Wynne Health Group

Memorandum

May 12, 2020

HOUSE DEMOCRATS INTRODUCE THE HEROES ACT

On May 12, House Democrats introduced **The Health and Economic Recovery Omnibus Emergency Solutions Act (Heroes Act)** (H.R. 6800) – a $3 trillion package to provide additional coronavirus relief (press release; legislative text; summary; section-by-section).

The Heroes Act appears to be a marker bill that stakes out House Democrats' starting position in a debate between both chambers and the White House that could drag out for weeks. **House Speaker Nancy Pelosi (D-CA)** has contended that she will stick to a floor vote on **May 15**, despite receiving some pushback from the Congressional Progressive Caucus and **Senate Majority Leader Mitch McConnell (R-KY)** and **President Trump** indicating that the Heroes Act is dead-on-arrival in its current form.

Rep. Pramila Jayapal (D-WA), Co-Chair of the Congressional Progressive Caucus, is pushing for inclusion of **Paycheck Guarantee Act** (press release; white paper, summary), which would cover 100 percent of wages for workers earning up to $100,000 a year and cover essential businesses expenses (e.g., rent), among other changes. As characterized by Rep. Jayapal, the bill is tended to "end mass layoffs, keep workers paid and connected to health care and other benefits, prevent employers of all sizes from being forced to close permanently, and ensure that the economy is ready to restart when the pandemic ends."

On May 12, Leader McConnell noted that "Senate Republicans are preparing a major package of COVID-related liability reforms to foster economic recovery" but did not specify a timeline on its introduction.

The House is also expected to consider a **resolution authorizing remote voting by proxy** in the House on May 15.

Snapshot – The package includes:

- **Provider Relief Fund –** $100 billion in grants for hospital and health care providers to be reimbursed for health care related expenses or lost revenue directly attributable to the public health emergency, as well $75 billion for testing, contact tracing, and other activities.
- **SNAP Increase** – $10 billion to support anticipated increases in Supplemental Nutrition Assistance Program (SNAP) participation and increases related to flexibilities provided to by the Families First Coronavirus Response Act (Public Law 116-127).
- **Coronavirus Relief Fund –** $500 billion to states, $375 billion to localities, $20 billion to territories, and $20 billion to tribes.
- **Medicaid –** Increases the Federal Medical Assistance Percentage (FMAP) payments to state Medicaid programs by 14 percent through June 30, 2021; increases Medicaid disproportionate share hospital (DSH) payments by 2.5 percent; and increases federal payments for the Medicaid home- and community-based services (HCBS) benefit by 10 percent.
- **Special Enrollment Periods** – Requires a special enrollment period for eligible individuals to enroll in Medicare Parts A and B, as well as a two-month special enrollment for uninsured individual to enroll in coverage offered through the Exchange
- **Accelerated and Advance Payment Programs** – Lowers the interest rate to one percent for loans that providers have accepted through the CMS Accelerated and Advance Payment Programs;

reduces the per-claim recoupment amount to a maximum of 25 percent; and extends the period during which providers do not yet have to repay payments.

- **Broadband –** $2 billion for a temporary expansion of the FCC's Rural Health Care Program (RHCP) to partially subsidize their health care providers' broadband service.
- **Heroes Fund –** $190 billion to the Heroes Fund which would be administered by the Department of Treasury and provide premium pay to essential workers.

Summary of select health-related provisions follows:

Division A – Coronavirus Recovery Supplemental Appropriations Act

- **Title I – Agriculture, Rural Development, FDA, and Related Agencies** –
    - **SNAP** – Provides $10 billion to support anticipated increases in Supplemental Nutrition Assistance Program (SNAP) participation and increases related to flexibilities provided to by the Families First Coronavirus Response Act (Public Law 116-127).
    - **WIC** – Provides an additional $1.1 billion to the Special Supplemental Nutrition Program for Women Infants and Children (WIC) to provide access for low-income pregnant women or mothers with young children who lose their jobs or are laid off due to COVID19.
    - **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.
    - **TEFAP** – Includes $150 million to the Emergency Food Assistance Program (TEFAP) to help local food banks meet increased demand.

- **Title III – Finance Services and General Government**
    - Through the Coronavirus Relief Fund, the bill would provide $500 billion to states, $375 billion to localities, $20 billion to territories, and $20 billion to tribes. See fact sheet for more details on how funding would be allocated.

- **Title IV – Homeland Security** –
    - **FEMA –** Provides $1.3 billion to the Federal Emergency Management Agency (FEMA) 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).

- **Title V – Interior, Environment, and Related Agencies** –
    - **Indian Health Service** – Provides $2.1 billion to address health care needs related to coronavirus for Native Americans, including:
        - $1 billion to account for lost third party revenues as a result of reduced medical care.
        - $64 million to assist Urban Indian Organizations.
        - $10 million to assist with sanitation, hydration and hygiene needs in Indian Country.

- $500 million to purchase medical supplies and personal protective equipment (PPE) and to provide health care, including telehealth services to Native Americans.
- $140 million to expand broadband infrastructure and information technology for telehealth and electronic health records system purposes.
- $20 million to provide health care, housing and isolation units for domestic violence victims and homeless Native Americans.
- No less than $366 million to provide isolation or quarantine space.

- **Title VI – Labor-HHS-Education –**

  - **Public Health and Social Services Emergency Fund ("Provider Relief Fund")** – Provides an additional $175 billion to the PHSSEF, otherwise referred to as the "Provider Relief Fund," 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, as well $75 billion for testing, contact tracing, and other activities.

  - **Centers for Medicare & Medicaid Services –**
    - Nursing Strike Team – Provides $150 million for States to establish and implement "strike teams" to deploy to skilled nursing facilities or nursing facilities within 72 hours of three residents or employees being diagnosed with or suspected of having COVID19.
    - Health Care Fraud and Abuse Control – Provides $25 million to support program integrity activities, including investigations and prosecutions of illegal or fraudulent activity affecting funds provided through Medicare, Medicaid, or CHIP.

  - **Assistant Secretary for Preparedness and Response** – Provides $4.57 billion to ASPR, including:
    - $3.5 billion for Biomedical Advanced Research and Development Authority (BARDA) for therapeutics and vaccines.
    - $500 million for BARDA to support U.S.-based next generation manufacturing facilities.
    - $500 million for BARDA to promote innovation in antibacterial research and development; and
    - $75 million for the Office of Inspector General.

  - **National Institutes of Health** – Provides $4.75 billion to expand COVID19-related research on the NIH campus and at academic institutions across the country and to support the shutdown and startup costs of biomedical research laboratories nationwide.

  - **Centers for Disease Control and Prevention** – Provides $2 billion for State, local, Territorial, and Tribal Public Health Departments to prevent, prepare for, and respond to the coronavirus, and $130 million for public health data surveillance and analytics infrastructure modernization.

  - **Health Resources and Services Administration** – Provides $7.6 billion to support expanded health care services for underserved populations, including: $7.6 billion for Health Centers; and $10 million to Ryan White HIV/AIDS clinics.

- **Substance Abuse and Mental Health Services Administration** – Provides $3 billion to SAMHSA, 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.
  - $100 million for Project AWARE to identify students and connect them with mental health services.
  - $10 million for the National Child Traumatic Stress Network.
  - $265 million for emergency response grants to address immediate behavioral health needs as a result of COVID19.
  - $25 million for the Suicide Lifeline and Disaster Distress Helpline; and
  - Not less $150 million for tribes, tribal organizations, urban Indian health organizations.

- **Administration for Community Living** – Includes $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 for ACF social services for families and children, 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.

- **Title IX – Transportation, HUD, and Related Agencies** –

  - **HUD –** The bill would provide the Department of Housing and Urban Development (HUD) with the following:
    - $4 billion for Tenant-Based Rental Assistance
    - $2 billion for the Public Housing Operating Fund
    - $15 million to maintain Housing for Persons with AIDS
    - $5 billion for the Community Development Block Grant
    - $11.5 billion for Emergency Solutions Homeless Assistance Grants
    - $100 billion in Emergency Rental Assistance
    - $750 million for Project-Based Rental Assistance
    - $500 million to maintain Housing for the Elderly
    - $200 million to maintain Housing for Persons with Disabilities
    - $100 million to enable Housing Counseling Assistance

Division C – Health Provisions

This portion of the bill would make several changes to Medicare, Medicaid, commercial insurance, and public health programs. We include select details on these proposals below.

- **Title I – Medicaid** – In general, Democrats propose many changes to the Medicaid program that seek to increase program funding and ensure access to services in general, while also providing specific protections for COVID-19 related care and expenses. Of significance, the bill would **increase the Federal Medical Assistance Percentage (FMAP) payments to state Medicaid**

programs by 14 percent through June 30, 2021 (Sec. 30101, p. 286), building upon the FMAP increase of 6.2 percent from the Families First Coronavirus Response Act. Relatedly, the bill would also extend the 100 percent FMAP for services received through urban Indian health providers through June 30, 2021 **(Sec. 30106, p. 313).**

Beyond the general FMAP enhancements, the bill would also make changes intended to stabilize several additional components to the Medicaid program. For example, the bill would temporarily increase **Medicaid disproportionate share hospital (DSH) allotments by 2.5 percent** (sec. 30108, p. 318) and would also increase federal payments for the Medicaid **home- and community-based services (HCBS) benefit** by 10 percent **(Sec. 30103, p. 290).**

Specifically for the COVID-19 response, the bill would **eliminate cost sharing** on COVID-19 treatment and vaccines for Medicaid beneficiaries (sec. 30104, p. 302). In addition, to relieve pressure on states newly covering the influx of uninsured individuals, the bill would ensure that **uninsured individuals** that states cover through the new Medicaid eligibility pathway would be able to receive treatment for COVID-19 without cost-sharing **(Sec. 30105, p. 311).**

Last, the bill addresses two Medicaid issues on the regulatory front. First, it would block the U.S. Department of Health and Human Services (HHS) from finalizing the **Medicaid Fiscal Accountability Regulation** (MFAR) until the end of the COVID-19 public health emergency (sec. 30102, p. 288). It would also codify the regulatory requirement that state Medicaid programs cover **non-emergency medical transportation (Sec. 30111, p. 325).**

- **Title II – Medicare –** The proposed changes for Medicare include provisions to protect consumers from facing high financial liability for COVID-19 treatments, support providers through additional funding adjustments, increase access to Medicare services, and enlist new infection control protocols.

  In regards to consumer protections, the bill would establish **zero cost-sharing** for COVID-19 treatment under Medicare Parts A and B during the public health emergency **(Sec. 30201, p. 334)**. It would implement the same change for the Medicare Advantage (MA) program as well (sec. 30204, p. 344). For Prescription Drug Plans (PDPs) and MA-PDPs, the bill would similarly require coverage and establish zero-cost sharing and require no utilization management requirements for drugs intended to treat COVID-19 during the public health emergency **(Sec. 30205, p. 345)**.

  To facilitate access to care, the bill would open a **special enrollment period** for eligible individuals to enroll in Medicare Parts A and B **(Sec. 30207, p. 356)**.

  On the issue of provider payments, the bill would lower the interest rate to one percent for loans that providers have accepted through the CMS **Accelerated and Advance Payment Programs (Sec. 30206, p. 351).** It would also reduce the per-claim recoupment amount to a maximum of 25 percent and extend the period during which providers do not yet have to repay payments. For nursing homes specifically, the bill would create incentive payments for **nursing facilities** to establish COVID-19-specific facilities **(Sec. 30208, p. 358).** To cover excess hospital costs for more expensive COVID-19 patients, the bill would also require HHS to provide **outlier payments** for inpatient claims that exceed the traditional Medicare payment (sec. 30203, p. 340). Last, the bill would require that CMS re-establish a **rural floor** for the Medicare hospital area wage index for hospitals in all-urban states **(Sec. 30212, p. 370).** Specifically on this last item, the bill would require that the area wage index may not be less than the minimum area wage index for the fiscal year for hospitals in that state for discharges occurring on or after Oct. 1, 2021.

Last, the bill would effectuate targeted **infection control** procedures for nursing home facilities. For example, the bill would direct HHS to support states in creating "nursing home strike teams" to respond to localized outbreaks through new funding allocations **(Sec. 30209, p. 366).** The bill would also require that HHS collect and publicly report demographic data on COVID-19 cases in nursing homes **(Sec. 30210, p. 367).**

- **Title III – Private Insurance –** For commercial insurers, the bill seeks to expand access to coverage for new individuals, establish consumer financial protections, and provide certainty of retaining coverage for individuals that have been laid off or face reduced hours.

  First, the bill would provide approximately **nine months' worth of premium subsidies** that would allow workers that have been furloughed, laid off, or whose hours have been reduced to maintain employer-sponsored coverage **(Sec. 30311, p. 402).**

  Of additional importance, Exchange marketplaces would be required to establish **a two-month special enrollment period** for uninsured individuals to enroll in coverage, regardless of the reason for lack of coverage **(Sec. 30301, p. 373).**

  For COVID-19-related services, the bill would also **require coverage of and eliminate cost-sharing** for items and services that treat COVID-19 during the public health emergency (sec. 30303, p. 378). The bill would also require the Advisory Committee on Immunization Practices (ACIP) to provide recommendations for coverage of a **COVID-19 vaccine** within 15 days of it being listed under the Public Health Service Act (sec. 30302, p. 377). Last, the bill would extend **free coverage of COVID-19 testing** retroactively to the beginning of the public health emergency **(Sec. 30306, p. 402).**

  The bill would also make several changes to improve consumer information alerting them of important coverage changes. For example, the bill would require group and individual market plans to notify consumers if the plan permits **advance prescription drug refills** (sec. 30304, p. 381). If an employee loses coverage under an employer-sponsored plan, the bill would improve information provided to these individuals to ensure they are aware of all **additional coverage options**, including plans offered on the ACA Exchange marketplaces **(Sec. 30305, p. 389).**

- **Title IV – Application to Other Health Programs** – The bill would prohibit cost-sharing for COVID-19 treatment under TRICARE **(Sec. 30401)**, Department of Veterans Affairs health plans **(Sec. 30402)**, and the Federal Employee Health Benefit Program **(Sec. 30403).**

- **Title V – Public Health Policies –** A discussion on the provisions in Title V subtitles follow.

Subtitle A – Supply Chain Improvements – The subtitle includes various provisions that would increase the availability of medical supplies, including personal protective equipment (PPE), medical devices, drugs, and vaccines.

The subtitle includes several sections intended to enhance coordination of the medical supply chain and ensure capacity to manufacture drugs and vaccines. **Section 30511** would require the President to appoint a Medical Supplies Response Coordinator that would consult with state and local officials to ensure health care facilities and health care workers have sufficient PPE and medical supplies, establish and maintain and up-to-date national database of hospital capacity, including beds, ventilators, and supplies, and perform other activities detailed on pp. 451-453.

Sec. 30512 would help health care facilities identify acceptable alternatives to medical devices determined to be in shortage by requiring the HHS Secretary to include the medical device identifier or national product code in the device shortage list, which was established by the CARES Act (Public Law 116-136).

The subtitle also includes several sections providing the Food and Drug Administration (FDA) with additional authority intended to address shortages while ensuring the integrity of medical supplies, such as authorizing FDA to require manufacturers to provide information necessary to extend medical device shelf life dates (**Sec. 30513)**; and allowing FDA to destroy certain counterfeit medical devices **(Sec. 30514)**.

Manufacturers of drugs and active pharmaceutical ingredients of such drugs would be required to notify the FDA of a permanent discontinuance or an interruption and reasons for such discontinuance or interruption **(Sec. 30517)**, and drug manufacturers would also be required to provide the FDA with a risk management plan **(Sec. 30518).**

Regarding capacity, the FDA Commissioner would be required to designate institutes of higher education as a National Center of Excellence in Continuous Pharmaceutical Manufacturing to support the advancement and development of continuous manufacturing **(Sec. 30519)**. See p. 466-469 for criteria and conditions for designation. The bill would authorize the appropriation of $100 million, to remain available until expended, to carry out this section.

Additionally, the Biomedical Advanced Research and Development Authority (BARDA) would provide contracts, grants, and cooperative agreements to expand and enhance manufacturing capacity of COVID vaccines and vaccine candidates to prevent the spread of SARS-CoV-2 and COVID-19 **(Sec. 30520)**. The bill would authorize the appropriation of funds that would be necessary for fiscal years 2020 through 2024.

Subtitle B – Strategic National Stockpile Improvements – The subtitle includes several provisions intended to ensure the Strategic National Stockpile (SNS) is adequate through increased oversight and maintenance by the HHS Secretary **(Sec. 30531)** and strategically ramping up production of critical medical supplies **(Sec. 30532)** (see p. 478 for more details).

In addition, the subtitle includes provisions aimed at making requests made to SNS more transparent. **Sec. 30534** would require the Assistant Secretary for Preparedness and Response (ASPR), in coordination with the Federal Emergency Management Agency, to submit a report (and updated reports) to relevant congressional committees every 30 days during the emergency period detailing all requests made to the SNS and their outcomes (see p. 483 for contents of report). **Sec. 30535** would require ASPR and the CDC Director to develop and implement improved, transparent processes for the use and distribution of drugs, vaccines and other biological products, medical devices, and other critical supplies (including PPE and diagnostic tests) in the SNS (see p. 484 for details on what the processes must include).

Subtitle C – Testing and Testing Infrastructure Improvements – The subtitle includes various provisions aimed at increasing the availability of testing and coordination across the federal government and with states, manufacturers, laboratories, and others.

Sec. 30541 would require the HHS Secretary to submit to relevant congressional committees an **updated COVID-19 strategic testing plan** by June 15, 2020 that describes the level of, types of, and approaches to testing to sufficiently monitor and help control the spread of COVID-19; specific plans and benchmarks, each with clear timeline, for approaches to testing; among other details (see pp. 487-490). Of note, the Paycheck Protection Program and Health Care Enhancement Act (Public Law 116-139) requires the HHS

Secretary to submit a COVID-19 strategic testing plan by May 24, 2020. The HHS Secretary would also be required to establish and maintain a public, searchable webpage that lists all in vitro diagnostic and serologic tests used in the United States to detect COVID-19 (**Sec. 30542).**

The subtitle also includes reporting requirements for states regarding authorized laboratories and testing capacity **(Sec. 30544)**; in vitro diagnostic test manufacturers regarding quantity distributed (**Sec. 30543)**; and laboratories regarding COVID-19 testing results, which would be made public **(Sec. 30546).** As a condition of receiving funding made available in this bill, states would be required to establish and maintain a public, searchable webpage that lists all COVID-19 testing sites within the states **(Sec. 30545)**.

The subtitle would also authorize the appropriation of the following to provide states and localities with grants to improve public health capacity:

- $450 million to expand and modernize public health data systems **(Sec. 30548)**;
- $1 billion to improve their laboratory infrastructure **(Sec. 30549)**;
- $6 billion to improve core public health infrastructure (through formula grants to state health departments based on population size and state, local, tribal, and territorial departments based on needs) **(Sec. 30550)**

The CDC would receive $1 trillion to expand improve its core public health infrastructure and activities **(Sec. 30551).**

Subtitle D – COVID-19 National Testing and Contact Tracing (CONTACT) Initiative – The bill would authorize the appropriation of $75 billion to support efforts to expand COVID-19 testing, contact tracing, surveillance, containment, and mitigation (**Sec. 30568)**. The CDC would be required to coordinate a national testing and contact tracing system (**Sec. 30561)**, as well as issue guidance (due 14 days after enactment) and provide technical assistance to state and local health departments **(Sec. 30563).**

The bill would also authorize the appropriation of $500 million available to state and tribal workforce agencies to support the employment of individuals in COVID-19 contact tracing and related positions **(Sec. 30566).** See details on grant application and distribution beginning p. 538.

Subtitle E – Demographic Data and Supply Reporting Related to COVID–19 – The subtitle includes several provisions intended to address the heath disparities of COVID-19. For example, the HHS Secretary would be required to update and make publicly available the report to Congress, as required by the Paycheck Protection and Health Care Enhancement Act, on the collection of data, race ethnicity, age, sex, and gender of individuals diagnosed with COVID-19 **(Sec. 30572)**.

- **Title VI – Public Health Assistance –** A discussion on the provisions in Title VI follow.

Subtitle A – Assistance to Providers and Health System – As noted above in Division A, the bill would add $100 billion to the Provider Relief Fund for grants to hospitals and health care providers that will be awarded on a quarterly basis **(Sec. 30611)**. The amount of the reimbursement to an eligible health care provider would equal the sum of 100 percent of the eligible expenses (including building or construction

of temporary structures, leasing of properties, medical supplies and equipment, see pp. 573-574 for the complete list) and 60 percent of the lost revenues (subject to certain limitations on p. 573); less any funds that are received by the provider during the quarter through other coronavirus relief packages and are not required to be repaid. As a condition of receiving funding, health care providers are not allowed to balance bill patients for medically necessary items and services furnished to treat COVID-19.

The bill includes additional provisions to expand the public health and health care workforce. See pp. 28-29 for more details in the section-by section.

Subtitle B – Assistance for Individuals and Families – The bill would authorize the reimbursement of COVID-19 treatment for uninsured individuals using the Public Health and Social Services Emergency Fund (Provider Relief Fund) (**Sec. 30631)**. In addition, the bill includes additional provisions to provide grant to address substance use during COVID-19 **(Sec. 30633)** and behavioral health needs due to COVID-10 **(Sec. 30634).** See section-by-section for additional resources that would be made available, including to tribes (**Subtitle C**) on pp. 29-30.

Division M – Consumer Protection and Telecommunications Provisions

- **Title III – Emergency Benefit for Broadband Service:**

Section 301 would authorize nearly $9 billion to provide reimbursements to households in which a member has been laid off or furloughed. Entitled consumers would get a $50 benefit, (or a $75 benefit on tribal lands), to put toward the monthly price of internet service during the PHE, which Internet service providers would be required to provide at a reduced price.

- **Title VIII – Healthcare Broadband Expansion During COVID19:**

Section 801 would authorize $2 billion for a temporary expansion of the FCC's Rural Health Care Program (RHCP) to partially subsidize their health care providers' broadband service. Authorized subsidies would flow to all nonprofit and public hospitals, not just rural ones. Additionally, the bill would increase the broadband subsidy rate from 65 percent to 85 percent, and expands eligibility of the RHCP to ensure mobile and temporary health care delivery sites qualify and temporarily modifies administrative processes to ensure funding is delivered expediently.

Division Q – COVID-19 Heroes Fund

The bill would appropriate $190 billion (available until expended) to the Heroes Fund which would be administered by the Department of Treasury. For this section of the bill, we include a detailed section-by-section summary of the main provisions below.

- **Section 170101: Definitions.** Defines "essential work" as work that: (1) is performed during the COVID–19 Public Health Emergency, (2) is not performed while teleworking, (3) involves regular interaction with others or items handled by others, and (4) is work in any of the 33 enumerated areas of work (e.g., health care, first responders, grocery stores, transportation, etc.).

- **Section 170102: Pandemic premium pay for essential workers.** Provides that employers of essential workers who apply for and receive grants will pay essential workers $13 per hour premium pay in addition to regular wages. Employers must comply within 3 days of receiving the funds.

Essential workers are eligible for up to $10,000 ("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 (PHE). Employers accepting grants must pay premium pay for any increment of time worked by the essential worker up to the maximum applicable amount. As a condition of the award, employers cannot reduce compensation for an essential worker between the time of the bill's enactment and 60 days after the end of the PHE. An employer also cannot displace an essential worker (including partial displacement such as a reduction in hours, wages, or employment benefits) to hire an individual for an equivalent position at a lower rate. Premium pay will be excluded from any wage-based calculations, such as those relating to benefits. If an essential worker develops symptoms of COVID-19 and dies, the worker's next of kin receives the remainder of the premium pay as a lump sum.

- **Section 170103: COVID–19 Heroes Fund.** Creates the COVID–19 Heroes Fund and establishes the Secretary of Treasury as the administrator of the fund.

- **Section 170104: COVID–19 Heroes Fund grants.** Directs the Secretary of the Treasury to award grants to employers who choose to apply for grants for the purpose of providing premium pay to essential workers. Employers are eligible for grants of $10,000 per essential worker ($5,000 for highly compensated essential workers) to cover the entire cost of premium pay, including employer payroll taxes for premium pay. No partial grants will be awarded. The Secretary of the Treasury must respond to employers' applications within 15 days of submission with a certification decision. Once certified, Treasury must transfer the funds within 7 days. Employer payroll taxes include the employer portion of Medicare Hospital Insurance tax (and the corresponding part of the Railroad Retirement Board (RRB) tier 1 tax), federal unemployment tax, and state and local employment taxes. Unused funds must be returned to the Treasury by June 30, 2021.

- **Section 170105: Enforcement and outreach.** Grants the Secretary of Labor authority to enforce payment requirements and to conduct outreach to employers. Prohibited acts include violation of the policies outlined as well as discrimination against an essential worker related to these policies. Failure to adhere to payment requirements are treated as violations of overtime requirements under the Fair Labor Standards Act.