

Nonprofit Support Programs in the Families First & CARES Act **Prepared by Senator Sanders' Office, April 10, 2020**

On March 18, the **Families First Coronavirus Response Act** created new workplace obligations for employers and expanded supports for individuals affected by the COVID-19 pandemic. On March 27, the **Coronavirus Aid, Relief, and Economic Security Act** (CARES Act) authorized more than \$2 trillion in relief spending. Many of the new programs are available to nonprofit organizations and their employees.

Paid Sick & Family Leave

The Families First Act mandated [paid sick and family leave](#) for most employers with under 500 employees. There are some exemptions, including for employers with fewer than 50 employees. Nonprofit organization employees are eligible for these benefits. Here is a FAQ sheet that may be helpful: <https://www.dol.gov/agencies/whd/pandemic/ffcra-question>.

Two weeks (up to 80 hours) of paid sick leave at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or

Two weeks (up to 80 hours) of paid sick leave at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor; and

Up to an additional 10 weeks of paid expanded family and medical leave at two-thirds the employee's regular rate of pay where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

Employers receive 100% reimbursement for this paid leave, including health insurance costs. Reimbursement will be quick and easy to obtain: an immediate dollar-for-dollar tax offset against payroll taxes will be provided, and where a refund is owed, the IRS will send the refund as quickly as possible.

Unemployment Insurance

The CARES Act created new unemployment insurance programs that are fully funded by the Federal Government:

Federal Pandemic Unemployment Compensation (FPUC) provides individuals with a federally funded boost of \$600 per week to their unemployment compensation for weeks beginning after the date of a signed agreement between the state and the Secretary of Labor through July 31, 2020. The \$600 benefit will be taxable, but it will not count in determining Medicaid or Children's Health Insurance Program (CHIP) eligibility.

Pandemic Emergency Unemployment Compensation (PEUC) provides up to 13 weeks of federally funded unemployment benefits for individuals that have exhausted their regular unemployment benefits under state or federal law, and are available to work and actively seeking it. States must offer flexibility on “actively seeking work” where there are COVID-19 impacts and constraints. The cost of PEUC benefits is 100% federally funded. States may not charge employers for any PEUC benefits paid.

Pandemic Unemployment Assistance (PUA) provides up to 39 weeks of unemployment benefits *to individuals who do not qualify for regular unemployment compensation* and are unable to work because of COVID-19-related causes. Individuals who are self-employed, seek part-time employment, have short work histories or have exhausted all rights to regular unemployment compensation or extended benefits under state or federal law or PEUC are eligible for PUA. PUA benefits must include no less than the minimum weekly benefit under Federal law, plus the \$600 weekly benefit. Weeks of unemployment beginning on or after January 27 through December 21, 2020, are covered.

Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations – This provision permits the Secretary of Labor to issue guidance allowing states to interpret their state unemployment compensation laws to provide maximum flexibility in reimbursing employers. It also provides a mechanism by which the Federal Treasury pays states to reimburse self-funded nonprofits, government agencies, and Indian tribes for half of the costs they incur to pay for all unemployment benefits from March 13, 2020 through December 31, 2020. As a general matter, Nonprofit Organizations fall into three categories for purposes of Unemployment Insurance:

- *Paying nonprofits* that pay state unemployment taxes (SUTA) based on their experience rating, which takes into consideration the recent history of claims by employees that are terminated or laid off.
- *Self-insured nonprofits* that reimburse the state for unemployment compensation that the state pays on claims by the nonprofit’s terminated and laid off employees.
- *Exempt nonprofits*, whose employees are not entitled to regular unemployment compensation. These include synagogues and affiliated religious organizations, day schools, and nonprofits with fewer than four employees on any given 20 days within a calendar year.

NOTE: Under PUA, employees of SUTA exempt organizations (e.g., nonprofits with fewer than four employees) are eligible to receive the Federal Pandemic Unemployment Compensation (FPUC) of \$600 per week.

Small Business and Nonprofit Loans and Grants

Paycheck Protection Program – the CARES Act provided \$350 billion to small business and nonprofits to help maintain their existing workforce and help pay for other expenses like rent, mortgage, and utilities through loan forgiveness grants.

- Businesses may apply for up to **\$10 million** to cover 8 weeks of average payroll. The loan will be forgiven if the business retains its employees and their salary levels.
- The loan also covers mortgage interest (not principal), rent and utilities for the 8 weeks of the loan. However, not more than 25 percent of the loan forgiveness will be for non-payroll costs.
- Self-employed and gig workers are eligible for this assistance.
- This program is on a “first come, first serve” basis and funding is limited, so contact a lender promptly. You can find an approved lender list here: <https://www.sba.gov/paycheckprotection/find>
- The loan terms are 24 months at 1%. Principal and interest is deferred for up to a year and all borrower fees are waived.

- This assistance through the U.S. Small Business Administration (SBA) and the Department of Treasury can be used in coordination with other COVID-financing assistance established in the bill or any other existing SBA loan program. More info here: <https://home.treasury.gov/system/files/136/PPP--Fact-Sheet.pdf>
- Loan forgiveness is part of the language of this program but it is not automatic. Once you have taken the loan and paid your employees and the expenses allowed, you then need to request forgiveness from the bank. There is a 6-month automatic deferral of payments, but we do not know yet if that is within the 24-month term or an extension at the end.

Emergency Economic Injury Grants through the **Economic Injury Disaster Loan (EIDL)** program provide immediate relief to help small businesses and nonprofits with operating costs.

- Businesses and nonprofits may apply for up to **\$2 million** through December 31, 2020.
- There is a new streamlined application here, www.SBA.gov/Disaster, where you will provide your basic information and operating costs from 2/1/19 – 1/31/20. If you applied before March 31 you will need to reapply with this streamlined application. Once you submit, you will receive a confirmation page with an application number. Print this page or screen shot it and keep the number for your records. Please note, this is not the complete application process, and you will be contacted to provide more detailed financial and supporting information. There appears to be a lag in contact as SBA processes high volumes of applications.
- **The Emergency Economic Injury Grant (EEIG)** is a new component that allows a business to request an advance of up to \$10,000.
 - To be considered for an advance “up to \$10,000,” an applicant must complete the streamlined EIDL application and (toward the end of that application) must check the box “to be considered” for this advance.
- The advance does not need to be paid back under any circumstances. If you proceed with the loan the advance will be deducted from the total amount of EIDL available to you. And if you decide not to take the loan you may keep the advance.
- If you need additional assistance, you can find your local SBA office and resource partners at www.SBA.gov/LocalAssistance. If you have questions, you may also call 1-800-659-2955.

Small Business and Nonprofit Tax Credits and Benefits

Employee Retention Tax Credit – An employee retention tax credit is available for struggling businesses (and tax-exempt organizations) that are not eligible or choose not to participate in the new SBA Paycheck Protection Program. Any business that has been forced to fully or partially suspend operations, or that has seen a significant drop in revenues, is eligible for a 50-percent credit for wages paid to furloughed or reduced-hour employees. For businesses with 100 employees or less, the credit is based on all wages paid, regardless of whether an employee is furloughed. There is an overall limit on wages of \$10,000 per employee. The credit can be claimed against the business’s quarterly payroll tax liability and is fully refundable to the extent of excess. There will also be options to receive advance payments. For specific IRS guidance, please see <https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>

Delayed Employer Payroll Tax Payments – The employer side of certain payroll taxes are deferred through the end of 2020. Deferred taxes will not be due until the end of 2021 and the end of 2022, with 50% of the liability due at each date. Any business that does not have a loan forgiven under the new SBA Paycheck Protection Program is eligible for the payroll tax deferral.

Charitable Giving

Thanks to the CARES Act, every taxpayer can now **deduct \$300 in charitable contributions**, regardless of if they itemize. This will dramatically expand the reach of the deduction since the vast majority of taxpayers do not itemize.

For 2020, the CARES Act **eliminates income limitations for charitable cash contributions** for individuals and **raises the contribution level for food contributions to 25%** of modified income for corporations.

Future Relief

A broad coalition of nonprofits are advocating for further resources in the anticipated fourth relief bill. Specifically, the coalition wants the next bill to include set-aside funding for nonprofits within existing programs (like PPP). For more details, please see <https://www.councilofnonprofits.org/trends-policy-issues/nonprofit-track-reforms-the-cares-act>.

Additional Resources

- **Common Good VT – [Free COVID-19 Response Webinar Series \(in partnership with VBSR\)](#)**
- **Overview:** [How Nonprofits Can Utilize the New Federal Laws Dealing with COVID-19](#), *Nonprofit Quarterly*, Mar. 26, 2020
- **Families First Act:** [Analysis of the Families First Coronavirus Response Act](#), Mar. 27, 2020
- **CARES Act:** [Analysis of the Coronavirus Aid, Relief, and Economic Security Act \(CARES Act\) \(Pub. L. 116-136\)](#), Mar. 27, 2020
- **Chart:** [Loans Available for Nonprofits in the CARES Act](#), updated Apr. 2, 2020
- **Unemployment Insurance:** [Self-Insured Nonprofits and Unemployment Insurance](#), Mar. 26, 2020
- **State Policy:** [State Public Policy Resources on COVID-19](#), updated regularly
- **Recorded Presentation:** Federal Coronavirus Relief Bills: What Do They Mean for Nonprofits?", Mar. 31, 2020 [webinar recording](#) and [slide deck](#).
- **Vermont Community Foundation** - Stay current with [blog posts](#) from Vice President for Grants and Community Investments Sarah Waring.
- [CDC Interim Guidance for Businesses and Nonprofits](#) walks through detailed workplace behaviors and recommendations
- [Vermont Covid19 Resources list](#) is an open source document, developed by a network of community organizers from more than 20 towns across the state.
- [Vermont Emergency Management Services](#) is the best place to go for up to date information on situations such as childcare for essential workers.
- [Regional Community Action Agencies](#) are on the front lines of helping with basic needs for your region, make sure to understand their programs and help to support them.
- [Covid19 Recovery Resource Center](#): The Agency of Commerce and Community Development is hosting a single center with resources for individuals, communities, and businesses