-type: none"> The credit for each calendar quarter is equal to \$1,000 for each of the first 500 employees, \$750 for employees 501 to 1,000, and \$500 for each employee that exceeds 1,000. The credit is \$500 for self-employed individuals. Qualified employee protection expenses include COVID-19 testing, protective personal equipment, and cleaning supplies or services. Qualified workplace reconfiguration expenses and workplace technology expenses are related to redesigning regularly used areas and adding technology that has a primary purpose of preventing the spread of COVID-19, is consistent with CDC and OSHA recommendations and not pursuant to a plan that was in place before March 13, 2020. Applies to amounts paid or incurred after March 12, 2020, and before Jan. 1, 2021.
COVID-19 Assistance Provided to Independent Contractors	<ul style="list-style-type: none"> In determining whether a service provider is an independent contractor or employee, all information that provides evidence of the degree of control and independence must be considered. Under common-law rules, anyone who performs services for you is your employee if you can control what will be done and how it will be done. 		<ul style="list-style-type: none"> A service recipient may provide the following benefits to a service provider, and such provision of benefits will not be considered when deciding whether the service provider is an employee or independent contractor: <ul style="list-style-type: none"> financial assistance provided for time the service provider is not working or working less as a result of COVID-19; health care benefits and testing related to COVID-19; masks, gloves, disinfectants, cleaning products and other personal protective equipment; and training, standards and guidelines related to COVID-19. The provision of health care benefits, personal protective

	CURRENT LAW	HEROES ACT	HEALS ACT
			<p>equipment and training related to COVID-19 to the service provider is treated as an IRC §139 payment (i.e., not included in the service provider's gross income).</p> <ul style="list-style-type: none"> Applies to benefits provided after March 12, 2020, and before Jan. 1, 2021.
Payroll Credit for Certain Fixed Expenses of Employers Subject to Closure by Reason of COVID-19		<ul style="list-style-type: none"> Provides employers a refundable payroll tax credit for 50% of qualified fixed expenses (rent, utilities or mortgage) paid or accrued after March 12 to Dec. 31. Eligibility is limited to employers with no more than (1) 1,500 full-time employees in 2019; or (2) \$41,500,000 of gross receipts in 2019. The maximum value of the credit is \$50,000. 	
Business Interruption Credit for Certain Self-Employed Individuals		Provides a 90% refundable individual income tax credit, up to \$45,000, for self-employed individuals who have experienced more than a 10% reduction in self-employment income from 2019 to 2020 in the conduct of a trade or business.	
Delay of Payment of Employer Payroll Taxes	Employers and self-employed individuals may delay payment of 100% of the employer share of social security taxes due after enactment through the end of 2020.	Provides businesses a payroll tax deferral even if receiving loan forgiveness under the PPP.	
Modification of Net Operating Losses	The provision allows 100% of losses for tax years 2018, 2019 and 2020 (rather than 80%). Allows a five-year carryback for losses in tax years 2018, 2019 and 2020.	Provides that NOL for tax years 2019 and 2020 may only be carried back to 2018.	
Election to Waive Application of Certain Modifications to Farming Losses	TCJA allowed farmers to carry back losses for two years during 2018, 2019 and 2020. CARES Act had amended the TCJA's NOL carryback rules, eliminating the farmers' two-year carryback option.		Restores the TCJA provision giving a two-year carryback option to farmers for 2018, 2019 and 2020 by amending the NOL provisions of the CARES Act to allow a taxpayer who has a "farming loss" to make an election to waive (or revoke a prior election to waive) the application of one or both of the NOL and carryback provisions for one or more of 2018, 2019 and 2020.
Modification of Limitation on	The provision suspends the \$250,000 (\$500,000 for joint	Reinstates the \$250,000 (\$500,000 for joint return) limitation on excess	

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Losses for Taxpayers Other Than Corporations	return) limitation on excess business losses for pass-through businesses and sole proprietors for tax year 2020.	business losses for pass-through businesses and sole proprietors that had been suspended for tax years 2018, 2019 and 2020.	
Modification of Credit for Prior Year Minimum Tax Liability of Corporations	Accelerates the ability of businesses to recover AMT credits, which was repealed by the TCJA.		
Modification of Limitation on Business Interest	For 2019 and 2020, increases the amount of interest expense that businesses are able to deduct by increasing the limitation from 30% of adjusted taxable income to 50%.		
Technical Amendments Regarding Qualified Improvement Property	Classifies qualified improvement property as 15-year life, which also allows such property to be eligible for bonus depreciation.		
Temporary Exception From Excise Tax For Alcohol Used to Produce Hand Sanitizer	Provides a tax holiday on distilled spirits in 2020 if the alcohol is used in or contained in hand sanitizer produced and distributed consistent w/ FDA guidelines.		
Clarification of Treatment of Expenses Paid or Incurred with Proceeds from Certain Grants and Loans		Clarifies that no amount of expenses paid or incurred with proceeds from certain grants and loans should be included in gross income. This includes expenses or proceeds from the Payment Protection Program and certain loan forgiveness by the SBA, EIDL grants and certain loan payments not covered in §233 of this Act.	
Modification of Limitations on Charitable Contributions in 2020	The 10% limitation is increased to 25% of taxable income for corporations.		
Deductions			
Temporary Allowance of Full Deduction for Business Meals	A 50% deduction limitation is imposed on business meal expenses.		<ul style="list-style-type: none"> Removes the 50% deduction limitation (so that a 100% deduction is allowed) for business meal expenses incurred at restaurants. Applies to amounts paid or incurred after the enactment date and before Jan. 1, 2021.
Coronavirus Economic Stabilization Act			
Emergency Relief and Taxpayer Protections	Provides \$500 billion to the Treasury Department for loans, loan guarantees and other		

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	<p>investments through the following:</p> <ul style="list-style-type: none"> • \$25 billion for passenger air carriers, businesses approved to perform inspection, repair, replace or overhaul services, and ticket agents; • \$4 billion for cargo air carriers; • \$17 billion for businesses critical to maintaining national security; and • \$454 billion to assist the Federal Reserve's lending facilities or programs established under section 13(3) of the Federal Reserve Act that provide liquidity to the financial system, and specifically to support lending to eligible businesses, states or municipalities by purchasing obligations. • Various covenants apply to the loan programs, including limits on employee compensation. • Treasury Department subsequently released various term sheets detailing loan facilities available to businesses. 		

	CURRENT LAW/ CARES ACT	HEROES ACT	HEALS ACT
UNEMPLOYMENT INSURANCE			
Pandemic Unemployment Assistance Program, Waiver of Waiting Week, and \$600 Plus Up	<p>Creates a temporary Pandemic Unemployment Assistance program for up to 39 weeks from Jan. 27, 2020, through Dec. 31, 2020. Program provides immediate benefits to those not traditionally eligible for unemployment benefits who are unable to work, partially unemployed or unemployed as a direct result of the coronavirus public health emergency. The traditional one-week waiting period to receive benefits is waived and states are reimbursed for this waiver. Adds a \$600 per week FPUC benefit amount (in</p>	<ul style="list-style-type: none"> • Extends the PUA benefits for individuals who otherwise do not qualify for regular unemployment compensation under the CARES Act for an additional six months, through Jan. 31, 2021, including the \$600 plus up. • For individuals whose eligibility for benefits begins before Jan. 31, 2021, the PUA continues, but will end no later than March 31, 2021. • FPUC benefits will not be considered as income when determining eligibility for benefits or assistance, and will be excluded from resource limits for 	<ul style="list-style-type: none"> • Reduces FPUC created by Sec. 2104 of the CARES Act from \$600 to \$200, after July 31, 2020, through Oct. 4, 2020. • Starting on Oct. 5, 2020, through the end of the year, the \$200 FPUC payment will be replaced with an amount (not greater than \$500) equal to 70% of the individual's average weekly, when combined with the state UI payment. • States that are unable to provide a second payment tied to lost wages could apply for a waiver from DOL to continue paying a fixed dollar amount—\$200—for

	CURRENT LAW/ CARES ACT	HEROES ACT	HEALS ACT
	addition to that authorized under state law where the individual was employed) through July 31, 2020. Total benefit amount is not limited to 100% of individual's salary.	nine months following receipt. <ul style="list-style-type: none"> Extends temporary full federal funding of the first week of compensable regular unemployment for states that waive the waiting week through Jan. 31 2021. 	up to two months through Nov. 30, 2020.
Pandemic Emergency Unemployment Compensation	Provides an additional 13 weeks of federally funded unemployment benefits through Dec. 31, 2020, to help those who remain unemployed after exhausting their state unemployment benefits. These benefits are paid before any permanent Extended Benefits.	Extends the PEUC benefits, consisting of an additional 13 weeks of unemployment benefits for those who have exhausted their regular state unemployment benefits, through Jan. 31, 2021. For individuals whose eligibility for benefits begins before Jan. 31, 2021, the PEUC will end no later than March 31, 2021.	
Extension of Assistance to States	FFCRA provided states with the following through Dec. 31, 2020: <ul style="list-style-type: none"> interest-free loans to assist with the payment of unemployment compensation benefits federal reimbursement for extended unemployment compensation from 50% to 100% for states that experience a 10% or higher unemployment rate compared to the previous year and comply with other beneficiary access requirements. 	These provisions are extended through June 30, 2021.	
Short-Time Compensation Programs	Provides 100% federal reimbursement to states for support of existing state STC programs through Dec. 31, 2020. The benefit amount is equal to the weekly amount authorized under state law, plus the additional \$600 FPUC. For states without an existing STC plan that enter into an agreement with the DOL to create a plan, 50% of costs incurred are reimbursed through Dec. 31, 2020.	These provisions are extended through Jan. 31, 2021. A new provision also ensures any states that enact a STC program will receive full federal financing for all agreements in place after March 29, 2020.	STC programs continue to be eligible for FPUC payments. However, federal funding for STC programs is not extended.
Temporary Assistance for Needy Families (TANF) Coronavirus Emergency Fund			Establishes a \$2 billion Coronavirus Emergency Fund for state TANF programs within the Treasury Department to provide states with grants during the third and fourth quarters of FY2020 and all of FY2021 for basic assistance, nonrecurring short-term benefits and work supports for eligible families.

	CURRENT LAW	HEROES ACT	HEALS ACT
INDIVIDUAL PROVISIONS			
Individual Rebates			
2020 Recovery Rebates/EIPs for Individuals	<ul style="list-style-type: none"> Provides U.S. residents with AGI up to \$75,000 (individuals) and \$150,000 (for joint filers) with a \$1,200 rebate (\$2,400 for joint filers), plus \$500 per qualifying child under age 17. The credit phases out starting at \$75,000 of modified adjusted gross income (\$112,500 for head of household filers and \$150,000 for joint filers) at a rate of \$5 per \$100 of income. The rebate is completely phased out for individuals with adjusted gross income of \$99,000 (\$198,000 for joint filers) with no children. Amounts are based on taxpayers' 2018 tax return if 2019 tax return has not yet been filed. 	<ul style="list-style-type: none"> Provides a second round of rebate payments at the same rate. However, households now qualify for \$1,200 per dependent (maximum of three). Total EIP cannot exceed \$6,000. Amends the CARES Act to expand eligibility for a \$500 payment to all dependents, including adult dependents and full-time students below age 24. Allows EIP to be made to all taxpayers who provide a Taxpayer Identification Number, rather than a Social Security Number. Amends the CARES Act to exempt EIP from reduction or offset with respect to past-due child support. If an eligible individual now qualifies to receive a greater amount in light of the provisions of this Act, the Treasury Department shall issue a rebate equal to the taxpayers' re-determined rebate less the previously issued rebate. 	<ul style="list-style-type: none"> Provides a second round of rebate payments at the same rate as the CARES Act. However, under the CARES Act, the additional \$500 was limited to taxpayers with a dependent child under 17. This bill allows the additional \$500 to be provided to taxpayers with dependents of any age with a valid Social Security Number or an Adoption Taxpayer Identification Number. Clarifies that rebates are not available for prisoners or persons who were deceased before Jan. 1, 2020.
Earned Income Tax Credit			
Expansion of the EITC; Changes to Eligibility Criteria; and Repeal of Various Tests	<ul style="list-style-type: none"> The earned income tax credit (EITC) is a refundable tax credit for low-income earners who meet certain criteria, including having earned income and filing a federal income tax return. The maximum credit for a childless worker in 2020 is \$538—individuals cannot earn more than \$15,280 (\$21,710 for married couples). Childless workers who claim the credit must be between ages 25 and 64. The maximum credit for individuals with children is \$6,650 (three or more children), with maximum earnings for an individual of 	<ul style="list-style-type: none"> Expands the eligibility for the EITC by reducing the minimum age for the childless EITC from 25 to 19 (excludes full-time students) and increasing the age limit to 66 from 65. Increases the earned income amount to \$9,720 and the phaseout amount to \$11,490. Repeals provision that prohibited taxpayers with qualifying children (who do not meet the identification requirements) from claiming the childless EITC. Allows the credit for certain separated spouses, as long as the qualifying child has lived in the taxpayer's home for more than half the year and the home is not at the same address as the spouse. 	

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	<p>\$50,594 (\$56,844 for married couples).</p> <ul style="list-style-type: none"> Taxpayers may not have above a certain amount of investment income in order to qualify. 	<ul style="list-style-type: none"> Eliminates the disqualified investment income test. Allows taxpayers in 2021 to elect the lesser of 2019 and 2020 earned income. Directs Treasury Department to make payments to taxpayers within U.S. territories. 	
Child Tax Credit			
Child Tax Credit Improvements for 2020	<ul style="list-style-type: none"> \$2,000 credit per qualifying child under the age of 17. If the credit amount exceeds taxes owed, families may receive up to \$1,400 per child as a refund. Other dependents—including children ages 17–18 and full-time college students ages 19–24—can receive a nonrefundable credit of up to \$500 each. 	<ul style="list-style-type: none"> Increases the CTC from \$2,000 per qualifying child to \$3,000, with a \$600 plus up for children under 6. Raises the age limit to qualify for the credit to 17 and makes fully refundable for 2020. Requires the Secretary of the Treasury to establish a program for making advance payments of the credit effective Dec. 31, 2019. The advance payments are reduced by \$50 for each \$1,000 by which the taxpayer's AGI exceeds the threshold amount—\$110,000 in the case of a joint return and \$75,000 in the case of an individual who is not married. Extends eligibility for the CTC to “mirror code” territories and covers the cost of the territories’ CTC. 	
Dependent Care Assistance			
Refundability and Enhancement of Child and Dependent Care Tax Credit for 2020	<ul style="list-style-type: none"> Provides a 3,000 (for one qualifying individual) or \$6,000 (for two or more qualifying individuals) for qualifying child and dependent care expenses. The maximum credit rate is 35% and the income phase-out threshold for the credit is \$15,000. A qualifying individual for the child and dependent care credit is a child who is under the age of 13, or a spouse or dependent who was physically or mentally incapable of self-care. 	<p>Makes the CDCTC fully refundable for 2020 and increases the maximum credit rate to 50%. Doubles the amount of child and dependent care expenses eligible for the credit to \$6,000 for one qualifying individual and \$12,000 for two or more qualifying individuals. Phase-out threshold to begin at \$120,000 instead of \$15,000.</p>	
Increase in Exclusion for Employer-Provided Dependent Care Assistance for 2020	<p>The annual exclusion for employer-provided dependent care is currently \$5,000 (\$2,500 for married individuals filing separately).</p>	<p>Increases the exclusion from \$5,000 to \$10,500 (from \$2,500 to \$5,250 for married individuals filing separately) for employer-provided dependent care assistance for 2020.</p>	
Deductions			

	CURRENT LAW	HEROES ACT	HEALS ACT
Modification of Limitations on Charitable Contributions During 2020	<ul style="list-style-type: none"> Increases the limitations on deductions for charitable contributions. The 50% of adjusted gross income limitation is suspended for individuals. Increases the limitation on deductions for contributions of food inventory from 15% to 25%. 		
Elimination for 2020 and 2021 of Limitation on Deduction of State and Local Taxes	TCJA limited the deduction for state and local real estate and personal property taxes (SALT) for taxpayers who itemize to \$10,000.	Eliminates the \$10,000 limitation on the deduction for state and local taxes for taxable years beginning on or after Jan. 1, 2020, and on or before Dec. 31, 2021, that was imposed by the TCJA.	
Education			
Exclusion for Certain Employer Payments of Student Loans	Employer payments during 2020 made to or on behalf of an employee with respect to the principal or interest on any qualified education loan held by the employee will be treated as educational assistance within the meaning of Sec. 127 and be excludible from the employee's gross income.		
First Responders and Frontline Workers			
Deduction Allowed for Certain Expenses of First Responders		Provides a \$500 above-the-line deduction for certain expenses incurred by first responders related to tuition or uniforms.	
Temporary Deduction for Supplies and Equipment of First Responders and Frontline Employees		Provides a temporary \$500 above-the-line deduction for first responders and frontline employees for uniforms, supplies and equipment. The relief will apply to taxable years beginning after Dec. 31, 2019.	
HEROES Fund		<ul style="list-style-type: none"> Allows employers in certain industries to apply for grants that are then used to provide premium pay to essential workers. Within three days of receiving a grant, an employer would need to provide premium pay to its essential workers at a rate of \$13 for each hour of work performed between Jan. 27, 2020, and 60 days after the end of the COVID-19 pandemic. The total amount of premium pay an essential worker may receive cannot exceed \$10,000 (or \$5,000 if the essential employee already earns \$200,000 or more 	

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		per year).	
Payroll Credit for Certain Pandemic-Related Employee Benefit Expenses Paid by Employers		Provides a 30% payroll tax credit equal to the percentage of qualified pandemic-related employee benefit expenses. The credit goes up to 50% in the case of qualified pandemic-related employee benefit expenses paid with respect to an essential employee, defined by the COVID-19 Heroes Fund. The employee benefit expenses may not exceed \$5,000 for any calendar quarter per employee.	
Workforce Development Response			
Job Corps and YouthBuild Response to the COVID-19 National Emergency		Expands (1) age eligibility for Job Corps and YouthBuild participation to individuals who turn 25 during the COVID-19 emergency; and (2) enrollment length to a period of up to two years.	
Migrant and Seasonal Farmworker (MSFW) Program Response		Authorizes a one-year extension on the four-year grant cycle due to COVID-19, and expands eligibility to individuals not exceeding 150% of the poverty line.	
Apprenticeship Support During the COVID-19 National Emergency		Authorizes funds to be used to support virtual and online learning and training for states and intermediaries who are assisting employers that are participating in apprenticeship programs.	
Additional Workforce Activities		Requires that the Secretary support virtual learning programs and apprenticeship training programs.	
Workforce Recovery and Training Services		Provides \$485 million in grants to the states for job training, including on-the-job training, Individual Training Accounts or transitional jobs.	<ul style="list-style-type: none"> Allows up to 40% of funds received by local workforce boards pursuant to the Workforce Innovation and Opportunity Act (WIOA) to be used on incumbent worker training or transition jobs. This authorizes funding for a formula grant to states to support job training. This includes a set-aside for local areas to carry out job training activities. Funds must be used for activities authorized under the Workforce Innovation and Opportunity Act such as career services, expansion of online learning opportunities, customized training, on-the-job training, Individual Training Accounts or transitional jobs.

	CURRENT LAW	HEROES ACT	HEALS ACT
Continuity of Service and Opportunities for Participants in Community Service Activities	Permits the Secretary of Labor to allow individuals participating in community service activities under the OAA to extend their participation and increase the participation cap due to the effects of the COVID-19 public health emergency.		

	CURRENT LAW	HEROES ACT	HEALS ACT
Coronavirus Relief Fund Flexibility and State Tax Certainty			
Coronavirus Relief Fund	The Coronavirus Relief Fund (CRF) of the CARES Act allocated \$150 billion to all 50 states to cover specified expenses due to COVID-19.	Provided \$875 billion in state and local funding.	<ul style="list-style-type: none"> Expands the date for which CRF resources can be used to cover expenditures from Dec. 30, 2020, to 90 days after the last day of the state or government fiscal year 2021. Retains CARES Act provisions for allowable uses but expands the uses to include "revenue shortfalls," defined as shortfalls of revenue from taxes, fees or other sources relative to fiscal year 2019 levels. The period covered is from March 1, 2020, to 90 days after the last day of a government's fiscal year 2021.
State Tax Certainty for Employees and Employers	States may only tax income earned within the state; employers and employees do not pay multiple state taxes on the same income.		<ul style="list-style-type: none"> Creates uniform procedures for assessing state and local income taxes on individuals working remotely. Through 2024, employees performing duties in multiple states will be taxed only in their state of residence and states they are present in and performing duties for a specified period. A 90-day threshold for income earned in other states applies to frontline health care workers.

	CURRENT LAW	HEROES ACT	HEALS ACT
RETIREMENT AND BENEFITS PROVISIONS			
Special Rules for Use of Retirement Funds/Employee Certification as to Eligibility for Increased CARES Act Loan Limits from Employer	Section 2202 of the CARES Act provides that qualified coronavirus affected individuals (i) can receive special favorable tax treatment on "coronavirus-related distributions" of up to \$100,000 in the aggregate from all eligible retirement plans of the	Amends §2202(b) of the CARES Act to allow a qualified employer plan (within the meaning of Code §72(p)(4)) to be able to rely on a participant's self-certification that the participant is a "qualified coronavirus affected individual" (within the meaning of §2202(a)(4)(A)(ii) of the	Substantially identical to §40303 of the HEROES Act.

	CURRENT LAW	HEROES ACT	HEALS ACT
RETIREMENT AND BENEFITS PROVISIONS			
Plan	plan sponsor's controlled group if made through Dec. 31, 2020, and (ii) are eligible to (a) apply for coronavirus-related loans (up to the lesser of \$100,000 or 100% of the vested accrued benefit) and (b) delay the loan repayment and loan term by up to one year, if and to the extent the plan is amended to provide these loan benefits.	CARES Act) to demonstrate the participant is eligible not only for coronavirus-related distributions but also eligible for the favorable provisions applicable to coronavirus-related loans.	
Application of Special Rules to Money Purchase Pension Plans	The coronavirus-related distribution and loan provisions under §2202 of the CARES Act apply only to "eligible retirement plans" within the meaning of Code §402(c)(8): individual retirement arrangement (IRA) under Code §408(a) or (b), a qualified plan under Code §401(a), a plan under Code §403(a) or §403(b), and a governmental deferred compensation plan under Code §457(b).	Amends §2202(a)(6)(B) of the CARES Act to clarify that the coronavirus-related distribution provision under §2202 of the CARES Act also applies to money purchase pension plans.	Substantially identical to §40305 of the HEROES Act.
Waiver of Required Minimum Distributions from Certain Retirement Plans and Accounts for 2019 and 2020	Section 2203 of the CARES Act waives required minimum distributions (RMD) for calendar year 2020 from defined contribution plans described in Code §§401(a), 403(a) and 403(b); Code §457(b) eligible deferred compensation plans maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; and IRAs and other individual retirement plans.	<ul style="list-style-type: none"> Expands the temporary waiver of RMDs to include calendar year 2019 in addition to calendar year 2020. Amounts already paid are eligible for rollover treatment. 	
Waiver of 60-Day Rule in Case of Rollover of Otherwise Required Minimum Distributions in 2019 and 2020	Amounts paid in 2020 that otherwise would be RMDs can be re-deposited into eligible retirement plans without regard to the otherwise applicable (i) 60-day rollover requirement or (ii) once-per-year restriction on an individual's IRAs in the aggregate, if the deposit is made before Dec. 1, 2020.	Expands the waiver of the 60-day rollover requirement and the IRA once-per-year restriction to amounts paid in 2019 in addition to amounts paid in 2020 that otherwise would be RMDs.	
Single Employer Plan Funding Rules: Delay in Payment of Minimum Required Contributions	Section 3608 of the CARES Act delays the payment deadline of minimum required contributions due during calendar year 2020 for single employer pension plans until Jan 1, 2021, increased by		The deadline for making minimum required contribution payments to single employer pension plans, which otherwise would be due during calendar year 2020, is delayed to Jan. 4, 2021.

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RETIREMENT AND BENEFITS PROVISIONS			
	interest between the due date and the payment date. The plan sponsor also may elect to treat the plan's adjusted funding target attainment percentage before 2020 as including the calendar year 2020.		See, Title II, Subtitle C, §222.
Modifies Minimum Funding Standards for Community Newspaper Plans	<p>The SECURE Act (Div. O of the Further Consolidated Appropriations Act, 2020, P.L. 116-94 (Dec. 20, 2019), amended Code §430(m) and ERISA §303 to establish alternative funding rules for community newspapers to be administered by the Treasury. Once published, the rules will apply to all years after Dec. 31, 2017, unless revoked. Plan funding targets and normal costs will use an 8% interest rate and the return period in the event of a funding shortfall will be increased to 30 years, up from seven years. "At-risk" plan assumptions do not apply.</p> <ul style="list-style-type: none"> For this purpose, a "community newspaper plan" means a plan which is maintained by an employer, which as of Dec. 31, 2017, publishes and distributes daily, either electronically or in printed form, one or more community newspapers in a single state, is not publicly traded on a stock exchange or over-the-counter market, and is controlled directly or indirectly by a family or one or more person(s) resident in the state, or by a tax-exempt entity, and meets certain control requirements (including not being controlled directly or indirectly by another newspaper in any other state). A "community newspaper" means a newspaper that primarily serves a metropolitan statistical area, as determined by the OMB, with a population of not less than 100,000. 	Expands the minimum funding relief provided under §115 of the SECURE Act to additional types of community newspapers.	

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	This alternative funding relief is available to an employer maintaining a community newspaper plan under which no participant has had their accrued benefit increased (whether because of service or compensation) after Dec. 31, 2017.		
Provisions Affecting Single Employer Pension Plans			
Extended Amortization for Single Employer Pension Plans	If a single employer pension plan has a funding shortfall, the underfunded amount must be amortized over seven years.	Extends the amortization period for funding shortfalls to 15 years. Also, all shortfall amortization bases for all plan years beginning after Dec. 31, 2019 (and all shortfall amortization installments determined with respect to such bases), would be reduced to zero.	
Extension of Pension Funding Stabilization Percentages for Single Employer Pension Plans	In 2012, 2014 and 2015, Congress provided for pension interest rate smoothing to address concerns that historically low interest rates were creating inflated pension funding obligations and were diverting corporate assets away from jobs and business recovery. The smoothed interest rates would begin phasing out in 2021.	Provides extended interest rate smoothing. Specifically amends Code §430 and ERISA §303 so that: <ul style="list-style-type: none"> • The 10% interest rate corridor floor would be reduced to 5%, effective in 2020. • The phase out of the 5% corridor would be delayed until 2026, at which point the corridor would, consistent with current law, increase by 5 percentage points each year until it attains 30% in 2030, where it would remain. • Implements a 5% floor on the 25-year interest rate averages to establish stability and predictability on a longer-term basis and to prevent interest rate variations and excessive volatility. 	
Provisions Affecting Multiemployer Plans			
Special Partition Relief for Eligible Multiemployer Plans		Creates a special partition program to expand the PBGC's existing authority to take on financial responsibility for some of the benefits of an eligible multiemployer plan so that the plan can stay solvent and well-funded for 30 years with no cuts to earned benefits. Also increases the number of multiemployer plans eligible for the program; simplifies the application process; and requires participating plans to, among other things: (i) restore previously cut benefits and (ii) make annual reports to PBGC, Congress and the GAO.	

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Repeal of Benefit Suspensions for Multiemployer Plans in Critical and Declining Status	Under the 2014 Multiemployer Pension Reform Act, if a multiemployer pension plan is in "critical and declining status," then, in addition to applying "rehabilitation rules," the plan sponsor may by plan amendment suspend benefits in accordance with requirements set forth in Code §432(a) and such suspension would not be a violation of the Code §411(d)(6) anti-cutback rule.	Amends Code §432(e)(9) and ERISA §305(e)(9) so that multiemployer plans no longer would be permitted to apply or be approved for a suspension of benefits as part of rehabilitation plans.	
Temporary Delay of Designation of Multiemployer Plans as in Endangered, Critical, or Critical and Declining Status	<p>Multiemployer plans must report their financial condition at least once each year to the IRS. Based on the plan's status, specified actions may be required.</p> <ul style="list-style-type: none"> Red zone - A plan is in critical funding status if: (1) its funding ratio is less than 65% and, in the next six years, the value of its assets and contributions will be less than the value of benefits; (2) in the current year, it is not expected to receive 100% of the contributions required by the plan sponsor, or it is not expected to receive 100% of the required contributions for any of the next three years (four years if its funding percentage is 65% or less); (3) it is expected to be insolvent within five years (seven years if its funding percentage is 65% or less); or (4) the cost of the current year's benefits and the interest on unfunded liabilities are greater than the current year's contributions, the present value of benefits for inactive participants is greater than the present value of benefits for active participants, and there is expected to be a funding deficiency within five years. A plan will be in "critical and declining status" if: (1) it is in critical status and (2) its actuary projects the plan will become insolvent within the 	<ul style="list-style-type: none"> If a multiemployer plan elects, then for purposes of Code §432 and ERISA §305, the funding zone status of the plan as of the first plan year beginning during the period beginning on March 1, 2020, and ending on Feb. 28, 2021, or the succeeding plan year (per the election) will be the same as the status of the plan for the plan year preceding the designated plan year. Any multiemployer plan in endangered or critical status for the plan year preceding the designated plan year would not have to update its plan or schedules until the plan year following the designated plan year. 	

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	<p>current year or within either the next 14 years or the next 19 years, as specified in law.</p> <ul style="list-style-type: none"> Yellow zone - A plan is in endangered status if: (1) its funding ratio is less than 80% funded or (2) it has a funding deficiency in the current year or is projected to have one in the next six years. A plan is seriously endangered if it meets both of these criteria. Green zone - The plan does not meet any of the above categories. 		
Temporary Extension of the Funding Improvement and Rehabilitation Periods for Multiemployer Pension Plans in Critical and Endangered Status	Under ERISA §305 and Code §432, a multiemployer plan's funding improvement period or rehabilitation period (as applicable) is 10 years and, for a plan in seriously endangered status, the funding improvement period is 15 years.	A multiemployer plan in endangered or critical status for a plan year beginning in 2020 or 2021 could elect to extend its rehabilitation period by five years.	
Adjustments to Funding Standard Account Rules for Multiemployer Plans	Multiemployer plans are required to establish and maintain a funding standard account pursuant to Code §431. A plan generally must amortize experience gains and losses and waivers of minimum funding over 15 years. However, during the 2008 recession, Code §431(b)(8) was added to allow a multiemployer plan that met a solvency test to use special funding relief rules if it suffered investment losses that affected the value of its assets for either or both of the first two plan years that ended after Aug. 31, 2008, by electing to extend the amortization period for experienced losses and/or an extended smoothing period for asset valuation.	Amends Code §431 and ERISA §304 to provide that plans, which satisfy the solvency test as of Feb. 29, 2020, can elect to use a 30-year amortization base for investment losses in plan years beginning in 2019 and 2020 to spread out those losses over time. Effective for plan years ending on or after Feb. 29, 2020.	
PBGC Guarantee for Participants in Multiemployer Plans	If a multiemployer plan becomes insolvent, the PBGC guarantees the payment of benefits up to the limits established by ERISA §4022A(c)(1). The basic guarantee is 100% of the first \$11 per month for each year of	Amends ERISA §4022A(c) to double the pension benefits under a multiemployer pension plan guaranteed by the PBGC to 100% of the first \$15 in monthly benefits per year of service and 75% of the next \$70 in monthly benefits per year of	

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	service and 75% of the next \$33 per month for each year of service. Thus, the maximum benefit that can be guaranteed under this section is \$35.75 per month for each year of service.	service, multiplied by the participant's years of credited service, and indexes it thereafter. All plans receiving financial assistance beginning Dec. 16, 2014, would have the benefit of the increased guarantee.	
Composite Plans		<p>New Part 8 to Title I of ERISA (and new Code sections) allows multiemployer plan sponsors to adopt "composite plans."</p> <ul style="list-style-type: none"> Plan contributions for first year must be at least 120% of the normal cost in the first year, with required correction measures if underfunded. Withdrawal liability rules do not apply. Not covered by the PBGC. Board of trustees must include at least one retiree or beneficiary in pay status when 5% of the plan's population is retirees or beneficiaries in pay status. 	
Other Benefits Provisions			
Exclusion of Benefits Provided to Volunteer Firefighters and Emergency Medical Responders	For tax years beginning in 2007 and ending in 2010, Code §139B excluded from gross income any "qualified state or local tax benefits" and "qualified reimbursement payments" provided to members of qualified volunteer emergency response organizations (QVEROs). Code §139B did not apply for tax years 2011 through 2019. Under the Further Consolidated Appropriations Act, 2020, P.L. 116-94 (Dec. 20, 2019), the exclusion under Code §139B was revived solely for tax year 2020.	<p>Permanently reinstates Code §139B to exclude from gross income any "qualified state or local tax benefits" and "qualified reimbursement payments" provided to members of QVEROs.</p> <ul style="list-style-type: none"> "Qualified state or local tax benefits" are rebates or refunds of state or local income taxes, real property taxes and personal property taxes provided by state or local governments on account of services performed by individuals as members of QVEROs. "Qualified reimbursement payments" are payments (whether reimbursement or otherwise) provided by a state or political division of a state on account of the performance of services as members of QVEROs, limited to a maximum of \$50 multiplied by the number of months the taxpayer performs QVERO-related services. 	
Grants to Assist Low-Income Women and Survivors of		<ul style="list-style-type: none"> Awards grants of at least \$250,000 to established community-based organizations on a competitive basis to assist 	

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Domestic Violence in Obtaining Qualified Domestic Relations Orders		low-income women and survivors of domestic violence in obtaining qualified domestic relations orders (QDROs) to ensure that these women actually obtain the retirement benefits to which they are entitled through those orders. <ul style="list-style-type: none"> • Authorizes appropriations of \$100 million for fiscal year 2020 and each succeeding fiscal year. 	
Minimum Rate of Interest for Certain Determinations Related to Life Insurance Contracts	The interest rate assumptions under Code §7702 for determining whether life insurance policies qualify as permanent life insurance contracts for tax purposes are set by law at 4% and 6%. These rates have been in place since 1984 when the requirements were put in place.	Revises the interest rate assumptions under Code §7702 for this purpose by tying the interest rates to either a floating rate prescribed in the National Association of Insurance Commissioners' Standard Valuation Law or a floating rate based on the average applicable federal midterm rates over a 60-month period.	
Provisions Affecting Cafeteria Plans and Flexible Spending Accounts Also see "Dependent Care Assistance" under "Individual Provisions" (above)			
Increase in Carryover for Health Flexible Spending Arrangements	Employees can carry over an account balance of up to \$500 to the next year in their health flexible spending accounts (health FSAs), if the cafeteria plan so provides.	Permits health FSAs to allow participants to carry over up to \$2,750 of unused benefits or contributions from 2020 to 2021.	Substantially identical to §20151 of the HEROES Act.
Carryover for Dependent Care Flexible Spending Arrangements	<ul style="list-style-type: none"> • Dependent Care assistance plan flexible spending account (DCAP FSA) • Employers set the minimum and maximum an employee contributes, but the IRS limits the amount a DCAP can provide to \$5,000 (\$2,500 per parent if married and filing separately) tax free. DCAP assistance above \$5,000 (\$2,500 per parent if married and filing separately) is taxable income. Employees and employers can make contributions into a DCAP depending on the type of plan established. 	Permits DCAPs to allow participants to carry over unused benefits or contributions, not in excess of the amount in effect under Code §129(a)(2)(A) from 2020 to 2021.	Substantially identical to §20152 of the HEROES Act.
Carry Over of Paid Time Off		Permits cafeteria plans to allow participants to carry over unused paid time off benefits from 2020 to 2021.	
Change in Election Amount under Cafeteria Plans and Health FSAs	Midyear changes to cafeteria plans, health FSAs and DCAPs arrangements can only be made upon the occurrence of certain stated events set forth in the plan,	Permits cafeteria plans and health FSAs to allow participants to make a one-time midyear election change to a health FSA or to the amount of paid time off between the date of	

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	and election change must be consistent with the event.	enactment and Dec. 31, 2020, no change in event required.	
Extension of Grace Periods, Etc.	Grace periods, if permitted under cafeteria plans, health FSAs and DCAPs, must end on the 15th day of the second month immediately following the end of the plan year.	Permits cafeteria plans, health FSAs and DCAPs to: <ul style="list-style-type: none"> Extend the grace period for up to 12 months after end of the 2020 plan year and/or Continue reimbursements of expenses incurred by terminated participants for the remainder of 2020 and extended grace period. 	
Plan Amendments for Cafeteria Plans and FSAs	Cafeteria plan amendments ordinarily must be adopted before the implementation of certain election provisions.	Allows cafeteria plans, health FSAs and DCAPs to be amended retroactively to reflect applicable provisions of the HEROES Act if: (i) the amendment adopted by the last day of the plan year in which the amendment is effective, and (ii) the plan is operated consistent with terms of the amendment during the period beginning on the effective date of the amendment and ending on the date the amendment is adopted.	Employer may amend its cafeteria plan retroactively to effectuate the carryover provisions in §305 of the HEALS Act if the amendment: (i) is adopted by the last day of the plan year ending in 2020, and (ii) provides that the carryover shall be in effect as of the first day of the plan year ending in 2020.
Provisions Affecting Employer-Provided Health and Welfare Benefits			
Coverage of COVID-19-Related Treatment at No Cost Sharing		Group health plans, group health insurance and individual health insurance (including grandfathered plans) must provide coverage for medically necessary COVID-19-related treatment without cost sharing (deductibles, copayments and coinsurance) for the duration of the COVID-19 public health emergency to an individual who: (i) has been diagnosed with (or is later diagnosed with) COVID-19 or (ii) is presumed to have COVID-19, but never diagnosed. <ul style="list-style-type: none"> Individuals have a private right of action against a plan or insurer that fails to provide this coverage with no cost sharing. 	
Requiring Prescription Drug Refill Notifications During Emergencies		Group health plans and issuers of group or individual health insurance must provide notice: <ul style="list-style-type: none"> Within five business days of the start of emergency, whether plan/insurance will permit advance Rx refills during the emergency period. Within five business days of deciding to allow advance refills, how to obtain advance refills. Notice must go to participants and	

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		beneficiaries who reside in the emergency area during the emergency.	
Improvement of Certain Notifications Provided to Qualified Beneficiaries by Group Health Plans in the Case of Qualifying Events		<p>Requires COBRA notices to include specific information about ACA Exchanges.</p> <ul style="list-style-type: none"> • Applies to qualifying events occurring on or after 14 days of enactment. • Directs DOL to revise the model COBRA notices. 	
Risk Corridor Program for (a) Health Insurance Coverage Offered in the Individual or Small Group Market and (b) Self-Insured Group Health Plans and Health Insurance Coverage Offered in the Large Group Market		HHS, DOL and IRS to establish risk corridor programs for 2020 and 2021 for (i) individual or small group market insurers and (ii) self-insured and large group market insurers. Programs would make payments based on the ratio of “allowable costs” of coverage to “target amount” of coverage. Plan/insurer receives government payment of 75% of “allowable cost” if the “allowable cost” for the year is more than 105% of the target amount.	
Premium Assistance for COBRA Continuation Coverage and Furloughed Continuation Coverage for Individuals and Their Families		<p>Tax credit for providing subsidy equal to 100% of COBRA premium from March 1 to Jan. 31, 2021.</p> <ul style="list-style-type: none"> • Individual must apply to plan or insurer for assistance. DOL/HHS to administer a 15-day appeal review if individual’s application denied. • Does not apply to voluntary terminations. • If had not elected COBRA on or after March 1, 2020, certain individuals afforded a special 60-day election period following enactment. • At end of the special subsidy period, a special ACA Exchange enrollment period is available. • Plan administrators must provide (i) a notice of availability of premium assistance and option to enroll in different coverage, (ii) an election notice to furloughed workers within 60 days of enactment, and (iii) notice at least 15 days before subsidy expiration. HHS, DOL and IRS to 	

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		develop model notices within 30 days of enactment.	
On-Site Employee Clinics			Through Dec.31, 2021, an individual can use HSA funds for “qualified items and services” received at a health care facility (i) owned or leased by the employer of the individual (or spouse) or (ii) operated primarily for the benefit of the employees of the employer of the individual (or spouse). “Qualified items and services” include: physical exams; immunizations and antigen injections, drugs or biologicals; treatment of injuries incurred in course of employment; “preventive care for chronic conditions” (as defined in this section); management of chronic conditions; drug testing; hearing or vision screening; and COVID-19 testing, vaccines or treatment.

	CURRENT LAW	HEROES ACT	HEALS ACT
EMERGENCY PAID SICK LEAVE PROVISIONS			
Applicability	<ul style="list-style-type: none"> Applies to private employers with less than 500 employees and all public agencies, regardless of the number of employees or how long they have worked for an employer. Certain employees can be excluded. 	<ul style="list-style-type: none"> Expands the eligibility of paid sick benefits to private employers having one or more employees (including certain self-employed individuals), public agencies, nonprofit organizations, employees of the Department of Veteran Affairs and the Transportation Security Administration. Removes the CARES Act employee exclusions. Clarifies that employees entitled to leave with a previous employer are entitled to full emergency paid sick leave with a new employer. Allows employer-requested documentation with limitations. Forbids employer retaliation. 	
Length of Leave Period	<ul style="list-style-type: none"> 80 hours for full-time employees (10 days or two work-weeks, based on an 8-hour day). Proration for part-time employees. 	<ul style="list-style-type: none"> For each 12-month period, eligible full- time employees are entitled to 80 hours of paid sick leave. Proration for part-time employees. No reduction for employers with paid leave policies in place. 	

	CURRENT LAW	HEROES ACT	HEALS ACT
EMERGENCY PAID SICK LEAVE PROVISIONS			
Sequencing	<ul style="list-style-type: none"> Employers may sequence the two weeks of paid sick leave before any paid FMLA application. 		
Eligibility Criteria	<ul style="list-style-type: none"> 1) The employee is subject to state, federal or local quarantine; 2) The employee has been advised by a provider to self-quarantine; 3) The employee is experiencing coronavirus and seeking a medical diagnosis; 4) The employee is caring for an individual who is subject to a quarantine or has been advised to self-quarantine; 5) The employee is caring for a child due to a school or day care center or provider closure due to COVID-19 precautions; and 6) Employee is experiencing a substantially similar condition specified by HHS in consultation with the departments of Treasury and Labor. 	<p>Expands qualifying need related to a public health emergency to include:</p> <ul style="list-style-type: none"> The employee has been diagnosed with COVID-19 and is self-isolating; The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis; The employee is complying with an order to self-isolate; The employee is caring for a family member who is subject to a quarantine or has been advised to self-isolate; The employee is caring for a child due to a school or day care center or provider closure due to COVID-19 precautions; or The employee is caring for a senior citizen or disabled family member whose place of care or direct care provider is closed due to COVID-19 precautions. 	
Rate of Pay and Tax Credits	<ul style="list-style-type: none"> Rate of pay for reasons listed above under eligibility criteria #1, 2 and 3 is full wages. Not to exceed \$511/day and \$5,110 in the aggregate. 100% refundable tax credit amount is equal to wages paid (up to \$511/day). Rate of pay listed above under eligibility criteria #4, 5 and 6 will be paid at 2/3 their normal rate of pay. Not to exceed \$200/day and \$2,000 in the aggregate. 100% refundable tax credit amount is equal to wages paid (up to \$200/day). Rate of pay and tax credit for variable schedule employees are prorated. An employer's credit amount may be increased by allocable qualified health plan expenses. Amounts above total payroll tax liability are refundable through checks issued by the IRS. 	<ul style="list-style-type: none"> Increases the rate of pay for eligibility criteria #4, 5 and 6 to a maximum of \$511/day and \$5,110 in the aggregate. 100% refundable tax credit amount is equal to the wages paid (up to \$511/day). Effective on date of enactment. Extends the paid sick leave tax credits for employers having fewer than 500 employees and certain self-employed individuals through Dec. 31, 2021. Effective as though included in FFCRA. Allows self-employed individuals to claim paid sick leave tax credit, using their 2019 net earnings. Effective as though included in FFCRA. Allows federal, state and local governments and agencies and instrumentalities, regardless of the number of employees, to claim the paid sick leave tax credits. Effective as though included in FFCRA. 	

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EMERGENCY PAID SICK LEAVE PROVISIONS			
Effective Dates	<ul style="list-style-type: none"> 15 days after date of enactment. (Bill was signed into law on Mar. 18, 2020.) Emergency paid sick leave provisions sunset on Dec. 31, 2020. 	<ul style="list-style-type: none"> Extends the paid sick leave benefits through Dec. 31, 2021. 	

	CURRENT LAW	HEROES ACT	HEALS ACT
EMERGENCY FAMILY AND MEDICAL LEAVE PROVISIONS			
Applicability	<ul style="list-style-type: none"> Applies to all employers with less than 500 employees. Certain employees can be excluded. Employees must have been employed for at least 30 calendar days. 	<ul style="list-style-type: none"> Expands the eligibility of paid FMLA benefits to employers having one or more employees (including certain self-employed individuals), public agencies and multiemployer collective bargaining agreement employees. Creates an alternative category of eligible employee during the COVID-19 public health emergency by suspending the FMLA's 1,250-hour eligibility requirement and reducing the tenure eligibility requirement from 12 months to 90 days from date of enactment until Dec. 31, 2022. Removes the CARES Act employee exclusions. Allows employer-requested documentation with limitations. Restores limited employee private right of action. 	
Length of Leave Period	<ul style="list-style-type: none"> Earlier of date on which the qualifying need related to the public health emergency concludes; or the date that is 12 weeks after the date on which the employee's leave begins under Sec. 102(a)(1)(F). After the first two weeks, rate of pay is described below. 	<ul style="list-style-type: none"> Allows private sector and public sector employees, who have been on the job for at least 30 calendar days, with 12 weeks of paid FMLA leave. Effective as though included in FFCRA. 12 weeks of paid FMLA leave does not count toward an employee's 12 weeks of unpaid FMLA leave. 	
Sequencing	<ul style="list-style-type: none"> The first two weeks of FMLA obligation may run concurrently with two weeks of paid emergency sick leave. 	<ul style="list-style-type: none"> Repeals the concurrent run of the first 10 days of emergency FMLA leave with the paid sick leave. Allows only the employee to choose having paid FMLA run concurrently with other paid leave. 	
Eligibility Criteria	<ul style="list-style-type: none"> Paid leave is available only if an employee is unable to work or telework due to a need for leave to care for a child under the age of 18 due to a school closure or 	<ul style="list-style-type: none"> Expands qualifying need related to a public health emergency to include the same six criteria as for paid sick leave above. 	

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EMERGENCY FAMILY AND MEDICAL LEAVE PROVISIONS			
	<p>child care provider closure, due to a public health emergency, declared by a federal, state or local authority.</p> <ul style="list-style-type: none"> If an employee was laid off by an employer on March 1 or later and later was rehired, the employee will be eligible for paid leave if she or he had worked for the employer for at least 30 days of the 60 calendar days prior to being laid off. 		
Rate of Pay and Tax Credits	<ul style="list-style-type: none"> Rate of pay is calculated based on: <ul style="list-style-type: none"> not less than 2/3 of the employee's regular pay rate; or for employees with varying schedules, the number of hours the employee would normally be scheduled to work. The paid FMLA leave wage rate is capped at \$200/day (and \$10,000 in the aggregate). 100% refundable tax credit amount is equal to wages paid (up to \$200/day). An employer's credit amount may be increased by the allocable qualified health plan expenses. Amounts above total payroll tax liability are refundable through checks issued by the IRS. 	<ul style="list-style-type: none"> Increases the wage rate aggregate per employee to \$12,000. 100% refundable tax credit is equal to the wages paid (up to \$200/day, \$12,000 per employee in the aggregate). Effective as though included in the FFCRA. Extends the paid FMLA tax credits for employers having fewer than 500 employees and certain self-employed individuals through Dec. 31, 2021. Effective as though included in FFCRA. Allows self-employed individuals to be eligible to claim paid FMLA leave tax credit using their 2019 net earnings. Effective as though included in FFCRA. Allows federal, state and local governments and agencies and instrumentalities, regardless of the number of employees, to claim the paid FMLA leave tax credits. Effective as though included in FFCRA. 	
Effective Dates	<ul style="list-style-type: none"> 15 days after date of enactment. (Bill was signed into law on Mar. 18, 2020.) Expanded paid FMLA provisions sunset on Dec. 31, 2020. 	<ul style="list-style-type: none"> Extends the paid FMLA benefits through Dec. 31, 2021. 	

	CURRENT LAW	HEROES Act	HEALS Act
SMALL BUSINESS PROVISIONS			
Paycheck Protection Program	<ul style="list-style-type: none"> Amends Sec. 7(a) of the Small Business Act to provide a Paycheck Protection Program through small business 	<ul style="list-style-type: none"> Expands eligibility for tribal business concerns, nonprofit organizations that are critical access hospitals even if it is a 	<ul style="list-style-type: none"> Provides a total of \$749 billion for PPP and PPP Second Draw loans through Dec. 31, 2020. Reduces the maximum amount

	CURRENT LAW	HEROES Act	HEALS Act
	<p>interruption loans and loan guarantees.</p> <ul style="list-style-type: none"> Provides nearly \$659 billion in loans and loan guarantees capped at \$10 million to small businesses for the covered period of Feb. 15, 2020, through June 30, 2020, to cover payroll costs (up to annual payroll amounts of \$100,000). Extends eligibility to companies of 500 employees or less, 501(c)(3) nonprofits, veterans organizations and tribal small business concerns. Sole proprietors, independent contractors and other self-employed individuals may also participate in the program. The SBA's affiliation test is waived during the covered period for hospitality and restaurant industries, franchises that are approved on the SBA's Franchise Directory and small businesses who receive financing through the SBIC program. Loan deferral of six months is available. The interest rate on a loan is 1% with a maximum maturity of five years. The deadline to apply for a loan is Aug. 8, 2020. 	<p>debtor in bankruptcy proceedings, any 501(c) (not just 501(c)(3)) nonprofit organizations regardless of employee size, and local news media outlets.</p> <ul style="list-style-type: none"> Sets aside 25% of funds for businesses with 10 or fewer employees and sets aside 25% of funds for nonprofits (with 12.5% to go to nonprofits with 500 employees or less). Sets aside 25% or \$10 billion of remaining PPP funds for loans to be issued by community financial institutions. Provides \$1 billion in technical assistance for community financial institutions with consolidated assets of less than \$10 billion. Returned loan amounts must go to businesses with 10 employees or less. 	<p>of a PPP loan issued after enactment to \$2 million from \$10 million.</p> <ul style="list-style-type: none"> Expands the PPP loans to certain 501(c)(6) organizations, including chambers of commerce and destination marketing organizations. Expands allowable costs to include covered operations expenditures, covered property damage costs, covered supplier costs and covered worker protection expenditures. Allowable payroll costs would also include group insurance plans other than health plans to be calculated in payroll costs. Provides a lender safe harbor for lenders who, in good faith, rely on an applicant's statements and application submissions as to eligibility for PPP loans. Allows the SBA administrator to make an interim final rule to allow for an increase in an existing PPP loan, even if funds have been disbursed and the lender reported the initial loan to SBA. Provides modified calculation for PPP loan assistance to small farmers and ranchers, allowing for an increase in loan funds where eligible. Allows for Farm Credit System Institutions to participate in PPP and PPP Second Draw lending. Defines seasonable employer. Amends Sec. 7(a) of the Small Business Act to provide Paycheck Protection Program for seasonal businesses. Extends eligibility to companies of 50 employees or less, 501(c)(6) organizations, and does not do more than 10% of lobbying activities. Prohibits use of loan proceeds for lobbying activities. All amendments to CARES Act should be effective as if they were included in CARES Act. Establishes a process for bankruptcy for small business

	CURRENT LAW	HEROES Act	HEALS Act
			<p>debtors that are eligible.</p> <ul style="list-style-type: none"> Provides a provision that requires disclosure of officers of an entity seeking a loan to disclose their status if they are the president, vice president, head of an executive department, a member of Congress, as well as a spouse, child, son-in-law, or daughter-in-law.
PPP Second Draw Loans	<ul style="list-style-type: none"> The PPP program was first created under the CARES Act. 		<ul style="list-style-type: none"> Creates a new program to supplement the PPP loan program entitled “Paycheck Protection Program Second Draw Loans” for an additional 2.5 months of payroll costs. Eligible entities are a business concern, nonprofit organization, veterans organization, tribal business concern, eligible self-employed individual, sole proprietor, independent contractor or small agricultural cooperative that: <ul style="list-style-type: none"> qualify under SBA 7(a) size standards or have 300 employees or less; and can demonstrate a reduction in gross receipts by 50% or more. Expressly disqualifies publicly traded companies, businesses in the financial services sector that received first round PPP loans, and entities affiliated with the People’s Republic of China. NAICS code 72 businesses (food service and accommodations industry) with multiple locations that have 300 employees or less at each location are eligible. (It is unclear from the text if the NAICS code 72 affiliation rule waiver for PPP loans applies.) Sets aside \$25 billion for borrowers who employ 10 or fewer employees and sets aside \$10 billion for community lenders.
Amendments to PPP Loan Forgiveness	<p>Loan forgiveness and employee rehire period is 24 weeks after the later of loan disbursement or Dec. 31, 2020.</p> <p>Provides that 60% or more of funds</p>	<p>Many of the proposed loan forgiveness modifications in the HEROES Act were enacted into law by the PPPFA.</p>	<ul style="list-style-type: none"> Amends the CARES Act’s PPP loan provisions to allow for the forgiveness period to be any eight-week period following the disbursement of funds until Dec.

	CURRENT LAW	HEROES Act	HEALS Act
	must be spent on payroll costs; non-payroll costs must not exceed 40%. Loan forgiveness is reduced for employers who lay off workers or reduce employee compensation. Safe harbor is available for employers who make good faith offers to rehire or who followed CDC guidance.		<p>31, 2020.</p> <ul style="list-style-type: none"> Retains the requirement that 60% of funds must be used for payroll costs. Streamlines the forgiveness application process for loans under \$150,000 and loans between \$150,000 and \$2 million, and imposes congressional oversight requirements. Provides that if an audit uncovers fraud, ineligibility or material noncompliance, that the loan amount may be modified and the forgiveness amount may be modified. Loan forgiveness for the PPP Second Draw Loans would cover the same costs as PPP loans and would still require 60% of funds for payroll costs.
Recovery Sector Loans			<ul style="list-style-type: none"> Provides \$57.7 billion in direct appropriations (but authorizes up to \$100 billion) for Recovery Sector Loans through Dec. 31, 2020. Creates new 7(a) loans made to small businesses or businesses with 500 employees or less, and shows a reduction in gross revenue by 50% in the first or second quarter of 2020 compared to 2019. Eligibility also requires the applicant be either a seasonal employer seeking a loan under \$1 million or has their principal place of business and 50% of their income derived from a small business in a low-income census tract. The loans are up to \$10 million and would be used to meet working capital needs, acquire fixed assets or refinance indebtedness.
SBIC Facility			Creates a new \$10 billion facility under the Small Business Investment Act of 1958 that allows eligible small businesses that participating SBICs can invest in and allows the SBA to consider bank-owned, non-levered applicants for this facility.
Emergency EIDL	Authorizes \$20 billion in		

	CURRENT LAW	HEROES Act	HEALS Act
Grants	appropriations for SBA to administer EIDL grants through Dec. 30, 2020. An additional \$50 billion for EIDL loans is appropriated.		
Improved Coordination Between PPP and ERTC; Taxability	Eligible entities may enjoy the payroll tax deferral and the PPP, but may not utilize both the PPP and the ERTC.	Clarifies eligible entities may enjoy both the ERTC and the PPP. Provides that loan forgiveness, EIDL grants and loan payments described in §1109(d)(2)(D) of the CARES Act will not be included in income.	
Subsidy for Certain Loan Payments	Appropriates \$17 billion to incentive lenders to defer existing 7(a), 504 and microloan products. Also authorizes SBA to pay principal, interest and any associated fees owed on deferred existing loans for a six-month period, even if the loan was sold on the secondary market.	Lenders must provide payment deferral of at least one year on principal and interest payments for 7(a) loans, and allows lenders flexibility for longer deferral periods. SBA may purchase the loan if an investor declines a lender request for deferral.	
Reporting on Small Business Programs		Would require reporting on SBA lending programs to the House and Senate committees of jurisdiction, including daily and weekly reporting of the CARES Act lending programs.	

	CURRENT LAW	HEROES ACT	HEALS ACT
EDUCATION PROVISIONS			
Campus-Based Aid Waivers	Waives nonprofit institutional matching requirements for campus-based aid programs and allows institutions to transfer unused work-study funds to be used for supplemental grants.		Clarifies that the CARES Act waiver extends to participating nonprofit organizations that provide opportunities for students to work in community service positions, and extends existing CARES Act authority to reallocate Supplemental Education Opportunity Grant or Federal Work Study funds through the latter of the end of the 2020-21 award year or the end of the PHE.
Use of Supplemental Educational Opportunity Grants for Emergency Aid	Allows institutions to award Supplemental Educational Opportunity Grant funds to students impacted by COVID-19.	Provides that emergency financial aid grants will not be included in income.	Authorizes one-time, emergency appropriations funding for elementary and secondary student scholarship-granting organizations in each state.
Federal Work-Study During a Qualifying Emergency	Allows institutions to issue work-study payments to students who are unable to work due to workplace closures.		Extends existing CARES Act waivers for Federal Work Study into the 2020-21 award year.
Adjustments of Subsidized Loan Limits/Exclusion from Federal Pell Grant Duration	Excludes the time students dropped out due to COVID-19 from counting toward lifetime subsidized loan or lifetime Pell Grant eligibility. Students are also		Clarifies that the CARES Act relief for federal student loan borrowers, which provides 0% interest accrual until Sept. 30, 2020, also applies to students in a period of in-school

	CURRENT LAW	HEROES ACT	HEALS ACT
EDUCATION PROVISIONS			
Limit/Satisfactory Progress	assured their grades will not affect their federal academic requirements to receive loans or Pell Grants.		deferment.
Institutional Refund and Federal Student Loan Flexibility	Clarifies students who dropped out due to COVID-19 are not required to return Pell Grants or federal student loans.		
Continuing Education at Affected Foreign Institutions	Permits foreign institutions to offer distance learning to U.S. students receiving title IV funds for the duration of the disaster declaration.		Extends existing CARES Act waivers for foreign institutions through the latter of the end of the 2020-21 award year or the end of the PHE.
National Emergency Educational Waivers	Provides the Secretary of Education authority to provide certain waivers from ESEA due to COVID-19.		Grants the Secretary authority to provide waivers from ESEA and the Rehabilitation Act, except with regard to civil rights laws, due to COVID-19.
HBCU Capital Financing Program	Authorizes the Secretary of Education to defer HBCU Capital Financing loan payments during the pandemic.		
Temporary Relief for Federal Student Loan Borrowers	Requires the Secretary of Education to defer student loan payments, principal and interest for six months without penalty to the borrower.		Clarifies that the CARES Act relief for federal student loan borrowers, which provides 0% interest accrual until Sept. 30, 2020, also applies to students in a period of in-school deferment.
Technical Amendments	Makes technical changes to the FUTURE Act to improve implementation and aid to student loan borrowers.	Reinstates certain taxpayer protections under §6103 modified by the CARES Act and applies the effective date of this section to disclosures made after the enactment of the FUTURE Act.	
Waiver Authority and Reporting Requirements for Institutional Aid	Authorizes the Secretary of Education to waive certain outcome requirements for FY2021 grant programs for HBCU and other Minority Serving Institutions.	Allows the Treasury Secretary to waive requirements to file information returns for any amount excluded from gross income or loan forgiveness provided by the CARES Act for emergency aid grants and loan forgiveness.	Clarifies that any funds received by a student or their spouse or parent during the public health emergency should not be counted toward taxed or untaxed income in the Needs Analysis formula for the Expected Family Contribution for the current or any upcoming award years, and allows financial aid administrators to determine that the income earned from work for an independent student is zero in the "Professional Judgment" for federal student aid during the 2020-21 and 2021-22 award years.
Authorized Uses and Other Modifications for Grants	Authorizes the Secretary of Education to waive allowable uses of funds for institutional grant programs so colleges can re-deploy resources to COVID-19.		Adds a question on the FAFSA applications for the 2020-21 and 2021-22 award years as to whether applicants have lost significant income from work during the PHE, and if they have, the Secretary of

	CURRENT LAW	HEROES ACT	HEALS ACT
EDUCATION PROVISIONS			
			Education shall direct the applicants to follow up with their financial aid administrator.
Service Obligation to Teachers	For teachers who could not finish their year of teaching due to COVID-19, their partial year can be counted as a full year toward TEACH grant obligations or Teacher Loan Forgiveness.	Increases above-the-line deduction from \$250 to \$500 for certain expenses of elementary and secondary school teachers, applicable to taxable years beginning after Dec. 31, 2019.	Creates parity with regard to full-time service requirements for TEACH and Stafford loan teacher forgiveness for Federal Perkins Loans cancellation.
	CURRENT LAW	HEROES ACT	HEALS ACT
OVERSIGHT AND AUDIT AUTHORITY			
Oversight and Audit Reporting	Authorizes the Comptroller General to conduct monitoring and oversight of federal response efforts related to the coronavirus 2019 pandemic and its general effects, and to report findings to “appropriate congressional committees.		Corrects oversight error by adding (i) the Committee on Finance of the Senate and (ii) the Committee of Ways and Means of the House of Representatives to the definition of “appropriate congressional committee.”

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