



# House passes pared-down aid bill with benefit items

By Geoff Manville, Katharine Marshall and Margaret Berger  
Oct. 2, 2020

## In this article

[Stalemate over additional relief continues](#) | [Pension funding relief retained](#) | [COBRA subsidies, FSA flexibility proposals dropped](#) | [Emergency sick and family leave expansions preserved](#) | [CARES Act's tax loss carryback provisions limited](#) | [Related resources](#)

A slimmed-down coronavirus relief bill ([HR 925](#)) passed by the House Oct. 1 includes most of the retirement, health and leave proposals from the sweeping Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act ([HR 6800](#)) approved by the chamber in May. However, the new HEROES Act omits some key healthcare provisions found in the earlier version and is dead on arrival in the Senate.

## Stalemate over additional relief continues

House Democrats drafted the new measure to reduce the original bill's \$3.4 trillion cost and provide a basis for negotiations with the White House. Those talks broke down, however, prompting Democratic leaders to muscle the bill through the chamber before the election in hopes of demonstrating that they tried to deliver relief.

The Senate will ignore the bill, and any agreement between the parties is unlikely until Congress returns for the lame-duck session. Many of the bill's benefit provisions have support from the plan sponsor community and could land in a final deal, but the outlook for a deal and what it may contain is uncertain.

## **Pension funding relief retained**

The revised HEROES Act retains the funding relief for single-employer pension plans proposed in the original bill. The bill would permanently lengthen the amortization period for funding shortfalls and continue interest rate relief beyond 2020.

Building on the Coronavirus Aid, Relief and Economic Security (CARES) Act ([Pub. L. No. 116-136](#)), the measure would extend the waiver of 2020 required minimum distributions from defined contribution (DC) plans and IRAs to 2019 distributions. The bill would also clarify that the CARES Act relief for early coronavirus-related distributions from eligible retirement plans applies to money purchase pension plans. Other provisions would help troubled multiemployer plans and expand the pension funding relief for community newspapers provided under the Setting Every Community Up for Retirement Enhancement (SECURE) Act ([Pub. L. No. 116-94](#)) to additional community newspapers.

## **COBRA subsidies, FSA flexibility proposals dropped**

The new measure retains in identical or revised form a number of the original HEROES Act's health and welfare proposals, as well as enhancements to existing health, payroll and employer financial aid programs. Dropped from the new bill for cost reasons, however, is the proposal to provide a 100% subsidy for COBRA continuation coverage, although the pared-down measure retains a proposed expansion of COBRA notice requirements. The new bill also omits provisions to give more flexibility to cafeteria plans, health flexible spending arrangements (FSAs), and dependent care FSAs — for example, by increasing the amounts of unused benefits or contributions that can carry over into 2021.

Like the earlier bill, the new HEROES Act would require coverage with no cost sharing for items and services related to the treatment of COVID-19 during the public health emergency. The measure also would retroactively extend the requirement that plans cover COVID-19 testing without cost sharing to the beginning of the public health emergency. Another retained provision would bar medical providers that receive government financial aid from balance billing patients for COVID-19-related testing and treatment.

Notably, the new bill would clarify that the requirement to cover COVID-19 testing without cost sharing applies regardless of the circumstances triggering the test. This provision is in response to federal regulators' guidance that plans do not have to cover without cost sharing any test done as a general COVID-19 screening, such as part of a return-to-work or public health strategy.

Like the original bill, the new HEROES Act would expand the CARES Act's employee retention credit that covers 50% of eligible employee compensation, including health benefits, to a maximum of \$10,000 per employee between March 12, 2020, and Jan. 1, 2021.

## Emergency sick and family leave expansions preserved

The new bill would extend emergency paid sick and family leave requirements, but only through Feb. 28, 2021 — not through Dec. 31, 2021, as proposed in the original bill. The new bill also would immediately apply those requirements to all employers, not just those with less than 500 employees. The original HEROES Act provisions on related payroll tax credits remain largely intact, including the exclusion of large private employers.

## CARES Act's tax loss carryback provisions limited

The CARES Act provided that taxpayers with a net operating loss in 2018, 2019 or 2020 could apply those losses to the five preceding taxable years. Companies shifting losses to 2017 or earlier tax years could reduce taxable income in years before the Tax Cuts and Jobs Act of 2017's reduction in the corporate tax rate took effect. The new bill would limit carrybacks to taxable years beginning in 2018 or later, eliminating the tax-rate arbitrage. The bill would also prevent taxpayers with excessive executive compensation or excessive stock buybacks and dividends from carrying back losses.

## Related resources

### Non-Mercer resources

- [HR 925](#), the HEROES Act (Sept. 28, 2020)
- [Section-by-section summary of the HEROES Act](#) (Sept. 28, 2020)
- [HR 6800](#), the HEROES Act (May 12, 2020)
- [Section-by-section summary of the HEROES Act](#) (May 12, 2020)

### Mercer Law & Policy resources

- [Plan coverage of COVID-19 testing: Issues remain after June guidance](#) (Sept. 15, 2020)
- [Suspending 401\(k\) match raises compliance issues](#) (June 30, 2020)
- [Delving into CARES Act relief for retirement plan participants](#) (June 22, 2020)
- [Paycheck Protection Program changes become law](#) (June 5, 2020)
- [IRS offers relief to cafeteria plans, HDHPs, individual-coverage HRAs](#) (May 28, 2020)
- [IRS, DOL ease deadlines for health, other benefit plans and participants](#) (May 27, 2020)
- [House bill aims to boost health benefits, COVID-19 leave, retention](#) (May 21, 2020)

- [Pension funding relief in House-passed aid bill](#) (May 18, 2020)
- [IRS releases FAQs on CARES Act distributions and loans](#) (May 5, 2020)
- [Keeping track of COVID-19 laws affecting employee benefits, jobs](#) (May 4, 2020)
- [DOL gives retirement plans and participants pandemic relief](#) (April 30, 2020)
- [DOL and IRS issue COVID-19 guidance on emergency paid leave](#) (April 29, 2020)
- [Employer health plans have to meet new COVID-19 coverage mandate](#) (April 21, 2020)
- [CARES Act expands unemployment benefits, aims to stem job losses](#) (April 15, 2020)
- [SECURE, CARES acts change rules on required minimum distributions](#) (April 7, 2020)
- [CARES Act boosts telehealth, makes other health, paid leave changes](#) (March 27, 2020)
- [Stimulus bill gives DB funding relief, access to DC savings](#) (March 26, 2020)

### Other Mercer resources

- [Navigating coronavirus](#) (regularly updated)

*Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.*