

UTAH ECONOMIC RESPONSE TASK FORCE

What the CARES ACT Means for Utah

The CARES Act, passed by Congress and signed by the President on March 27, 2020, is a \$2 trillion aid program to provide emergency assistance and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic.

The CARES Act is designed to keep Americans safe, businesses open, families and individuals financially secure, and large institutions funded while as a state we “Stay Safe, Stay Home” as much as possible over the next several weeks.

To improve healthcare outcomes, the package provides \$340 billion in emergency funding for COVID-19 health response measures across the United States, including right here in Utah. \$130 billion will be allocated to hospitals and health systems around the country. Individuals, businesses, public transit systems, state and local government disaster relief efforts, and K-12 education programs will all receive emergency funding.

The Act ensures patients’ COVID-19 diagnostic test costs are covered free of charge, regardless of their type of insurance and expands access to telehealth for COVID-19-related services while providing billions in additional funding for personal protective equipment and medical supplies. Additionally, it strengthens the U.S. medical device and drug supply chain to prevent future shortages and to ensure hospitals have the necessary equipment and supplies.

We are grateful to Senators Lee and Romney as well as Representative McAdams and their respective teams for quickly compiling the following information. We will continually update this information as the package is operationalized through regulations and programming.

ARE YOU A SMALL OR MID-SIZED BUSINESS?

The CARES Act provides small and mid-sized businesses: (1) enhanced loans to cover payroll and fixed costs, (2) tax deferral, and (3) entrepreneurial assistance.

The U.S. Chamber of Commerce has created a checklist to easily walk you through how these loan programs apply to you. We strongly recommend you check it out [HERE](#).

Below are a few highlights that Utah businesses need to know:

Small Business Administration (SBA) Paycheck Protection Program

The CARES Act will provide up to \$349 billion for 100% federally-guaranteed loans to eligible small businesses and non-profits with 500 employees or fewer (including restaurants/hotel chains with no more than 500 employees per physical location), self-employed individuals, and contractors to prevent workers from losing their jobs and businesses from going under due to losses caused by COVID-19.

- **Loan Terms:** Eligible entities may apply for a loan equal to 2.5 times their average monthly payroll from 2019 or \$10 million, whichever is less. Loans are interest-free for the first year, and then charge up to a 4% interest rate for out-years. Loans may be used towards payroll (capped at an annualized rate of \$100,000 per employee), rent, mortgage interest, utilities, and interest on pre-existing debt.
- **Partial Loan Forgiveness:** Any money spent within the first 8 weeks of receiving the loan (except on interest on pre-existing debt) will be forgiven. If the business reduces its number of employees, then the SBA reduces the amount of forgiveness by the same percentage. Likewise, if the business reduces the salary it pays to an employee earning less than \$100,000 by more than 25%, the SBA reduces the amount of forgiveness on a dollar-for-dollar basis. Employers that restore their employment numbers and salaries by June 30, 2020 would experience no reduction in forgiveness.

Additional SBA Provisions

- All payments on principal, interest, and fees for SBA-issued loans undertaken before enactment of the bill will be covered by the SBA for six months.
- The maximum amount for SBA Express loans (approved within 36 hours of application) is increased from \$350,000 to \$1 million.
- Small businesses who have applied for an **Economic Injury Disaster Loan** (EIDL) may request a rapid advance (issued within three days of application) of up to \$10,000 on the loan to cover paid sick leave, payroll, increased supply chain costs, rent/mortgage payments, and other obligations that cannot be met due to revenue loss.

Tax Deferment

Businesses and self-employed individuals (except some who take out forgivable loans under the SBA Paycheck Protection Program) may defer payroll tax payments for 2020, with 50% due on December 31, 2021 and 50% due on December 31, 2022. Tax payments for 2021 and 2022 are unchanged.

Entrepreneurial Assistance

The CARES Act provides additional funding for small business development centers, women's business centers, and the Minority Business Development Agency. These organizations are available to help small businesses access federal assistance programs and advise businesses on how to manage the disruptions associated with COVID-19. You can connect with one of these organizations in Utah through these links:

- Small Business Development Centers: <https://utahsbdc.org/>
- Women's Business Center: <https://wbcutah.org/>
- Minority Business Development Agency: <https://www.mbda.gov/>

ARE YOU A LARGE BUSINESS?

The CARES Act allocates \$454 billion to the Federal Reserve to make loans and loan guarantees to eligible businesses, states, and municipalities.

Parameters

The CARES Act requires the Secretary of Treasury to publish application procedures and minimum requirements for businesses to apply for this financial assistance within 10 days. While those regulations will detail how to access this aid, Congress provided the following parameters.

- Eligible businesses are those that have been “created or organized in the United States... and that have significant operations in and a majority of its employees based in the United States”, and have not received adequate economic relief in the form of loans or loan guarantees provided elsewhere in the CARES Act (such as the SBA Paycheck Protection Program).
- For the duration of the loan plus one year, the business cannot:
 - Repurchase an equity security of the business (or a parent company) that is listed on a “national securities exchange”¹ except to the extent required by an existing contract, Pay dividends or make capital distributions with respect to the business’s common stock,
 - Increase the total compensation² of any officer or employee who made more than \$425,000 in calendar year 2019,³
 - Provide an officer or employee with severance or other benefits which is more than twice the maximum total compensation received by the officer or employee, and
 - Provide more than \$3 million plus 50 percent of the excess over \$3 million for officers or employees whose total compensation exceeded \$3 million in calendar year 2019

Conditions

Further, Congress provided specific requirements for non-profits and mid-sized businesses with 500 to 10,000 employees. The Secretary of Treasury will provide financing to banks and other lenders that make direct loans to these entities with the following conditions:

- An annualized interest rate not higher than 2% with no required payments on the principal or interest in the first 6 months (or longer, if Treasury agrees).
- When applying for the loan, the business must make a good faith-certification that:
 - The loan is necessary to support ongoing operations due to economic uncertainty.

- The funds received will be used to retain at least 90% of the recipient's workforce, at full compensation and benefits, until September 30, 2020.
- The business intends to restore not less than 90% of the workforce that existed as of February 1, 2020, and intends to restore all compensation and benefits to workers not later than 4 months after the termination of HHS' COVID-19 public health emergency.
- The business is not a debtor in a bankruptcy proceeding.
- For the duration of the loan, the business will not pay dividends or purchase any of the business's (or parent company's) equity securities (or a parent company's).
- The business will not outsource or offshore jobs for the term of the loan plus 2 years after completing repayment of the loan.
- The business will not abrogate an existing collective bargaining agreement for the term of the loan plus 2 years after completing repayment of the loan.
- The business will remain "neutral" in any union organizing effort for the term of the loan.

Notes: 1 This is defined as an "exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f). 2 "Total compensation" includes "salary, bonuses, awards of stock, and other financial benefits provided" to an officer or employee of the business. 3 Note: employees subject to collective bargaining agreements are exempt from this requirement.

RESOURCES FOR AMERICANS

The CARES Act provides new resources to help Americans during the Coronavirus pandemic:

- Checks for adults who earn below \$99,000 individually or \$198,000 filing jointly and/or have children.
- Expands each state's Unemployment Insurance (UI) program by adding \$600 each week to every recipient's check for four months to provide immediate assistance to workers who are laid-off, furloughed, self-employed or are independent contractors.
- New flexibility to withdraw retirement funds without penalty
- Defers student loan payments, principal, and interest for up to six months to ease the burden on students who face significant hurdles entering the workforce.

Recovery Rebates

- Americans who earned \$75,000 or less and filed taxes individually in 2019 (or who earned \$150,000 or less and filed taxes jointly in 2019) will receive \$1,200 from the federal government. For those making more than \$75,000 individually (\$150,000 jointly), the amount will phase out incrementally until it reaches zero at \$99,000 (\$198,000 jointly).
- Parents will also receive \$500 per child, which will phase out based on income as well.
- For anyone who has not yet filed 2019 tax returns, the IRS will substitute 2018 returns in order to determine an individual's salary.

- For anyone who provided bank account information to the IRS when filing taxes in the past, the payment will be deposited directly within approximately three weeks. For others, checks will be mailed.

Pandemic Unemployment Insurance

- For states that enter into an agreement with the federal government, unemployment insurance (UI) will be expanded so that self-employed individuals, contractors, those who have already exhausted their UI benefits, and those impacted by COVID-19 become eligible.
- Individuals on unemployment insurance will receive a federal pandemic unemployment benefit of \$600 per week in addition to their state benefits until July 31, 2020.
- Individuals already on unemployment insurance who are out of work and searching for work will continue to receive benefits for an additional 13 weeks after their state benefits would normally have expired.
- New unemployment insurance filers will not be required to undergo the normal one-week waiting period prior to receiving their benefits.

Retirement Fund Flexibility

- Individuals may withdraw up to \$100,000 through the end of 2020 from their tax protected retirement accounts without penalty if they use the funds for coronavirus-related purposes. Individuals may repay all or some of the withdrawal within three years, but are not required to do so.
- Individuals may also borrow up to \$100,000 from a qualified employer retirement plan within 180 days. Individuals with outstanding loans from their employer retirement plan may delay payment by one year without penalty.

Note: Prior to the passage of the CARES Act, Congress passed the Families First Coronavirus Response Act (FFCRA) which applied new leave mandates on small and mid-size businesses. Therefore, individuals employed by a business with fewer than 500 employees could be eligible for employer-covered emergency paid coronavirus-related leave and additional leave to care for a child whose school is closed or care provider is unavailable.