To: Port of Seattle Commissioners, Executive Director Metruck
From: External Relations
Date: March 27, 2020
Re: Summary of the CARES Act, the third Coronavirus relief package

On Wednesday night the Senate unanimously passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act is a $2 trillion relief package designed to mitigate the economic impacts of the COVID-19 pandemic. Today, the House of Representatives passed the bill by voice vote and the President signed the bill into law. Key components of the legislation include direct payments to individual Americans, an expansion in unemployment insurance, aid for distressed industries, an additional infusion of funding for the health care sector, and additional assistance for businesses and state and local governments.

Some highlights of the CARES Act of relevance to the Port of Seattle (Port) are described in more detail below. Chief among these are $10 billion in direct funding for airports and $454 billion in general relief for businesses and governments that the Port should be able to access. There also are provisions that will help the individual workers and businesses that are essential to the Port's passenger, cargo and tourism missions to weather the crisis. In addition, Appropriations Committee Chairman Richard Shelby inserted a provision that will achieve full use of the Harbor Maintenance Tax.

The focus of the first three COVID-19 relief packages is mitigating the immediate impacts of the epidemic, such as public health issues, sick leave, unemployment insurance and assistance, and aid to businesses and government entities. Future legislation is likely to provide further economic assistance to distressed sectors of the American economy, as well as longer term national investment to help spur recovery. One of the focus areas for the next package is infrastructure. In the weeks ahead, we will engage with the administration and congressional offices to shape this pending economic stimulus legislation.

Majority Leader McConnell announced that the Senate will recess until April 20, and it probably will be a few weeks before Congress reconvenes to debate a fourth relief package. However, if additional steps are required to provide relief, we expect Congress to respond and delay the recovery package to address additional measures to shore up the economy.

AIRPORT AND AVIATION-SPECIFIC PROVISIONS

The Act provides a total of $10 billion in grants for airports, coming from the general fund, not the Airport and Airway Trust Fund, as follows:

- $500 million to make FY 2020 AIP grants available at 100 percent federal share.
- $9.4 billion for any uses that airport revenues can lawfully cover.
  - $7.4 billion at a 100 percent federal share distributed 50% by 2018 enplanements and 50% by airport debt service costs.

    - $2.0 billion for grants at a 100 percent federal share, apportioned by the regular AIP formula. The current requirement that any airport development project must follow the AIP's prevailing wage standard, is applied to these new funds as well.
    - Any remainder after the formula run is moved to the $7.4 billion pot above
- $100 million for general aviation airports to use for any lawful airport revenue use, at 100 percent federal share distributed by airport percentage of total National Plan of Integrated Airport Systems (NPIAS) development costs.

To receive these grants, primary airports such as SEA are **required** to maintain at least 90 percent of their employment levels (measured against the employment level as of the day the bill gets signed into law) through December 31, 2020, unless the Secretary provides a waiver because the airport is experiencing "economic hardship" or if the requirement would undermine aviation safety and security. The understanding is that this requirement applies only to direct employees of the airport, not tenants. The requirement would not apply to non-hub or non-primary airports.

In reviewing the $7.4 billion allocated to airports to understand what may come to SEA, 50% is a straightforward formula allocation, coming out to approximately $125 million to represent SEA's share. The second 50%, tied to debt ratios for all airports, is more complicated to estimate and we are working closely with the airport associations to better assess that amount.

<u>Related Businesses and Activities</u>
Airport Concessions: The final bill does **not** include a House proposal that would have required airports use a portion of federal funds "to provide financial relief to airport concessionaires experiencing economic hardship...."

TSA: $100 million for TSA to spend, in part, on "cleaning and sanitation at checkpoints and airport common areas...." The agency would also be allowed to use funds for overtime and explosive detection materials.

REAL ID: The bill would extend the REAL ID requirement until not earlier than September 30, 2021 - a year later than the current enforcement deadline.

Airline Provisions
Loans and Loan Guarantees, and Grants: The final bill includes a total of $58 billion in <u>loans and grants</u> for the airlines. Of that amount, $29 billion would go toward <u>loans</u> and loan guarantees for the airlines -- $25 billion for passenger carriers and $4 billion for cargo carriers. The bill includes another $29 billion in <u>grants</u> to air carriers and cargo air carriers to provide financial assistance for air carrier workers. This category would also be split at $25 billion for passenger carriers and $4 billion for cargo carriers. This is same amount that the airlines requested for immediate assistance. There are contingencies for use of this money, a summary of which is below.

Service to Small Communities: The final bill would also allow DOT "to the extent reasonable and practicable" to require air carriers receiving loan and loan guarantees to continue providing air service to communities that had received service before March 1, 2020.

Aviation Excise Tax Holiday: The bill would suspend certain aviation excise taxes (major excise taxes on the price of a ticket, the fuel tax and a cargo tax) through the end of 2020 but keeps Passenger Facility

Charges intact. This increases revenue back to the airlines as it reduces the fees that help fund the Airport Improvement Grant program in future years (2021 and beyond), which could affect noise program grants in the future.

Executive Compensation/Stock Buybacks: The measure would place limitations on executive compensation for carriers that receive assistance, the potential for giving the government an ownership stake, and “ban stock buybacks for the term of the government assistance plus 1 year on any company receiving a government loan from the bill." Companies accepting federal assistance would have to maintain their employment levels as of March 24, 2020, to the extent practicable until the end of September 2020, and would be prohibited from cutting their employment levels by more than 10 percent during this period.

Contractors: $3 billion is available for contractors and airline catering service providers. Contractors are defined as those under contract with a Part 121 air carrier who provide:

- catering functions; or
- functions on the property of an airport that are directly related to the air transportation of persons, property, or mail, including but not limited to:
    - the loading and unloading of property on aircraft;
    - assistance to passengers under Part 382;
    - security;
    - airport ticketing and check-in functions;
    - ground-handling of aircraft;
    - aircraft cleaning and sanitization functions and waste removal; or
    - a subcontractor that performs any of the above functions.

Amounts are provided to catering service providers and contractors based on sworn financial statements or other appropriate data, as the amount of wages, salaries, benefits, and other compensation that were paid to employees between April 1-September 30, 2019.

Grant recipients must agree not to cut pay or benefits, or issue involuntary furloughs, until after September 30, 2020. Grant recipients are also forbidden from using funds for stock buybacks or paying stock dividends until after September 30, 2021.

FINANCIAL ASSISTANCE FOR PORTS AND OTHER ENTITIES

The CARES Act includes $454 billion through the Department of the Treasury’s Exchange Stabilization Fund for loans, loan guarantees, and investments in support of the Federal Reserve's lending facilities to eligible businesses, states, tribes, and municipalities related to losses incurred because of coronavirus. Outside of the airport-specific provisions, this is the main mechanism in the bill with potential to provide relief to the Port. These funds are to be used “for the purpose of providing liquidity to the financial system that supports lending to eligible businesses, states and municipalities” through the activities listed below. We have included a description of what we believe these activities will mean for the port, but please note we are still vetting this analysis with our bond counsel and other experts.

A) **Purchasing obligations or other interests directly from issuers of such obligations or other interests**: This would enable the Federal Reserve to purchase newly issued port bonds. This and the other expanded Federal Reserve authority will provide confidence and liquidity to the municipal market and potentially help the Port obtain funds in the short term.

B) **Purchasing obligations or other interests in secondary markets or otherwise**: This provision enables the Federal Reserve to purchase existing municipal debt, which should help stabilize municipal financial markets and keep our borrowing costs reasonable. The interest rates on our variable rate bonds are reset every week based on market conditions. Due to fear in the market caused by current economic conditions, investors have been reluctant to invest in any instrument not backed by the US federal government. In recent weeks this has led to a jump in interest rates on our bonds that if not addressed could have increased our borrowing costs substantially. This was one of our priorities for the relief package and we are happy to see it has been included.

C) **Making loans, including loans or other advances secured by collateral**: The Port could use a loan to provide additional liquidity to support on-going operations in the face of anticipated decline in cash flow. The Treasury Department has announced it will soon issue regulations to allow most FDIC banks to issue Treasury loan packages and Secretary Mnuchin expects a process to be in place by the end of next week.

Jeff Markey and AAPA engaged with policymakers on Capitol Hill to ensure port authorities are eligible for this program. Initially, these funds were only to be made available to states and municipalities, but through these conversations we were able to expand eligibility to include political subdivisions and multi-state entities. This definition should cover the ports of Washington state. AAPA is asking the Congressional Ports Caucus to emphasize that this was the intent of Congress, and we will engage others on Capitol Hill to ensure Treasury interprets it this way.

INDIVIDUAL WORKERS

The third COVID-19 relief package includes a number of new benefits for individual workers. These are summarized below, but we encourage you to review the more complete summary provided by Jeff Markey and the Elevate Government Affairs team that is attached to this memo.

- **Unemployment Insurance and Unemployment Benefits**: The third COVID-19 relief package contains a significant expansion of both the length and amount of unemployment insurance (UI) that is available, including:
  - The expansion of UI includes gig workers, independent contractors, and individuals who are self-employed
  - The bill provides for a $600 increase per week on top of regular UI benefits. This weekly increase will only be available for four months.

- **Direct Payments to individuals**: Provides direct payments to individuals with incomes up to $75,000 ($150,000 for couples) with $1,200 for each adult ($,2400 for couples), as well as $500 for each child. The rebate amount is reduced by $5 for each $100 that a taxpayer's income exceeds the $75,000 phase-out threshold.

- **Paid Sick/Family Leave**: Under the second relief package that was signed into law, workers are eligible for two to 12 weeks of paid sick or family leave.

- **Incentives for businesses to retain employees**: The Small Business Administration loan provisions described in the next section also include substantial incentives for businesses to retain full employment for the duration of the crisis.

SMALL BUSINESS RELIEF

Congressional efforts on COVID-19 relief for small businesses has focused on expanding existing Small Business Administration (SBA) programs and streamlining processes to expedite the distribution of funds. Overall, the third COVID-19 relief package provides $377 billion in relief to small businesses and their workforce. This will be the main vehicle for relief for many port stakeholders, including drayage truck drivers, airport ground transportation operators and airport concessionaires.

Once the President signs the bill into law, the Port and NWSA external relations teams plan to do outreach to stakeholders to make sure they are aware of the programs. We also plan to track their experience with the program and collect feedback. If there is anything we learn that would make the programs more helpful for stakeholders, we will work with the SBA and with the congressional delegation to address any challenges in a subsequent relief package.

Some highlights are immediately below, and a more complete summary of this provision is attached rom Jeff Markey and the Elevate Government Affairs team.

- **Traditional 7(a) SBA Loans and the CARE Act Paycheck Protection Program**: The third COVID-19 package creates a new $350 billion "Paycheck Protection Program" within the existing 7(a) loan program. The new program provides eight weeks of cash-flow assistance through 100 percent federally guaranteed loans to small employers who maintain their payroll during this emergency. If the employer maintains its payroll, the portion of the loan used for covered payroll costs, interest on mortgage obligations, rent, and utilities will be forgiven. Specifically, the new program would apply to:
    - Small employers with 500 employees or fewer, as well as those that meet the current Small Business Administration (SBA) size standards;
    - Self-employed individuals; and
    - Certain nonprofits, including 501(c)(3) organizations and 501(c) (19) veteran organizations, and tribal business concerns with under 500 employees.

- **Express Loan Program**: The third COVID-19 package raises the maximum loan amount under this program to $1 million from $350,000.

- **Economic Injury Disaster Loan Program**: The third relief package also expands eligibility for access to SBA's Economic Injury Disaster Loans (EIDL). EIDLs can be worth up to $2 million and the interest rate is 3.75% for small businesses and 2.75% for nonprofits.

TRAVEL INDUSTRY

The CARES Act does not include provisions specific to tourism. Yet our partners who advocate for businesses in the tourism economy have praised the legislation, and the general provisions in the bill align closely with what travel industry stakeholders were seeking. In addition to federal efforts, the Washington Tourism Alliance (WTA) is advocating directly to Gov. Inslee for tourism support. Last weekend, the WTA sent Gov. Inslee a letter advocating for emergency post crisis tourism stimulus funding to reenergize Washington state tourism.

ASSISTANCE FOR FISHERY PARTICIPANTS

The bill includes $300 million for assistance from the Department of Commerce to tribal, subsistence, commercial and charter fishery participants affected by COVID-19. The legislation says "assistance" may include direct relief payments. Eligibility for the relief is based on established fishery emergency regulations under the Magnuson-Stevens Act. Regional stakeholders expect that eligible fisheries in our region will receive a decent-sized amount of the funding.

TRANSIT

The CARES Act includes $25 billion for formula grants to transit systems to be allocated as follows:

- $13.9 billion in Sec. 5307 urbanized area formula grants
- $1.8 billion in Sec. 5311 rural formula grants
- $7.6 billion in Sec. 5337 state of good repair formula grants.
- $1.7 billion in Sec. 5340 fast growth/high density formula grants

Funds are to be apportioned by the Federal Transit Administration within 7 days of enactment. According to the Puget Sound Regional Council, the Seattle urbanized area will receive approximately $531 million. Within our region, PSRC (as the MPO) will be responsible for the distribution to regional transit agencies (ST, KC Metro, Pierce Transit, Community Transit, Everett) according to each agency's allocation within the funding formula programs included in the legislation.

HARBOR MAINTENANCE TAX

Appropriations Committee Chairman Richard Shelby inserted a provision into the relief bill that will achieve full use of the Harbor Maintenance Tax. This is a major milestone in the decades-long effort to reform the HMT. While achieving full use is consistent with the two-step strategy AAPA is pursuing for comprehensive HMT reform, it now is essential that Congress takes action to enact the donor port provisions and other remaining elements of the AAPA HMT framework in the 2020 WRDA bill. More analysis of the implications of this development will be included in the NWSA update to Managing Members in the next few days.

ADDITIONAL RELIEF FOR STATE AND LOCAL GOVERNMENTS

The CARES Act include significant resources to help states address their immediate budget problems due to COVID-19. In addition to the $454 billion program in Title IV of the bill to which ports also should have access, Title VI provides a $150 billion Coronavirus Relief Fund. Washington state's share is expected to amount to nearly $3 billion. Local governments[1] with populations that exceed 500,000 qualify for a share of the funding allocated to their respective states. We do not believe ports are included in this category.

[1] Defined as a county, municipality, town, township, village, parish, borough, or other unit of general government below the state level

TRIBAL GOVERNMENTS

The CARES Act seeks to make sure that Indian tribes and tribally-owned businesses have critical relief, including equal access to federal COVID-19 economic recovery resources. In addition to the general relief programs for individuals and businesses, some other key provisions for tribes are listed below.

- Tribes qualify for assistance through the $454 billion fund previously mentioned in Title IV of the bill.
- $8 billion of a $150 billion relief fund for states and local governments is set aside for tribes and their government-owned enterprises to support COVID-19 response and manage costs. This fund is Title VI of the bill and is separate from the $454 billion fund.
- $453 million for the Bureau of Indian Affairs to provide additional support to tribal government programs.
- $1.032 billion in additional support for the Indian Health Service (IHS), including for medical services, equipment, supplies and public health education.
- $125 million in grants from the Centers for Disease Control and Prevention is allocated to tribes to prevent, prepare for and respond to the coronavirus.
- $100 million for the Food Distribution Program for Indian Reservations through the US Department of Agriculture to provide USDA commodity foods to low-income households.
- $69 million for the Bureau of Indian Education (BIE) for response needs at BIE-funded schools and an additional $154 million for BIE-funded programs.
- $70 million to $96 million for the Indian Child Care Development Block Grant for Indian child care programs serving low-income families.
- $200 million for the Native American Housing Assistance and Self Determination Act Block Grant program under the Department of Housing and Urban Development Office of Native American Programs.
- An additional $100 million is provided for the Indian Community Development Block Grant to respond to COVID-19 in tribal communities.

CARES Act – COVID-19 Aviation Relief

Loans and Loan Guarantees for Air Carriers, Eligible Businesses, States and Municipalities

- CARES Act provides $500 billion in loans and loan guarantees available for eligible businesses, States, and municipalities.
- Specifically, $46B is reserved for the aviation/national security industry
    - $25B for air carriers, eligible businesses certified under Title 14 of the Code of Federal Regulations and approved to perform inspection, repair, replace, or overhaul services and ticket agents.
    - $4B for cargo carriers.
    - $17B for firms that are important to national security.

Industry Specific Loan Conditions

Loans under the industry specific funds ($46 billion – including passenger and cargo carriers and national security), will be at a rate determined by the Secretary of the Treasury based on the risk and not less than an interest rate based on market conditions for comparable obligations before the COVID-19 outbreak. Other requirements for a loan agreement between the Treasury and an industry specific applicant include:

- the applicant is an eligible business for which credit is not reasonably available at the time entering into the loan agreement;
- the intended obligation by the applicant is prudently incurred;
- the loan or loan guarantee is sufficiently secured or is made at a rate that—
    - reflects the risk of the loan or loan guarantee; and
    - is to the extent practicable, not less than an interest rate based on market conditions for comparable obligations prevalent prior to the outbreak of COVID-19;
- the duration of the loan or loan guarantee is no longer than 5 years;
- for 12 months after the origination the recipient, or any affiliate, may not purchase stock in the recipient's or any parent company's stock except for existing contracts in place at the time of enactment;
- the recipient cannot pay dividends with respect to the stock of the recipient's company for 12 months;
- the recipient must maintain employee levels as of March 24, 2020 to the extent practicable and not reduce employee levels by more than 10 percent until September 30, 2020;
- the recipient must certify that it is created or organized in the United States or under the laws of the United States and has significant operations in and a majority of its employees based in the United States;
- the loan cannot be forgiven; and

- the recipient business must have incurred or expect to incur covered losses such that the continued operations of the business are jeopardized, as determined by the Treasury Secretary.

The Secretary would be prohibited from issuing loans under the aviation industry specific funding unless recipients are:

- publicly traded and the Secretary receives a warrant or equity interest in the eligible business; or
- for businesses that are not publicly traded:
    - the Secretary receives a warrant or equity interest in the eligible business;
    - or a senior debt instrument issued by the eligible business.

The Secretary is required to publish the procedures for application and minimum requirements, which may be supplemented by the Secretary in the Secretary's discretion within ten days of the enactment of the CARES Act.

<u>Employee Compensation Limitations</u>

Recipients of any loans under the $500 billion program are prohibited from increasing the compensation of any officer or employee whose total compensation exceeds $425,000, or from offering such employees severance pay or other benefits that exceed twice the maximum total annual compensation received by that employee, until one year after the loan is no longer outstanding.

Officers or employees making over $3 million last year would also be prohibited from earning more than $3 Million plus fifty percent of the amount their compensation last year exceeded $3 Million.

<u>Maintenance of Air Service</u>

The Secretary of Transportation has the authority to require air carriers who receive loans through this pot of money to continue service to any destination they served before March 1, 2020. This authority expires March 1, 2022. A special focus is placed on small and remote communities and the need to maintain well-functioning health care and pharmaceutical supply chains, including for medical devices and supplies.

Grants for Air Carriers, Airport and other Eligible Businesses

The CARES Act also provides grants for the aviation industry.

<u>Airports</u>

The Act provides a total of $10 billion for airports as follows:

- $500 million to make FY 2020 AIP grants available at 100 percent federal share.
- $9.4 billion for any uses that airport revenues can lawfully cover.
    - $7.4 billion at a 100 percent federal share distributed 50% by 2018 enplanements and 50% by airport debt service costs.
    - $2.0 billion is for grants at a 100 percent federal share, apportioned by the regular AIP formula.
    - $100 million for general aviation airports to use for any lawful airport revenue use at 100 percent federal share distributed by airport percentage of total National Plan of

Integrated Airport Systems (NPIAS) development costs. NPIAS identifies nearly 3,330 existing and proposed airports that are included in the national airport system, the roles they currently serve, and the amounts and types of airport development eligible for Federal funding under the Airport Improvement Program (AIP) over the next 5 years.

Primary airports are required to maintain at least 90 percent of their employment levels (measured against the employment level as of the day the bill gets signed into law) through December 31, 2020 to receive these grants unless the Secretary provides a waiver.

Air Carriers

Air carriers receive $29 billion in grants split $25 billion for passenger air carriers and $4 billion for cargo carriers. These funds are administered by the Secretary of the Treasury and can be used exclusively for the continuation of payment of employee wages, salaries, and benefits. These grants would be distributed based on salaries and benefits of the carrier between April 1-September 30, 2019.

The Treasury Department is required to issue program rules within 5 days of enactment and start distributing funds within 10 days of enactment.

Grant recipients must agree not to cut pay or benefits, or issue involuntary furloughs, until after September 30, 2020. Grant recipients are also forbidden from using funds for stock buybacks or paying stock dividends until after September 30, 2021.

Grant Recipients are prohibited from increasing the compensation of any officer or employee whose total compensation exceeded $425,000 in 2019, or from offering such employees severance pay or other benefits that exceed twice the maximum total annual compensation received by that employee, until after March 24, 2022. Officers or employees making over $3 million last year would also be prohibited from earning more than $3 Million plus fifty percent of the amount their compensation last year exceeded $3 Million during that same period ending March 24, 2022.

The Federal Government is prohibited from making this financial assistance conditional on an air carrier's or contractor's implementation of measures to enter into negotiations with the certified bargaining representative of a craft or class of employees of the air carrier or contractor under the Railway Labor Act (45 U.S.C. 151 et seq.) or the National Labor Relations Act (29 U.S.C. 151 et seq.), regarding pay or other terms and conditions of employment through September 30, 2020.

The Secretary of the Treasury may receive warrants, options, preferred stock, debt securities, notes, or other financial instruments issued by recipients which, at the discretion of the Secretary, provide appropriate compensation to the Federal Government for the provision of the financial assistance.

Related Businesses

$3 billion is available for contractors and airline catering service providers. Contractors are defined as those under contract with a part 121 air carrier who provide:

- catering functions; or
- functions on the property of an airport that are directly related to the air transportation of persons, property, or mail, including but not limited to:
    - the loading and unloading of property on aircraft;

- assistance to passengers under part 382;
- security;
- airport ticketing and check-in functions;
- ground-handling of aircraft;
- aircraft cleaning and sanitization functions and waste removal; or
- a subcontractor that performs any of the above functions.

Amounts are provided to catering service providers and contractors based on sworn financial statements or other appropriate data, as the amount of wages, salaries, benefits, and other compensation that were paid to employees between April 1-September 30, 2019.

The same limitations apply as do for grants to air carriers.

Aviation Excise Taxes

The bill suspends the collection of excise taxes that feed the Airport and Airway Trust Fund (AATF) from the date of enactment through January 1, 2021. This, along with the marked decrease in overall aviation activity during the outbreak, will likely zero out the AATF and chip away at the $17 billion is already obligated or committed, but not yet spent. The AATF composition could end up more like the Highway Trust fund in that it will have a negative uncommitted balance.

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Paid Sick/Family Leave

Under the second relief package that was signed into law, workers are eligible for two to 12 weeks of paid sick or family leave. This covers businesses of fewer than 500 employees, which will be fully reimbursed by the federal government, within three months, through tax credits. Employees are eligible for 80 hours of sick leave at full pay if they are unable to work or telework because they are under medical quarantine or being given treatment for COVID-19. Employees would also be eligible if they suspect they have the virus or if they are ordered to quarantine by the government. In addition, those employees who are caring for someone else that has COVID-19, including children, will be eligible for the two weeks of sick pay as well, but at a two thirds rate. Businesses with fewer than 50 employees may be eligible for some exemptions.

Unemployment Insurance and Unemployment Benefits

The third COVID-19 relief package contains a significant expansion of both the length and amount of unemployment insurance (UI) that is available. The expansion of UI includes gig workers, independent contractors, and individuals who are self-employed, which are groups of the workforce that traditionally have not been eligible for UI. It is not yet clear how state benefits will be calculated for gig workers, independent contractors, freelancers, and other individuals who have varying income from month to month.

The third stimulus bill provides for a $600 increase per week on top of regular UI benefits. This weekly increase will only be available for four months. Currently, UI benefits vary from state to state. The process of obtaining UI benefits will not change, but the amount will for those who have been impacted by the COVID-19 pandemic. Minority Leader Chuck Schumer (D-NY) indicated that most Americans will get their full salary because of this weekly increase, or close to it. This mechanism will supplement the traditional unemployment calculation that is a percentage of weekly income, up to a specific amount.

Under the third package, workers are eligible to obtain company benefits and UI. This means that workers who are furloughed, and not actually laid off, will be eligible for unemployment benefits. Workers will be able to stay on their company benefit plans (i.e. health insurance), while still being eligible for the UI weekly payments.

Additionally, states can waive the seven-day application period usually required for unemployment benefits. Normal circumstances to receive unemployment assistance include when a worker is laid off from work and can, and actively seeking, work. The legislation allows individuals who have not been laid off but are unable to work for a myriad of reasons due to the COVID-19 pandemic, eligibility for unemployment compensation.

The federal government will release guidelines to the states on these new benefits and corresponding eligibility and will backstop state unemployment funds with the federal funds provided under this Act.

CARES ACT – COVID-19 SMALL BUSINESS ADMINISTRATION RELIEF

Small Business Relief During the COVID-19 Outbreak

Congressional efforts on COVID-19 relief for small businesses administered by the Small Business Administration (SBA) has focused on expanding existing programs and streamlining processes to expedite the distribution of funds. Specifically, Congress has focused on the 7(a) loan program and Economic Injury Disaster Loan (EIDL) program. Overall, the third COVID-19 relief package provides $377 billion in relief to small businesses and their workforce. The bill also requires SBA to defer all principal, interest, and fees on all existing SBA loan products, including 7(a), Community Advantage, 504, and Microloan programs, for six months to provide relief to small businesses negatively affected by COVID-19. In total, through the three COVID-19 packages, nearly $400 billion has been provided to small businesses. In the third package, $454 billion is provided in loans, loan guarantees and other financial instruments to the most severely impacted businesses/industries.

Businesses seeking to determine whether they are an eligible small business according to the SBA can do so using their North American Industry Classification System (NAICS) code here.

Businesses can be matched with a lender for non-disaster loans using the SBA's lender match tool here.

Businesses can apply for EIDLs here.

Traditional 7(a) SBA Loans

Paycheck Protection Program

The third COVID-19 package creates a new $350 billion "Paycheck Protection Program" within the existing 7(a) loan program. The new program provides eight weeks of cash-flow assistance through 100 percent federally guaranteed loans to small employers who maintain their payroll during this emergency. If the employer maintains its payroll, the portion of the loan used for covered payroll costs, interest on mortgage obligations, rent, and utilities will be forgiven.

The new program is retroactive to February 15, 2020 to help bring workers who may have already been laid off back onto payrolls. The size of the loans will be 250 percent of an employer's average monthly payroll. The maximum loan amount is $10 million. Covered payroll costs include salary, wages, and payment of cash tips (up to an annual rate of pay of $100,000); employee group health care benefits, including insurance premiums; retirement contributions; and covered leave. Both lenders and borrowers are provided with fee waivers, an automatic deferment of payments for one year, and no prepayment penalties.

Specifically, the new program would apply to:

- Small employers with 500 employees or fewer, as well as those that meet the current Small Business Administration (SBA) size standards;

- Self-employed individuals; and
- Certain nonprofits, including 501(c)(3) organizations and 501(c)(19) veteran organizations, and tribal business concerns with under 500 employees.

Instead of getting relief directly from SBA, loans would be available immediately through more than 800 existing SBA-certified lenders, including banks, credit unions, and other financial institutions, and SBA is required to streamline the process to rapidly bring additional lenders into the program.

Express Loan Program

The Express Loan Program provides loans for no more than seven years with an option to revolve, which provides borrowers with a great deal of flexibility in terms of repayments and re-borrowing. There is a turnaround time of 36 hours for a decision on an application under this program and the eligible uses are the same as a 7(a) loan. The third COVID-19 package raises the maximum loan amount under this program to $1 million from $350,000.

Economic Injury Disaster Loan Program

Small business owners in all U.S. states and territories are currently eligible to apply for a low-interest loan due to COVID-19. The third relief package expands eligibility for access to Economic Injury Disaster Loans (EIDL) to include:

- Tribal businesses, cooperatives, and employee stock ownership plan (ESOPs) with fewer than 500 employees;
- Any individual operating as a sole proprietor or an independent contractor during the covered period (January 31, 2020 to December 31, 2020); and
- Private non-profits.

EIDLs can be worth up to $2 million and the interest rate is 3.75% for small businesses and 2.75% for nonprofits. EIDLs are long-term loans of up to 30 years and are distributed through SBA's network of 68 district offices who manage the disaster loan programs.

Businesses must be "creditworthy" and loans that exceed $25,000 must be secured by collateral to the extent possible. In many cases, creditworthiness is determined by a business' credit repayment history, credit score, financial standing, available collateral, debt income ratio, and more. If collateral cannot be offered, assets of businesses owners pledged as collateral may be necessary. EIDL funds may be used for:

- Pay fixed debts;
- Payroll;
- Accounts payable;
- Employee sick leave;
- Other bills that cannot be paid due to the disaster's impact;
- Funds may not be used to;
    - Refinance debts incurred prior to the disaster event;
    - Make payments on other loans owned by another federal agency or the SBA;