Putting Workers First: The Paycheck Security Act

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The combined health and economic crisis brought on by COVID-19 is unprecedented in American history. In just the last few weeks, since "stay at home" orders began in states and cities across the country, people have been laid off in record numbers: more than 22 million people have filed unemployment claims.[1] Projections from the St. Louis Federal Reserve show that by July, the unemployment rate in the United States could reach 32 percent, with 47 million more people out of work, topping the historical peak of 25 percent during the Great Depression.[2]

As a result, as many as 35 million people could lose their employer-provided health care coverage.[3] With entire sectors of the economy shut down and traffic to non-essential businesses frozen indefinitely, the economy will likely continue to get worse before it gets better.

While Congress quickly took important steps to provide immediate relief to Americans impacted by the coronavirus, these early lifelines will not be enough on their own to prevent further job losses and alleviate the economic uncertainty facing American workers and businesses. Future coronavirus response proposals must weigh the cost of additional, significant upfront government investment against the risk of an insufficient response to this economic crisis.

The CARES Act Was an Important First Step: More Must Be Done

The Coronavirus Aid, Relief, and Economic Security (CARES) Act included two major provisions to keep workers paid through the duration of the crisis. The CARES Act expanded and increased Unemployment Insurance benefits, making more workers eligible for benefits, extending the duration of benefits, and paying out a flat $600 benefit on top of usual state unemployment benefits. It also created the Small Business Administration Paycheck Protection Program provides forgivable loans, administered through existing banks and other lending institutions, for small businesses to keep workers on payroll and pay operating costs for eight weeks. Additionally, the Federal Reserve has stood up several facilities aimed at assisting financial markets and some Main Street businesses.

Although these programs were important steps to provide critical aid to workers, it has become abundantly clear that these measures are insufficient to prevent a severe economic contraction, and face implementation problems that have left millions of Americans waiting for the help they need.

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[1] Bureau of Labor Statistics, "Unemployment Insurance Weekly Claims," April 16, 2020. https://www.dol.gov/ui/data.pdf

[2] Federal Reserve Bank of St. Louis, "Back-of-the-Envelope Estimates of Next Quarter's Unemployment Rate," March 24, 2020. https://www.stlouisfed.org/on-the-economy/2020/march/back-envelope-estimates-next-quarters-unemployment-rate.

[3] Health Management Associates, "COVID-19 Impact on Medicaid, Marketplace, and the Uninsured, by State," April 3, 2020. https://www.healthmanagement.com/wp-content/uploads/HMA-Estimates-of-COVID-Impact-on-Coverage-public-version-for-April-3-830-CT.pdf.

While we work to enhance and fully implement these important programs, we must also begin thinking about what additional measures will be necessary to sustain the economy and protect workers over the next several months. Even if all of these programs reach their full potential, they will still fail to reach far too many businesses and workers, due to strict eligibility standards and other limitations.

Flaws in the Unemployment System

In relatively good times, our state unemployment systems are underfunded and difficult to access. In 16 states, fewer than 20 percent of unemployed workers receive benefits. In four states, it is one in ten. In more than 40 states, less than 40 percent of unemployed workers receive benefits.[4]

With unprecedented unemployment claims, systems across the country are under enormous stress. Websites and UI computer systems are running on software and code that is sometimes 50 or 60 years out of date. Websites have crashed in states across the country and many states are frantically hiring hundreds of temporary workers to staff phone lines and add servers to their systems which is extraordinarily challenging under stay-at-home orders.

Backlogs for UI claims reach as long as six weeks in some states, and, for many workers, there is no timetable at all for when they will receive their benefits, even if they are able to access their state's website or get through on the phones.

Challenges with the Paycheck Protection Program

The SBA Payroll Protection Program (PPP) is a very well intentioned and appropriate program for many businesses, but so far the evidence suggests it won't be enough. Small businesses have had a difficult time securing loans, many banks are overwhelmed, some of the most vulnerable businesses are being crowded out in the loan market, and businesses that have not been harmed by the crisis are applying.

Moreover, the PPP is only an 8-week program that has presented some unintended burdens for small businesses. It requires businesses to spend 75 percent of their loan on payroll costs as a condition of forgiveness—putting businesses with high fixed costs, such as rent or utilities, and relatively lower payroll costs, such as restaurants, at a disadvantage.[5] With only $349 billion appropriated for the program and all of that funding already spoken for, the program is on track to serve fewer than two million businesses, a small fraction of small businesses needing help.

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[4] Center on Budget and Policy Priorities, "Some States Much Better Prepared Than Others for Recession," March 20, 2020. https://www.cbpp.org/research/state-budget-and-tax/some-states-much-better-prepared-than-others-for-recession.
[5] Jordan Weissmann, Slate, "Meet Rocco. He Owns a Dairy Queen. The Government's Flawed Coronavirus Plan Might Not Save It," April 5, 2020. https://slate.com/business/2020/04/cares-act-small-businesses-paycheck-protection-program-coronavirus.html

The SBA program, along with the critical facilities being set up by the Federal Reserve, may help otherwise eligible companies who can justify servicing additional debt. But for many businesses—including some of America's most well-known companies—taking on additional debt is simply not an option during these uncertain times.

It Will Be Cheaper to Prevent Collapse than to Rebuild

Even if states and cities are released from total lockdown, economists and public health experts say that the economy will not be able to return to normalcy until a vaccine is developed—up to 18 months from now. As of last week, one in four small businesses had already shut down, and more than forty percent of small businesses are expected to permanently close within six months.[6]

While the unemployment and small business measures in the CARES Act were necessary, we fear that there is no functional way for our current unemployment system or the SBA to meet the overwhelming needs from working people and businesses across the country.

A growing consensus is emerging on both the left and the right of the political spectrum, that in order to protect American businesses and workers, and to ensure that our economy can recover as quickly as possible after the pandemic ends, the federal government must take more aggressive steps to keep workers on payrolls and on their health insurance and to keep employers in business.

For the duration of the health and economic crisis, the federal government should cover certain payroll costs and a portion of fixed operating costs for affected businesses and non-profits that don't otherwise have access to subsidized credit through the PPP or Federal Reserve programs. This will help keep workers attached to their employers and allow businesses to stay afloat until normal economic conditions resume.

This is an unprecedented crisis that demands an unprecedented legislative response. That is why we are proposing the Paycheck Security Act. Details of this proposal are below.

[6] Chamber of Commerce-Met Life, "One in Four Small Businesses on Brink of Permanent Closure, Half Eyeing Temporary Shutdown," April 3, 2020. https://www.uschamber.com/press-release/new-us-chamber-metlife-poll-one-four-small-businesses-brink-of-permanent-closure-half.

The Paycheck Security Act

During this unprecedented crisis, every worker must keep receiving a paycheck. Congress recently passed over $25 billion in grants to the airlines, so that every worker in that industry will continue to receive their full paycheck and benefits through September 30th. We need a similar program to cover workers in America whose job has been negatively impacted by the health and economic crisis, and make it retroactive to when the pandemic began. This approach has been implemented successfully in several countries, including Germany, France, Norway, Denmark, the U.K.

Paycheck Security Program:
The Treasury will administer the **Paycheck Security Program** to cover the wages and benefits of furloughed or laid off employees of affected businesses and non-profits until the economic and public health crisis is resolved.

Eligibility

- All employers who have suffered a month-over-month drop in revenues of at least 20 percent will be eligible to receive grants covering a portion of payroll and benefits for at least the next six months.

- Employers and non-profits of all sizes will be eligible—unless they hold more than 18 months of average payroll in cash or cash equivalents—and are otherwise compliant with the requirements and conditions detailed below.

- Employers will verify revenue losses, which can be achieved through a variety of means, including 2019 tax returns or through partnerships with payment processors. Those who cannot verify will pay an increased share of federal taxes during each year of profitability after the crisis until the grant is fully recovered. Employers would be subject to penalties for any fraud.

- Businesses that have received a Paycheck Protection Program loan or an Economic Injury Disaster Loan, or have otherwise accessed the Federal Reserve 13(3) facilities, will be ineligible, unless they exhaust these other programs or use the Payroll Security Program grant to pay back their existing loans.

Grants

- Grants will cover salaries and wages up to $90,000 for each furloughed or laid off employee, plus benefits, as well as up to an additional 20 percent of revenues to cover fixed operating costs such as rent, utilities, insurance policies, and maintenance.

- The operating costs portion of the grant will be verified using 2019 tax filings and delivered pro-rata basis through the term of the assistance.

- Grant amounts will be based on employers' payroll and benefit costs on a monthly average from January 2018 through February 2019 or since they started, if in business less than a year, or if a seasonal business, then based on the monthly average for the season they are in business, or their average monthly costs from February 2018 to September 2018 if that is a more accurate measure of their costs year to year. Businesses that apply for the grants can choose the measure they would like to use and give justification for that choice.

Conditions

- Companies receiving these grants must commit to:
    - Not cutting the pay and benefits of rank-and-file workers;
    - Offer to bring back workers laid off since February 1st the opportunity to go back to participate in the program at prior level of compensation;
    - Not buying back stock;
    - Not paying dividends or management fees;
    - Protect collective bargaining agreements; and
    - Capping CEO compensation at 50 times the median wage of their workforce.

Implementation

- The Treasury Department is directed to coordinate directly with the Internal Revenue Service, payroll processors, and payment processes, to stand up the program and distribute grants, with initial payments to employers beginning no later than 10 days after enactment.

- The Treasury Department will create a Special Purpose Vehicle for the purposes of transferring funds through payroll processors and the IRS. For businesses that don't use a payroll service, they will have the option to temporarily partner with an approved payroll processing company. Alternatively, businesses will have the option of having the Treasury pay them directly using their bank account information on file with the IRS through Schedule C's, 1099's, or IRS Form 7200.

- $1 billion is provided for the administration of the program, with such sums appropriated as needed to carry out the program. Administrative expenses can include the expedited temporary hiring or detailing of staff to process applications.

- The program will begin to phase out at the end of the public health emergency declaration and when economic conditions return to normal.

Advantages of this program and next steps:

- **One centralized program:** Creating one, centralized program to pay firms to keep workers on payroll will be simpler, cheaper, and less disruptive than allowing tens of millions of people to be laid off, lose their health insurance, and decimate already-struggling state budgets.

- **Fraud and Regulatory Considerations:** Fraud would be mitigated since the IRS already has robust oversight systems and penalty authority. In addition, the payroll processing companies have already gone through the Anti-Money Laundering (AML), Bank Secrecy Act (BSA), and Know Your Customer (KYC) regulatory requirements. Payroll could be set as of a specific date to avoid false additions to the payroll or inflated wages.

- **Accountability:** The IRS, processing companies and other payment processers would be able to account for every penny that goes out the door to businesses.

- **Peace of mind for workers:** Working people shouldn't have to worry about applying for unemployment, finding new health care, or losing their connection to their employer.

  In addition, rather than worrying about how they will find their next job when millions are on the unemployment lines, employees can use the time for on-line learning and upgrading their skills, working with their employers and fellow employees to plan for when they will re-open and volunteering in their community, until they are able to go back to work.

  This will avoid potentially millions of businesses that cannot access a loan program because they don't have a strong banking relationship or the ability to fill out all of the complicated paperwork, to stay in business during the health crisis and as soon as it lifts, reopen their stores and resume their operations. American businesses are the heart and soul of our communities, if we let them wither and die -- because of a pandemic-- our communities will never be the same.

This program recommends bold action, yet many questions remain to be considered and resolved. We look forward to receiving additional feedback on how to improve this proposal, including the incentive structures and administrative implementation. We acknowledge that any program – no matter how well designed – is incapable of sustaining U.S. employment indefinitely, and thus we fully expect that the U.S. economy will need to adapt to new realities after the cessation of the public health crisis.