



TO: Napa County
FROM: Van Scoyoc Associates
DATE: May 14, 2020
RE: Key Provisions in the HEROES Act Related to Local Governments

On Tuesday, Democrats in the House of Representatives released the HEROES Act. The \$3 trillion proposal has vast scope and applicability. Although many of these provisions are nonstarters with Senate Republicans and the White House, this memo provides a brief snapshot of key provisions of this bill which impact local governments.

Division A: Appropriations

Department of Agriculture (food and nutritional assistance programs):

- Supplemental Nutrition Assistance Program (SNAP)— Provides \$10 billion in additional funding.
- Special Supplemental Nutrition Program for Women Infants and Children (WIC)— Provides an additional \$1.1 billion to provide access to nutritious foods to low-income pregnant women or mothers with young children who lose their jobs or are laid off due to the COVID-19 emergency.
- Emergency Food Assistance Program (TEFAP)—Includes \$150 million to help local food banks meet increased demand.
- Child Nutrition Programs – Includes \$3 billion in additional funding to provide emergency financial relief to school meal providers and USDA’s Child and Adult Care Food Program.

Department of Justice:

- Violence Against Women Act (VAWA) programs— \$100 million, with a waiver of the local match requirement.
- Byrne Justice Assistance Grants— \$300 million to help prevent, prepare for, and respond to coronavirus, including for purchasing personal protective equipment and controlling outbreaks of coronavirus at prisons, with waivers of the local match and non-supplanting requirements.
- Community Oriented Policing Services (COPS) – \$300 million for law enforcement hiring grants and for the purchase of personal protective equipment, waiving local match requirements.
- Second Chance Act grants – \$250 million for grants to help facilitate the reintegration of ex-prisoners back into society and to prevent recidivism.
- Pandemic Justice Response Act Grants – \$600 million, including: (1) \$500 million to prevent, detect, and stop the presence of COVID-19 in correctional institutions, and for pre-trial citation and release grants, (2) \$25 million for Rapid COVID-19 Testing at correctional institutions, and (3) \$75 million for Juvenile Specific Services.

Financial Services and General Government:

- State Fiscal Relief – \$500 billion in funding to assist state governments with the fiscal impacts from the public health emergency caused by the coronavirus.

- Local Fiscal Relief – \$375 billion in funding to assist local governments with the fiscal impacts from the public health emergency caused by the coronavirus. Sec. 191303. Expands the use of funds to cover lost, delayed, or decreased revenue stemming from the COVID-19 public health emergency.
- Community Development Financial Institutions (CDFI) – \$1 billion for economic support and recovery in distressed communities by providing financial and technical assistance to CDFIs.
- Assistance to Homeowners--\$75 billion to states, territories, and tribes to address the ongoing needs of homeowners struggling to afford their housing due directly or indirectly to the impacts of the pandemic by providing direct assistance with mortgage payments, property taxes, property insurance, utilities, and other housing related costs.
- Elections – \$3.6 billion for grants to States for contingency planning, preparation, and resilience of elections for Federal office.

Department of Homeland Security:

- Federal Emergency Management Agency – \$1.3 billion to prevent, prepare for, and respond to coronavirus, including \$200 million for the Emergency Food and Shelter Program; \$500 million for Assistance to Firefighter Grants (AFG); \$500 million for Staffing for Adequate Fire and Emergency Response (SAFER) grants; and \$100 million for Emergency Management Performance Grants (EMPG).

Department of Labor:

- \$3.1 billion to support workforce training and worker protection activities related to coronavirus, including: \$2 billion to support worker training; \$925 million to assist States in processing unemployment insurance claims.

Department of Health and Human Services:

- Health Resources and Services Administration – \$7.6 billion to support expanded health care services for underserved populations.
- Centers for Disease Control and Prevention – \$2.1 billion to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus, including: \$2 billion for State, local, Territorial, and Tribal Public Health Departments.
- Public Health and Social Services Emergency Fund – \$175 billion to reimburse for health care related expenses or lost revenue attributable to the coronavirus, as well as to support testing and contact tracing to effectively monitor and suppress COVID-19, including:
 - \$100 billion in grants for hospital and health care providers to be reimbursed health care related expenses or lost revenue directly attributable to the public health emergency resulting from coronavirus; and
 - \$75 billion for testing, contact tracing, and other activities necessary to effectively monitor and suppress COVID-19.
- Substance Abuse and Mental Health Services Administration – \$3 billion to increase mental health support during this challenging time, to support substance abuse treatment, and to offer increased outreach, including:
 - \$1.5 billion for the Substance Abuse Prevention and Treatment Block Grant;
 - \$1 billion for the Community Mental Health Services Block Grant;
 - \$100 million for services to homeless individuals

- Administration for Community Living – \$100 million to provide direct services such as home-delivered and prepackaged meals, and supportive services for seniors and disabled individuals, and their caregivers.
- Administration for Children and Families – \$10.1 billion to provide supportive and social services for families and children through programs including:
 - \$7 billion for Child Care and Development Block Grants;
 - \$1.5 billion for the Low-Income Home Energy Assistance Program (LIHEAP);
 - \$1.5 billion to support paying water bills for low income families; ♣\$50 million for Family Violence Prevention and Services; ♣\$20 million for Child Abuse Prevention and Treatment Act (CAPTA) State Grants; and ♣\$20 million for Community Based-Child Abuse Prevention Grants.

Department of Education:

- Department of Education– \$100.15 billion to support the educational needs of States, school districts, and institutions of higher education in response to coronavirus, including \$90 billion for a State Fiscal Stabilization Fund for grants to States to support statewide and local funding for elementary and secondary schools and public postsecondary institutions.

Department of Transportation:

- Airport and Airway Trust Fund Relief (AATF) ensures that the AATF can meet its obligations using the General Fund of the Treasury.
- Highways – \$15 billion for grants to support the ongoing work of State, Tribal, and Territorial Departments of Transportation and certain local governments to mitigate the effects of coronavirus including the salaries of staff and other administrative expenses.
- Transit Emergency Relief – \$15.75 billion for operating assistance grants to support the transit agencies that require significant additional assistance to maintain basic transit services. Of these amounts \$11.75 billion will be distributed by formula and \$4 billion will be available to any grantee or sub-recipient by application to the Secretary.

Department of Housing and Urban Development:

- Tenant-Based Rental Assistance –\$4 billion to allow public housing agencies (PHAs) to respond to coronavirus and the ability to keep over 2.2 million families stably housed even when facing a loss of income.
- Public Housing Operating Fund – \$2 billion for PHAs to carry out coronavirus response for the operation and management of almost 1 million public housing units. Allows PHAs the flexibility necessary for the safe and effective administration of these funds while maintaining fair housing, nondiscrimination, labor standards, and environmental protections.
- Housing for Persons with AIDS – \$15 million to maintain operations, rental assistance, supportive services, and other necessary actions to mitigate the impact of coronavirus on low-income persons with HIV/AIDS.
- Community Development Block Grant–\$5 billion for coronavirus response and to mitigate the impacts in our communities to be distributed by formula to current grantees. The legislation continues to waive the public services cap to allow communities to respond to the impacts of the pandemic.
- Homeless Assistance Grants – \$11.5 billion for Emergency Solutions Grants to address the impact of coronavirus among individuals and families who are homeless or at risk of

homelessness and to support additional homeless assistance, prevention, and diversion activities to mitigate the impacts of the pandemic.

- Emergency Rental Assistance— \$100 billion to provide emergency assistance to help low-income renters at risk of homelessness avoid eviction due to the economic impact of the coronavirus pandemic.
- Project-Based Rental Assistance – \$750 million to ensure the continuation of housing assistance for low-income individuals and families living in project-based rental assistance properties, and to ensure housing providers can take the necessary actions related to the pandemic.
- Housing for the Elderly – \$500 million to maintain operations at properties providing affordable housing for low-income seniors and to ensure housing providers can take the necessary actions to prevent, prepare for, and respond to the coronavirus pandemic.
- Housing for Persons with Disabilities – \$200 million to maintain operations at properties providing affordable housing for low-income persons with disabilities.

Division B: Revenue Provisions

- Economic Impact Payment (in addition to the payment in CARES Act) of \$1,200 per person plus \$1,200 per dependent child (up to three children). Payments phased out above \$150,000 income for joint filers.
- Temporarily repeals limit on state and local tax deduction for taxable years 2020 and 2021.
- Payroll credit for certain pandemic-related employee benefit expenses paid by employers. Provides a 30% refundable payroll tax credit for expenses reimbursed or paid for the benefit of an employee for reasonable and necessary personal, family, living, or funeral expenses incurred as a result of the presidentially declared disaster related to COVID-19.
- Sec. 20221. Extends the refundable payroll tax credits for paid sick and family leave, enacted in the Families First Coronavirus Response Act, through the end of 2021.
- Sec. 20222. Repeal of reduced rate of credit for certain leave. Coordinates changes made to the requirement to provide paid sick time to allow employers to claim up to \$511 per day, rather than \$200 per day for leave for caregivers of individuals subject to a coronavirus related stay at home order and parents providing for children affected by a coronavirus related school closure.
- Sec. 20223. Increase in limitations on credits for paid family leave. Coordinates changes made to the requirement to provide emergency paid family and medical leave to allow employers to claim up to \$12,000 in refundable payroll tax credits, rather than \$10,000. Allows individuals to claim the credit for a maximum of 60 days (corresponding to the \$12,000 amount) rather than 50 days. This provision is effective as if included in FFCRA.
- Sec. 20225. Federal, state, and local governments allowed tax credits for paid sick and paid family and medical leave. Removes the exclusion disallowing the paid sick and family leave credits enacted in the Families First Coronavirus Response Act for Federal, state, and local governments. It makes conforming changes to the definition of qualified wages to align the credit with the intent that the credit cover the leave required by the respective mandates. This provision is effective as if included in FFCRA.

Division C: Health Provisions

Medicaid:

- Sec.30101. FMAP increase. Increases Federal Medical Assistance Percentage (FMAP) payments to state Medicaid programs by a total of 14 percentage points starting July 1, 2020 through June 30, 2021.

- Section 30102. MFAR. Prevents the Secretary of Health and Human Services (HHS) from finalizing the Medicaid Fiscal Accountability Regulation (MFAR) until the end of the COVID-19 public health emergency.
- Section 30103. Home and Community Based Services. Increases the federal payments to state Medicaid programs by an additional 10 percentage points starting July 1, 2020 through June 30, 2021 to support activities that strengthen their home- and community-based services.
- Section 30104. Eliminates cost sharing for Medicaid beneficiaries for COVID-19 treatment and vaccines during the COVID-19 public health emergency.
- Section 30105. Covering the uninsured for COVID-19 treatment. Ensures that uninsured individuals whom states opt to cover through the new Medicaid eligibility pathway will be able to receive treatment for COVID-19 without cost-sharing.
- Section 30108. Increase DSH payments. Temporarily increases Medicaid disproportionate share hospital (DSH) allotments by 2.5 percent.
- Section 30109. Extension of existing section 1115 demonstration projects. Authorizes states with section 1115 demonstration projects that expire on or before February 28, 2021 to extend them through December 31, 2021.
- Section 30110. Allowance for medical assistance under Medicaid for inmates during 30-day period preceding release. Provides Medicaid eligibility to incarcerated individuals 30 days prior to their release.

Testing:

- Section 30541. COVID-19 testing strategy. Requires the Secretary of HHS to update the COVID-19 strategic testing plan to also involve testing capacity in non-health care settings in order to help expand testing availability and make testing more accessible, as well as how to implement the testing strategy in a manner that will help to reduce disparities with respect to COVID-19.
- Section 30542. Requires the Secretary of HHS to establish and maintain a public, searchable website that lists all in vitro diagnostic and serological tests used in the United States to analyze critical specimens for detection of COVID-19 or antibodies for the virus.
- Section 30550. Core public health infrastructure for State, local, and Tribal health departments. Authorizes \$6 billion for public health departments to expand workforce, improve laboratory systems, health information systems, disease surveillance, and contact tracing capacity to account for the unprecedented spread of COVID-19.
- Section 30566. Grants to the Local Workforce Development System and Community-based Organizations. Authorizes grants to support the recruitment, placement, and training of individuals in COVID-19 contact tracing and related positions, with a focus on recruiting from impacted local communities and building a culturally competent workforce. This section also provides for transitional assistance and support post-employment.
- Section 30619. Establishes a technical assistance center at the Substance Abuse and Mental Health Services Administration (SAMHSA) that will support public or nonprofit entities and public health professionals seeking to establish or expand access to mental health and substance use services associated with the COVID-19 public health emergency.

Division E: Assistance for Unemployed Workers

- Sec. 101. Extension of Federal Pandemic Unemployment Compensation (FPUC), would extend the \$600 per week FPUC supplement to state and federal unemployment benefits through January 31, 2021. It would also add a transition rule (sometimes called a “soft cutoff”) to allow individuals already receiving regular state unemployment benefits on January 31 to continue

receiving the FPUC supplement until the end of the period of benefits to which they are entitled so long as they would end by March 31, 2021. Further, would require federal programs and state and local programs which receive any federal funding to disregard FPUC payments when calculating income for the purposes of determining eligibility for benefits or assistance, and to exclude it from resource limits for 9 months following receipt.

- Sec. 102. Extension and benefit phaseout rule for Pandemic Unemployment Assistance. This section would extend Pandemic Unemployment Assistance benefits (PUA) provided to workers who do not qualify for regular unemployment compensation through January 31, 2021.
- Sec. 103. This section would extend Pandemic Extended Unemployment Compensation (PEUC), which provides 13 additional weeks of unemployment benefits to individuals who have exhausted other benefits, through January 31, 2021.
- Sec. 104. Extension of full federal funding for the first week of compensable regular unemployment for states with no waiting week. This section would extend the provision in the CARES Act which reimbursed states that waived the “waiting week” for the first week of regular unemployment compensation through January 31, 2021.
- Sec. 105. Extension of emergency relief and technical corrections for governmental entities and nonprofit organizations. This section would extend the financial relief provided to reimbursable employers in the CARES Act through January 31, 2021, and make technical corrections to ensure that states can simply waive 50 percent of the amount owed by such employers.
- Sec. 106. Reduction of state administrative burden in determination of amount of Pandemic Unemployment Assistance (PUA). This clarifies state flexibility to use the most readily available sources of income verification for PUA applicants, including data from the mobile apps used by many gig workers.
- Sec. 107. Extension of temporary assistance to states with advances. The Families First Coronavirus Response Act provided states with interest-free loans through December 31, 2020. This provision extends that duration through June 30, 2021.

Division I: Small Business Provisions:

- Section 90001: Amendments to Paycheck Protection Program:
 - (a) Extension of the covered period from June 30 to December 31;
 - (b) Clarifies the definition of a tribal business concern to prevent them from being held to inapplicable HUBZone requirements;
 - (c) Makes a technical clarification to ensure hospitals in bankruptcy still qualify for PPP loans due to the essential nature of their operations;
 - (d) Extends eligibility to all nonprofits of all sizes and clarifies the eligibility of housing cooperatives;
 - (e) Clarifies the inclusion of small, local news broadcast entities;
 - (f) Clarifies that loan terms extend through the end of the covered period;
 - (g) Establishes a minimum maturity on PPP loans of 5 years to enable borrowers to amortize loans over a longer period of time, which lowers monthly payments;
 - (h) Clarifies that PPP loans cannot be calculated on a compound basis, saving borrowers money over the long-term;
 - (i) Modifications to PPP Funds, including:
 - A carve out of 25% of the existing funds on the date of enactment to be used specifically for small businesses with 10 or fewer employees to guarantee they are fully able to access PPP assistance;

- A carve out of 25% of the existing funds on the date of enactment solely for the use of all nonprofits, no matter their size or type but requiring that at least half this amount go to small nonprofits under the 500-employee threshold;
 - Establishes an additional set aside of existing funds of the lesser of 25% or \$10 billion specifically for community financial institutions, such as Community Development Financial Institutions (CDFIs), Minority Development Institutions (MDIs), SBA microlenders, and SBA Certified Development Companies (CDCs); and
 - Mandates that any returned amounts due to the cancellation of a covered loan shall be redistributed through loans to small businesses with 10 or fewer employees.
- (j) Alleviates burdens to borrowers deemed ineligible due to prior criminal history; and
 - (k) Establishes technical assistance grants for small community financial institutions and small depository institutions and credits with assets of less than \$10 billion;

Division J: Support for Essential Workers, At-Risk Individuals, Families, and Communities

- Sec. 100101. Family Care for Essential Workers. This section increases the overall authorization level for the Social Services Block Grant (SSBG) to \$12.15 billion in 2020 and directly appropriates \$850 million to SSBG to fund child and family care for essential workers. This section specifies that states can only use the \$850 million appropriated in this section to provide care for members of the households of essential workers that are incapable of self-care, including children and adult family members who require daytime care. The section gives states several options for providing care, including reimbursing workers directly for care they obtain themselves, paying child care and adult care providers, and setting up emergency child care. It specifies that there is no income test for receiving this emergency child care help, and waives some existing SSBG funding restrictions that prevent states from working directly with health care facilities or otherwise providing these services. The section specifies that states cannot supplant state funding used for child care with these new federal dollars, or exclude essential workers by requiring a means test for services. Finally, the section defines “essential worker” to include: Health care sector workers, Emergency response workers, Sanitation workers, Workers at businesses which state or local officials have determined must stay open to serve the public during the COVID-19 emergency, Any other worker who cannot telework and who the State or local government deems to be essential during the COVID-19 pandemic.
- Sec. 100201. Funding to States, Localities, and Community-Based Organizations for Emergency Aid and Services. Subsection (a). Funding for States. This subsection directly appropriates \$9.6 billion to the Social Services Block Grant for the sole purpose of providing emergency aid and services to disadvantaged children, families, and households. It requires the Department of Health and Human Services to distribute the funds to all 50 states, the District of Columbia, and all U.S. Territories within 45 days, and requires states and territories to obligate the funds by December 31, 2020. Under this section, states would be required to pass through at least 50 percent of the funds to county governments, local governments working in partnership with community-based organizations, or directly to community-based organizations with experience serving disadvantaged individuals or families. The funds could be used to provide basic economic and well-being necessities, provide necessary supplies to protect against infection, help connect individuals and families to payments and services for which they are eligible, provide short-term cash, non-cash, or in-kind disaster relief, and pay operational costs directly related to providing the services and maintaining local social service operations to assist needy

families. This section also prohibits imposition of burdensome individual eligibility determinations for emergency assistance.

- Sec. 100301. Emergency Flexibility for Child Welfare Programs. This section provides state child welfare programs with flexibility to provide services, including caseworker visits, virtually when necessary to comply with public health directives.
- Sec. 100302. Emergency Flexibility for Child Support Programs. This section provides states with the option to suspend penalties for non-custodial parents for inability to pay child support during the COVID-19 pandemic, since some courts have suspended non-emergency proceedings, including those related to modifying child support orders.
- Sec. 100303. Emergency Flexibility for TANF Programs. This section suspends the federal work participation rate requirements and the federal time limit for the federal Temporary Assistance for Needy Families (TANF) Program during the COVID-19 emergency, and creates penalties for any state or Tribal TANF program that fails to “stop the clock” on federal time limits for families, and/or that sanctions families for failure to work or participate in “work participation” activities. The policy suspensions expire January 31, 2021.

Division K: COVID-19 HERO Act

- Sec. 110201. Emergency rental assistance. This section would authorize \$100 billion for an Emergency Rental Assistance program that would allocate funding to states, territories, counties, and cities to help renters pay their rent and utility bills during the COVID-19 pandemic, and help rental property owners of all sizes continue to cover their costs.
- Sec. 110202. Homeowner Assistance Fund. This section provides \$75 billion to states, territories, and tribes to address the ongoing needs of homeowners struggling to afford their housing due directly or indirectly to the impacts of the COVID-19 pandemic by providing direct assistance with mortgage payments, property taxes, property insurance, utilities, and other housing related costs.
- Sec. 110203. Protecting renters and homeowners from evictions and foreclosures. This section extends and expands the eviction moratorium and foreclosure moratorium in the CARES Act to include all renters and homeowners, improves the forbearance provided under the CARES Act, and specifies the loan modifications and loss mitigation that should be available to homeowners following a moratorium to prevent any homeowner from facing a lump sum payment.
- Sec. 110206. Funding for public housing and tenant-based rental assistance. This section would authorize \$2 billion for the public housing operating fund and \$3 billion for the Housing Choice Voucher program, including \$500 million for administrative fees, to help public housing authorities (PHAs) absorb reductions in tenant rent contributions and mitigate other costs associated with the COVID-19 pandemic.
- Sec. 110301. Homeless assistance funding. This section would authorize \$11.5 billion for the Emergency Solutions Grants program to enable state and local governments to finance housing and health related services for the hundreds of thousands of people currently experiencing homelessness.
- Sec. 110302. Emergency rental assistance voucher program. •This section would authorize \$1 billion for Housing Choice Vouchers targeted to people experiencing or at risk of homelessness and survivors of domestic violence.
- Sec. 110606. SAFE Banking. This section would allow cannabis-related legitimate businesses, that in many states have remained open during the COVID-19 pandemic as essential services, along with their service providers, to access banking services and products, as well as insurance. This section also requires reports to Congress on access to financial services and barriers to

marketplace entry for potential and existing minority-owned cannabis-related legitimate businesses.

- Sec. 110801. Emergency relief for State, territorial, Tribal, and local governments. This section expands the Federal Reserve's assistance to local governments by allowing U.S. territories, as well as a greater number of cities and counties, to be eligible issuers in the Federal Reserve's municipal liquidity facility.
- Sec. 110802. Community development block grants. This section would authorize \$5 billion in Community Development Block Grant funding to provide states and local governments with additional flexible resources to mitigate and address the health and economic impacts of COVID-19.

Division L: Families, Workers, and Community Support

- Sec. 120102. Employee Eligibility and Employer Clarification. This section temporarily suspends, until December 31, 2022, the current 1,250 hour eligibility requirement and reduces the tenure eligibility requirement from 12 months to 90 days under non-emergency Family and Medical Leave Act (FMLA).
- Sec. 120103. Emergency Leave Extension. This section extends the availability of Emergency Family and Medical Leave benefits from December 31, 2020 to December 31, 2021.
- Sec. 120104. Emergency Leave Definitions. Provides private sector and public sector employees who have been on the job for at least 30 calendar days with the right take up to 12 weeks of job-protected paid leave under the Family and Medical Leave Act, regardless of the size.
- Sec. 120106. Paid Leave. This section ensures that workers are provided with a full 12 weeks of paid emergency FMLA leave and such leave does not count towards an employee's 12 weeks of non-emergency unpaid FMLA leave. This section also clarifies that only the employee can decide to take emergency FMLA leave concurrently with any other paid leave they have available.

Miscellaneous Sections:

- Title X: Jabara-Heyer NO HATE Act would provide grant funding incentives to state and local law enforcement agencies for the collection of hate crimes data and reporting it to the Department of Justice, which would report the data to Congress. It section authorizes the Attorney General to give grants to States and local governments to assist in implementing the National Incident-Based Reporting System (NIBRS) and to train employees to identify and classify hate crimes.
- Sec. 191107. COVID-19 Correctional Facility Emergency Response Act- Provides \$600 million in funding to address the COVID-19 crisis in state and local prisons and jails, including \$500 million to states and local governments that operate correctional facilities to provide testing and treatment of COVID-19 for incarcerated individuals by creating two grant programs.
- Sec. 200005. Cost Share under Stafford Act. Adjusts the cost share for assistance provided under any Stafford Act declaration for the COVID-19 pandemic from 75% Federal/25% non-Federal to 100% Federal.
- Sec. 200006. Clarification of Assistance under Stafford Act. Provides assistance for activities, costs, and purchases of States, local, or eligible private non-profits, including activities eligible under the Stafford Act including, but not limited to: backfill costs for first responders, increased operating costs for essential government services, costs of providing public guidance and information, costs for establishing virtual services and operating remote test sites, training provided in anticipation of, or response to, to the next emergency declaration, personal protective equipment for first responders, public health and medical supplies, non-congregate sheltering, food preparation and delivery to impacted communities, and funeral benefits.