

# March 27, 2020

**H.R. 748, Coronavirus Aid, Relief, and Economic Security (CARES) Act**

<https://www.congress.gov/bill/116th-congress/house->  [bill/748/text?q=%7B%22search%22%3A%5B%22HR+748%22%5D%7D&r=1&s=1](https://www.congress.gov/bill/116th-congress/house-bill/748/text?q=%7B%22search%22%3A%5B%22HR%2B748%22%5D%7D&amp;r=1&amp;s=1)

On March 25, the U.S. Senate passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), a $2 trillion stimulus package designed to provide aid to states, industry and workers during the coronavirus outbreak. The sweeping, bipartisan legislation is the result of round-the-clock negotiations between Senate leadership and Trump Administration officials. The House is expected to take up the bill today. President Trump has signaled that he will sign the bill once it hits his desk.

The massive aid package is the third federal measure targeting the effects of the coronavirus pandemic in as many weeks, and by far the biggest. This package follows the appropriation of over $8.3 billion in emergency funding for small business disaster assistance loans and emergency health and medicine efforts (H.R. 6074) and the enactment of the [Families First](https://www.ihmm.org/sites/default/files/GovtAffairs/HR_6201_analysis.pdf)  [Coronavirus Response Act (H.R. 6201)](https://www.ihmm.org/sites/default/files/GovtAffairs/HR_6201_analysis.pdf) which established paid leave guarantees for certain workers among other provisions.

# Lending Program for Businesses and Local Government

The Act provides $500 billion for loans, loan guarantees, and other investments to certain, specified industries. Funds will be distributed through (1) direct lending and (2) Federal Reserve lending. The lending opportunities are subject to a host of oversight mechanisms.

The Act provides for the following direct loans: $25 billion for passenger air carriers and affiliated businesses; $4 billion for air cargo carriers; and $17 billion for businesses “critical to maintaining national security.” Direct lending is subject to specified limitations, including restrictions on the use of loans for stock buyback or dividend payments and requirements that borrowers maintain their employment levels.

In addition to direct lending, the Act authorizes $454 billion to enable the Federal Reserve to provide loans, loan guarantees, and other investments to businesses that have not otherwise received “adequate economic relief” under the CARES Act. Assistance provided under this program is also subject to requirements, including the requirement that funds be used to retain the recipient’s workforce.

# Small Business Relief Measures

The CARES Act authorizes $349 billion for the Paycheck Protection Program, which authorizes the Small Business Administration (SBA) to provide forgivable loans to small businesses, 501(c)(3) nonprofits, 501(c)(19) veterans organizations, and certain tribal entities to use for payroll expenses, such as employee salaries, paid sick or medical leave, insurance premiums, and mortgage, rent, and utility payments. The loan forgiveness option is structured to incent employers to keep their employees on the payroll. The amount of paycheck protection loans that will be forgiven will be reduced proportionally by any reduction in the employees or significant reduction in employee pay.

The bill also authorizes $10 billion to provide emergency grants (up to $10,000) for eligible small businesses under SBA’s Economic Injury Disaster Loans (EIDL) program. The emergency grants are available to EIDL applicants even if the applicant is subsequently denied an EIDL. Grant funds may be used to provide paid sick leave to employees, maintain payroll, meet increased costs to obtain materials, make rent or mortgage payments, and repay obligations that cannot be met due to revenue losses.

# Health Care System Investments

The Act provides $100 billion to reimburse health care provides for expenses or lost revenues as a result of COVID-19. The legislation further provides funding for medical research, equipment, and training, as well as increased Medicare payments to hospitals and providers.

# State and Local Government Support

The Act provides for $150 billion in aid to states and local governments. Funds will be allocated proportionally, but each state will receive at least $1.25 billion. The bill sets aside $3 billion for

U.S. territories, including Washington, DC, and $8 billion for tribal entities.

# Economic Development Agency Funding

Under the Act, the Department of Commerce’s Economic Development Agency will allocate

$1.5 billion to private sector companies and local and state governments for “economic assistance programs.” This funding can be used for a variety of purposes, including commercial and commuter transportation, tourism, manufacturing, and infrastructure. EDA funds are usually used to leverage private sector financing. Investors in Opportunity Zones should be eligible for this funding.

# Emergency Appropriations

The Act contains over $300 billion in new emergency funding for federal agencies to use toward programs targeted to help strained state, local, and tribal governments (in addition to the $150 billion set aside); hospitals and health care providers; law enforcement and first responders; schools and universities; research centers; and small businesses.

# Tax Benefits for Employers

The CARES Act provides a host of tax benefits for employers designed to incent and assist businesses to maintain their payroll during the COVID-19 crisis. Measures include:

**Employee Retention Credit:** The CARES Act provides a refundable payroll tax credit worth 50 percent of employee wages paid during the COVID-19 emergency. 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 percent when compared to the same quarter in the prior year.

**Employer Payroll Tax Delay:** The bill allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees. The deferred employment tax would be paid over the following two years.

**Net Operating Loss Modifications:** The legislation relaxes the limitations on a company’s use of losses. Net operating losses (NOL) are currently subject to a taxable-income limitation, and they cannot be carried back to reduce income in a prior tax year. The bill allows an NOL arising in a tax year beginning in 2018, 2019 or 2020 to be carried back five years. The bill also

temporarily removes the taxable income limitation to allow an NOL to fully offset income. The bill authors have stated that these changes are intended to allow companies to utilize losses and amend prior year returns to provide critical cash flow and liquidity during the COVID-19 emergency.

# Unemployment Insurance Expansion

The legislation expands access to federal unemployment benefits through the creation of a temporary Pandemic Unemployment Assistance program. The program will provide payment to those not traditionally eligible for unemployment benefits (including those who are self- employed, independent contractors or with limited work history) who are unable to work as a direct result of the coronavirus public health emergency. Benefits are available for individuals who are unemployed, partially unemployed or unable to work.

This bill further provides an additional $600 per week in unemployment benefits, on top of benefits available under other federal or state programs, for four months.

# Individual Rebates

Under the bill, all U.S. residents with adjusted gross income up to $75,000 ($150,000 for married couples), who are not a dependent of another taxpayer and have a work eligible Social Security number, are eligible for a full $1,200 ($2,400 for married couples) rebate as well as an additional $500 per child. This rebate is allowed even for those who have no income, as well as those whose income comes entirely from non-taxable means-tested benefit programs, such as SSI benefits.

For the majority of Americans, no action on their part will be required in order to receive a rebate check as the IRS will use taxpayers’ 2019 tax return, if filed, or in the alternative their 2018 return.

The rebate amount is reduced by $5 for each $100 that a taxpayer’s income exceeds the phase-out threshold. The amount is completely phased-out for single filers with incomes exceeding $99,000, $146,500 for head of household filers with one child, and $198,000 for joint filers with no children.

# Outlook for Future Stimulus Legislation

Leaders in Congress are already at work crafting new legislation with the expectation that additional funds will be needed to combat the coronavirus pandemic.