

PPP FLEXIBILITY ACT

On March 27, 2020, President Trump signed the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* into law. A key component of this bill was the establishment of the Paycheck Protection Program (PPP), a financial assistance loan program, to help small businesses pay their employees and remain afloat during the COVID-19 pandemic. Under this new program, businesses are able to use the funding received from a PPP loan to cover payroll costs for their employees, including salaries, wages, paid sick and medical leave, and insurance premiums. These loans could also be used for non-payroll expenses such as interest payments on mortgages, rent payments, utility payments, and other debt obligations. At the conclusion of the covered period of loan, all or parts of the loan may be forgiven.

Despite Congress's best intentions to craft a program aimed at providing much needed relief to small businesses and their employees during a time of great economic stress, the guidance put out by the Department of Treasury and the Small Business Administration over the last two months of the program have significantly hindered the ability of a small business to use this funding as intended: for relief. That's why I have fought in recent weeks to bring this program the necessary reforms that it so desperately needs including changes in the length in the covered period and required breakdown of payroll and non-payroll costs when utilizing the loan. I am happy to say that, while long overdue, the Congress has passed the *Paycheck Protection Flexibility Act*.

Under this new legislation:

- The covered period for using a PPP loan has been extended from 8 to 24 weeks or December 31, 2020, whichever is earlier.
- Up to 40 percent of the PPP loan may be used for non-payroll costs and still be eligible for total loan forgiveness.
- The terms of the PPP loans that are not forgiven is changed from 2 years to 5 years.
 - Lenders and borrowers may still modify the loan payment terms for loans made prior to the passage of this bill.
- The amount of loan forgiveness will be determined without taking into account a proportional reduction in Full-Time Employees (FTE) if a borrower can:
 - Show an inability to rehire individuals who were employees on February 15, 2020 or hire similarly qualified employees for unfilled positions on or before December 31, 2020
 - Show an inability to return to the same business activity from before February 15, 2020 due to compliance with health and sanitation guidelines
- Borrowers will be able to defer payments on unforgiven portions of their PPP loans until the bank receives their reimbursement from the government for the forgiven amount of the loan.
 - For those borrowers that do not apply for forgiveness, they will have 10 months from the expiration of the program to begin making payments.
- Borrowers are eligible to defer payment of employer payroll taxes.

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CONTACT:

Common_sense@manchin.senate.gov
Or leave a message at 304-342-5855

JOE MANCHIN
United States Senator *for* West Virginia

www.manchin.senate.gov

Senator Manchin's staff will return
your call or email as soon as
possible.