

# How the New COVID-19 Relief Package Impacts Employers

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**T**he American Rescue Plan Act (<https://www.congress.gov/bill/117th-congress/house-bill/1319/text>), signed into law March 11, contains several key provisions (<https://advocacy.shrm.org/wp-content/uploads/2021/03/American-Rescue-Plan-Act-FINAL-6.pdf>) to help struggling businesses and workers during the coronavirus pandemic.

Here's what employers need to know about the relief package.

## Funds for Small Businesses and Restaurants

Raquel Alvarenga, an attorney with Haynes and Boone in Dallas, expects that small-business grants, as well as increased funding and expanded eligibility for the Paycheck Protection Program (PPP), will allow more small businesses to keep their doors open and their workforces employed as the economic effects of the COVID-19 crisis continue.

"The American Rescue Plan Act provides a much-needed life raft to small businesses," she said.

The PPP was established in March 2020 through the Coronavirus Aid, Relief and Economic Security Act. The program aims to help covered businesses (<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program/first-draw-ppp-loans>) keep employees on payroll during the COVID-19 crisis by providing loans, which are forgivable if they are spent on payroll-related expenses and certain other criteria are met. Some businesses may be eligible for a second loan (<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program/second-draw-ppp-loans>) through an extension to the program that was approved in December. Business have until March 31 to apply for a PPP loan, and the most recent legislation expands the PPP to cover more nonprofits and digital media companies.

The American Rescue Plan Act allocates a total of \$50 billion to small businesses (<https://www.sbc.senate.gov/public/index.cfm/2021/3/cardin-statement-on-small-business-provisions-in-american-rescue-plan>), including an additional \$7.25 billion in PPP funds and \$28.6 billion for a new grant program for certain bars, restaurants and other venues that had to close during the pandemic.

"The [act] will get overdue relief to the restaurants, bars and nonprofits, as well as small businesses in Black, Latino, rural and other communities that have felt the worst economic effects of the pandemic," said Sen. Ben Cardin, D-Md.

Under the Restaurant Revitalization Grant Program, eligible businesses may receive up to \$5 million per location and \$10 million total to spend on payroll, rent, utilities, maintenance, supplies and other expenses in the 2021 fiscal year.

Stephanie O'Rourke, CPA, a partner with advisory, assurance and tax firm CohnReznick in Atlanta, said the grant program has been a long-awaited, much-needed federal program for an industry that has seen severe economic distress throughout the pandemic.

"The program will not only support restaurant operators' payroll needs but their operational expenditures as well," she explained. "While the permitted use of the funds and tax treatment of the grant is similar in nature to the PPP program, the absence of the forgiveness process and enhanced covered period gives restaurant operators more flexibility to utilize the funds in a manner that makes more business sense for their day-to-day operational needs."

Feedback

The act also adds \$15 billion to the Economic Injury Disaster Loan Advance Grants Program, \$1.25 billion for the Shuttered Venue Operators Grant Program, and \$175 million for a Community Navigator Pilot Program for small businesses in underserved communities.

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Coronavirus and COVID-19 ([www.shrm.org/ResourcesAndTools/Pages/communicable-diseases.aspx](http://www.shrm.org/ResourcesAndTools/Pages/communicable-diseases.aspx))

### FFCRA and Other Tax Credit Extensions

The Families First Coronavirus Response Act (FFCRA) required employers with fewer than 500 employees to provide paid sick leave and paid family leave for certain COVID-19-related reasons through the end of 2020. FFCRA provided refundable tax credits to eligible employers to reimburse them for the paid leave wages.

Although employers are no longer required to offer such leave, Congress extended the tax credit in prior legislation for employers that voluntarily continued to offer covered leave through March 31. The American Rescue Plan Act extends the tax credit again through Sept. 30 and increases the maximum per-employee tax credit that employers can receive.

Alvarenga expects that these changes will further encourage small to midsize businesses to voluntarily provide paid leave to their employees for eligible COVID-19-related reasons.

The latest COVID-19 relief package expands three additional tax credits. The employee retention credit, which allows eligible employers to claim a credit for paying qualified wages to employees, has been extended to Dec. 31. The act also increases the child tax credit for parents and the earned income credit for low income taxpayers.

### COBRA Premium Subsidy

Under the American Rescue Plan, the government will subsidize 100 percent of COBRA premiums ([www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/stimulus-bill-provides-cobra-subsidy-through-september.aspx](http://www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/stimulus-bill-provides-cobra-subsidy-through-september.aspx)) for laid-off workers and covered relatives, allowing them to stay on their company-sponsored health plan through September.

The legislation includes specific requirements for employers to update COBRA notices—or provide a separate notice—describing the premium subsidy to all eligible individuals, explained Sage Fattahian, an attorney with Morgan Lewis in Chicago.

Federal agencies are required to provide a model within 30 days of enactment, Fattahian said. "But as we wait for the agencies to issue these, employers should take swift action and work closely with their COBRA administrators to identify any eligible individuals who will need to be provided notification of the COBRA premium subsidy."

### Extended Unemployment Benefits

The new law extends the federal government's \$300 weekly supplement to unemployment benefits through Sept. 6, and the first \$10,200 in unemployment benefits will be tax-free for households earning up to \$150,000.

The American Rescue Plan Act also extends Pandemic Unemployment Assistance for self-employed and gig workers and other workers who don't qualify for state unemployment benefits, and Pandemic Emergency Unemployment Compensation, which gives additional weeks of state benefits to people who have been unemployed long-term.

### What Didn't Make the Cut?

The initial version of the stimulus package, which was passed by the U.S. House of Representatives on Feb. 27, included several workplace provisions that were removed before the bill was finalized and sent to the president's desk.

The original House bill would have raised the federal minimum wage to \$15 an hour by 2025. However, the bill was fast-tracked through the budget reconciliation process, and the Senate parliamentarian ruled against (<https://www.rollcall.com/2021/02/25/senate-parliamentarian-nixes-minimum-wage-boost-in-aid-package/>) including the minimum wage hike.

The House bill had also addressed the Fair Labor Standards Act's tip-credit provision, which allows employers that meet certain criteria to pay servers, bartenders and other tipped workers less than minimum wage, as long as their tips make up the difference.

"Though it has gotten little press, buried in the provisions to raise the minimum wage was language which would have phased the tip credit out of existence," noted law firm Fisher Phillips. Additionally, the White House had planned for the bill to include mandatory paid leave for COVID-19-related workplace absences, but such provisions were not included in the initial bill or added during negotiations.

"While these provisions did not make it into the final American Rescue Plan, the White House and Democratic leaders have stated their intent to introduce new legislation to fulfill these campaign promises," Fisher Phillips said. "Whether such proposals can clear the current Senate is yet to be seen."

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