



Coronavirus Aid, Relief, and Economic Security (CARES) Act Small Business Frequently Asked Questions

Q1. Will 501(c)(6) organizations receive assistance under the Senate Proposal?

A1. No, the Senate expands eligibility to 501(c)(3) nonprofits only.

Q2. Can a borrower double dip between an Economic Injury Disaster Loan (EIDL) and a new Paycheck Protection loan under the Senate proposal?

A2. Businesses will be able to receive an EIDL and a Paycheck Protection loan as long as they go for different things. For example, a business can receive an EIDL for working capital and a Paycheck Protection loan for payroll assistance. Additional flexibility is granted through no prepayment penalties on EIDLs and no prepayments penalties on Payment Protection loans. Additionally, a refinancing option has been included.

Q3. Under the Senate proposal, the maximum loan amount intended for payroll and operating costs for small businesses is the monthly payroll times 2.5 with a maximum cap of \$10 million. 2.5 times the average monthly payroll is not nearly enough money for small businesses.

A3. The Senate is keeping the calculation at 2.5 times monthly payroll, earmarked to payrolls, etc. over 8 weeks, because that is what the \$350 billion will cover.

Q4. In the Paycheck Protection Program, are non-profits eligible, are churches eligible, are chambers of Commerce and physician practices eligible?



A4. Non-profits and churches designated as 501(c)(3) may participate in the Paycheck Protection Program. Physician practices are eligible, regardless of how they are structured (i.e. as an S-Corp, C-Corp, or sole proprietorship). Unfortunately, most trade associations (therefore most Chambers) are organized at 501(c)(6)s. They are not eligible to participate under the Senate bill.

Q5. In the Paycheck Protection Program, can small businesses hire back employees they already fired and still have the loans forgiven? What is the hire back date?

A5. Yes. There is flexibility in the program to allow businesses to rehire folks they have laid off and still qualify. They simply need to be in business before February 15th and show the lender they have had employees on the payroll.

Q6. What are the exact steps for small businesses to access the capital? Where can I find the information? Is there a video or other form of assistance?

A7. The best place to go is your lender. The SBA and Treasury will be producing documents and instructional materials, but that takes time and your lenders would be the fastest way to get information.

Q8. How quickly will business be able to access loans?

A8. We are working with the SBA on capacity issues, including onboarding new lenders. The SBA is assuring us they will have things in place and that they are ready to stand up all of the requirements within the Senate bill as quickly as possible. We will continue to press them to move expediently. The SBA is also moving at a faster rate, with the help of the resources Congress has provided them.

S. 3548 – Coronavirus Aid, Relief, and Economic Security Act – American Livelihood

Senate Republicans and Democrats have unveiled legislation to provide emergency relief to workers, families, small businesses, and distressed industries. The full package is big, targeted, and will make a difference. **Here are the details on how this package will protect Americans' livelihoods.**

Key points:

- A total of \$500 billion in emergency relief to distressed businesses, as well as state and municipalities
- Provides flexibility for local businesses to team up with local banks
- Reinforces commonsense safeguards against abuse

What you need to know:

- **Unleashes the Fed's Tools to Provide Liquidity: \$425 billion** for loans, loan guarantees, and investments in support of facilities established by the Fed under 13(3) authority for purpose of providing liquidity to businesses, states, or municipalities through purchasing obligations or other interests directly from issuers of such obligations or other interests.
- **Loans, Not Bailouts, for Major Industry:** Direct lending to the following: **\$50 billion** for passenger airlines, **\$8 billion** for cargo airlines, and **\$17 billion** for businesses critical to "maintaining national security."
- **Protecting Workers, Not Boosting Executive Compensation:** Employee and executive total compensation may not exceed \$425,000, stock buybacks are prohibited during the duration of the loan, and borrowers must maintain exiting payroll as of March 13
- **Giving Businesses and Banks Flexibility to Work Together:** The bill cuts red tape to ensure that banks have room to provide the resources businesses need.

The Details: Workers need to be able to return to their livelihoods once this crisis is over. The Senate's bill ensures that loans will be made available to key industries with strong taxpayer protections, and ensures that businesses will have access to the resources they need from local banks.

S. 3548 – Coronavirus Aid, Relief, and Economic Security Act – Health Provisions

Senate Republicans and Democrats have unveiled legislation to provide emergency relief to workers, families, small businesses, and distressed industries. The full package is big, targeted, and will make a difference. **Here are the health details.**

Key points:

- Gets more resources into the hands of our providers quickly
- Expands access to care for patients
- Support our public health response
- Removes limitations employers and individuals face on their HSA-eligible plans

What you need to know:

- **Treatment for COVID-19 Patients is a Priority:** To help patients, the bill invests in our medical system in several ways: .
 - First, the bill provides money for providers through Medicare:
 1. Allows for accelerated Medicare payments. This will help hospitals, especially those facilities in rural and frontier areas, get the reliable and stable cash flow they need to help them maintain an adequate workforce, buy essential supplies, create additional infrastructure, and keep their doors open to care for patients.
 2. Creates a 20 percent add on payment for inpatient treatment
- Delays the sequester until the end of this calendar year, which gives providers both money and certainty
- Second, the bill provides over \$140 billion in appropriations to support our health system, including:
 1. \$100 billion for a new program to provide grants to hospitals, public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to cover unreimbursed health care related expenses or lost revenues attributable to the public health emergency resulting from the coronavirus and
 2. \$16 billion to the Strategic National Stockpile to procure personal protective equipment, ventilators, and other medical supplies for federal and state response efforts
- \$11 billion to support research and development of vaccines, therapeutics, and diagnostics to prevent or treat the effects of coronavirus
- 4. \$4.3 billion to the CDC to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus
- 5. \$185 million through HRSA to support rural critical access hospitals, rural tribal health and telehealth programs
- 6. \$200 million for CMS for priorities like assisting nursing homes with infection control and support states' efforts to prevent the spread of coronavirus in nursing homes
- Finally, the bill pumps new resources into our public health, education and emergency preparedness infrastructure:
 1. Funds community health centers through November 30, 2020
 2. Reauthorizes key rural grant programs to strengthen rural community health

- Invests \$30.750 billion into a flexible Education Stabilization Fund to help states, school districts and institutions of higher education for costs face increased costs as they deal with the safety and health issues related to coronavirus as well as continue to develop plans for providing online learning for all students
- 1. Takes steps to address supply shortages, including in the Strategic National Stockpile and removing legal barriers to the production of more masks
- 2. Removes barriers to allow the Biomedical Advanced Research and Development Authority (BARDA) to more easily partner with private sector on research and development and to allow BARDA to expedite diagnostics and vaccines
- **Unleashes the Full Might of America's Health Care Innovation:** The bill contains a significant expansion of telehealth by allowing patients to see doctors with whom they don't already have a relationship, connecting folks on home dialysis with providers, and allowing federally qualified health centers and rural health centers to participate.
 - The bill also expands telehealth services for home health and hospice.
 - Overburdened physicians need relief, so nurse practitioners and physicians' assistants will be able to prescribe home health services.
 - Finally, the bill makes it easier for post-acute facilities to be fully utilized during this crisis.
- **Eliminates Red Tape for Employers and Individuals:** The bill ensures that Americans are able to use all tax-favored health care accounts, like HSAs and FSAs, to buy over-the-counter medicines tax-free without a prescription. In addition, high deductible health care plans with HSAs will now be able to provide coverage pre-deductible for telehealth services.

The Details: The CARES Act provides unprecedented resources to providers during these unprecedented times. Moreover, patients who need care should be able to receive care, especially those seniors who need to be able to communicate with their providers in the lowest risk setting possible. Easing the rules that permit access to telehealth and increasing provider capacity would help maintain continuity of care and free up time and inpatient resources to treat coronavirus patients.

S. 3548 – Coronavirus Aid, Relief, and Economic Security Act – Small Business Provisions

Senate Republicans and Democrats have unveiled legislation to provide emergency relief to workers, families, small businesses, and distressed industries. The full package is big, targeted, and will make a difference. **Here are the small business details.**

Key points:

- A strong “paycheck protection” program means small businesses have an incentive to keep employees on payroll.
- The bill also offers extensive debt relief
- The Small Business Administration is also required to enact these programs with regulations no later than 15 days after the Act is signed into law.

What you need to know:

- **Paycheck Protection: Forgiveness For Small Business Loans for Keeping Employees:** The bill creates a “paycheck protection program” for small employers, self-employed individuals, and “gig economy” workers, with \$350 billion to help prevent workers from losing their jobs and small businesses from going under due to economic losses caused by the COVID-19 pandemic. The “Paycheck Protection Program” would provide 8 weeks of cash-flow assistance through 100 percent federally guaranteed loans to small employers who maintain their payroll during this emergency. If the employer maintains payroll, the portion of the loans used for covered payroll costs, interest on mortgage obligations, rent, and utilities would be forgiven, which would help workers to remain employed and affected small businesses and our economy to recover quickly from this crisis. This proposal would be retroactive to February 15, 2020, to help bring workers who may have already been laid off back onto payrolls.
- **Small Business Contractors Also Get Protection:** Federal agencies would be required to extend contract performance periods and promptly pay small business contractors Small business contractors impacted by COVID-19.
- **Debt Relief:** For six months, SBA is required to pay all principal, interest and fees on all existing SBA loan products including 7(a), Community Advantage, 504, and Microloan programs for six months.
- **Timely:** The bill requires that SBA enact these programs with regulations no later than 15 days after the Act is signed into law.

The Details: Providing more cash flow to businesses and incentives to keep employees on payroll is a much-needed life-support program for the economy.

S.3548 – Coronavirus Aid, Relief, and Economic Security Act - Tax Provisions

Senate Republicans and Democrats have unveiled legislation to provide emergency relief to workers, families, small businesses, and distressed industries. The full package is big, targeted, and will make a difference. **Here are the tax details.**

Key points:

- Workers, families, and small businesses come first.
- \$1,200 checks will be on their way to American families.
- Provides vast resources to keep small businesses open, including assistance with cashflow and providing credits for employers to keep employees on payroll.

What you need to know:

- **Money for American families.** This comes in the form of a one-time tax rebate check of \$1,200 per individual and \$500 per child for those with a valid SSN. There are no earned income or tax liability requirements to receive these rebate checks. The full rebate amount is available for those with incomes at or below \$75,000 for individuals, \$112,500 for head of household, and \$150,000 for married couples.
- **Loosens Rules on Retirement Accounts.** Older Americans that are subject to mandatory minimum distributions from their retirement accounts would be able to keep their capital invested instead of being forced to cash out to draw on that capital without penalty, which would be suspended for 2020. Similarly, the bill also waives the 10% penalty on coronavirus-related early distributions from 401(k)s and IRAs, which applies to distributions made at any time during 2020.
- **Provides Another Option for Employers to Keep Connected to Their Employees.** Employers of all sizes that face closure orders or suffer economic hardship due to the coronavirus crisis that continue to pay employees that are furloughed may be eligible for a 50% credit on up to \$10,000 of wages paid to those employees. This will help workers keep their jobs, help local businesses ride out this storm, and ensure that furloughed workers have jobs to return to.
- **Delays Payroll Tax Payments for Employers:** Employers would be able to delay the payment of their 2020 payroll taxes until 2021 and 2022, leading to approximately \$300 billion of extra cash flow for businesses.
- **Restores Supports for Businesses Suffering Losses:** The bill also allows businesses to carry back losses from 2018, 2019, and 2020 to the previous 5 years, which will allow businesses access to immediate tax refunds.
- **Encourages Businesses to Invest in Improvements:** The bill would fix cost recovery for investments in Qualified Improvement Properties, which will allow businesses that made these investments in 2018 and 2019 and receive tax refunds now.

The Details: Eligibility for checks from the IRS will be based on 2018 and 2019 returns, and for Social Security (retirement and disability) and Railroad Retirement beneficiaries, they will use information from the Social Security Administration and Railroad Retirement Board.

S. 3548 – Coronavirus Aid, Relief, and Economic Security Act - Unemployment Provisions

Senate Republicans and Democrats have unveiled legislation to provide emergency relief to workers, families, small businesses, and distressed industries. The full package is big, targeted, and will make a difference. [Here are the unemployment insurance details.](#)

Key points:

- Expands the size and scope of unemployment benefits
- Includes relief for workers who are self-employed, as well as independent contractors
- Ensures these changes are temporary

What you need to know:

- **Includes \$250 billion to Expand Unemployment Benefits:** Provides economic relief and much-needed support for workers by making a significant investment in unemployment benefits.
- **Unemployment Benefits for More Americans:** Makes sure self-employed and independent contractors, like Uber drivers and gig workers, can receive unemployment during the public health emergency. The bill also includes support to state and local governments and nonprofits so they can pay unemployment to their employees.
- **More Money for a Longer Period for More Workers:** Makes benefits more generous by adding a \$600/week across-the-board payment increase through the end of July. In addition, for those who need it, the bill provides an additional 13 weeks of benefits beyond what states typically allow.
- **Temporary Provisions:** The expansion in unemployment benefits expires at the end of 2020 in recognition of the temporary nature of this challenge.

The Details: State unemployment offices are experiencing an unprecedented spike in claims and many workers are not covered under regular state unemployment laws. Filings for U.S. unemployment benefits are poised to surge to more than 2 million, according to a [Goldman Sachs](#) analysis of preliminary reports across 30 states. The stimulus package will make a tremendous difference for keeping workers afloat.



Kevin McCarthy

REPUBLICAN LEADER

COVID-19 RESPONSE PHASE 3: FAQs

INDIVIDUALS

Q: Unemployment Insurance – are the self-employed, gig workers, and contractors eligible?

A: Yes, the bill expands unemployment benefits to cover more workers including self-employed and independent contractors, like gig workers and Uber drivers, who do not usually qualify for unemployment. Overall, the bill provides \$250 billion in funding for expansion of unemployment benefits, the largest increase ever.

SMALL BUSINESS

Q: Are non-profits, chambers, physician practices, eligible for 7(a) loans?

A: 501(c)3 non-profits are eligible. No other 501(c) organizations are eligible, including chambers structured as 501(c)6s.

Physician practices are eligible, no matter how they are structured.

Q: Can small businesses can hire back previously fired employees and still have the loans forgiven? If so, what is the hire-back date?

A: Yes. There is flexibility in the program to allow businesses to hire new, or returning employees, by June, 30, 2020, and still qualify under the headcount requirements.

Q: How quickly will business be able to access loans?

A: We are working with the SBA on capacity issues, including onboarding new lenders. The SBA is assuring the Small Business Committee that they are ready to stand up all of the requirements within the Senate bill as quickly as possible.

Q: What does this bill do to provide relief for rural communities and farmers?

A: The bill includes a number of small business provisions designed to help farmers stay in business and take care of their employees during this difficult time. These include provisions that allow farmers to work with their trusted farm credit institutions for the purposes of securing payroll tax loans, along with 1-year deferrals, 100% guarantees, and low rates.

The bill provides \$14 billion for the Commodity Credit Corporation (CCC), the funding mechanism for all major USDA programs. It also appropriates an additional \$9.5 billion to specifically respond to losses due to COVID-19.

Additional funding is provided for USDA agencies that are on the front lines of responding to COVID-19, including the Food Safety Inspection Service (FSIS), the Animal and Plant Health Inspection Service (APHIS), and the Farm Service Agency (FSA).

The bill also includes \$100 million to provide financing for rural broadband through the ReConnect program, and \$25 million for the Distance Learning and Telemedicine program to provide grants for equipment and connectivity improvements.

Q: Employee retention credit – how will this work?

A: The Employee Retention Credit provides a refundable payroll tax credit equal to 50 percent of up to \$10,000 in wages per employee (including health benefits) paid by certain employers during the coronavirus crisis.

The credit is available to employers:

- whose operations were fully or partially shut down by government order limiting commerce, travel, or group meetings due to coronavirus, or*
- whose quarterly receipts are less than 50% for the same quarter in the prior year.*

Wages paid to employees during which they are furloughed or otherwise not working (due to reduced hours) as a result of their employer's closure or economic hardship are eligible for the credit.

However, for employers with 100 or fewer employees, all employee wages qualify for the credit, regardless of whether they are furloughed or face reduced hours.

To prevent double dipping, employers that receive Small Business interruption loans are not eligible for the credit. Additionally, wages that qualify for the required paid leave credit are not eligible for the credit.

The credit is for wages paid by eligible employers from March 13, 2020 through December 31, 2020.

AIRLINES AND DISTRESSED INDUSTRIES

Q: Regional airports/airlines – what assistance are they eligible to receive?

A: Passenger airlines are eligible for \$25 billion in loan authority and \$25 billion in grants to maintain their operations, employee payroll, and contracts around the country. The bill also includes \$4 billion in loan authority and \$4 billion in grants for cargo air carriers.

The bill also provides \$10 billion in grants through the Airport Improvement Program to support projects and operations at airports around the country. It also provides \$3 billion in grants for contractors employed by the airlines, to ensure that airlines can maintain existing operations contracts. The bill also includes \$56 million for the Essential Air Service to maintain existing air service to rural communities.

Q: Within the tourism industry, who is eligible and how are the funds accessed?

A: All industries and firms are eligible to benefit from the broad financing from the Treasury fund to the extent they don't receive sufficient assistance from other programs. How to access this support will depend on the size and model of the business and the exact facility used.

Q: What does this bill do to put restrictions on the airlines accepting grants and loans?

A: The loans come with conditions including: restrictions on executive compensation; prohibition on stock buybacks and the prohibition on paying dividends for the duration of the loan plus 12 months; the airline or business must maintain its existing employment levels through September 30, 2020 to the extent practicable, and in no case reduce it by more than 10%.

Q: How does it support airports and affiliated contractors?

A: The bill provides \$10 billion in grants to airports to help them maintain employment, continue operations, clean and sanitize to prevent the spread of coronavirus, and service airport construction debt.

The bill also provides \$3 billion in payroll support grants to airline contractors, including baggage handlers, wheelchair pushers, and caterers. These grants can only be used for paying employees and contractors that receive grants must maintain current employment levels through September 2020.

HEALTH CARE

Q: How does bill address the PPE and COVID-19 testing shortage?

A: The bill provides \$16 billion explicitly for the National stockpile. This funding can purchase medical supplies, equipment, and medicine to be distributed to states.

Q: How does the bill help individuals with mental health needs?

A: EXPANDS TELEHEALTH SERVICES: Opens up expanded telehealth services in the Medicare program, allowing seniors across the nation to receive any current telehealth approved service (not just COVID related services), including mental health and substance abuse services. This will allow seniors to receive critically important mental health and substance use disorder services in their homes without having to forgo care or risk infection by entering the community.

IMPROVED CARE COORDINATION FOR PATIENTS WITH SUBSTANCE USE DISORDER: Ensures that health care providers can more effectively care for patients with substance use disorders (especially those with comorbid mental illness and other chronic diseases) by better aligning the treatment of substance use disorder medical records subject to 42 CFR Part 2 with HIPAA.

REAUTHORIZES THE EXCELLENCE IN MENTAL HEALTH DEMONSTRATION PROGRAM:

Reauthorizes and expands Certified Community Behavioral Health Clinics, which provide critical services both in person and via telemedicine to tens of thousands of vulnerable Americans with suffering with mental health or addiction issues.

PROVIDES ADDITIONAL FUNDING TO THE SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

ADMINISTRATION (SAMHSA): Provides a total of \$425 million for SAMHSA to be used to support grants to address suicide prevention, mental and behavioral health priorities for tribes and tribal

organizations, Certified Community Behavioral Health Clinics, and other emergency substance use disorder or mental health needs in local communities.

Specifically:

- *Certified Community Behavioral Health Clinics: \$250 million to increase access to mental health care services.*
- *Suicide Prevention: \$50 million to provide increased support for those most in need of intervention.*
- *SAMHSA Emergency Response Grants: \$100 million in flexible funding to address mental health, substance use disorders, and provide resources and support to youth and the homeless during the pandemic.*

Q: Will emergency service providers be eligible for telehealth provisions?

A: Emergency service providers are still required to respond to the scene if they are dispatched through a 911 emergency call. However, emergency service providers will be able to use funds from the Public Health and Social Services Emergency Fund in order to authorize treatment in place and alternative destinations of care besides the hospital for ground ambulance responders. These emergency service providers should be able to use telehealth tools and capabilities in order to treat patients on site or determine if they require care at an alternative site. These concepts of treatment in place and alternative destinations of care for emergency responders are found in the Administration’s Emergency Triage, Treat, and Transport (ET3) Model released last year aimed at providing greater flexibility for first responders and patients.

Q: Why aren’t phone calls – which are low-tech and easier than video conferencing – eligible for telehealth reimbursement?

A: We understand that seniors may have issues with video conferencing for telehealth purposes, particularly in areas where there is a lack of broadband, especially rural areas. The limitation on telemedicine was originally included as a guardrail by House Democrats in package 2 to ensure unscrupulous providers didn’t start reaching out to beneficiaries they had no relationship with to bill for unneeded or non provided services. But we all realize how important keeping our vulnerable seniors out of the community setting is during this public health emergency. We can only assume the Senate did not include phone calls to be eligible for telehealth reimbursement because doctors already complete many regular calls with seniors that are currently not billable. Without a clear delineation between those standard calls and new COVID authority related telehealth calls, there is not a good way to cover audio-only telehealth without a massive expansion in costs, even without patients receiving new services.

APPROPRIATIONS

Q: Are state and local governments are eligible for relief funds?

A: Yes, Eighty percent of funding provided by Division B, the appropriations section, goes out through existing grants to support state, local, tribal, and community grantees. Funding is provided to numerous programs within the Agriculture; Labor-Health-Education; Interior; Homeland Security; Commerce-Justice-Science; and Transportation and Housing subcommittees. For additional questions on Division B, please contact the Appropriations Committee. Some programs included within the appropriations division are:

- *Community Development Block Grants – \$5 billion*
- *Homelessness Grants – \$4 billion*
- *Transit Agencies – \$24 billion*
- *Airports – \$10 billion*

- *Assistance to Tribal Communities (Indian Health Service, Bureaus of Indian Education/Affairs, and Food Distribution) – \$1.7 billion*
- *Disaster Relief Fund – \$45 billion*
- *Emergency Food and Shelter Grants – \$200 million*
- *First Responder (FIRE) Grants – \$100 million*
- *Emergency Management Program Grants – \$100 million*
- *Byrne Justice Assistance Grants – \$850 million*
- *Economic Assistance Development Grants – \$1.5 billion*
- *Manufacturing Extension Partnership Grants – \$50 million*
- *Child nutrition – \$8.8 billion*
- *Supplemental Nutrition Assistance Program – \$15.8 billion*
- *Community Services Block Grant – \$1 billion*
- *Low Income Home Energy Assistance Program – \$900 million*
- *Child Care and Development Block Grant – \$3.5 billion*
- *CDC Funding for State Public Health Departments – \$1.5 billion*

Q: Are the DOD and VA eligible for relief funds?

A: The bill provides a total of \$10.5 billion for DOD functions and programs, including \$1 billion to expand availability of necessary supplies through the Defense Production Act, \$3.4 billion for defense health care programs, and \$1.5 billion to support the deployment of the National Guard.

The bill provides a total of \$19.6 billion for the Department of Veterans Affairs and veterans programs. In addition, if VA is called upon by the federal emergency coordination council to care for non-Veterans, it will be reimbursed through the Public Health and Social Security Emergency Fund. Funding provided in the bill for the PHSSEF assumes VA will be reimbursed approximately \$4 billion.

Q: How will funds be distributed to hospitals, including rural hospitals?

A: The bill appropriates \$100 billion to hospitals and other health care providers. We believe HHS will hire a third-party claims processor, similar to a Medicare Administrative Contractor. This processor will use criteria, outlined by HHS, to determine (1) eligibility of provider, (2) justifiability of amount, (3) amount of claim, (4) payment, and any other information determined by HHS. We also assume there will be an administrative appeals process. We do not know specifics yet as this is a new program. The bill provides wide latitude to the Administration to determine program parameters.

Additionally, the bill provides money for providers through Medicare:

- *Allows for accelerated Medicare payments. This will help hospitals, especially those facilities in rural and frontier areas, get the reliable and stable cash flow they need to help them maintain an adequate workforce, buy essential supplies, create additional infrastructure, and keep their doors open to care for patients.*
- *Creates a 20 percent add on payment for inpatient treatment*
- *Delays the sequester until the end of this calendar year, which gives providers both money and certainty*

Q: Will nursing homes be able to access the same account as hospitals?

A: Nursing homes may be eligible, but that remains an open issue. Significant parameters will need to be issued by HHS on the process, information, and eligibility.



Paycheck Protection Program and Loan Forgiveness

Paycheck Protection Loans

The Senate proposal creates a new loan product within the Small Business Administration's 7(a) Loan Program. Both existing SBA lenders and new lenders brought into the program with the assistance of the Department of the Treasury will be able to offer these loans to eligible small businesses.

The new loan will be 100 percent guaranteed by the SBA and have an interest rate of 4 percent. The new loan will be able to cover payroll costs including costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums; employee salaries, commissions, or similar compensations; payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation); rent (including rent under a lease agreement); utilities; and, interest on any other debt obligations that were incurred before Feb. 15, 2020.

Businesses and 501(c)(3)s with less than 500 employees will be eligible for this new loan. Additionally, sole proprietors, independent contractors, and self-employed individuals will also be eligible. Moreover, small businesses in the hospitality and food industry with more than one location could also be eligible at the store and location level if the store employs less than 500 workers. This means that each store location could be eligible. Lastly, if your franchisor appears in the SBA's National Franchise Directory, assistance will extend down to the franchisee at the store or location level.

The maximum loan amount will be the lesser of \$10 million dollars or 2.5 times the average monthly payroll based on the prior year's payroll.

To increase speed and turnaround time within this new loan product, all lenders will have delegated authority. Delegated authority allows the lender to process, close, and service a loan without SBA review.

All borrower and lenders fees for Paycheck Protection loans will be waived. Additionally, the Credit Elsewhere Test, collateral requirements, and all requirements for personal guarantees under Paycheck Protection loans will be waived.

Built into the new Paycheck Protection loans will be automatic deferrals of principal, interest, and fees for six months.



A small business can obtain a new Paycheck Protection loan and an SBA Economic Injury Disaster Loan (EIDL) so long as they cover different items. Flexibility is granted through no prepayment penalties on either the Paycheck Protection loan or the EIDLs and a refinancing option has been included.

Loan Forgiveness

The Senate proposal also establishes a loan forgiveness tool that allows businesses that maintain payroll continuity from February 15, 2020 through June 30, 2020 as defined by headcount, to request forgiveness on a Paycheck Protection loan used on payroll costs; mortgage interest; rent; and utility pay over an 8 week period.

The amount forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation.

The loan forgiveness program provides flexibility for businesses that re-hire workers that were previously laid off.

To receive loan forgiveness, a business will have to work with a lender to justify their payroll was maintained through documentation.

Lenders will be held harmless on decisions of eligibility and SBA will purchase the loan after the lender grants approval.

\$350 billion dollars will be provided for the Paycheck Protection Program and Loan Forgiveness.



COVID-19 RESPONSE PHASE 3: FAQs (Part 2)

INDIVIDUALS

Q: Does this bill provide individuals more compensation on Unemployment Insurance than they receive via employment?

A: The enhanced UI is designed to keep as many as whole as possible. Some may temporarily receive more benefit than previous payment – though that number is very small relative to the number of people who will be filing UI claims in next few weeks.

Right now, states pay between \$250-500/week in unemployment and they base it on a percentage of a worker's paycheck, usually between 1/3 to 1/2 of prior earnings. An additional \$600 will put some workers at or just above their usual paycheck – this increase only lasts until July 31st. Additionally, the worker must have been laid off by their employer, so they can not voluntarily "opt-in" by quitting. The main point of the overall bill is to provide a lifeline to small businesses, so they don't have to lay people off in the first place. Without this bill, the UI problem will be magnitudes worse.

SMALL BUSINESS

Q: Is Planned Parenthood eligible for SBA loans and grants?

A: No, Planned Parenthood is not eligible for SBA grants or loans. Originally, the Senate bill contained a clause that excluded nonprofits that received Medicaid (i.e. Planned Parenthood) from participating in the Paycheck Protection Program. This exclusion clause was ultimately removed from the final bill.

However, the final bill binds nonprofits to the SBA's affiliation rules. The bill permits nonprofits to participate in SBA's loan programs, provided they have 500 employees or less. Planned Parenthood is a nonprofit and is subject to the 500 employee cap and the affiliation rule. Therefore, Planned Parenthood and their affiliates are not eligible for SBA grants or loans, as they have more than the allowable 500 employees.

Q: Are businesses that employ more than 500 employees across multiple locations eligible for the Paycheck Protection Program at each individual location?

A: A business is generally eligible for the Paycheck Protection Program if it is a for-profit business, 501c3, or 501c19 (veterans organization) nonprofit with fewer than 500 employees. There are a few exceptions. Businesses in the accommodation and food service industry (assigned a North American Industry Classification System code beginning with 72) with more than one location, a business could also be eligible at the store and location level if the store employs fewer than 500 workers. In other words, each store location could be eligible.

Previous Senate drafts required the accommodation and food service industry business to have less than \$500 million in gross receipts to be eligible. This \$500 million requirement has been removed from the Senate's final bill. Lastly, if franchisors that appear in the SBA's National Franchise Directory, assistance will extend down to the franchisee at the store or location level.

AIRLINES and DISTRESSED INDUSTRIES

Q: How does the “conflict of interest” prohibition for the president and members of Congress apply?

A: Conflicts of Interest

- *Applies only to the \$500B allocated to Treasury – not the SBA lending provisions.*
- *Applies to President, Vice President, head of any executive department, any Member of Congress, and their immediate family members (spouse, children, son-in-law, daughter-in-law).*
- *If Member (or President/Vice President/head of executive department) combined with that individual's family members controls or owns more than 20% of any class of equity security of a company (by voting rights or value), that means that company is ineligible for lending under the \$500B allocated to Treasury.*
- *Applies not just to public companies but also private companies (LLCs, S corps, etc.).*
- *Principal executive officer and financial officer of each company seeking funding under Treasury lending must certify that the conflict of interest section does not apply to their company (i.e., they are not controlled by a Member/President/VP/head of executive department or those people's family).*

Q: Does the bill provide assistance to cruise lines, the owners and operators of small passenger vessels, or port facilities?

A: In general, the CARES Act provides \$454 billion to provide loans, loan guarantees, and other investments to assist eligible businesses. Eligible businesses are U.S. businesses whose losses result from the coronavirus, and U.S.-owned cruise lines, owners and operators of small passenger vessels, and port facilities are expected to qualify.

Q: Does the bill provide any regulatory relief to the trucking industry?

A: The CARES Act includes language requested by the Department of Transportation (DOT) to clarify state authority to issue special permits for increased truck weight. Under either a “major disaster” or “emergency,” states can issue special permits for heavier trucks to deliver relief supplies. This ensures the validity of state-issued special permits.

Q: What are the labor provisions related to the Federal Reserve loan facility and how do they apply?

A: **Topline:** *There are no mandatory union provisions for the \$454 billion in emergency funding. The Secretary has wide authority to establish the best programs needed to support the economy.*

What are the union provisions in the bill?

- *There is a section in the bill instructing the Secretary to “endeavor to seek” to establish a mid-size business lending facility for direct lending as one of several facilities funded with that \$454 billion.*
- *Two of the requirements for direct loan recipients under solely the mid-size business lending facility impose union-related restrictions. Those include not abrogating existing Collective Bargaining Agreements (CBAs), and an agreement that the business will stay neutral in union organizing.*

What do they do?

- *The provisions restrict the business from abrogating an existing collective bargaining agreement and agreeing to stay neutral in any labor union formation.*

Will businesses have to agree to these restrictions?

- *The section only requires the Secretary to “endeavor to seek” to establish a direct loan program. The Secretary does not have to establish one.*
- *The bill text only requires a good faith certification by a business that it is meeting the requirements of the union provisions if one is established.*
- *There is no enforcement mechanism.*
- *It is also important to remember these provisions apply to only one option for how the \$454 billion in funding will be distributed.*
- *The bill provides several ways for the Treasury to work with the Fed to get money to businesses outside of the union provisions.*

What flexibility does the Secretary have to waive the provisions?

- *The Secretary has maximum flexibility: Remember, the point of the emergency lending is to give the Secretary maximum flexibility for helping our most distressed sectors of our economy.*
- *In the bill text, you will see that the Treasury Secretary has a great deal of discretion and waiver authority.*
- *For example, the bill preserves the Secretary’s right to waive certain restrictions for the loan if it’s to “protect the interest of the Federal government.”*
- *And the bill only requires a good faith effort for the Treasury Secretary to try to follow the terms and conditions, but it’s not a requirement.*
- *Treasury Secretary may not be able to follow it or might decide to structure midsize business support differently.*

Are there other provisions in the bill that impact unions or union activity?

- *Yes. Section 4025 of the bill prevents the government from requiring an air carrier to enter into collective bargaining agreement (CBA) negotiations to get a loan. It does not prevent an air carrier from entering CBA negotiations on its own.*
- *The airline industry does not oppose this provision.*

APPROPRIATIONS and MISCELLANEOUS PROVISIONS

Q: Why is there a \$25 million appropriation for “Congressional Salary and Expenses” in the bill?

A: \$25 million is provided to the Chief Administrative Officer, which is appropriated under the Salaries and Expenses account for the House of Representatives. Before funds can be spent, a spend plan is to be provided to and approved by the Committee on Appropriations. These funds are intended for computer purchases for teleworking, technology for video town halls, equipment for computer imaging, expansion of IT Customer support, and emergency expenses to support the Sergeant at Arms. These funds are not intended to be used to increase salaries of Members or staff.

Q: How will the \$150 billion Coronavirus Relief Fund for states and local government be allocated?

*A: **Coronavirus Relief Fund** (Sec. 5001) – A program created under the Department of the Treasury to provide funding to States, Tribes, and localities to offset lost revenue as a result of the coronavirus public health emergency. The bill provides an appropriation of \$150 billion to be distributed by formula based on population. Eligible local governments may apply directly to the Treasury for funding and amounts paid to a state will be reduced accordingly.*

Who is eligible to apply and receive funding?

- *States, eligible local government, Tribal governments, DC, and the territories.*

How is funding distributed?

- *Funding is paid based on a state share of the total population, subtracting any amounts paid to local governments.*
- *No state can receive less than \$1.25 billion.*
- *\$3 billion is reserved for the District of Columbia, Puerto Rico, Virgin Islands, Guam, Northern Mariana Islands, and American Samoa. The amount for each is based on population.*
- *\$8 billion is reserved for Tribal governments after consultation.*

What is the timing for distributing funds to states?

- *Funds must be paid within 30 days of enactment.*

How is funding allocated to states?

- *State receive an amount equal to their relative population, deducting any amount that may have been paid to units of local government within the state who applied for funding independent of the state.*

What criteria is used to determine if local governments can apply?

- *A local government means any county, municipality, town, or other unit of general government with a population greater than 500,000.*
- *Smaller units of local government will need to work with their states to access funding.*

How much can local governments receive if they apply directly?

- *In no event will the total amount allocated directly to local units of government exceed 45% of the state’s allocation.*

- A local government may receive 45 percent of the amount provided to the state times its relative population to the state
 Ex: $\frac{\text{Town Population}}{\text{State Population}} \times 45\% \text{*(total amount for state)}$

How is population determined?

- The most recent year for which data are available from the Bureau of the Census.

What can funds be used for?

- Funds may only be used to cover the costs associated with necessary expenses incurred as a result of the coronavirus diseases 2019 public health emergency, not accounted for in the most recently approved state budget, for calendar year 2020. The fungibility of certain aspects of public budgeting and the general sorts of revenue shortfalls that are expected in the current economic climate makes it unclear how restrictive those limitations will be in practice.
- Covered by protections and restrictions that apply to annual LHHS appropriations, including Hyde.

Q: What funding is provided to the Federal Emergency Management Agency (FEMA) to support state and local response efforts?

A: The CARES Act infuses \$45 billion into FEMA's Disaster Relief Fund (DRF), which will be added to the existing amounts in the DRF (approximately \$40 billion). This funding will help response efforts in states with approved major disaster declarations. The bill also includes \$100 million for FEMA's Emergency Management Performance Grants (EMPG), which support state and local emergency management capacity; \$100 million for Assistance to Firefighter Grants to support the acquisition of personal protective equipment; and \$200 million for FEMA's emergency food and shelter program.



WAYS AND MEANS

REPUBLICANS | KEVIN BRADY, REPUBLICAN LEADER

Senate CARES Coronavirus Bill

Details of Individual Tax Rebates

- As long as a person has a valid Social Security number, they can receive the credit – so this means workers, those receiving welfare benefits, Social Security beneficiaries, and others are all eligible.
 - There is no tax liability requirement.
 - There is no earned income requirement.
- If someone is here illegally, they cannot receive the credit.
 - The bill includes improved language based on the implementation of the 2008 law to ensure that illegal aliens are not going to get the credit. If an illegal alien files a return using a SSN, IRS will have the authority needed to not pay the credit.
- The full credit amount (\$1,200 individuals, \$2,400 couples, \$500 for children) is available for those with incomes at or below \$75,000 individual, \$112,500 head of household, \$150,000 joint.
 - The credit is not taxable, consistent with other refundable tax credits.
 - The credit phases out above those thresholds and will be phased out completely for single taxpayers with incomes exceeding \$99,000 and \$198,000 for joint filers.
- Payments may be made electronically to an account previously authorized by the individual.

CARES Improves on Emergency Stimulus Act Of 2008

BETTER WAYS TO ENSURE ONLY THE ELIGIBLE RECEIVE CREDIT

CARES provides the necessary authority to ensure credit only goes to individuals with a valid Social Security number.

- TIGTA found the IRS lacked sufficient math error authority to prevent individuals without valid SSNs from receiving a refund check and erroneously paid more than \$27 million to non-eligible individuals.¹

A BETTER PROCESS FOR THOSE WHO DIDN'T HAVE TO FILE TAXES

The CARES Act makes it easier for seniors and individuals with disabilities to receive the credit, by using the SSA-1099 and RRB-1099 information to identify Social Security retirement and disability beneficiaries and Railroad Retirement beneficiaries who may not otherwise file and are eligible.

¹ “Evaluation of the Planning, Computation, and Issuance of the Recovery Rebate Credit.” Treasury Inspector General for Tax Administration, September 9, 2009. <https://www.treasury.gov/tigta/auditreports/2009reports/200940129fr.pdf>
Committee on Ways and Means

- Non-filers faced significant barriers to accessing the credit in the Emergency Stimulus Act. The Taxpayer Advocate recommended finding a way to allow a future credit to be paid to eligible Social Security and VA beneficiaries without having to file, if they do not otherwise need to do so.²

EASY: EVERYONE GETS THE SAME REFUND AMOUNT

CARES Act simplifies the refundable credit for individuals by offering the same refund amount to all eligible individuals and eliminating both the qualifying income requirement and the tax liability requirement.

- Complexity of the eligibility and computation rules lead to taxpayer confusion, increasing work for IRS and SSA. The Taxpayer Advocate suggested simplifying for future refundable credits.³

	Economic Stimulus Act of 2008 (as amended by HEART Act of 2008)	Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
Eligibility	<ul style="list-style-type: none"> • Must have either: <ol style="list-style-type: none"> (1) Qualifying income of at least \$3,000: <ol style="list-style-type: none"> a. Earned income b. Social Security, Veterans Affairs, or Railroad Retirement benefits (2) Tax liability greater than zero • Must have a valid SSN <ul style="list-style-type: none"> ○ unless spouse or child of a military member 	<ul style="list-style-type: none"> • No income requirement. • No tax liability requirement. • Must have a valid SSN <ul style="list-style-type: none"> ○ unless spouse/child of a military member or adopted child (uses Adoption Tax Identification Number)
Amount	<ul style="list-style-type: none"> • Maximum of \$600 for individuals (\$1,200 joint filers) and \$300 per child. • Cannot exceed net income tax liability with a minimum credit of \$300 for individuals (\$600 joint filers). • Phases out beginning at \$75,000 for individuals, \$150,000 for joint filers. 	<ul style="list-style-type: none"> • \$1,200 for individuals (\$2,400 joint filers) and \$500 per child. • Phases out beginning at \$75,000 for individuals, \$112,500 head of household, \$150,000 for joint filers.
Are non-tax filers eligible?	Yes, as long as they have qualified income \$3,000+, and file a prior-year tax for the credit.	Yes, there are two ways in this bill for non-filers to receive a refund check: <ol style="list-style-type: none"> (1) By filing a tax return for the 2019 tax year, which they can do until July 15. (2) By IRS using the SSA-1099 and RRB-1099 to identify Social Security and Railroad Retirement beneficiaries who fall below the tax filing requirement.
Does it affect eligibility for means-tested benefits?	No – explicit prohibition on credit being counted in eligibility for Federal benefits calculations.	No – Section 6409 of the Internal Revenue Code already prohibits these types of credit from affecting eligibility for means tested benefits.

² See testimony of Nina Olson at June 19, 2008 Joint Hearing of the Subcommittee on Oversight and Subcommittee on Social Security. <https://www.govinfo.gov/content/pkg/CHRG-110hhrg50038/pdf/CHRG-110hhrg50038.pdf>

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