



# Fact Sheet

COMMITTEE ON EDUCATION & LABOR

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The Hon. Robert C. "Bobby" Scott • Chairman

## Comparing the *Heroes Act* and the *HEALS Act* *Labor Provisions*

Policy Area	<i>Heroes Act</i> <i>House Bill</i>	<i>HEALS Act</i> <i>Senate Bill</i>
<b>Wage and Hour</b>		
<b>Paid Sick Leave (Short Term)</b>	<ul style="list-style-type: none"> <li>• Extends requirements to all employers, regardless of size</li> <li>• Ensures workers receive full wage replacement (up to \$511 per day) for all emergency paid sick leave uses (currently capped at 2/3 wages up to \$200 per day for certain uses under <i>FFCRA</i>)</li> <li>• Eliminates Labor Secretary’s authority to exempt health care providers and emergency responders. Eliminates employers’ ability to exclude health care providers and emergency responders from leave</li> <li>• Eliminates Labor Secretary’s authority to exempt employers with fewer than 50 employees from requirement to provide leave for care of child when school is closed</li> <li>• Eliminates the Labor Secretary’s broad rulemaking authority</li> </ul>	<i>No provisions included</i>

	<ul style="list-style-type: none"> <li>• Eliminates the Director of the Office of Management and Budget’s authority to exclude certain federal employees from leave</li> <li>• Requires employers to restore employees to their positions after returning from paid sick leave</li> <li>• Ensures workers have two workweeks of emergency paid sick leave available every 12 months</li> <li>• Extends the availability of emergency paid sick leave from December 31, 2020 to December 31, 2021</li> </ul>	
<p><b>Expanded FMLA (Long Term)</b></p>	<ul style="list-style-type: none"> <li>• Extends requirements to all employers, regardless of size</li> <li>• Provides all 12 weeks of leave are paid (compared to only 10 of the 12 weeks currently under <i>FFCRA</i>)</li> <li>• Eliminates Labor Secretary’s authority to exempt health care providers and emergency responders</li> <li>• Eliminates employers’ ability to exclude health care providers and emergency responders from leave</li> <li>• Eliminates Labor Secretary’s authority to exempt employers with fewer than 50 employees</li> <li>• Eliminates the Director of the Office of Management and Budget’s authority to exclude certain federal employees from leave</li> <li>• Expands uses to allow workers to take time to quarantine, take care of individual who is quarantined, and take care of family member who is an individual with a disability or a senior citizen when their place of care is closed (in addition to current <i>FFCRA</i> allowable use for taking care of a child when his or her school is closed)</li> <li>• Extends the availability of emergency FMLA leave from December 31, 2020 to December 31, 2021</li> </ul>	<p><i>No provisions included</i></p>

<b>Premium Pay for Essential Workers</b>	<ul style="list-style-type: none"> <li>• Authorizes and appropriates \$180 billion for a Heroes Fund for premium pay for certain state, local, Tribal, and private sector essential workers (federal workers covered under separate provisions)</li> <li>• Requires employers who apply for and receive funds to provide essential workers with \$13 per hour premium pay on top of regular wages, up to \$10,000 (for “highly compensated” essential workers earning above \$200,000, up to \$5,000), for work performed from January 27, 2020 until 60 days after the last day of the COVID–19 Public Health Emergency</li> <li>• Ensures payments are not considered income for the purposes of determining eligibility for federal, state, or local benefits or assistance</li> </ul>	<i>No provisions included</i>
<b>Health and Safety</b>		
<b>OSHA Emergency Temporary Standard</b>	<ul style="list-style-type: none"> <li>• Requires OSHA to issue an Emergency Temporary Standard in 7 days to protect all workers from exposure to the novel coronavirus that causes COVID-19. Expands coverage to public sector employers in 24 states, the District of Columbia and three territories where there is no OSHA coverage</li> <li>• Provides whistleblower protections for workers who raise concerns about infection control practices</li> <li>• Appropriates \$100 million for enforcement, training, and issuance of a standard</li> </ul>	<ul style="list-style-type: none"> <li>• <i>No provisions on ETS included</i></li> <li>• Prohibits OSHA from citing employers for COVID-19 related violations if the employer was “generally following” applicable government COVID-19 public health guidance and regulations, or attempted to satisfy obligations by “exploring options to comply with such obligations.” (<i>see section on liability relief below</i>)</li> </ul>
<b>Workers’ Compensation Programs</b>	<ul style="list-style-type: none"> <li>• Authorizes COVID-19 workers’ compensation coverage for frontline maritime and civilian federal workers under the Longshore and Harbor Workers’ Compensation Act (LHWCA) and the Federal Employees’ Compensation Act (FECA)</li> </ul>	<i>No provisions included</i>

	<ul style="list-style-type: none"> <li>• Establishes a presumption that COVID-19 is work-related and authorizes eligibility for medical benefits, lost wages and survivor benefits</li> <li>• Covers a two-year window</li> </ul>	
<b>Workforce Development</b>		
<b>Workforce Innovation and Opportunity Act (WIOA)</b>	<p><i>Authorizing Language</i></p> <ul style="list-style-type: none"> <li>• Provides flexibility for enrollment length and program eligibility for Job Corps, Native American Programs, Migrant and Seasonal Farmworker Programs, and YouthBuild</li> <li>• Requires that any funds used for apprenticeships are used for Registered Apprenticeships (RAs), and requires the Secretary to provide guidance on virtual learning for RA programs</li> </ul> <p><i>Appropriations Language</i></p> <ul style="list-style-type: none"> <li>• Appropriates \$2 billion for adult, youth, and dislocated worker activities, \$25 million for migrant and seasonal farmworkers, and \$15 million for administrative costs, while providing additional flexibility for expanded program eligibility</li> <li>• Allows COVID-19 to be considered a factor when determining additional funding for customized training and transitional jobs</li> <li>• Provides no funding for Wagner-Peyser Employment Services activities</li> </ul>	<p><i>Authorizing Language</i></p> <ul style="list-style-type: none"> <li>• Provides flexibility to use up to 40% of local funds for incumbent worker training and transitional jobs, and includes Job Corps and YouthBuild enrollment and eligibility language</li> <li>• Requires that 75% of youth funds be used for out-of-school youth (<i>contradicting the appropriations language in the HEALS Act</i>)</li> <li>• Authorizes funds for Reentry Employment Opportunities (REO), but does not appropriate funding</li> <li>• Authorizes funding for IRAPs, and authorizes the Secretary to use funds from any other stimulus package to fund IRAPs</li> <li>• Requires that Governors create a new reserve and allocate at least 50% of funds to areas most significantly impacted by a qualifying emergency</li> <li>• Allows State and local workforce boards to bypass the eligible training provider list and fund short-term programs (including online programs)</li> </ul> <p><i>Appropriations Language</i></p> <ul style="list-style-type: none"> <li>• Appropriates \$950 million for adult, youth, and dislocated worker activities, and \$350 million to Wagner-Peyser, while removing authorizing requirement that 75% of youth funds be used for out-of-school youth (<i>contradicting authorizing language included in the HEALS</i></li> </ul>

		Act), and allowing for Governors to reserve an additional 25 percent of funds for statewide activities
<b>Worker Adjustment and Retraining Notification (WARN) Act</b>	<i>No provisions included</i>	<ul style="list-style-type: none"> <li>Exempts large employers from their obligation to give workers reasonable notification of a mass layoff or plant closure under the WARN Act if such event is the result of COVID-19</li> </ul>
<b>Unemployment Benefits</b>		
<b>Unemployment Benefit Programs</b>	<ul style="list-style-type: none"> <li>Continues the additional <u>\$600 per week</u> Federal Pandemic Unemployment Compensation (FPUC), which replaces <u>100%</u> of the average worker’s wages</li> <li>Extends CARES Act programs (FPUC, Pandemic Unemployment Assistance [PUA], and Federal Emergency Unemployment Compensation [FEUC]) through <u>January 31, 2021</u>, with a “soft cut-off” allowing individuals already receiving benefits on January 31 to continue to receive benefits to which they are entitled until March 31, 2021, at latest</li> <li>Provides \$925 million to assist states in processing claims</li> <li>Requires federal, state, and local programs that receive any federal funds to disregard FPUC payments when calculating income for the purpose of determining eligibility for other assistance programs</li> </ul>	<ul style="list-style-type: none"> <li>Reduces Federal Pandemic Unemployment Compensation (FPUC) from an additional \$600 per week to <u>\$200 per week</u> for two months, then switches to payments replacing <u>70%</u> of unemployed worker’s previous wages when combined with regular UI or PUA (capped at \$500 per week). Enables states to request a waiver to continue the flat dollar amount if they cannot implement this switch by October.</li> <li>Extends CARES Act programs (FPUC, Pandemic Unemployment Assistance [PUA], and Federal Emergency Unemployment Compensation [FEUC]) through <u>December 31, 2020</u></li> <li>Provides \$2 billion for states to upgrade their UI infrastructure</li> <li><u>No provision</u> requiring FPUC payments to be disregarded when calculating income for purposes of determining eligibility for other assistance programs, and <u>rolls back</u> the existing disregard for Medicaid/CHIP purposes in the CARES Act</li> </ul>

		<ul style="list-style-type: none"> <li>• Requires that PUA applicants provide documentation substantiating prior employment or self-employment within 21 days of applying</li> <li>• Specifies that only individuals who have lost their <i>principal</i> source of income are eligible to apply for PUA</li> </ul>
<b>Retirement Security</b>		
<b>Multiemployer Pensions</b>	<ul style="list-style-type: none"> <li>• Provides the Pension Benefit Guaranty Corporation (PBGC) the funding and authority to protect – no cuts – retirees’ pensions and keep eligible multiemployer plans well-funded for thirty years.</li> <li>• Provides additional relief to relatively healthy multiemployer plans that are headed toward insolvency due to the COVID-19 crisis</li> <li>• Increases the PBGC guarantee so that retirees have a stronger safety net if their plan becomes insolvent in the future</li> </ul>	<i>No provisions included</i>
<b>Funding relief for single employer defined benefit pension plans</b>	Provides necessary relief to single-employer pension plans	<i>No provisions included</i>
<b>Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts</b>	Expands CARES Act provisions that waived the required minimum distributions for IRAs and 401(k)s for 2020 to also include all of 2019	<i>No provisions included</i>

<b>Assistance to women and survivors of domestic violence</b>	Provides grants to assist women and survivors of domestic violence obtain qualified domestic relations orders, which is a judicial order entered as part of a divorce or legal separation that splits a retirement plan	<i>No provisions included</i>
<b>Labor and Employment Law Liability</b>		
<b>Liability Relief</b>	<i>No provisions included</i>	<ul style="list-style-type: none"> <li>• Prohibits liability for negligence or other claims involving injury from COVID-19 where an employer (including a government entity) was making a reasonable effort to comply with public health guidelines and did not engage in gross negligence or willful misconduct. Pre-empts all state tort laws</li> <li>• Prohibits enforcement of federal employment laws if the employer was “generally following” applicable government COVID-19 public health guidance and regulations, or attempted to satisfy obligations by “exploring options to comply with such obligations.” Covers OSHA (including an OSHA state plan), FLSA, ADEA, WARN Act, Title VII of the Civil Rights Act of 1964, Title II of GINA, and Title I of ADA.</li> <li>• Prohibits certain COVID-related activities, such as providing PPE or subcontracting for disinfection services, from being used as proof of employment or joint employment status under any state or federal labor or employment law</li> </ul>
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- No provision requiring FPUC payments to be disregarded when calculating income for purposes of determining eligibility for other assistance programs, and rolls back the existing disregard for Medicaid/CHIP purposes in the CARES Act
- Requires that PUA applicants provide documentation substantiating prior employment or self-employment within 21 days of applying
- Specifies that only individuals who have lost their *principal* source of income are eligible to apply for PUA