

# NFIB UPDATE

Weekly Briefing for Small Business

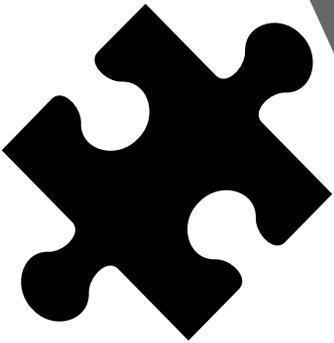
**Beth Milito and Holly Wade**

**April 22, 2020**

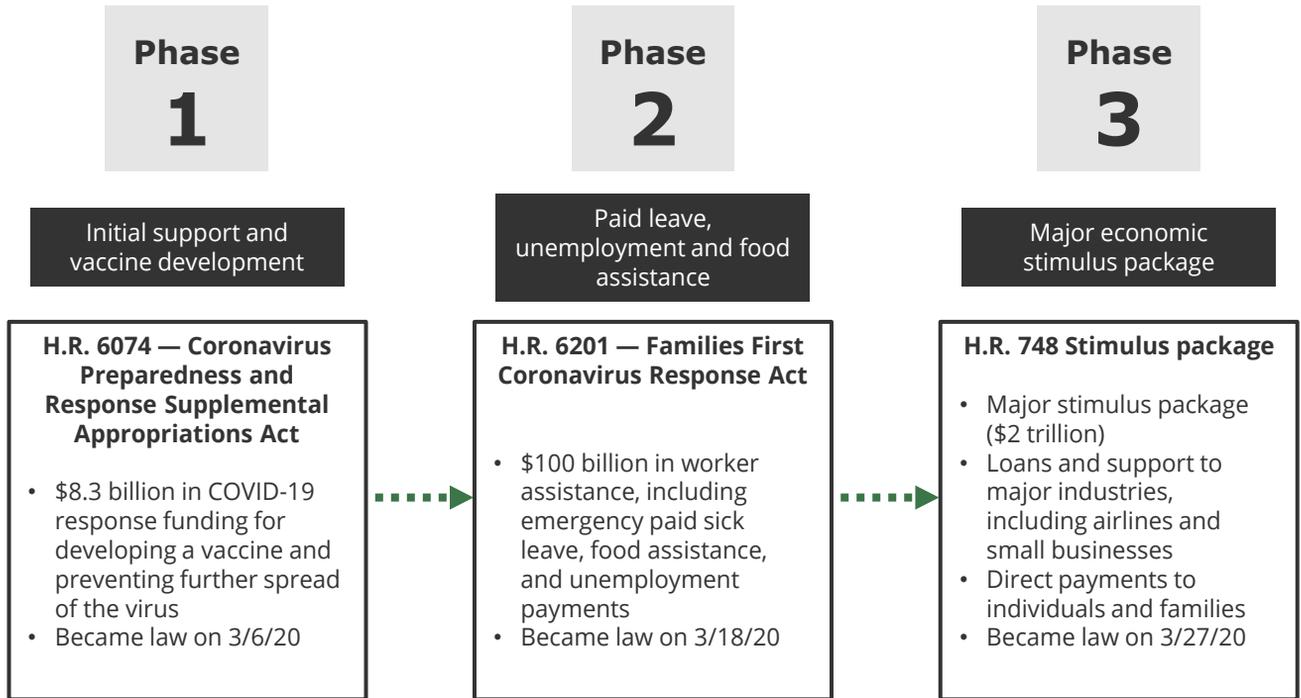




# COVID-19 Legislative Update – Paycheck Protection Program and Health Care Enhancement Act



# Congress's three-phase response to COVID-19



## Phase

# 3.5

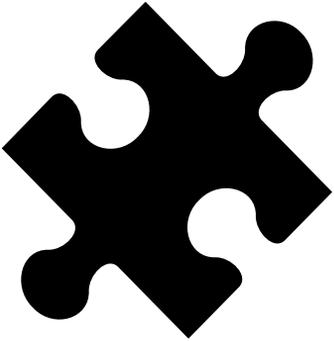
## Paycheck Protection Program and Health Care Enhancement Act

- Additional \$310 billion for Paycheck Protection Program funding
  - \$250 billion for all financial institutions
  - \$30 billion for financial institutions with less than \$10 billion in assets
  - \$30 billion for financial institutions with \$10 – \$50 billion in assets
- Additional \$50 billion from Economic Injury Disaster Loan funding
- Additional \$10 billion for EIDL Emergency Grant funding
- Additional \$75 billion for hospitals and \$25 billion for testing

# Legislative Timing

- Passed Senate by unanimous consent on Tuesday, April 21
- Expected to receive a recorded vote in the House on Thursday, April 23
- President said he will sign bill into law

# Paycheck Protection Program Loan Program



**You have the PPP loan or you're  
close to getting it, now what?**

# PPPL Maximum Loan Forgiveness Amount

The 8-week forgiveness period starts the day you receive the loan (or first disbursement of the loan).

Eligible forgivable expenses include:

- **Payroll costs**

(e.g., salary, wages, commissions, cash tips) up to annualized compensation of \$100,000; paid leave, payment for group health benefits, including insurance premiums; retirements benefits; and state and local payroll taxes.)

- **Interest on mortgage obligations** incurred before February 15, 2020;

- **Rent** obligations in place before February 15, 2020; and

- **Utility** payments for services that began before February 15, 2020 (electricity, gas, water, transportation, telephone and Internet access)

HOWEVER,

- Not more than 25% of the loan forgiveness amount may be used for non-payroll costs; and
- Must spend the funds you want forgiven within the 8-week period.



# PPPL Calculating Loan Forgiveness

**Maintain Headcount.** If a business's average full-time equivalent employees during each month of the eight-week period is less than the average during either the period from:

**February 15, 2019, to June 30, 2019, or  
January 1, 2020, to February 29, 2020**  
(at the business's choice),

the forgiven amount is reduced by the percentage reduction in headcount. In other words, if headcount is reduced by 10%, the forgiven loan amount is also reduced by 10%.

# PPPL Calculating Loan Forgiveness

**Maintain Salary/Wages.** With respect to employees earning less than \$100,000, the amount forgiven is reduced by the amount of any reduction in salary/wages during the eight-week period that exceeds 25% of the employee's salary/wages for the most recent full quarter.

**Rehiring Exemption.** Importantly, the headcount and salary reductions discussed above will not apply *if* the business remedies the reduction on or before June 30, 2020. This is designed to incentivize businesses to rehire laid off and furloughed employees.

Borrowers have until June 30, 2020 to restore FTEE headcount and salary levels for reductions made between February 15, 2020 and April 26, 2020.



# PPPL Calculating Loan Forgiveness

- PPP Loan Disbursement: \$2,000,000
- Average FTEE (1/1/20 through 2/29/20): 192  
(Average FTEE 2/15/19 through 6/30/19: 200)
- Average FTEE (8 Weeks After Disbursement): 192
- Covered Payroll Costs: \$1,600,000
- Covered Rent/Utility/Interest Expenses: \$400,000
- Reduction in FTEEs and Wages reinstated by 6/30/20: Yes
- Employer FICA and Medicare expenses (Not eligible for PPP Loan Use): (\$122,400)

# PPPL Calculating Loan Forgiveness

Maximum forgiveness amounts will be reduced:

- FTEEs Not Maintained - Proportionately for reduction in average full-time equivalent employees (FTEEs) between pre-crisis levels and the 8-week forgiveness period;
- Salary Level Not Maintained - Reduction Over 25% - A straight reduction for payroll reductions over 25% (compared to the prior completed quarter of employment) for workers making less than \$100,000 annually; and
- Proceeds Spent Outside 8-Week Qualifying Window
- 75% Not Spent on Payroll
- EIDL Emergency Grant Taken (up to \$10,000) will be subtracted from forgiveness amount

# PPPL Challenges in Maintaining Payroll/Re-Hiring

Although 100% of the PPP Loan principal and interest may be forgiven the reality is that full loan forgiveness has challenging requirements.

- Not all payroll costs are eligible costs:
  - Employer paid taxes (e.g., FICA) are not included in eligible payroll costs
  - Employer paid leave amounts under the FFCRA are not eligible payroll costs
  - Payroll costs are wages and salaries up to \$100,000 per employee/annual (i.e., \$3,846 on a bi-weekly basis)
- Employees may not want to go back to work
  - Employers are competing against supplemental unemployment benefits of additional \$600/week until July 31, 2020.

# Documentation Checklist for Forgiveness

- ❖ Copies of monthly payroll tax reports filed with the IRS within the 8-week period.
  - Payroll reports from your payroll provider
  - Payroll tax filings (Form 941, 940)
  - Income, payroll, and unemployment insurance filings from your state
  
- ❖ Copies of monthly payroll reports for each pay period within the 8-week period. Gross wages including vacation, sick, and other PTO should be reflected.
  
- ❖ Documentation reflecting the health insurance premiums paid by the company under a group health plan including owners of the company within the 8-week period.

## Documentation cont.

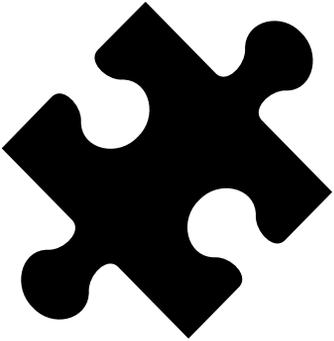
- ❖ Copies of the monthly invoices, canceled checks, or ACH drafts are acceptable.
- ❖ Documentation of all retirement plan funding by the employer within the 8-period.
- ❖ Copies of all lease agreements (rent) with proof of payment within the 8-week period.
- ❖ Copies of mortgage interest and other eligible interest on debt obligations statements indicating payment amounts and proof of payment within the 8-week period.
- ❖ Copies of cancelled checks, statements, or other evidence of utilities paid within the 8-week period.
- ❖ Your lender may require different or additional data.



# Additional notes

- ❖ Borrowers must apply for forgiveness with the lender servicing the loan; lenders have 60 days to review and make a determination; any portion of the loan that is forgiven will be excluded from gross income.
- ❖ SBA is scheduled to issue additional guidance on PPP loan forgiveness soon.
  - FTEE definition
  - Penalties for non-compliance
  - Workforce and salary reduction
  - More details on qualifying expenses, especially utilities

# Alternative Funding Options



# Main Street Lending Program (MSLP)

MSLP loans will be made available soon to businesses that were in good financial standing before the COVID-19 pandemic. These loans must be repaid in full.

- The minimum size for an MSLP loan will be \$1 million. The maximum loan available loan will be the lesser of either \$25 million or 2 times 2019 earnings before interest, taxes, depreciation, and amortization (EBITDA).
- Four-year maturity, with one-year deferral period for loan repayment.
- No penalty for early prepayment of MSLP loans.
- Certain restrictions including: MSLP must be paid before other loans; MSLP may not be used to pay other loans; borrower must make reasonable efforts to maintain payroll and abide by other rules.
- Further details forthcoming from the Department of Treasury.



# COVID-19 Federal Paid Leave Reimbursement

- Employers can claim a 100% tax credit for paid leave *required* by the FFRCA. [See IRS Guidance](#).
- Claim the credit by retaining both the employer's and employees' shares of Social Security and Medicare taxes, as well as withheld federal income tax in [Form 941 quarterlies](#).
- If you do not have sufficient funds withheld, you may submit a request for an accelerated payment from the IRS by submitting [Form 7200](#).
- Some states also will offer tax relief for compliance – check with your state revenue agency or accountant/CPA/payroll provider.

## **Employee Retention Tax Credit**

You can be eligible for payroll tax credits if you keep your employees on payroll, if you paid COVID-19-related sick leave for employees, or if you had to suspend operations.

## **SBA Express Bridge Loan**

You can borrow up to \$25,000 for disaster-related purposes from a lender you have an existing banking relationship with.

# Pandemic Unemployment Assistance

- Self-employed individuals and independent contractors are eligible for unemployment benefits if they find themselves unemployed, partially unemployed, or unable to work due to COVID-19.
- Visit your state's Department of Labor site to apply.

# Private Lenders

Banks, merchant processors, and other private lenders may offer lines of credit or other lending options. But the terms won't be as favorable as the PPP and EIDL.

- **Traditional bank loans**
- **Business line of credit**
- **Business credit card**

Using a credit card to float your business is usually a bad idea. However, some business credit cards offer 0% interest for the first year.

# Emergency Funding Sources

## State and Local Coronavirus Small Business Assistance

States and municipalities are adding programs by the day. Check your governor's website for up-to-date information about relief available in your area. The National Governors Association offers a list of [governors' websites](#).



FAQ with Holly & Beth

Have you applied for  
either or both loans?

Have you received any  
money yet from these loan  
programs?

**Please share your story!**

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