

116TH CONGRESS  
2D SESSION

# S. 3814

To establish a loan program for businesses affected by COVID–19 and to extend the loan forgiveness period for paycheck protection program loans made to the hardest hit businesses, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 21, 2020

Mr. BENNET (for himself and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To establish a loan program for businesses affected by COVID–19 and to extend the loan forgiveness period for paycheck protection program loans made to the hardest hit businesses, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Reviving the Economy  
5       Sustainably Towards A Recovery in Twenty-twenty Act”  
6       or the “RESTART Act”.

1 **SEC. 2. EXTENSION OF COVERED PERIOD FOR LOAN FOR-**  
2 **GIVENESS UNDER THE PAYCHECK PROTEC-**  
3 **TION PROGRAM FOR THE HARDEST HIT BUSI-**  
4 **NESSES.**

5 Section 1106 of the CARES Act (Public Law 116–  
6 136) is amended—

7 (1) by amending subsection (a)(3) to read as  
8 follows:

9 “(3) the term ‘covered period’ means—

10 “(A) except as provided in subparagraph  
11 (B), the 8-week period beginning on the date of  
12 the origination of a covered loan; or

13 “(B) the period beginning on the date of  
14 the origination of a covered loan and ending on  
15 the later of the date that is 16 weeks after the  
16 date of the origination of the covered loan and  
17 the date that is 8 weeks after the date of enact-  
18 ment of the Reviving the Economy Sustainably  
19 Towards A Recovery in Twenty-twenty Act, if  
20 the eligible recipient of the covered loan—

21 “(i) has less than 500 full-time equiv-  
22 alent employees; and

23 “(ii) makes a good faith certification  
24 to the Administrator that, during the 8-  
25 week period described in subparagraph  
26 (A), the eligible recipient suffered a decline

1 in gross receipts of not less than 25 per-  
 2 cent relative to a comparable 8-week pe-  
 3 riod—

4 “(I) immediately preceding  
 5 March 2, 2020; or

6 “(II) during 2019;”; and

7 (2) in subsection (d)(2), by adding at the end  
 8 the following:

9 “(C) EXCEPTION.—This paragraph shall  
 10 not apply with respect to an eligible recipient  
 11 described in subsection (a)(3)(B).”.

12 **SEC. 3. RESTART LOAN PROGRAM.**

13 (a) DEFINITIONS.—In this section:

14 (1) ADMINISTRATION; ADMINISTRATOR.—The  
 15 terms “Administration” and “Administrator” mean  
 16 the Small Business Administration and the Adminis-  
 17 trator thereof, respectively.

18 (2) COMMUNITY DEVELOPMENT FINANCIAL IN-  
 19 STITUTION.—The term “community development fi-  
 20 nancial institution” has the meaning given the term  
 21 in section 103 of the Riegle Community Develop-  
 22 ment and Regulatory Improvement Act of 1994 (12  
 23 U.S.C. 4702).

1           (3) COVERED LOAN.—The term “covered loan”  
2       means a loan made under this section during the  
3       covered period.

4           (4) COVERED PERIOD.—The term “covered pe-  
5       riod” means—

6           (A) except as provided in subparagraph  
7       (B), and as determined by the eligible recipient  
8       of a covered loan, the 6-month period beginning  
9       on—

10           (i) the date of the origination of the  
11       covered loan;

12           (ii) the first day of the next scheduled  
13       pay period following the date of the origi-  
14       nation of the covered loan;

15           (iii) the first day of the first full  
16       month following the date of the origination  
17       of the covered loan; or

18           (iv) April 15, 2020; or

19       (B) with respect to an eligible recipient of  
20       a covered loan that suffered a decline in gross  
21       receipts of more than 80 percent in 2020 as  
22       compared to 2019 or in the 6-month period be-  
23       ginning on the date of the origination of the  
24       covered loan as compared to a comparable pe-  
25       riod in 2019, and as determined by the eligible

1 recipient of a covered loan, the 12-month period  
2 beginning on—

3 (i) the date of the origination of the  
4 covered loan;

5 (ii) the first day of the next scheduled  
6 pay period following the date of the origi-  
7 nation of the covered loan;

8 (iii) the first day of the first full  
9 month following the date of the origination  
10 of the covered loan; or

11 (iv) April 15, 2020.

12 (5) ELIGIBLE RECIPIENT.—The term “eligible  
13 recipient”—

14 (A) means an individual or entity that—

15 (i) is eligible to receive a loan made  
16 under section 7(a)(36) of the Small Busi-  
17 ness Act (15 U.S.C. 636(a)(36)); or

18 (ii) has not more than 5,000 full-time  
19 employees;

20 (B) includes—

21 (i) a nonprofit organization that—

22 (I) has not more than 5,000 full-  
23 time employees; and

1 (II) is not more than 50 percent  
 2 owned or controlled by a State, local,  
 3 or Tribal government;

4 (ii) a business concern that—

5 (I) deals in rare coins and  
 6 stamps; and

7 (II) has not more than 5,000  
 8 full-time employees; and

9 (iii) a business concern that leases or  
 10 finances equipment to other businesses, if  
 11 the business concern—

12 (I) has not more than 5,000 full-  
 13 time employees; and

14 (II) is not—

15 (aa) a mortgage lender; or

16 (bb) a lender participating  
 17 in the loan program under sec-  
 18 tion 7(a)(36) of the Small Busi-  
 19 ness Act (15 U.S.C. 636(a)(36)).

20 (6) MINORITY DEPOSITORY INSTITUTION.—The  
 21 term “minority depository institution” has the  
 22 meaning given the term in section 308 of the Finan-  
 23 cial Institutions Reform, Recovery, and Enforcement  
 24 Act of 1989 (12 U.S.C. 1463 note).

1           (7) NONPROFIT ORGANIZATION.—The term  
 2           “nonprofit organization” means an entity described  
 3           in paragraph (3), (5), (6), (7) (related to housing),  
 4           (12), (13), or (19) of section 501(c) of the Internal  
 5           Revenue Code and that is exempt from taxation  
 6           under section 501(a) of such Code.

7           (8) PAYROLL COSTS.—The term “payroll costs”  
 8           has the meaning given the term in section  
 9           7(a)(36)(A) of the Small Business Act (15 U.S.C.  
 10          636(a)(36)(A)), except that such costs shall not in-  
 11          clude—

12                   (A) qualified wages taken into account in  
 13                   determining the credit allowed under section  
 14                   2301(g) of the CARES Act (Public Law 116–  
 15                   136); or

16                   (B) any payments made to an independent  
 17                   contractor.

18          (9) SECRETARY.—The term “Secretary” means  
 19          the Secretary of the Treasury.

20          (10) UNDERSERVED BORROWER.—The term  
 21          “underserved borrower” means any business concern  
 22          that has traditionally had difficulty accessing fi-  
 23          nance, including—

24                   (A) business concerns that—

1 (i) have fewer than 25 employees and  
2 do not have a strong relationship with a  
3 bank;

4 (ii) are owned or controlled by minori-  
5 ties;

6 (iii) are owned or controlled by  
7 women;

8 (iv) are owned or controlled by vet-  
9 erans, including service-disabled veterans  
10 (as those terms are defined in section 3(q)  
11 of the Small Business Act (15 U.S.C.  
12 632(q))); or

13 (v) are located in low-income and  
14 rural communities, including those in areas  
15 eligible for assistance under section 45D of  
16 the Internal Revenue Code of 1986; and

17 (B) Tribal business concerns.

18 (b) ESTABLISHMENT.—The Administrator shall es-  
19 tablish a program to guarantee loans made to eligible re-  
20 cipients affected by COVID–19.

21 (c) PARTICIPATION.—In an agreement to participate  
22 in a covered loan on a deferred basis, the participation  
23 by the Administration shall be 100 percent.

24 (d) TERMS AND REQUIREMENTS.—



1           (1) DURATION.—Except as provided in para-  
2           graph (4), the duration of a covered loan shall be for  
3           not more than 7 years.

4           (2) AMOUNT.—

5           (A) IN GENERAL.—The amount of a cov-  
6           ered loan made to an eligible recipient shall be  
7           not more than the lesser of—

8                   (i) 45 percent of the 2019 gross re-  
9                   ceipts of the eligible recipient; and

10                   (ii) \$12,000,000.

11          (B) DUPLICATION OF ASSISTANCE.—

12           (i) IN GENERAL.—An eligible recipient  
13           of a covered loan shall not use proceeds of  
14           the covered loan for the same expenses  
15           that are covered using funds received  
16           under subsection (a)(36) or (b)(2) of sec-  
17           tion 7 of the Small Business Act (15  
18           U.S.C. 636) or section 1110 of the  
19           CARES Act (Public Law 116–136).

20           (ii) REDUCTION BASED ON OTHER  
21           SBA LOANS.—The amount of a covered  
22           loan for which an eligible recipient may re-  
23           ceive under this section shall be reduced by  
24           the amount of any assistance received by  
25           the eligible recipient under subsection

1 (a)(36) or (b)(2) of section 7 of the Small  
 2 Business Act (15 U.S.C. 636) or section  
 3 1110 of the CARES Act (Public Law 116–  
 4 136) that is intended to be used for the al-  
 5 lowable expenses described in subsection  
 6 (g)(2) during the covered period.

7 (3) INTEREST RATE.—

8 (A) IN GENERAL.—Except as provided in  
 9 paragraph (4), the interest rate on a covered  
 10 loan shall be, as determined by the Adminis-  
 11 trator and the Secretary—

12 (i) for the first 2 years of the covered  
 13 loan, not less than 2 percent and not more  
 14 than 4 percent; and

15 (ii) for the third through seventh  
 16 years of the covered loan, the Applicable  
 17 Federal Rate plus 250 to 600 basis points  
 18 based on the decline in gross receipts of  
 19 the eligible recipient.

20 (B) NO PAYMENTS FOR 12 MONTHS.—No  
 21 payments shall be due on interest on a covered  
 22 loan for the first 12 months of the covered loan.

23 (4) SPECIAL PROVISIONS FOR NONPROFIT OR-  
 24 GANIZATIONS.—At the time of application for a cov-

1       ered loan, a nonprofit organization described in sub-  
 2       section (a)(5)(B) shall make an election—

3               (A) for a covered loan with a maturity of  
 4               not more than 10 years and an interest rate of  
 5               not more than 2 percent for the first 4 years  
 6               of a covered loan, with no eligibility for forgive-  
 7               ness of the covered loan under subsection (j); or

8               (B) for a covered loan with the maturity  
 9               and interest rate terms described in paragraphs  
 10              (1) and (3), respectively, with the ability to ob-  
 11              tain forgiveness of the covered loan if the non-  
 12              profit organization qualifies under subsection  
 13              (j)(2).

14       (5) PAYMENT DEFERRAL.—

15              (A) IN GENERAL.—No payment of prin-  
 16              cipal shall be due on a covered loan for the first  
 17              2 years of the covered loan.

18              (B) ADDITIONAL DEFERRAL.—After the 2-  
 19              year deferral period described in subparagraph  
 20              (A), the Administrator may grant not more  
 21              than an additional 2 years of principal deferral  
 22              to an eligible recipient of a covered loan if the  
 23              eligible recipient is certified by the Adminis-  
 24              trator and the Secretary as economically dis-  
 25              tressed based on publicly available criteria es-

1           tablished by the Administrator and the Sec-  
2           retary.

3           (6) ORIGINATION FEES.—

4                 (A) IN GENERAL.—The origination fee for  
5           a covered loan shall be as follows:

6                     (i) 3.75 percent for a covered loan of  
7                     not more than \$100,000.

8                     (ii) 3.5 percent for a covered loan of  
9                     more than \$100,000 and not more than  
10                    \$250,000.

11                    (iii) 3.25 percent for a covered loan of  
12                    more than \$250,000 and not more than  
13                    \$500,000.

14                    (iv) 3 percent for a covered loan of  
15                    more than \$500,000 and not more than  
16                    \$750,000.

17                    (v) 2.75 percent for a covered loan of  
18                    more than \$750,000 and not more than  
19                    \$1,000,000.

20                    (vi) 2.5 percent for a covered loan of  
21                    more than \$1,000,000 and not more than  
22                    \$1,500,000.

23                    (vii) 2.25 percent for a covered loan of  
24                    more than \$1,500,000 and not more than  
25                    \$1,750,000.

(viii) 2 percent for a covered loan of more than \$1,750,000 and not more than \$2,000,000.

(ix) 1.75 percent for a covered loan of more than \$2,000,000 and not more than \$2,500,000.

(x) 1.5 percent for a covered loan of more than \$2,500,000 and not more than \$3,000,000.

(xi) 1.25 percent for a covered loan of more than \$3,000,000 and not more than \$3,500,000.

(xii) 1 percent for a covered loan of more than \$3,500,000 and not more than \$4,000,000.

(xiii) 0.75 percent for a covered loan of more than \$4,000,000 and not more than \$12,000,000.

(B) PAYMENT BY FEDERAL GOVERNMENT.—The Administrator shall—

(i) for any covered loan that is made to an eligible recipient with not more than 500 full-time employees, pay the applicable origination fee described in subparagraph (A); and

(ii) for any covered loan of not more than \$10,000,000 that is made to an eligible recipient with more than 500 full-time employees, pay 50 percent of the amount of the applicable origination fee described in subparagraph (A).

(C) PAYMENT BY ELIGIBLE RECIPIENT.—

After any applicable payments by the Administrator under subparagraph (B), the eligible recipient of a covered loan—

(i) shall be responsible for paying the remainder of any applicable origination fee under subparagraph (A); and

(ii) may finance the amount of the applicable origination fee as part of the covered loan amount, with such origination fee amount not counting toward the limitation on covered loan amounts described in paragraph (2)(A).

(7) STREAMLINED PROCEDURES.—The Admin-

istrator and the Secretary shall establish streamlined application and loan approval procedures for eligible recipients with not more than 500 full-time employees, including by allowing an eligible recipient to use an existing application submitted to a lender for the

1 loan program under section 7(a)(36) of the Small  
2 Business Act (15 U.S.C. 636(a)(36)) and update the  
3 application as necessary for purposes of applying for  
4 a covered loan.

5 (8) APPLICATION.—

6 (A) AVAILABILITY.—The Administrator  
7 shall make available the application for a cov-  
8 ered loan in the 10 most commonly spoken lan-  
9 guages, other than English, in the United  
10 States, which shall include Spanish, Mandarin,  
11 Cantonese, Japanese, and Korean.

12 (B) GUIDANCE.—Not later than 15 days  
13 after the date of enactment of this Act, the Ad-  
14 ministrator and the Secretary shall issue guid-  
15 ance to allow lenders to receive applications for  
16 covered loans.

17 (C) DEADLINE FOR RESPONSE.—A lender  
18 that receives an application for a covered loan  
19 shall—

20 (i) not later than 2 days after submis-  
21 sion of the application to the Adminis-  
22 trator, notify the applicant that the lender  
23 submitted the application and provide the  
24 confirmation number; and

1 (ii) not later than 15 days after ap-  
2 proving the application, disburse the funds  
3 to the applicant.

4 (D) FORMAT.—The application for a cov-  
5 ered loan shall be similar to the application  
6 used for a loan made under section 7(a)(36) of  
7 the Small Business Act (15 U.S.C. 636(a)(36)),  
8 with additional details requested by the Admin-  
9 istrator as necessary.

10 (E) APPLICATION WINDOWS.—The Admin-  
11 istrator shall make efforts to ensure that under-  
12 served borrowers that are eligible recipients re-  
13 ceive covered loans, including by establishing  
14 exclusive application windows for those eligible  
15 recipients.

16 (9) LIMITATION ON NUMBER OF LOANS.—An  
17 eligible recipient may receive not more than 2 cov-  
18 ered loans, the requested aggregate amount of which  
19 shall not exceed the limitation on covered loan  
20 amounts described in paragraph (2)(A).

21 (10) WAIVER OF PREPAYMENT PENALTY.—Not-  
22 withstanding any other provision of law, there shall  
23 be no prepayment penalty for any payment made on  
24 a covered loan.



1           (11) UNITED STATES OPERATIONS.—A covered  
2       loan may only be used for expenses related to the  
3       operations of an eligible recipient carried out in the  
4       United States, including any territory or possession  
5       of the United States and operations carried out off  
6       of the United States coastline.

7       (e) LENDERS.—

8           (1) EXISTING PPP LENDERS.—A lender that is  
9       approved to make loans under section 7(a)(36) of  
10      the Small Business Act (15 U.S.C. 636(a)(36)) and  
11      is approved by the Administrator and the Secretary  
12      may make and approve covered loans.

13          (2) ADDITIONAL LENDERS.—The authority to  
14      make covered loans shall be extended to additional  
15      lenders determined by the Administrator and the  
16      Secretary to have the necessary qualifications to  
17      process, close, disburse, and service loans made with  
18      the guarantee of the Administration.

19          (3) LENDERS SERVING UNDERSERVED BOR-  
20      ROWERS.—In approving lenders to make covered  
21      loans, the Administrator and the Secretary shall give  
22      priority to lenders that are community development  
23      financial institutions with lower lending volumes, mi-  
24      nority depository institutions, mission-based non-  
25      profit lenders, nonbank lenders, and other financial

1 institutions that disproportionately serve under-  
 2 served borrowers.

3 (4) RESALE OF LOANS.—A lender of a covered  
 4 loan may sell the covered loan to a third party.

5 (5) SALE OF PARTICIPATION IN COVERED  
 6 LOANS.—A lender of a covered loan may sell a par-  
 7 ticipation in the covered loan to a non-authorized  
 8 lender in an amount that is not more than 85 per-  
 9 cent of the covered loan.

10 (6) AGENT DISCLOSURE.—In order to be eligi-  
 11 ble to obtain a fee, any agent shall be disclosed to  
 12 the lender and the Administrator at the time of ap-  
 13 plication for a covered loan.

14 (7) CAPITAL AND LIQUIDITY REQUIREMENTS.—  
 15 Until December 31, 2021, the amount of a covered  
 16 loan made by a lender shall be disregarded by Fed-  
 17 eral regulators for the purpose of calculating regu-  
 18 latory capital and liquidity requirements.

19 (f) BORROWER REQUIREMENTS.—

20 (1) CERTIFICATION.—An eligible recipient ap-  
 21 plying for a covered loan shall submit a good faith  
 22 certification that the eligible recipient suffered a de-  
 23 cline in gross receipts of not less than 25 percent—

24 (A) during an 8-week period during the pe-  
 25 riod beginning on February 15, 2020, and end-

1           ing on July 31, 2020, relative to a comparable  
2           8-week period during—

3                   (i) the period beginning on January 1,  
4                   2020, and ending on March 31, 2020; or  
5                   (ii) 2019; or

6                   (B) during a calendar or fiscal quarter  
7           during the period beginning on February 15,  
8           2020, and ending on July 31, 2020, relative to  
9           the same calendar or fiscal quarter in 2019.

10           (2) ACCOUNTING METHOD.—An eligible recipi-  
11           ent may calculate the decline in gross receipts de-  
12           scribed in paragraph (1) using the cash or accrual  
13           accounting method.

14           (3) ADJUSTMENTS.—The Administrator, in  
15           consultation with the Secretary, shall provide guid-  
16           ance on appropriate adjustments to the terms under  
17           this subsection for eligible recipients seeking a cov-  
18           ered loan that are fiscal year taxpayers or seasonal  
19           businesses.

20           (4) RESTRICTIONS.—

21                   (A) IN GENERAL.—The Administrator may  
22           enter into agreements to guarantee covered  
23           loans made to eligible recipients only if the Ad-  
24           ministrator determines that the agreement pro-  
25           vides that, until the date that is 12 months

1 after the date on which the covered loan is no  
2 longer outstanding—

3 (i) the eligible recipient or an affiliate  
4 of the eligible recipient shall not purchase  
5 an equity security that is listed on a na-  
6 tional securities exchange of the eligible re-  
7 cipient or any parent company of the eligi-  
8 ble recipient, except to the extent required  
9 under a contractual obligation in effect as  
10 of the date of enactment of this Act;

11 (ii) the eligible recipient shall not pay  
12 dividends or make other capital distribu-  
13 tions with respect to the common stock of  
14 the eligible recipient; and

15 (iii) the restrictions on certain em-  
16 ployee compensation described in section  
17 4004(a) of the CARES Act (Public Law  
18 116–136) apply to officers and employees  
19 of the eligible recipient.

20 (B) EXCEPTIONS.—

21 (i) DIVIDENDS.—Subparagraph  
22 (A)(ii) shall not apply to any eligible re-  
23 cipient that is a real estate investment  
24 trust (as defined under section 856 of the  
25 Internal Revenue Code of 1986) for the

1 taxable year in which the distribution is  
2 made to the extent that such entity distrib-  
3 utes no more than 100 percent of real es-  
4 tate investment trust taxable income (as  
5 defined in section 857(b)(2) of such Code,  
6 determined without regard to the deduc-  
7 tion for dividends paid (as defined in sec-  
8 tion 561 of such Code)) during such tax-  
9 able year.

10 (ii) DISTRIBUTIONS.—Notwithstand-  
11 ing subparagraph (A), during the period  
12 described in that subparagraph an eligible  
13 recipient that is an S-corporation or a lim-  
14 ited liability company may provide a dis-  
15 tribution to pay income taxes.

16 (5) EMERGENCY RELIEF FUNDS.—

17 (A) IN GENERAL.—Except as provided in  
18 subparagraph (B), an eligible recipient applying  
19 for a covered loan may not receive or have re-  
20 ceived any assistance under 4003 of the  
21 CARES Act (Public Law 116–136) for any  
22 purpose.

23 (B) RETURN OF FUNDS.—An eligible re-  
24 cipient that received assistance under section  
25 4003 of the CARES Act (Public Law 116–136)

1           may apply for a covered loan if the eligible re-  
2           cipient returns the funds received under such  
3           section 4003.

4           (6) BUSINESS CONCERNS WITH MORE THAN 1  
5           PHYSICAL LOCATION.—A business concern that em-  
6           ploys not more than 500 full-time employees per  
7           physical location of the business concern and that is  
8           assigned a North American Industry Classification  
9           System code beginning with 72 at the time of dis-  
10          bursal shall be eligible to receive a covered loan if  
11          the number of full-time employees, in the aggregate,  
12          does not exceed 5,000.

13          (7) WAIVER OF AFFILIATION RULES.—The pro-  
14          visions applicable to affiliations under section  
15          121.103 of title 13, Code of Federal Regulations, or  
16          any successor regulation, are waived with respect to  
17          eligibility for a covered loan for—

18                (A) any eligible recipient with not more  
19                than 500 employees that is assigned a North  
20                American Industry Classification System code  
21                beginning with 72;

22                (B) any eligible recipient operating as a  
23                franchise;

24                (C) any eligible recipient that receives fi-  
25                nancial assistance from a company licensed

1 under section 301 of the Small Business Invest-  
2 ment Act of 1958 (15 U.S.C. 681); and

3 (D) any eligible recipient with not more  
4 than 500 full-time employees that is not more  
5 than 50 percent owned or controlled by another  
6 entity.

7 (8) CALCULATION OF FULL-TIME EMPLOY-  
8 EES.—For purposes of determining the number of  
9 full-time employees of an eligible recipient as of Feb-  
10 ruary 15, 2020—

11 (A) any employee working not fewer than  
12 30 hours per week shall be considered a full-  
13 time employee; and

14 (B) any employee working not fewer than  
15 10 hours and fewer than 30 hours per week  
16 shall be counted as one-half of a full-time em-  
17 ployee.

18 (9) CREDIT ELSEWHERE.—During the covered  
19 period, an eligible recipient is not required to show  
20 that the eligible recipient is unable to obtain credit  
21 elsewhere, as defined in section 3(h) of the Small  
22 Business Act (15 U.S.C. 632(h)).

23 (10) SUBORDINATION.—Any covered loan made  
24 to an eligible recipient shall be subordinate to any

liability incurred by the eligible recipient before February 15, 2020.

(11) RESTRICTIONS FOR PRIOR BANKRUPTCY.—A lender may deny an application for a covered loan submitted by an eligible recipient if, during the 7-year period preceding the date of the application, the eligible recipient or a person that owns or controls the eligible recipient filed a petition for bankruptcy under chapter 7 or 13 of title 11, United States Code.

(g) USE OF FUNDS.—

(1) IN GENERAL.—An eligible recipient of a covered loan may use the proceeds for allowable expenses described in paragraph (2).

(2) ALLOWABLE EXPENSES.—The expenses described in this paragraph are—

(A) payroll costs for employees and furloughed employees, including—

(i) costs for continuation coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other



1           than subsection (f)(1) of such section inso-  
2           far as it relates to pediatric vaccines), or  
3           section 8905a of title 5, United States  
4           Code, or under a State program that pro-  
5           vides comparable continuation coverage,  
6           other than coverage under a health flexible  
7           spending arrangement under a cafeteria  
8           plan within the meaning of section 125 of  
9           the Internal Revenue Code of 1986; or

10                 (ii) any other non-cash benefit;

11                 (B) rent;

12                 (C) utilities;

13                 (D) mortgage interest payments on exist-  
14           ing mortgages as of February 15, 2020;

15                 (E) scheduled interest payments on other  
16           scheduled debt as of February 15, 2020;

17                 (F) costs related to personal protective  
18           equipment;

19                 (G) payments of principal on outstanding  
20           loans;

21                 (H) payments made to independent con-  
22           tractors, as reported on Form-1099 MISC;

23                 (I) other ordinary and necessary business  
24           expenses, including—

- 1 (i) settling existing debts owed to ven-
- 2 dors and replenishing inventory;
- 3 (ii) franchise fees;
- 4 (iii) hotel management fees;
- 5 (iv) maintenance expenses;
- 6 (v) administrative costs;
- 7 (vi) taxes;
- 8 (vii) operating leases; and
- 9 (viii) any other capital expenditure or
- 10 expense required under any State, local, or
- 11 Federal law or guideline related to social
- 12 distancing.

13 (3) PROHIBITED EXPENSES.—An eligible recipi-  
 14 ent may not use the proceeds of a covered loan—

- 15 (A) to purchase real estate;
- 16 (B) for payments of interest or principal
- 17 on loans originated after February 15, 2020;
- 18 (C) to invest or re-lend funds;
- 19 (D) for contributions or expenditures to, or
- 20 on behalf of, any political party, party com-
- 21 mittee, or candidate for elective office; or
- 22 (E) for any other use as may be prohibited
- 23 by the Administrator.

24 (h) LOAN DISBURSAL.—

1           (1) INITIAL DISBURSAL.—During the initial 14-  
 2           day period in which lenders make and approve cov-  
 3           ered loans, the lenders shall be limited to making  
 4           covered loans to eligible recipients—

5                   (A) with fewer than 50 full-time employees  
 6                   for the first 7-day period; and

7                   (B) with fewer than 500 full-time employ-  
 8                   ees for the second 7-day period.

9           (2) REPORT.—Not later than the later of the  
 10          date that is 180 days after the date on which  
 11          amounts made available to carry out this Act are ex-  
 12          pended or July 31, 2021, the Inspector General of  
 13          the Administration shall submit to Congress a report  
 14          evaluating whether small business concerns (as de-  
 15          fined in section 3 of the Small Business Act (15  
 16          U.S.C. 632)), minority-owned eligible recipients, and  
 17          other underserved borrowers are treated fairly in the  
 18          process of making and approving covered loans.

19          (i) MATURITY FOR LOANS WITH REMAINING BAL-  
 20          ANCE AFTER APPLICATION FOR FORGIVENESS.—With re-  
 21          spect to a covered loan that has a remaining balance after  
 22          a reduction based on the loan forgiveness amount under  
 23          subsection (j)—

1           (1) the remaining balance shall continue to be  
 2           guaranteed by the Administration under this section;  
 3           and

4           (2) the covered loan shall have a maximum ma-  
 5           turity of 78 months from the date on which the bor-  
 6           rower applies for loan forgiveness under that sub-  
 7           section.

8           (j) LOAN FORGIVENESS.—

9           (1) IN GENERAL.—Except as otherwise pro-  
 10          vided in this subsection, an eligible recipient of a  
 11          covered loan that is not a nonprofit organization  
 12          shall be eligible for forgiveness for expenses de-  
 13          scribed in subparagraphs (A) through (F) of sub-  
 14          section (g)(2) incurred during the covered period  
 15          using proceeds of the covered loan in an amount  
 16          equal to the product obtained by multiplying—

17                   (A) the product obtained by multiplying—

18                           (i) the percentage decline in revenues  
 19                           of the eligible recipient—

20                                   (I) if the covered period does not  
 21                                   extend past March 31, 2021, between  
 22                                   the total revenue received by the busi-  
 23                                   ness during calendar year 2020 and  
 24                                   the total revenue received by the busi-  
 25                                   ness during calendar year 2019; or

1 (II) between the total revenue  
 2 during the 6-month period following  
 3 the date of the origination of the cov-  
 4 ered loan and the total revenue during  
 5 a comparable 6-month period during  
 6 the 12-month period preceding the  
 7 date of the origination of the covered  
 8 loan; and

9 (ii) .90; and

10 (B)(i) for an eligible recipient with not  
 11 more than 500 employees, the sum of the ex-  
 12 penses of the eligible recipient described in sub-  
 13 paragraphs (A) through (F) of subsection  
 14 (g)(2) paid during the covered period; or

15 (ii) for an eligible recipient with more than  
 16 500 and not more than 5,000 employees, the  
 17 sum of—

18 (I) the benefits described in clauses  
 19 (i) and (ii) of subsection (g)(2)(A) of this  
 20 section and the payments described in  
 21 subitems (CC) through (GG) of section  
 22 7(a)(36)(A)(viii)(I)(aa) of the Small Busi-  
 23 ness Act (15 U.S.C.  
 24 636(a)(36)(A)(viii)(I)(aa)) that were paid  
 25 during the covered period; and

1                   (II) the expenses described in sub-  
 2                   paragraphs (B) through (F) of subsection  
 3                   (g)(2) that were paid during the covered  
 4                   period.

5                   (2) LOAN FORGIVENESS FOR SMALL NON-  
 6                   PROFITS.—A nonprofit organization described in  
 7                   subsection (a)(5)(B) with not more than 500 full-  
 8                   time employees that is an eligible recipient of a cov-  
 9                   ered loan shall be eligible for forgiveness for ex-  
 10                  penses described in subparagraphs (A) through (F)  
 11                  of subsection (g)(2) using, at the election of the non-  
 12                  profit organization—

13                   (A) the amount obtained using the formula  
 14                   described in paragraph (1), except that gross  
 15                   receipts shall not include donations, grants,  
 16                   dues, and investment income; or

17                   (B) the amount obtained using the formula  
 18                   described in paragraph (1), except that the  
 19                   number in subparagraph (A)(ii) of such para-  
 20                   graph shall be—

21                   (i) .7 for a nonprofit organization  
 22                   with not more than 50 full-time employees;  
 23                   and

1 (ii) .2 for a nonprofit organization  
 2 with not fewer than 50 and not more than  
 3 500 full-time employees.

4 (3) PROHIBITION ON FORGIVENESS.—Any cov-  
 5 ered loan made to an eligible recipient that is pub-  
 6 licly traded, is a nonprofit organization described in  
 7 section 501(c)(7) of the Internal Revenue Code, or  
 8 is an eligible recipient described in subsection  
 9 (f)(7)(D) shall not be eligible for loan forgiveness  
 10 under this subsection.

11 (4) LIMITATION ON AMOUNT OF FORGIVE-  
 12 NESS.—

13 (A) IN GENERAL.—The amount of all cov-  
 14 ered loans made to an eligible recipient that  
 15 may be forgiven under this subsection shall not  
 16 exceed the total losses incurred by the eligible  
 17 recipient in the taxable year 2020.

18 (B) APPLICATION OF RELATED PARTY  
 19 PAYMENTS.—The Secretary shall issue regula-  
 20 tions that provide that, for purposes of the loss  
 21 calculation under subparagraph (A)—

22 (i) with respect to an eligible recipient  
 23 of a covered loan with not fewer than 500  
 24 full-time employees, related party trans-

1 actions are prohibited from counting to-  
2 ward the loss calculation; and

3 (ii) with respect to an eligible recipi-  
4 ent of a covered loan with not more than  
5 500 full-time employees, any related party  
6 payments made during the covered period  
7 cannot be greater than related party pay-  
8 ments made during taxable year 2019.

9 (C) CAPITAL LOSSES.—For purposes of  
10 the loss calculation under subparagraph (A),  
11 capital losses from the sale of assets or deduc-  
12 tions for guaranteed payments to partners in  
13 partnerships or owners in S corporations shall  
14 not count toward the loss calculation.

15 (D) LIMITATION ON PPE EXPENSES.—An  
16 eligible recipient may only receive forgiveness  
17 for personal protective equipment expenses de-  
18 scribed in subsection (g)(2)(F) of not more  
19 than \$5,000.

20 (5) NO LIMITS BASED ON PERCENTAGE OF  
21 FUNDS USED FOR CERTAIN EXPENSES.—The Ad-  
22 ministrator or the Secretary shall not place limita-  
23 tions on forgiveness under this subsection based on  
24 the percentage of covered loan proceeds that are



1       used for specific expenses described in subsection  
2       (g)(2).

3           (6) HOLD HARMLESS.—If a lender approved to  
4       make covered loans has received the required docu-  
5       mentation under this section from an applicant at-  
6       testing that the applicant has accurately verified the  
7       eligibility, gross receipts, and expenses of the appli-  
8       cant during the covered period—

9           (A) an enforcement action may not be  
10       taken against the lender under section 47(e) of  
11       the Small Business Act (15 U.S.C. 657t(e)) re-  
12       lating to loan forgiveness for those expenses;  
13       and

14          (B) the lender shall not be subject to any  
15       penalties by the Administrator relating to loan  
16       forgiveness for the expenses.

17       (7) TREATMENT OF FORGIVEN AMOUNTS.—

18          (A) IN GENERAL.—Section 108(a)(1) of  
19       the Internal Revenue Code of 1986 is amended  
20       by striking “or” at the end of subparagraph  
21       (D), by striking the period at the end of sub-  
22       paragraph (E)(ii) and inserting “, or”, and by  
23       adding at the end the following new subpara-  
24       graph:

1           “(F) the indebtedness discharged is a cov-  
 2           ered loan (as defined in section 4(a) of the RE-  
 3           START Act) discharged under section 4(j) of  
 4           such Act.”.

5           (B) REDUCTION OF TAX ATTRIBUTES.—  
 6           Section 108(b)(1) of such Code is amended by  
 7           striking “or (C)” and inserting “, (C), or (F)  
 8           (after application of subsection (j)(i))”.

9           (C) LIMITATION.—Section 108 of such  
 10          Code is amended by adding at the end the fol-  
 11          lowing new subsection:

12          “(j) SPECIAL RULES FOR DISCHARGES OF COVERED  
 13          LOANS.—

14           “(1) INCLUSION OF EXCESS AMOUNTS.—

15           “(A) IN GENERAL.—In the case of any  
 16           taxpayer to which subsection (a)(1)(F) applies,  
 17           the gross income of such taxpayer for any tax-  
 18           able year in the applicable period shall be in-  
 19           creased by the product of—

20                   “(i) 20 percent, and

21                   “(ii) so much of the amount excluded  
 22                   under subsection (a)(1)(F) as exceeds  
 23                   \$250,000.

24           “(B) APPLICABLE PERIOD.—For purposes  
 25           of subparagraph (A), the term ‘applicable pe-

1           riod’ means the 5 taxable-year period beginning  
 2           with the taxable year in which the discharge oc-  
 3           curs.

4           “(2) APPLICATION TO TAX ATTRIBUTES.—For  
 5           purposes of applying subsection (b), the amount  
 6           taken into account as excluded from income under  
 7           subsection (a)(1)(F) shall not exceed \$250,000.”.

8           (D) EFFECTIVE DATE.—The amendments  
 9           made by this paragraph shall apply to dis-  
 10          charges of indebtedness after the date of the  
 11          enactment of this Act.

12          (8) COORDINATION WITH EMPLOYEE RETEN-  
 13          TION TAX CREDIT.—Section 2301(g) of the CARES  
 14          Act (Public Law 116–136) is amended to read as  
 15          follows:

16          “(g) ELECTION TO NOT TAKE CERTAIN WAGES  
 17          INTO ACCOUNT.—

18               “(1) IN GENERAL.—This section shall not apply  
 19               to qualified wages paid by an eligible employer with  
 20               respect to which such employer makes an election  
 21               (at such time and in such manner as the Secretary  
 22               may prescribe) to have this section not apply to such  
 23               wages.

24               “(2) COORDINATION WITH RESTART LOANS.—  
 25               The Secretary, in consultation with the Adminis-

1       trator of the Small Business Administration, shall  
 2       issue guidance providing that payroll costs paid or  
 3       incurred during the covered period shall not fail to  
 4       be treated as qualified wages under this section by  
 5       reason of an election under paragraph (1) to the ex-  
 6       tent that a covered loan of the eligible employer is  
 7       not forgiven by reason of a decision under section  
 8       3(j) of the RESTART Act. Terms used in the pre-  
 9       ceding sentence which are also used in section 3 of  
 10      such Act shall have the same meaning as when used  
 11      in such section.”.

12      (k) SPECIAL RULES FOR SEASONAL AND NEW BUSI-  
 13      NESSES.—

14           (1) IN GENERAL.—The Administrator and the  
 15      Secretary shall develop special rules and procedures  
 16      for eligibility, calculation of full-time employees, loan  
 17      terms, and loan forgiveness for—

18           (A) covered loans made to eligible recipi-  
 19      ents that are seasonal that do not have suffi-  
 20      cient revenue to fully benefit from assistance  
 21      provided under this section; and

22           (B) covered loans made to eligible recipi-  
 23      ents formed after January 1, 2019, that do not  
 24      have sufficient revenue to fully benefit from as-  
 25      sistance provided under this section.

1           (2) LOAN AMOUNT.—The Administrator and  
2           the Secretary shall develop terms with respect to the  
3           loan amount of a covered loan for the eligible recipi-  
4           ents described in paragraph (1) to provide consistent  
5           support to those eligible recipients relative to an ex-  
6           isting or a non-seasonal eligible recipient.

7           (3) PROHIBITION.—An eligible recipient formed  
8           after January 1, 2019, shall not be eligible for loan  
9           forgiveness under this section.

10          (l) TRANSPARENCY.—

11           (1) REPORTING.—The Administrator shall col-  
12           lect and publish information in searchable and  
13           downloadable format on eligible recipients of covered  
14           loans, including—

15                   (A) the name of each eligible recipient with  
16                   not fewer than 50 full-time employees that re-  
17                   ceived a covered loan, which shall be published  
18                   on a monthly basis;

19                   (B) aggregate demographic information of  
20                   applicants that applied and applicants that were  
21                   approved for a covered loan, which shall be pub-  
22                   lished on a weekly basis;

23                   (C) the number of loan applications re-  
24                   ceived and total loan amount requested, the  
25                   number of loan applications awaiting disposition

1 and the total loan amount awaiting disposition,  
2 the number of loan applications rejected and  
3 the total loan amount rejected, and the number  
4 of loan applications approved and the total loan  
5 amount approved by each lender, which shall be  
6 published on a weekly basis;

7 (D) aggregate total loan volume approved  
8 broken down by industry and by State, which  
9 shall be published on a weekly basis;

10 (E) details on the number of full-time  
11 equivalent employees, loan size, loan terms, in-  
12 dustry, and headquarters location of each eligi-  
13 ble recipient of a covered loan, which shall be  
14 published on a monthly basis; and

15 (F) the name of and loan amount forgiven  
16 for each eligible recipient of a covered loan with  
17 not fewer than 50 full-time employees, with ag-  
18 gregate loan amount forgiveness data provided  
19 for all eligible recipients of covered loans, which  
20 shall be published in a final report not later  
21 than December 31, 2022.

22 (2) MULTIPLE APPLICATIONS.—To the extent  
23 possible, the Administrator should endeavor to de-  
24 duplicate multiple applications for a covered loan

1 submitted by the same applicant to different lenders  
 2 for purposes of public reporting.

3 (m) SEPARATION OF FUNDS AND BANKRUPTCY  
 4 TREATMENT.—

5 (1) SEPARATION OF FUNDS.—An eligible recipi-  
 6 ent of a covered loan shall—

7 (A) separately account for, and not com-  
 8 mingle with other funds, the proceeds of the  
 9 covered loan; and

10 (B) account in detail for the use of the  
 11 proceeds.

12 (2) BANKRUPTCY TREATMENT.—

13 (A) IN GENERAL.—If an eligible recipient  
 14 of a covered loan is a debtor in a case under  
 15 chapter 7 or 13 of title 11, United States Code,  
 16 and the covered loan is still outstanding on the  
 17 date of the commencement of the case—

18 (i) any interest of the eligible recipient  
 19 in the proceeds of the covered loan shall  
 20 not be included in the property of the es-  
 21 tate; and

22 (ii) the amount of the proceeds of the  
 23 covered loan that were not expended on al-  
 24 lowable expenses described in subsection

1 (g)(2) or forgiven under subsection (j) shall  
2 be transferred to the Federal Government.

3 (B) UNRECOVERED AMOUNTS ON COVERED  
4 LOANS.—Nothing in subparagraph (A) shall  
5 preclude the Federal Government from pur-  
6 suing a claim in a case under chapter 7 or 13  
7 of title 11, United States Code, with respect to  
8 the difference, if any, between the amount due  
9 to the Federal Government on a covered loan  
10 and the amount that was transferred under  
11 subparagraph (A)(ii).

12 (n) AUTHORIZATION OF APPROPRIATIONS.—There is  
13 authorized to be appropriated to the Administration—

14 (1) such sums as may be necessary to carry out  
15 this section, to remain available until December 31,  
16 2020; and

17 (2) \$150,000,000, to remain available until ex-  
18 pended, for administrative purposes to update tech-  
19 nologies to allow for digital case management, elec-  
20 tronic submissions, and increased telecommuni-  
21 cations related to the program under this section.

○