



## President Trump Signs \$2 Trillion Stimulus Bill into Law, Which Includes Support for Non-Profits

The \$2 trillion stimulus bill was passed by the House and signed into law late Friday by President Trump. The funding will introduce cash into the economy, help struggling businesses and provide additional supports to average Americans. This is an update to the communication distributed last week by NCYS. Information highlighted in yellow is new, updated and/or corrected material from the previous communication.

### ***What Does this Mean for Small Businesses and Non-Profits?***

Typically small business assistance has been directed at for-profit companies, but under this stimulus package, that has been extended to certain “small” nonprofit organizations, including 501(c)(3) organizations. “Small” typically means fewer than 500 employees.

**7(a) small business loans with payroll protection protection:** Creates a new Emergency Small Business Loan program within the Small Business Administration (SBA) 7(a) loan program of \$367 billion for a new “paycheck protection program” for small employers, self-employed individuals, and “gig economy” workers. This, in essence, turns the loan into a general operating support grant (See *Title I, Section 1102 of the bill*).

- The “Paycheck Protection Program” would provide eight weeks of cash-flow assistance through 100% federally guaranteed loans to small employers who maintain their payroll during this emergency.
  - Provides funding for special emergency loans of up to \$10 million for eligible nonprofits and small businesses, permitting them to cover costs of payroll, operations, and debt service, and provides that the loans be forgiven in whole or in part under certain circumstances (*Section 1102*).
- Eligible borrowers: Available to entities that existed on March 1, 2020 and had paid employees.
  - Nonprofit Eligibility: Available for charitable nonprofits, 501(c)(3), exempt from taxes under 501(1), with 500 or fewer employees (counting each individual – full time or part time and not FTEs). The final bill does not include a provision in earlier drafts that would have disqualified nonprofits that are eligible for payments.
    - Also 501(c)(19), Tribal businesses, Sole proprietors, independent contractors, and eligible self-employed individuals
- Loan amounts: Lesser of 2.5 times average monthly payroll costs based upon the year immediately preceding the date of the loan or \$10 million
  - Maximum of \$10 million

- Payroll costs include employee: salary, wage, commissions, tips, or similar compensation payments
  - Can not exceed an annualized amount of \$100,000 for any one individual employee
  - Includes paid vacation, parental, family, medical, or sick leave (other than payments required under the previous coronavirus emergency bill), payments for provision of group health benefits, including premiums, and retirement benefits, and state and local taxes assessed on compensation of employees
- See pages 17-19 of the bill for this calculation
- Uses of loan:
  - Paid sick, medical, or family leave
    - NOTE: Qualified sick leave wages under Sections 7001 and 7003 of [Public Law 116-127](#) (<https://www.congress.gov/116/bills/hr6201/BILLS-116hr6201enr.pdf>), Families First Coronavirus Response Act are not eligible for loan forgiveness
  - Costs related to continuation of group healthcare benefits during periods of leave
  - Payroll costs/employee salaries (up to \$100,000 a year of employees salary)
  - Mortgage interest payments
  - Interest on any other debt obligations entered into before February 15, 2020
  - Rent
  - Utilities
- Loan forgiveness (the turning into a grant part):
  - Loans would be forgiven if employers maintain their payroll during the covered period (March 1, 2020 – June 30, 2020) (*See Title I, Section 1106 of the bill*).
  - The amount forgiven is reduced for decreases in full time equivalent employees and decreases of more than 25% in compensation to employees making less than \$100,000 on an annualized basis.
    - Reductions in FTE's or compensation occurring between February 15, 2020 and 30 days after enactment of the Act are not taken into consideration if restored by June 30, 2020.
- SBA application fees would be waived.
- No personal guarantees or collateral will be required for these loans.
- The maximum repayment period on any part of the loan not otherwise forgiven is 10 years
- Although the application process will not be available for at least a week or so, you can get a sense of the process by looking at current 7(a) loan application processes by visiting: <https://www.sba.gov/partners/lenders/7a-loan-program/types-7a-loans>

**Debt relief:** For six months, SBA is required to pay all principal, interest, and fees for six months on all existing SBA loan products, including 7(a), Community Advantage, 504, and Microloan programs.

**Timely:** SBA is expected to be told to enact these programs with regulations no later than 15 days after the Act is signed into law.

- Note that it will take the Administration probably several weeks, in some instances, to work out the details, particularly for the new programs.

### ***What are the Key Company Provisions?***

**Delays payroll tax payments for employers:** Employers will 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.

**Social Security payroll tax deferment:** Employers would also be able to defer payment of 6.2% of Social Security payroll taxes.

**Employee retention payroll tax credit for hard hit companies/organizations:** Companies of any size may be eligible for a 50% credit on up to \$10,000 of wages paid to those employees (or a total of \$5,000 per employee) when certain conditions are met (*Section 2301*).

- **How calculated:** The provision provides a refundable payroll tax credit for 50% of wages paid by employers to employees during the COVID-19 crisis.
  - The credit is based on qualified wages paid to the employee.
    - For employers with greater than 100 full time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above.
    - For eligible employers with 100 or fewer full time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order.
  - The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee.
- **Eligibility:** The credit is available to employers whose:
  - (1) operations were fully or partially suspended, due to a COVID-19-related shut-down order, or
  - (2) gross receipts declined by more than 50% when compared to the same quarter in the prior year (2019).
  - **This includes 501(c) nonprofits.**
    - Entity's whole operations must be taken into account when determining the decline in revenues.
  - Notably, employers receiving emergency SBA 7(a) loans would not be eligible for these credits.
- **Term:**
  - The availability of the credit would continue each quarter until the organization's revenue exceeds 80% of the same quarter in 2019.
  - The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.

**Economic Injury Disaster Loans (EIDL):** This is an existing program that provides loans of up to \$2 million at an interest rate of 2.75% for nonprofits and companies (*Section 1110*).

- These loans are available to businesses/organizations that need financial support during these difficult times to pay fixed debts, payroll, accounts payable, and other bills that can't be paid because of the disaster's impact.
- Eliminates creditworthiness requirements and appropriates an additional \$10 billion to the EIDL program so that eligible nonprofits and other applicants can get checks for \$10,000 within three days.
- Additional information about EIDL can be found at: <https://disasterloan.sba.gov/ela/information/eidlloans>
  - Note that changes in the program due to this stimulus bill may not be reflected immediately on the site.

**Federal money for business loans:** \$454 billion is to be made available for loans, loan guarantees, and investments used to leverage Federal Reserve loans (*Section 4003*).

- Typically, only banks can borrow from the Federal Reserve. This stimulus now allows qualified businesses to get loans directly from the Reserve, instead of having to go through bank intermediaries.
- Federal loans prevent the Federal Reserve from taking a loss, so the bill allocates funding to serve as loan guarantees against these direct loans to pay the Reserve should any of these loans default.
- The Secretary of the Treasury shall set the terms, conditions, necessary coveants, representations, warranties, and other requirements and set the rate for the loan "based on the risk and current average yield on outstanding marketable obligations of the United States of comparable maturity."
  - The Secretary has 10 days after the stimulus is signed into law to publish such.
- Mid-sized businesses, including 501(c)(3) nonprofits, have special provisions (*Section 4003(c)(3)(D)*).
  - This covers businesses of between 500 and 10,000 employees.
    - There is some confusion on whether 501(c)(6) organizations are eligible.
  - Although there is no loan forgiveness provision in this section, the mid-size business loans would be charged an interest rate of no higher than 2% and would not accrue interest or require repayments for the first six months.
    - In other words, no interest will accrue and no payments needed for at least six months.
      - The Secretary of the Treasury can extend that period if the emergency calls for it.
  - Mid-sized companies and nonprofits accepting these loans must:
    - Retain at least 90% of their staff at full compensation and benefits through September 30, 2020
    - Restore, by four months following the end of the emergency declaration, 90% of the workforce they had on hand as of February 1, 2020 at the full compensation and benefits level those employees had at that time
    - Be "domiciled" in the United States with significant operations and employees located in the United States and incorporated in the United States
    - Not be a debtor in bankruptcy proceedings

- Not pay dividends to stockholders, unless required to do so by existing contract
- Not outsource jobs overseas or obrogate existing collective bargaining agreements for the term of the loan and two years after completion of repayment

**Extended business loss carryover:** Businesses will be able to carry back losses from 2018, 2019, and 2020 to the previous five years, which will allow businesses access to immediate tax refunds. In other words, for those businesses that had tax liabilities (paid taxes) at any point during the last five years, they can now use any losses from this and the previous two years to offset those liabilities and by refiling their taxes, get the amount paid in those years, that is now able to be offset by the losses, back as rebates.

**Easy for private business loans:** There are provision to loosen restrictions on banks so that banks can be in a position to more easily/readily provide resources to business customers.

**Amends New Paid Leave Mandates:** Lowers the amounts that employers must pay for paid sick and family leave under the [Families First Coronavirus Response Act\\*](#) (enacted March 19) to the amounts covered by the refundable payroll tax credit – i.e., \$511 per day for employee sick leave or \$200 per day for family leave.

### ***What Does This Mean for Individual Taxes and Funding?***

**Individual checks:** A one-time check of \$1,200 per individual and \$500 per child. These amounts will be reduced for higher income earners, starting at \$75,000 for individuals, \$112,500 for head of household, and \$150,000 for married couples (no checks for those earning over \$99,000).

- Checks are expected for even those without current tax liabilities, which is different from where things started at the beginning of negotiations.

#### **Retirement accounts changes:**

- Mandatory minimum distributions will be suspended for 2020, allowing older Americans that are subject to mandatory minimum distributions from their retirement accounts to be able to keep their capital invested instead of being forced to cash out to draw on that capital without penalty.
- Similarly, the bill is expected to waive the 10% penalty on Coronavirus-related early distributions from 401(k)s and IRAs, which applies to distributions made at any time during 2020.

**Student loan relief:** Students with federal loans can suspend payments until September 30, interest-free. Students who have to drop out of school because of the virus also don't have to pay loans for that time.

**Work-study payments:** Colleges “may make payments under such part to affected work-study students, for the period of time (not to exceed one academic year) in which affected students were

unable to fulfill the students' work-study obligation for all or part of such academic year due to such qualifying emergency (*See Section 3505 of the bill for more details*).

**Pell grant duration waiver limit:** "A student's Federal Pell Grant duration limit under Section 401(c)(5) of the Higher Education Act of 1965 (2 U.S.C. 1070a(c)(5)) [shall be excluded] any semester (or the equivalent) that the student does not complete due to a qualifying emergency if the Secretary [of Education] is able to administer such policy in a manner that limits complexity and the burden on the student" (*Section 3507*).

**College withdrawal penalty waiver:** College students that are forced to withdraw from college due to the emergency will have the normal federal college loan withdrawal penalty waived (*Section 3508(b)*).

### ***What are the Miscellaneous Issues?***

**SAMHSA:** \$425 million for Substance Abuse and Mental Health Services Administration (SAMHSA) to add to their "Health Surveillance and Program Support" budget "to prevent, prepare for, and respond to the coronavirus, domestically or internationally." Of that:

- \$50 million for suicide prevention programs
- \$250 million for the Certified Community Behavioral Health Clinic Expansion Grant
- \$100 million for the State Emergency Grant program to make "noncompetitive grants, contracts or cooperative agreements to public entities to enable such entities to address emergency substance abuse or mental health needs in local communities."
- \$15 million for tribal and Indian health

**Charitable giving incentive:** Includes a new above-the-line deduction (universal or non-itemizer deduction that applies to all taxpayers) for total charitable contributions of up to \$300.

- The incentive applies to contributions made in 2020 and would be claimed on tax forms next year (*Section 2204*).
- The bill also lifts the existing cap on annual contributions for those who itemize, raising it from 60% of adjusted gross income to 100%.
- For corporations, the bill raises the annual limit from 10% to 25%. Food donations from corporations would be available to 25%, up from the current 15% cap (*Section 2205*).

### **Student loans:**

- Defers payments for federally owned student loans for six months, through September 30.
- Employers can provide a student loan repayment benefit to employees on a tax-free basis.
  - Under the provision, an employer may contribute up to \$5,250 annually toward an employee's student loans, and such payment would be excluded from the employee's income. The \$5,250 cap applies to both the new student loan repayment benefit as well as other educational assistance (e.g., tuition, fees, books) provided by the employer under current law. The provision applies to any student loan payments made by an employer on behalf of an employee after date of enactment and before January 1, 2021.

**\$150 billion for state and local governments:**

- Plus \$30 billion for the Disaster Relief Fund to provide financial assistance to state, local, tribal, and territorial governments, as well as private nonprofits providing critical and essential services.
- Includes programs such as SNAP, Child Nutrition Programs, Child Care and Development Block Grants, and Head Start.
- \$13.5 billion in stabilization fund money which can be used to provide K-12 students internet connectivity and internet-connected devices.
  - Most of the funds will go directly to schools via formula, while \$3 billion will go to governors to be distributed.
- \$25 million for rural development to support "distance learning."
- \$100 million in Project SERV grants to help clean and disinfect schools, and provide support for mental health services and distance learning and other planning and measures taken for prolonged closures.
- \$5 million for health departments to provide guidance on cleaning and disinfecting schools and day-care facilities.

**College aid:** \$14.250 billion will be available for higher education emergency relief for institutions of higher education to prevent, prepare for, and respond to the Coronavirus.

- Funds may be used to defray expenses for institutions of higher education, such as lost revenue, technology costs associated with a transition to distance education, and grants to students for food, housing, course materials, technology, health care, and child care.
- **Cost sharing requirements for certain federal loans are being waived** (*Section 3503*).

**Unemployment insurance:** Huge changes to the unemployment insurance system.

**ESEA/ESSA waivers:** Gives the Secretary of Education waiver authority for certain provisions of the Elementary and Secondary Education Act (ESEA) that schools would otherwise have to comply with.

**Elementary and secondary school emergency funding:** \$30.75 billion in funding is being provided to schools through formula grants passed through the states (*Section 18003*). Some of the potential uses of the funds include:

- IDEA programs and services
- Homeless student programs and services
- Career and technical education programs and services
- "Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population."
- "Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies."

- “Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases” and the purchasing of cleaning supplies
- Planning, coordinating, and technology for operations and learning during long-term closures
- “Providing mental health services and supports”
- Summer learning activities
- Other activities that are necessary to maintain the operation of and continuity of services in local educational agencies and continuing to employ existing staff of the local educational agency

## Legislative summaries by National Council of Nonprofits

- A section-by-section for [unemployment insurance and tax policy](#)
- A section-by-section for [health policy](#)
- A section-by-section for [appropriations](#)
- A section-by-section for [banking policy](#)

## Small Business Resources

[Daily tracker of financial assistance for small businesses at national, state, and municipal level](#)

[Small business relief tracker: funding, grants, and resources for small businesses](#)

[List of small business relief programs](#)

### Contact:

- [National, regional, and district offices and loan guaranty centers](#)
- [Local SBA office locator](#)
- [List of all SBA offices across the country](#)

### Other info:

- [Information on SBA loan programs](#)
- [Federal, State, Local, and Private Coronavirus Loan Resources](#)
- [SBA Disaster Loan Program](#)
- [SBA Disaster Assistance press release](#)

### State-Specific Resources:

- [Alabama](#)
- [Arkansas](#)
- [California](#)

- [California Resources for Coronavirus Impact](#)
- [Delaware](#)
- [Florida](#)
- [Georgia](#)
- [Illinois](#)
- [Iowa](#)
- [Kansas](#)
- [Louisiana](#)
- [Maryland](#)
  - [Maryland SBA website](#)
- [Massachusetts](#)
- [Michigan](#)
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## SBA Disaster Relief (For Economic Injury)

The U.S. Small Business Administration is offering designated states and territories low-interest federal disaster loans of up to \$2M for working capital to small businesses suffering substantial economic injury as a result of the Coronavirus (COVID-19).

Below is a brief outline of what we know about the program, with links and contact numbers for resources with more information.

### **The program:**

- \$50B of loans for working capital to small businesses suffering substantial economic injury as a result of the Coronavirus (COVID-19).
- The program will be administered through SBA's disaster loan program, which is primarily set up to offer loans after natural disasters in targeted geographies (e.g. post Hurricane Katrina, Sandy, etc). The advantage of this approach is that it will be easier to get the program up and running quickly by making it part of an existing program with already established processes. There may be

some challenges, however, as they utilize a program structured for one purpose and apply to a different set of circumstances.

- Loans up to \$2M per small business. Proceeds can be used in a variety of ways: paying off fixed obligations, A/P, payroll, other costs.
- Low interest – 3.75% for business. Term of the loan will be set on a case by case basis. Up to 30 years.
- Details of the program are still being worked out.
  - Typically, SBA requires a “credit elsewhere” test, i.e. the business has tried to secure a loan elsewhere, but was turned down. It’s not clear yet what, if anything, SBA will require in this program.
  - It’s not clear yet how what requirements SBA will put forth to determine that the impact of the COVID-19 is big enough to warrant the loan.
- Program overview can be found at <https://www.sba.gov/funding-programs/disaster-assistance>.
- For additional information, please contact the SBA disaster assistance customer service center. Call 1-800-659-2955 (TTY: 1-800-877-8339) or e-mail [disastercustomerservice@sba.gov](mailto:disastercustomerservice@sba.gov).

#### **Who qualifies:**

- The company must be in a state or territory from which the governor has applied to be designated a disaster area for purposes of this program. SBA identifies those areas for which it is currently accepting applications. <https://www.sba.gov/disaster-assistance/coronavirus-covid-19#section-header-1>. Even if a geography is not currently listed, it is highly likely that the geography is in the process of submitting its request and it would potentially make sense for companies to do their homework and prepare materials so that it is ready to go once a designation is finalized.
- Will be limited to companies suffering substantial business impact due to COVID – 19 (see earlier point –not clear how SBA will measure this)
- Meets SBA size standards. SBA has detailed rules in place to make sure larger companies aren’t trying to take advantage of a program intended for small businesses. These requirements will include:
  - Company size by financials or employee base. General rule is companies with up to 500 employees could qualify, but requirements vary by industry. The resources below can help individual companies clarify that they meet the size standard for their specific industry.
  - Affiliation. These are a complex set of rules that look at the underlying ownership of the company to determine how the small business is affiliated with other companies. In an extreme example, if a small company was owned by a large company, then the subsidiary would not qualify. As a general rule, if a private equity firm has more than 50% ownership of a company, the company may not qualify. The precise determination will depend on the individual facts and circumstances. The resources below can help individual companies evaluate these rules as well.

#### **Process:**

- [General guidance on the process for applying for a disaster loan \(not COVID-19 specific\): https://www.sba.gov/sites/default/files/files/Three\\_Step\\_Process\\_SBA\\_Disaster\\_Loans.pdf](https://www.sba.gov/sites/default/files/files/Three_Step_Process_SBA_Disaster_Loans.pdf)

- [Application form and filing requirements:](https://www.sba.gov/sites/default/files/Disaster%20Business%20Loan%20Application.pdf)  
<https://www.sba.gov/sites/default/files/Disaster%20Business%20Loan%20Application.pdf>

**For more help:**

Companies should reach out to SBA related resources in their state:

- SBA has a network of district offices around the country who are positioned to help. They will likely be the ones most up to date on what is happening with this specific program.  
<https://www.sba.gov/local-assistance/find/?type=SBA%20District%20Office&pageNumber=1>.
- Small Business Development Centers (SBDCs). These are independent organizations around the U.S. funded by SBA to support local small businesses. <https://www.sbdcnet.org/find-your-local-sbdc-office>. They should have experience with most SBA programs.

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