



# House Action Reports

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## Fourth Coronavirus Response Package

This Fact Sheet describes the provisions of HR 266 , Paycheck Protection Program and Health Care Enhancement Act, which the House will consider Thursday.

The \$383.4 billion bipartisan measure recapitalizes several programs that help small businesses and workers financially harmed by the coronavirus pandemic, including by providing for an additional \$310 billion in forgivable loans to small businesses and nonprofits under the Paycheck Protection Program. It provides \$50 billion for SBA Economic Injury Disaster Loans, which is expected to support \$350 billion in emergency loans, as well as another \$10 billion for associated disaster grants.

It also provides an additional \$75 billion to reimburse hospitals and other health care providers for costs associated with the pandemic, as well as \$25 billion to support national testing to help identify the extent of infections in order to better contain the virus and mitigate its spread until a vaccine is developed. Health experts have called for widespread testing so states can responsibly lift business restrictions and "reopen" the U.S. economy without causing a second wave of infections.

The Senate passed the bill by voice vote on Tuesday after a final agreement was reached hours before. President Trump says he supports the measure.

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# Section I

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## Overview

To slow the spread of the new coronavirus and the often-fatal respiratory disease it causes (COVID-19), most states have imposed stay-at-home rules and "social distancing" requirements that have resulted in the closure of restaurants, bars, and other "non-essential" retail establishments where people may gather — resulting in the U.S. economy being largely shuttered.

Businesses both large and small have laid off employees, with 22 million individuals nationwide filing for unemployment over four weeks beginning in mid-March when the White House issued social distancing guidelines and states began imposing the restrictions.

In response to the ongoing pandemic, Congress has enacted several legislative packages. The most recent was a massive \$2.3 billion "rescue" bill in late March to help the U.S. economy and workers and businesses financially harmed by actions taken to slow the virus, as well as to provide support to U.S. hospitals on the front lines of the medical battle ( PL 116-136 , the Coronavirus Aid, Relief, and Economic Security (CARES) Act; see House Action Reports Fact Sheet 116-22, March 26, 2020 ).

### **Paycheck Protection Program**

A key element of that package was the Paycheck Protection Program, which provided for \$349 billion in loans to small businesses and nonprofits (generally those with fewer than 500 employees) to retain workers or rehire laid off employees for up to eight weeks — with the loans to be forgiven and not paid back if used to keep workers on the payroll and for certain other business costs, such as rent and utilities.

In implementing the program, the Small Business Administration (SBA), which guarantees 100% of PPP loans up to \$10 million made by private lenders, requires that at least 75% of the loan be used for payroll costs in order for the loan to be forgiven.

The PPP loans proved extremely popular and the available \$349 billion to pay for loan forgiveness was committed in just two weeks — with loans being approved on a first-come, first served basis to almost 1.7 million small businesses through April 16.

While 74% of the loans were for \$150,000 or less, that represented just 17% of the total dollar value of loans approved, according to the SBA. Meanwhile, 4% of the loans were for more than \$1 million each and represented almost 45% of the total dollar value. Critics noted that many large loans (including maximum \$10 million loans) were provided by major banks to large restaurant chains and other big public corporations with whom larger banks had existing relationships.

### ***Request for Additional Loan Authority***

Recognizing early that the funding provided by the CARES Act would be insufficient (there are an estimated 30 million small businesses in the United States), the administration on April 7 requested a \$251 billion increase in the level of forgivable loans to boost the program's total loan level to \$600 billion.

House and Senate Democrats, however, contended that increased aid was also needed for state and local governments and for hospitals, with House Speaker Pelosi, D-Calif., and Senate Minority Leader Schumer, D-N.Y., on April 8 calling for enactment of such a broader package.

Under their proposal, half of the additional \$250 billion requested for PPP would be channeled through smaller community-based financial institutions that serve farmers, family, women, minority and veteran-owned small businesses and nonprofits. And \$65 billion of the other half would go to the SBA's Economic Injury Disaster Loan (EIDL) Program as expanded to help during the pandemic — including \$15 billion for advance grants and \$50 billion to support up to \$300 billion in direct SBA disaster loans.

The Democrats also proposed another \$150 billion in aid to state and local governments and \$100 billion for hospitals and other medical providers (both equal to amounts provided in the CARES Act), and they proposed boosting the value of food stamp benefits to low-income recipients.

Republicans argued that while everyone agreed the Paycheck Protection Program needed additional resources immediately, it was unnecessary to provide additional funding to hospitals and state and local governments because CARES ACT funding for those purposes had barely begun to be distributed.

On April 9, Senate Majority Leader McConnell, R-Ky., sought to pass the administration's PPP supplemental request by unanimous consent, but Senate Democrats objected. Similarly, Republicans objected to a UC request by Senate Democrats to substitute in, and pass, the Schumer-Pelosi package.

### **Negotiations**

Negotiations eventually began between Democratic leaders and Treasury Secretary Steven Mnuchin on behalf of the White House, with a small business focus on not just the Paycheck Protection loan program but also SBA's EIDL program, which had proved very popular with small businesses as well and was running out of money.

Meanwhile, cities, counties and states become more vocal about the need for additional support, noting that they are facing severe budget shortfalls as the stalled economy reduces their tax revenues — which they say could force massive budget cuts and the layoffs and furloughs of public workers, including first responders.

The National Governors Association on April 11 requested \$500 billion in aid to state and local governments, asking that both those funds and the state and local funding in the CARES Act be allowed to be used to replace lost revenues. The CARES Act provided \$150 billion to state and local governments to reimburse them for the costs of their pandemic response activities, and under that law those funds may not be used to replace lost revenue, according to the administration.

Republicans and the White House continued to oppose new state and local aid, however, saying it should be considered as part of the next major pandemic response package expected to be developed in May (which the two parties refer to as "Phase Four" while deeming this PPP expansion legislation as an "interim" response measure).

### ***Virus Testing***

One of the last issues to be resolved involved proposals for a national coronavirus testing strategy. Senate Democrats earlier this month developed a \$30 billion proposal for a comprehensive national plan to test and identify who in the U.S. population had become infected by the new coronavirus, with the federal government to take the lead. The White House has argued it is up to states to conduct such testing.

Health experts say that for states to responsibly lift business restrictions and "re-open" the U.S. economy, it is critical to test the population to understand the extent of infections so infected individuals can be isolated — and that failure to do so risks triggering a second wave of infections. Such information is also needed to give the public confidence it can safely return to work and resume other activities.

To date, almost 850,000 individuals in the United States have been diagnosed with COVID-19 and more than 46,600 have died, according to statistics maintained by Johns Hopkins University as of early Wednesday evening, April 22. However, experts say both those totals likely represent a significant undercount because only a small proportion of the U.S. population has been tested.

A bipartisan deal was finally reached on Tuesday, April 21, and the Senate passed it the same day by voice vote. President Trump says he will sign the measure. ( HR 266 , the legislative vehicle being used to pass this fourth coronavirus emergency response package, was originally a FY 2020 Interior Appropriations bill when it was first passed by the House in January 2019.)

## **Executive Summary of HR 266**

The House is expected to vote on a motion to concur with the Senate amendment to HR 266 , which represents the negotiated bipartisan agreement.

The agreement provides an additional \$383.4 billion to respond to the COVID-19 pandemic, including an additional \$310 billion in forgivable loans to small businesses and nonprofits under the Paycheck Protection Program to keep workers on payroll, of which \$60 billion would be provided through small and moderate-sized lenders to serve otherwise underserved small businesses.

Also to help small businesses, it appropriates \$50 billion for Small Business Administration (SBA) Economic Injury Disaster Loans (EIDL), which is expected to support \$350 billion in emergency loans, and it provides \$10 billion for associated disaster grants.

It provides an additional \$75 billion for hospitals and healthcare providers at the frontlines of the battle against the virus, including to reimburse them for virus expenses and to make up for lost revenue because elective medical procedures have been canceled.

Finally, it also includes \$25 billion to support national testing to help identify the extent of coronavirus infections in the country in order to better contain the virus and mitigate its spread until a vaccine is developed — as well as better inform states that want to responsibly lift business restrictions and "reopen" the U.S. economy.

The bill, which the White House and many lawmakers refer to as an "interim" emergency virus relief bill between other major virus emergency measures, does not provide additional aid for states and localities to help cover revenues lost because of the pandemic, or allow funding provided in the CARES Act for that purpose, as requested by Democrats.

However, President Trump has said he's in favor of providing states and localities with additional aid, and Senate Minority Leader Charles E. Schumer, D-N.Y., in a Dear Colleague letter on the deal said Treasury Secretary Steven Mnuchin has committed to support additional state and local relief in the next major virus response bill, which is expected to be negotiated in May.

## Section II

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### Small Business Assistance

This section describes the provisions of HR 266 , Paycheck Protection Program and Health Care Enhancement Act, that provide additional aid to small businesses that have been economically impacted by the COVID-19 pandemic.

The bill increases by \$310 billion the level of forgivable loans to small businesses under the Paycheck Protection Program (PPP) and requires that \$60 billion of the increased loan level be reserved for loans to small businesses by smaller financial institutions, including credit unions and minority-owned banks.

It provides \$50 billion for the Small Business Administration's Economic Injury Disaster Loan (EIDL) program to support \$350 billion in disaster loans to small businesses, and appropriates another \$10 billion for up-front EIDL emergency grants to small businesses.

It also provides an additional \$2.1 billion for SBA salaries and expenses to administer the programs and deal with current or future coronavirus pandemics, with those funds to remain available through FY 2021.

The measure designates all appropriated amounts as emergency spending that is not subject to annual discretionary budget caps, and it effectively exempts from pay-as-you-go scorekeeping requirements the direct spending impact of the Paycheck Protection Program.

### Paycheck Protection Program

The agreement increases by \$310 billion the level of forgivable loans to small businesses under the Paycheck Protection Program (PPP), increasing the program's total loan authorization level from \$349 billion to \$659 billion.

It directly appropriates an additional \$321.3 billion to the SBA for the program. According to appropriators, the \$11 billion difference between the appropriated amount and the loan authorization level is to cover program administrative costs, including reimbursing private lenders for loan processing.

Under the program, which was established in March by the CARES Act ( PL 116-136 ), the SBA guarantees 100% of all PPP loans issued by private banks, with a maximum loan limit of \$10 million per borrower. Small businesses and other eligible

entities (generally those with fewer than 500 employees) that use loan proceeds to cover payroll, rent, mortgage payments, and utilities through June 30 would be eligible for loan forgiveness. The SBA would then use appropriated funds to reimburse banks for forgiven loans.

Forgiveness is based on the employer maintaining or quickly rehiring laid-off employees and maintaining salary levels at comparable 2019 levels, and the SBA requires a borrower to use at least 75% of the loan amount for payroll to be eligible for forgiveness. The amount of the loan forgiven would be reduced if full-time headcount declines, or if salaries and wages decrease.

Unlike traditional SBA-guaranteed loans, PPP-loans do not require collateral or personal guarantees. And for any outstanding loan amount that is not forgiven or repaid by the end of the year, it will be converted into a standard SBA 7(a) small business loan.

### ***Small Lender Set-Aside***

One criticism of the initial roll-out of the Paycheck Protection Program was that its "first-come, first-served" nature favored larger small businesses, including subsidiaries and affiliates of large national companies, as they typically have established relations with larger banks that already participate in SBA lending programs and were able to process PPP applications more quickly. While small lenders, including credit unions, were authorized by the CARES Act to issue forgivable PPP loans, many found that much of the program's initial funding had been committed before they were able to begin processing applications.

To ensure that a larger pool of small businesses can access loans under the Paycheck Protection Program, particularly small businesses in financially underserved areas, the measure establishes a set-aside for smaller lenders.

Specifically, of the program additional \$310 billion in forgivable loan authority, \$60 billion would be reserved for small and moderate sized financial institutions — with \$30 billion set aside for banks and credit unions that have between \$50 billion and \$10 billion in total assets, and another \$30 billion set aside for banks, credit unions, and community financial institutions with assets below \$10 billion.

The bill defines a community financial institution as a minority-owned depository institution, a certified development corporation, a microloan intermediary, or a state or federal-chartered credit union.

## **Economic Injury Disaster Loans**

The agreement provides additional funding for SBA Economic Injury Disaster Loans (EIDL) and associated grants for small businesses that have been financially harmed by the pandemic.

SBA's EIDL program traditionally provides direct, low-interest loans of up to \$2 million to small businesses that have been impacted by a natural disaster to help the business cover operating expenses. The initial COVID-19 response package enacted by Congress in March ( PL 116-123 ) authorized small businesses affected by the pandemic to access the EIDL program, and the third response package (the CARES Act) expanded the program by creating an emergency grant component under which businesses that apply for an Economic Injury Disaster Loan can receive a loan advance of up to \$10,000 to cover revenue shortfalls that does not have to be repaid — and which the business may keep even if their loan application is denied.

The CARES Act authorized and appropriated \$10 billion for those EIDL emergency grants, and because of heavy demand by small businesses EIDL program funding for both loans and grants has been exhausted, according to the SBA.

The measure increases by \$10 billion the level of emergency grants authorized under the expanded EIDL program, increasing the program's authorized grant level to \$20 billion and appropriating \$10 billion for those additional grants.

It also appropriates \$50 billion for the costs of SBA Economic Injury Disaster Loans, which is estimated to support \$350 billion in such disaster loans to small businesses.

### ***Expand Eligibility to Farm Interests***

The agreement authorizes businesses with less than 500 employees that are engaged in farming and agricultural-related industries to receive both Economic Injury Disaster Loans and EIDL emergency advances (i.e., EIDL grants).

Agricultural businesses are typically ineligible for EIDL assistance through the SBA, since they typically receive disaster aid through the Agriculture Department.

## Section III

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### **Hospital Aid & National Virus Testing**

The section describes the provisions of HR 266 , Paycheck Protection Program and Health Care Enhancement Act, that provide additional pandemic-related funding for hospitals and other health care providers and also provide funds to support national virus testing.

The agreement appropriates a total of \$100 billion — including \$75 billion to reimburse hospitals and other health care providers for costs associated with the pandemic and caring for individuals with COVID-19 as well as to enable them to purchase needed supplies such as personal protection equipment, and \$25 billion to support national testing to help identify the extent of coronavirus infections in the country in order to better contain the virus and mitigate its spread until a vaccine is developed.

Health experts say that for states to responsibly lift business restrictions and "reopen" the U.S. economy, it is critical to test the population to understand the extent of infections so infected individuals can be isolated and those with whom they interacted can be traced. Such information also is needed to give the public confidence it can safely return to work and resume other activities. The bill provides for both the federal government and state and local governments to work together on such testing, with states to be responsible for front-line testing of individuals.

The measure designates all amounts provided as emergency spending that is not subject to annual discretionary budget caps.

### **Hospital Aid**

The agreement appropriates an additional \$75 billion to reimburse hospitals and health care providers for costs associated with the pandemic.

This funding is meant to ensure that health care providers receive the support they need for COVID-19-related expenses and to compensate for lost revenue as non-essential and elective procedures are cancelled. The CARES Act enacted in late March (the Coronavirus Aid, Relief, and Economic Security Act, PL 116-136 ) provided an initial \$100 billion for this purpose, and hospitals and medical groups have said much more will be needed.

(The Centers for Medicare and Medicaid Services in early April distributed an initial tranche of \$30 billion to hospitals and other providers, based on their Medicare fee-for-service revenue. That distribution, however, excluded certain hospitals and provided reduced amounts to hospitals that serve large numbers of Medicaid beneficiaries, those with large numbers of Medicare Advantage patients, and those that have high rates of

uncompensated care. CMS this week plans to start distributing another \$20 billion to the same hospitals as the first tranche, but to correct for those hospitals that were shortchanged, and later will distribute \$10 billion focused on areas with high numbers of COVID-19 cases.)

Under the measure, funds can be used for medical supplies and equipment, including personal protective equipment and testing supplies, and for other activities such as funding emergency operations centers, retrofitting facilities, and building temporary structures to handle surge capacity.

Hospitals and health care providers that receive funding must maintain documentation and submit reports to the Health and Human Services (HHS) Department as required by the department.

Within 60 days of enactment, and every 60 days thereafter until all funding is expended, HHS must report to Congress on how the funds were obligated. And within three years of when final payments are made, the HHS inspector general must report to Congress on those expenditures. Of the \$75 billion provided, \$6 million would be available for those IG oversight activities.

### **National Virus Testing**

The agreement provides \$25 billion for national testing to understand the spread of the virus within the U.S. population and enable officials to better contain the virus and mitigate its further spread — with both the federal government and state and local governments to work together on such efforts.

Under the measure, states and localities would be responsible for the front-line testing of individuals, and would receive at least \$11 billion of the total for testing and other activities. In addition to testing for active virus exposure, testing must also be conducted to identify individuals who were infected in the past and who may now have immunity, and funds may also be used for contact tracing of individuals who interacted with infected persons.

The federal government generally would be responsible for research and development of more advanced testing and for ensuring the availability of tests and supplies, for national surveillance and epidemiology, and for national reporting on positive diagnoses, hospitalizations and deaths from COVID-19, and for developing a national strategic testing plan.

In general, funds could be used for the development, manufacture, procurement and distribution of tests, equipment and supplies, including personal protective equipment for health care workers who administer tests; for development and validation of tests and for epidemiology; for workforce support; for the scaling up of academic, commercial, public health and hospital laboratories; and for the development of testing plans.

### ***Need for Testing***

The often-fatal respiratory disease COVID-19 caused by the new coronavirus (SARS-CoV-2) currently has no effective treatment or cure, and because the virus is highly contagious and can easily be spread by people who are asymptomatic (i.e. who are showing no symptoms), the federal government in March established social distancing guidelines and states began imposing stay-at-home rules and business restrictions in an effort to slow the virus' spread and prevent the nation's health system from being overwhelmed.

Health experts note that the virus will remain a threat until an effective treatment for COVID-19 or a vaccine for the virus is developed, and that widespread testing is critical to prevent a second wave of infections from occurring as states gradually loosen restrictions and reopen their economies.

In particular, they say that diagnostic tests which show whether individuals have the virus are needed to determine the extent of exposure in the population, so such infected individuals can be isolated while the disease runs its course. Such testing is needed especially for frontline workers who may have been exposed to the virus, such as health care providers, police and fire fighters, transit workers and grocery clerks.

Contact tracing of infected individuals also is necessary to determine who they interacted with, so those individuals can be tested and isolated, if needed, or called upon to self-quarantine, in order to prevent further spread.

Health experts also argue that serological testing is needed. Such testing identifies whether an individual had the virus in the past and developed antibodies, which may provide immunity. Individuals with immunity could return to work without being in danger of contracting the disease or infecting others.

### ***State Testing***

States and localities would receive at least \$11 billion of the total \$25 billion provided by the bill, and they would be responsible for administering the tests.

In addition to administering diagnostic, serological and other COVID-19 testing, funds could be used to develop, purchase and analyze tests, to support test sites, to scale up testing by laboratories and laboratory capacity, and to conduct contact tracing. Funds could also be made available to employers so that they can test workers.

Of the total provided to states, \$4.25 billion would be provided based on the relative numbers of COVID-19 cases, and \$2 billion would be provided according to the existing Public Health Emergency Preparedness formula, which would ensure that every state receives funding. Separately, \$750 million of the total would be provided to tribes, tribal organizations, and urban Indian health organizations in coordination with the Indian Health Service.

Prior to receiving funds, states and localities must present plans to HHS within 30 days of enactment on how the money will be used for testing, and how test results will guide the easing of community mitigation policies such as social distancing and business closures. Plans must describe goals for the remainder of 2020 on a month-by-month basis, including the number of diagnostic, serological and other tests needed, as well as estimates of laboratory and testing capacity, including workforce, equipment, supplies and available tests.

### ***Federal Responsibilities***

The federal government could use remaining funds for a variety of activities, including research and development of more advanced tests and the manufacture, procurement and distribution of tests, equipment and supplies.

The measure generally allows funds to be used to support the production in non-federally owned facilities of COVID-19 tests and related supplies, and for the purchase of such supplies and equipment (including personal protection equipment and testing supplies). Products acquired may be placed in the Strategic National Stockpile.

It provides that up to \$1 billion may be used to cover the costs of testing individuals who do not have health care insurance.

Several key federal agencies would be provided with specific funding levels, as follows:

- **Centers for Disease Control** — At least \$1 billion for surveillance, epidemiology, laboratory capacity expansion, contact tracing, public health data surveillance, and analytics infrastructure modernization.

- **National Institutes of Health (NIH)** — At least \$1.8 billion to develop, improve, and implement testing and associated technologies. NIH could also enter into partnerships with governmental and non-governmental entities to research, develop, and implement testing activities. Within this total, at least \$306 million is for the National Cancer Institute to work on serological testing and associated technologies, and at least \$500 million is for the National Institute of Biomedical Imaging and Bioengineering to accelerate research and development of point of care and other rapid coronavirus testing.
- **Biomedical Advanced Research & Development Authority (BARDA)** — \$1 billion for advanced research, development, manufacturing and production, and purchase of tests and related supplies.
- **Food and Drug Administration (FDA)** — \$22 million to support diagnostic, serological, antigen, and other tests, and related activities. If HHS determines that it is necessary for the production of sufficient amounts of tests or supplies, FDA can use the funds for the construction, alteration, or equipping of non-federally owned facilities.

The measure also provides \$600 million for HHS Health Resources and Services Administration primary health care grants to federally qualified health centers, and \$225 million for grants to rural health clinics for COVID-19 testing and related expenses.

### ***Strategic Testing Plan & COVID-19 Reports***

The agreement requires HHS to present to Congress within 30 days of enactment a strategic testing plan for states and localities that provides guidelines for various types of testing and estimates of available testing production for both new and emerging testing technologies. The plan must address how HHS will increase domestic testing capacity, including testing supplies, and address disparities between communities, and it must describe the federal resources available to support the testing plans of each state and locality.

HHS must update the strategic plan every 90 days until the bill's testing funds are expended.

HHS also must provide two different reports to Congress regarding COVID-19 testing, hospitalizations and death.

The first, which must be first submitted 21 days after enactment and then updated every 30 days thereafter until the end of the COVID-19 public health emergency, must detail the number of individuals tested for or diagnosed with COVID-19, broken down by race, ethnicity, age, sex, and geographic region (to the extent such information is available). It also must include data on the number and rates of cases, hospitalization and deaths attributed to COVID-19.

The second report, which must be submitted to Congress within 180 days of enactment, must detail the number of positive diagnoses, hospitalizations and deaths as a result of COVID-19, disaggregated by race, ethnicity, age, sex, and geographic region — and must include an epidemiological analysis (i.e., an analysis of the risk of hospitalization and death for each group and area).

A report by the Centers for Disease Control released earlier this month found that while African-Americans make up just 13% of the U.S. population, 33% of the people who have been hospitalized with COVID-19 are African-American. In addition, research from Johns Hopkins University found that in the 26 states that report racial data, 34% of deaths from COVID-19 were African-Americans.