



CARES Act 2.0 - Health, Economic Assistance, Liability Protection & Schools (HEALS) Act

American Workers, Families, and Employers Assistance Act

Title I – Further Relief for Workers Affected by Coronavirus

Additional enhanced benefits for individuals receiving unemployment assistance, however the enhance benefit of \$600 is **reduced to \$200 per week for weeks through September**. In October, the payments would increase to \$500 per week up to 70% of lost wages. After 30 days, there is an obligation for employees to return to suitable work if possible.

Section 102 – Provides **greater relief to Indian tribes for the reimbursement of unemployment** payments to states to 75% from 50%. This applies for existing costs incurred at the passage of the CARES Act and extends through the end of the year.

Title II – Relief for Individuals and Families

Subtitle A - Stimulus payments are back.

Status	Individuals	Married
Adjusted Gross Income	\$75,000 to \$99,000	\$150,000 to \$198,000
Stimulus	\$1,200	\$2,400
Dependent – Any Age	\$500	\$500

Subtitle B – Job creation incentives a refundable payroll tax credit for 50% of wages paid to employees during the crisis. The qualification to participate is reduced to 25% from 50%. There is a limit of \$10,000 per employee and a \$30,000 limit per calendar year.

SAFE to WORK Act

Since the beginning of the pandemic in early March, Congress has directed trillions of dollars in coronavirus related stimulus packages. This money has been designated to provide relief to state, local, and tribal governments as well as small and mid-sized businesses to keep businesses operating and help the economy. However, litigations involving coronavirus-related exposure could deplete relief funds given to businesses, schools, colleges and universities, religious, philanthropic, other nonprofit institutions, and government agencies.

The “Safeguarding America’s Frontline Employees To Offer Work Opportunities Required to Kickstart the Economy Act,’ or the “SAFE TO WORK Act” seeks to provide liability protections for employers, government agencies, and healthcare providers. This bill applies to all claims on personal injury caused by an actual, alleged, feared, or potential exposure to coronavirus between December 1, 2019, and the later of either the end of the coronavirus emergency declaration or October 1, 2024. Medical personal injury including treatment, diagnosis, or care of coronavirus, or care directly affected by the coronavirus is included and falls within the previously mentioned time period. A plaintiff must provide clear and convincing evidence of gross negligence or willful misconduct by the defendant. Defendants who undertook reasonable efforts to comply with the applicable mandatory coronavirus standards and regulations are not liable for coronavirus-related personal injuries.

Tribal governments are included in liability protections under this bill. What is unique to the SAFE TO WORK Act is how it defines a tribal government. A tribal government is any, “recognized governing body of any Indian tribe included on the list published by the Secretary of the Interior pursuant to section 104(a) of the **Federally Recognized Indian Tribe List Act.**” Any subdivision wholly owned by a tribal government; and “has been delegated the right to exercise 1 or more substantial governmental functions of the governing body” are included in the definition of tribal government.

Appropriations: “Coronavirus Response Additional Supplemental Appropriations Act, 2020”

Indian Health Service - \$1.605 billion

- **Indian Health Services – \$605 million** The proposal provides funding to support critical health care needs and operations in Indian Country, including through Indian Health Service, Tribal, and Urban Indian health programs.

- **Indian Health Facilities – \$1 billion.** The proposal provides funding to assist with sanitation, isolation or quarantine space, and other medical equipment needs related to the coronavirus in Indian Country.

Not later than 14 days after the date of enactment of this Act, the Secretary of the Interior shall provide to the Committees on Appropriations of the House of Representatives and the Senate a detailed spend plan of anticipated uses of funds, by bureau, program, and activity, made available to the Department of the Interior. The plan will be updated and submitted to such Committees every 14 days until September 30, 2021. The Director of Indian Health Services shall report to the same committees no later than 30 days of enactment, and every 60 days until September 30, 2021.

CDC-Wide Activities and Program Support: \$125 million shall be allocated to tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes for carrying out surveillance, epidemiology, laboratory capacity, infection control, immunization activity, mitigation, communications, and other preparedness and response activities.

\$500 Million shall be allocated in coordination with the Director of the Indian Health Service, to tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes for testing, contact tracing, surveillance, containment, and mitigation to monitor and suppress COVID-19.

- **Bureau of Indian Education – \$525 billion.** Of the \$105 billion to remain available for the Education Stabilization Fund through September 30, 2021, \$525 million (one-half of one percent) will be available for Bureau of Indian Education.

Safely Back to School and Back to Work Act

Sec. 105. Guidance for States and Indian Tribes on Accessing the Strategic National Stockpile

- Requires HHS to publish guidance on how states and tribes can request and access resources from the Strategic National Stockpile.

Not later than 15 days after the date of enactment of this Act, for purposes of the public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act on January 31, 2020, with respect to COVID-19, **the Secretary of Health and Human Services shall issue guidance to clarify the processes by which the Secretary of Health and Human Services provides Federal assistance through the Strategic Stockpile under section 319F-2 of the Public Health Service Act (42 U.S.C. 247d-6b) to States, localities, territories,**

and Indian tribes and tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act). Such guidance shall include information related to processes by which to request access to medical supplies in the Strategic National Stockpile and factors considered by the Secretary of Health and Human Services when making distribution decisions.

Sec. 202. Emergency Education Freedom Grants

- Authorizes one-time, emergency appropriations funding for scholarship-granting organizations (SGOs) in each state.
 - (A) an organization that—
 - (i) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;
 - (ii) provides qualifying scholarships to individual elementary and secondary students who—
 - (II) in the case of funds provided to the Secretary of the Interior, attending elementary schools or secondary schools operated or funded by the Bureau of Indian Education
- RESERVATION AND ALLOTMENTS.—
IN GENERAL.—From the amounts made available under subsection (b)(1), the Secretary shall—
 - (A) reserve—
 - **one-half of 1 percent of such amounts for the Secretary of the Interior,** acting through the Bureau of Indian Education, to be used to provide subgrants described in subsection (d) to eligible scholarship-granting organizations that serve students attending elementary schools or secondary schools operated or funded by the Bureau of Indian Education;
- States subgrant funds to SGOs that administer scholarships for students to use towards qualified educational expenses (as determined by the state), such as private school tuition and home schooling expenses.
- If States choose not to subgrant funds to SGOs, funds get returned to the Secretary to be re-distributed among participating States.

Sec. 203. Back to Work Child Care Grants

- Authorizes short-term assistance to help child care providers reopen and stay open so that parents have a safe place to send their children when they return to work.

- Allows states and tribes to build out programs to help child care providers reopen and maintain operations for 9 months.

From the funds appropriated to carry out this section, **the Secretary shall make Back to Work Child Care grants to States, Indian tribes, and tribal organizations, that submit notices of intent to provide assurances under subsection (d)(2).** The grants shall provide for subgrants to qualified child care providers, for a transition period of not more than 9 months to assist in paying for fixed costs and increased operating expenses due to COVID–19, and to reenroll children in an environment that supports the health and safety of children and staff.

Coronavirus Relief Fund

TITLE IV—ADDITIONAL FLEXIBILITY AND ACCOUNTABILITY FOR CORONAVIRUS RELIEF FUND PAYMENTS AND STATE TAX CERTAINTY FOR EMPLOYEES AND EMPLOYERS

Sec. 401. Expansion of allowable use of Coronavirus Relief Fund payments by States and Tribal and Local Governments.

- Retains authorization in CARES Act to have the CRF and expands the end date for allowable necessary expenditures from December 30, 2020 to 90 days after the last day of a government’s fiscal year 2021.

REVENUE SHORTFALLS USE

- Allows for CRF money to be used for “revenue shortfalls,” defined as shortfalls of revenue from taxes, fees, or other sources of funds for a state, local, or other government relative to fiscal year 2019 levels.
- Period over which covering revenue shortfalls incurred during a governments’ fiscal year 2020 and fiscal year 2021 is **from March 1, 2020 to 90 days after the last day of a governments’ fiscal year 2021.**
- To be able to use relief funds to cover revenue shortfalls, a government must certify that it has distributed at least 25% of CRF funds it received to downstream governments
- A government can use no more than **25% of relief funds it has received to cover revenue shortfalls**

PROHIBITION ON:

- Use of CRF Funds for Pensions or Postemployment Benefits
- Use of CRF Funds for Replenishing Rainy Day Funds
- Restrict Uses of CRF Funds for Government Officers, i.e. increase of public image and for lobbying and influence of any bills in Congress/State/Local legislature

LIMITS ON:

- Placing restrictions on CRF funds to downstream governments (MOSTLY LOCAL)

AUDIT RISK FACTORS:

A clear issue for tribes since 1) funds were delayed and 2) plans are in motion. Also there is no date from when to base this off... Is it passage of the bill or 7.27.2020?

- Requires the Department of Treasury's Office of the Inspector General (Treasury's IG) in its audit determination to consider prioritizing audits:
 - (1) governments that did not distribute at least 25 percent of the total amount of the payments received under this section to localities within the jurisdiction, if any;
 - or (2) governments that imposed a condition, requirement, or restriction on funds distributed to a locality that do not align with either the CARES Act or the provisions in this Act.

Sec. 402. Accountability for the disbursement and use of State or government relief payments. Reporting and Record-Keeping Requirements:

- This section includes provisions for accountability (reports and record keeping) that are in accord with requirements promulgated (here) by Treasury's IG. Those requirements are codified in this Act and are expanded to include reporting and recordkeeping requirements relevant for expanded allowable uses of CRF funds (e.g., covering revenue shortfalls) contained in this Act. Treasury's IG Periodically Reports to Congress: This section also requires that Treasury's IG provide quarterly reports to Congress on state, local, and other government uses of relief funds provided to them under Title V of the CARES Act.

Sec. 403. State tax certainty for employers and employees.

- This provision creates uniform procedures for assessing state and local income taxes on remote and mobile workers affected by government shutdown orders due to the

COVID-19 pandemic and changing work conditions during the economic recovery.

- Under the provision, through 2024, **employees who perform employment duties in multiple states would be subject to income tax only in their state of residence and any states in which they are present and performing employment duties for more than a limited time during the calendar year.** To account for the sacrifices of initial frontline health-care and other workers and help prevent surprise tax bills, the provision sets a **90- day threshold** for income earned in a state other than the state of residence because of the COVID19 pandemic.
- To eliminate the tax uncertainty currently facing remote workers due to COVID-19, this provision also would restore the pre-pandemic tax position of employees and employers by allowing employers to treat employees' wages as earned at their normal work location until the earlier of when the employees return to such location or the end of the calendar year.

PPP - Continuing Small Business Recovery and Paycheck Protection Program Act

The Continuing Small Business Recovery and Paycheck Protection Program Act would provide additional assistance to the hardest-hit small businesses that are struggling to recover from the impacts of the COVID-19 pandemic.

The bill has four main components:

- **7(a) Loans to Recovery Sector Businesses(AKA SBA LOANS):** Authorizes \$100 billion in long-term, low-cost loans to recovery sector businesses, which include seasonal businesses and businesses located in low-income census tracts that meet the applicable SBA revenue size standard, have no more than 500 employees, and demonstrate at least a 50 percent reduction in gross revenues. Loan amounts would be available at up to twice the borrower's annual revenues, not to exceed \$10 million. The loan would have a 100% SBA guarantee and maturity of up to 20 years with a one percent fixed interest rate to the borrower. Waives the SBA's credit elsewhere test and allows the borrower to defer loan and interest payments for the first 2 years. Allowable loan uses include working capital, acquisition of fixed assets, and refinancing existing indebtedness.

- **PPP Second Draw Loans:** Provides \$190 billion of committed and appropriated funds to support PPP and PPP Second Draw Loans.
 - Defines eligibility for PPP Second Draw loans as small businesses that meet the applicable SBA revenue size standard, have no more than 300 employees, and demonstrate at least a 50 percent reduction in gross revenues. **(CHANGE FROM ORIGINAL 500 EMPLOYEE THRESHOLD)**
 - Includes a **\$25 billion set-aside for entities with 10 or fewer employees and a \$10 billion set aside for loans made by community lenders.** The maximum loan size would equal 2.5 times average total monthly payroll costs, up to \$2 million.
 - Businesses that received a PPP loan may not receive another PPP loan that aggregates to more than \$10 million. (CEILING IN FIRST CARES)
 - The 60/40 cost allocation for payroll and non-payroll costs to receive full PPP forgiveness continues to apply.

PPP Improvements:

- Expands forgivable expenses to include covered supplier costs, covered worker protection expenditures, and covered operations expenditures.
- Allows borrowers to select a preferred 8-week period through 2020 to use the forgivable loan proceeds. Simplifies the forgiveness application process for smaller loans.
- Expands PPP eligibility to include certain 501(c)(6) organizations, including Chambers of Commerce and Destination Marketing Organizations with 300 or fewer employees, excluding lobbying expenses.
- establishes a specific PPP loan calculation for farmers and ranchers and provides Farm Credit System Institutions with greater certainty and equity in participating in PPP lending.

Small Business Growth and Domestic Production Investment Facility:

- Provides for \$10 billion in long-term debt with equity features to registered SBA Small Business Investment Companies (SBICs) that invest in small businesses with significant

revenue losses from COVID-19, manufacturing startups in the domestic supply chain, and low-income communities.