H.R. 6918 - The Paycheck Recovery Act:
Stopping Mass Unemployment While
Supporting Businesses and Their Workers

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Executive Summary

We are facing an unprecedented economic and public health crisis that requires unprecedented solutions. It's clear that the measures put in place by Congress thus far are helpful, but insufficient to match the scale of the crisis. During the first two months of the pandemic, nearly 37 million people have filed for unemployment and the unemployment rate has hit 15 percent, the highest rate since the Great Depression. Mass layoffs and furloughs have overwhelmed unemployment insurance systems across the country, and in the midst of a public health pandemic, workers who are now unemployed also find themselves without any access to their previously-covered employer health care and benefits as at least 27 million have lost their health care so far. The exigent and desperate circumstances now facing businesses and employees across the country demand a better solution.

Important provisions of the CARES Act package —cash rebates and forgivable loans to small businesses—have yet to reach the vast majority of workers or businesses and many people simply will not qualify. Small and minority-owned businesses, those without banking relationships and many medium-sized businesses have been unable to navigate complex loan application processes administered by banks or access needed funds. Some businesses are also wary of taking loans that may not later be forgiven. The economic pressures to go back to work too quickly or open businesses too quickly are turning into a public health problem.

If relief does not reach workers and businesses soon, the consequences will be dire.
Too many businesses will either shutter permanently or be forced to ignore public health guidance and re-open too soon. Laid-off or furloughed workers are being forced to apply for unemployment insurance, a system which is overwhelmed and outdated. Those same workers—the vast majority of whom earn low wages—face anxiety about whether they will be able to find a job again once the pandemic is over. Any recovery will be slow, at best, as businesses try to rehire and retrain workers and deal with a constantly fluctuating public health system that may require partial opening or even re-shuttering of businesses in the event of second or third waves of infection.

Key Features of H.R. 6918, the Paycheck Recovery Act:

- **Businesses, nonprofits and state and local governments of all sizes** that are facing COVID-19 related revenue losses above a 10 percent gross receipts threshold would be eligible as well as independent contractors, domestic workers and gig workers. State and local governments are estimated to receive $146.1 billion to keep their employees on payroll.
- **Applying entities would receive an initial three-month lump sum grant payment**, after filing a sworn attestation to the IRS. The grant would cover the percentage of

revenue loss of an applying entity (compared to 2019 Q2 or Q3 tax filing data), multiplied by payroll and benefits up to a salary cap of $90,000, plus an additional 25 percent of total payroll to cover business operating costs. IRS would distribute the amount directly to the employer.

- **Employers must keep workers on payroll and benefits** and meet other conditions similar to those passed in a bipartisan manner in the CARES Act, such as no stock buybacks and limiting CEO pay.
- **The program would cover employees who were furloughed or laid off after March 1, 2020,** if they are brought back onto payroll. This would immediately substantially reduce the unemployment rate, and bring a substantial number of people off unemployment insurance and back into employment.
- **The program automatically renews** until the nationwide unemployment rate remains below 7 percent for three months in a row.
- **If an employer's tax return for 2020 shows that they did not experience a 10 percent decline in gross receipts compared to 2019,** the employer will repay the grant as determined by the Treasury Secretary, but no later than five years as a no-interest loan.

Key Benefits of the Paycheck Recovery Act:

- **Keeping workers tied to employers with simplicity and speed:** Grants go directly from IRS to employers, with no third parties involved. Entities of all sizes may apply because the purpose is to prevent unemployment regardless of size of employers. The program is estimated to benefit 33 million workers.
- **Keeps workers on health care and other benefits:** Protects tens of millions of workers from losing employer health care benefits during pandemic as at least 27 million people have lost their health care so far, joining the 87 million who were already uninsured or underinsured
- **Targeted universalism:** Because 80 percent of employees earn less than $70,000, the vast majority of program funds will benefit the lowest and middle-wage workers in the bottom three income quartiles.
- **Public health and economic recovery plan:** Removes economic pressures for businesses or workers to return to work before public health guidance is in place.
- **Flexible for partial or full business operations:** Prorating grants for partial revenue loss allows flexibility in partial or full re-opening, as well as potential re-shuttering with second or third waves of infection, while ensuring stability and guaranteed paychecks for employees and stimulating consumer demand.
- **Simple Mechanisms to Prevent Abuse, Fraud and Overpayments:** Audit functions built in to IRS reporting. The act includes additional money for IRS to implement, administer and enforce fraud strictly.
- **Better Mechanisms to Help Low-Wage Workers and Minority Businesses:** Because of its direct nature, all businesses—including the smallest—would be able to participate with no third-party lender. Not sending workers to unemployment and other safety net systems provides certainty of employment and helps them and the economy recover more quickly.

Paycheck Recovery Act

Introduction

COVID-19 has upended our economic and public health systems. To fight the virus, governments across the globe have had to shut down economic activity to allow for physical distancing protocols that "flatten the curve" and stop the spread of the virus. This has resulted in unprecedented chaos and disruption. Many countries—from those in Europe such as Germany, France, Denmark and the United Kingdom, but also in Asia, such as Singapore, Malaysia and South Korea—have implemented a paycheck recovery program to limit mass unemployment and the needless extinguishing of productive labor market matches between workers and employers. Such a program has many benefits, including: keeping workers tied to their jobs; protecting businesses from permanent shuttering; eliminating some of the economic pressure to re-open too quickly before the virus is contained; and preparing for a quicker economic recovery without rehiring and retraining the workforce. Such a program shows that mass unemployment is, in fact, a policy choice and can be mitigated with tremendous benefit to employers, employees, and the overall economy.

During the first two months of the pandemic, nearly 37 million Americans have filed jobless claims, and millions more are unemployed but have not managed to file claims because of overloaded systems. After 20.5 million jobs were lost in April alone, the unemployment rate has hit 15 percent, the highest since the Great Depression. In addition to losing jobs, analysts predict that as many as 35 million Americans could lose their health insurance in the midst of a health crisis, adding to the 30 million Americans who were uninsured prior to COVID-19.

The economic pressures are enormous on the federal and state governments, with many businesses and workers feeling pressured to return to work too soon, before a comprehensive testing, contact tracing and isolation plan is available. Without income to support themselves and their families, both workers and businesses will be tempted to return to work more quickly than recommended by public health experts. This will, in turn, mean we will not beat the spread of the virus, including stemming the second and third waves of infection. That, in turn, puts any recovery plan in danger, leading to more deaths, more economic uncertainty as well as a much slower chance of sustained recovery. Guaranteeing paychecks and helping employers of all sizes weather the crisis incentivizes the correct public health behavior to control the spread of the virus.

Relief that Congress has passed in four pieces of legislation has been important and necessary. However, it has been insufficient to meet the scale of the crisis. State unemployment offices are overwhelmed with applications. Many Americans won't receive cash assistance checks authorized by Congress until September. The Paycheck Protection Program (PPP), while well-intentioned, faces enormous structural problems that will be difficult to fix. The PPP program has also utilized an enormous amount of money while covering only a fraction of businesses, while minority businesses, the unbanked, low-wage workers are all amongst the most vulnerable that have been completely left out of relief.

Moreover, while the expansion of unemployment insurance in the CARES Act is a critical lifeline for millions experiencing layoffs, the real goal should be to prevent mass unemployment and keep as many workers as possible tied to their jobs rather than being pushed into the unemployment system, losing their health care benefits and needing to access numerous other safety net systems. Keeping workers tied to employers has multiple benefits. It is also far more efficient in delivering relief. Reducing the numbers of unemployed people also allows Congress to target additional aid—such as stimulus checks and other relief—to a smaller group of the most vulnerable who will still remain unemployed or in poverty.

For businesses, it is critical that they have grants not loans and a certainty of continuation of benefits tied to economic triggers. Flexibility in partial openings, ramp ups or even shut-downs with additional waves of infection, while providing funds to stabilize faltering employers will be crucial to keeping businesses in a form of stasis through the exigent crisis we face. Keeping workers on payroll also allows for businesses to resume operations without lengthy re-hiring or re-training, staying competitive with other businesses in countries that have implemented paycheck guarantees.

In order to immediately stop the massive downward cycle of unemployment, lost incomes, reduced demand, and business insolvency, Congress should immediately pass a Paycheck Recovery Act to prevent further layoffs and incentivize rehiring of workers. The Paycheck Recovery Act would, in a streamlined and efficient way, delivers paychecks and benefits to workers through their employers and provide additional support to businesses to ensure that they are ready to open their doors once social distancing protocols are lifted. The design prioritizes keeping Americans on their current payroll and out of the unemployment line; speedy implementation of relief; maintenance of critical benefits like health care; and, importantly, a speedy partial or full return to work once we've flattened the curve.

Paycheck Recovery Design

The IRS will administer a program to allow employers to maintain base payroll and benefits, over the next three months, based on revenue loss compared to 2019 quarterly tax filings, plus funds to cover operation costs.

Employer eligibility. Public and private employers of all sizes who face at least a 10 percent loss of revenue caused by COVID-19 will be eligible for the payroll grants. Microbusinesses that had under 20 employees on payroll as of March 1, 2020 and with gross receipts under $3 million shall automatically qualify without having to show a 10 percent decrease in gross receipts.

Employers will file a sworn declaration attesting to the extent of their actual or anticipated quarterly loss with the IRS. The IRS will use the company's 2019 quarterly payroll tax return (IRS Form 941) for Q2 or Q3 to calculate the total amount of the disbursement. For new employers, IRS shall use the employers' most recent payroll filings to determine the amount of the disbursement. Disbursement will be direct from the IRS to the applying entity.

Amount of grant. Grants will be calculated by taking the percentage of revenue loss, multiplying that percentage by payroll and benefits for salaries up to a cap of $90,000, and adding 25 percent of total payroll to help cover operation costs. For example, companies that have revenue loss of 70 percent will get 70 percent of payroll and benefits covered. Operation costs funding can be used to pay rent, utilities, mortgage payments, costs associated with vehicles and equipment, and costs needed to adapt to the COVID-19 pandemic, including safety equipment.

> ***Example.*** A business has 500 employees earning $4,000 a month, and is experiencing a 20 percent decline in revenues related to COVID-19. This employers' total payroll costs per month are $2,000,000. Of that total, this program would replace 20 percent of payroll costs for three months, which is $400,000 per month, for a total $1,200,000. The program would also pay an additional 25 percent of the replaced $400,000 to cover operation costs. This total would be $100,000 per month, for a total of an additional $300,000 in operation costs. The total amount this company would receive to cover payrolls and operation costs for three months is $1,500,000.

The formula to determine the grant amount for microbusinesses will not be subject to the revenue loss calculation. Therefore, microbusinesses will receive 100 percent coverage for payroll for salaries up to a cap of $90,000 as well as the additional 25 percent to help cover operation costs.

Definition of revenue loss. Revenue loss shall be defined as the decline in gross receipts during the first calendar quarter beginning after December 31, 2019, for which gross receipts (within the meaning of section 448(c) of the Internal Revenue Code of 1986) for the calendar quarter are less than 90 percent of gross receipts for the same calendar quarter in the prior year.

Conversion of Payroll Protection Program (PPP) loans to Paycheck Recovery grants. The Secretary of the Treasury will set up a system to allow any employer that has received or been approved for a loan through the Payroll Protection Programor received other forms of assistance, including the Employee Retention Tax Credit, Main Street Lending, and the Exchange Stabilization fund to convert that funding into Paycheck Recovery grants.

Workers Laid Off or Furloughed after March 1, 2020 Can be Covered. To encourage employers to put recently-furloughed and laid off workers back on to payroll and to ensure that temporary furloughs and layoffs do not become permanent, the paycheck recovery will also apply retroactively, allowing employers to re-hire and receive funds to pay workers who were laid off or furloughed between March 1, 2020 and the date of their application. Employers will be required to make a good-faith attestation of the amount of wages received by furloughed or laid off workers through unemployment insurance since March 1, and that amount shall be deducted from this program.

Eligibility of public employers, self-employed and independent contractors. States and cities would also be eligible for these payroll grants if they can show that they are suffering a COVID-19-related loss in revenue. State and local governments are estimated to receive $146.1

billion to keep their employees on payroll. Self-employed individuals and independent contractors would also be eligible.

Verification of need. IRS Form 941 includes both the total number of employees the employer has and also the total wages, tips, and other compensation paid to those employees. To ensure that IRS does not pay wages in excess of the equivalent of an annual salary of $90,000, IRS shall divide the total number of employees reported on Form 941 by the total wages reported and reduce the quarterly wage disbursement by any amount above $90,000 per employee. All employees making $90,000 or less should receive full wage replacement.

Wage replacement threshold. An important consideration in setting the wage replacement level is how many employees will benefit at various thresholds. By setting the salary threshold at $90,000, this program is able to provide help to a broad swath of an eligible employer's workforce, since nearly 90 percent of employees earn below $90,000. At the same time, the following Social Security Administration (SSA) data on the distribution of wages shows that the vast majority of earners are in the lower and middle ranges of the distribution. It is also likely that uptake of this program will be skewed toward employers of hourly workers who earn toward the lower end of the income spectrum, because so many salaried workers are able to work from home during this time.

Distribution of US wage earners by level of net compensation (Social Security Administration Wage Statistics – 2018)	
Net annual	
Compensation Interval	Percent of earners
0-34,999	52.56%
35000-69,999	27.58%
70,000-79,999	4.11%
80,000-89,999	3.03%
90,000-99,999	2.26%
100,000 and above	10.3%

Rehiring Bonus to Match Pandemic Unemployment Compensation. Because of the generous expansion to unemployment insurance provided by the CARES Act, workers receiving unemployment benefits will temporarily receive an additional $600 per week Pandemic Unemployment Compensation (PUC) benefit, on top of existing state UI benefits through July 31, 2020. As a result, some workers currently receive more on unemployment insurance than they would through the Paycheck Recovery Act. To ensure that low-wage workers are not worse off under the Paycheck Recovery Act — and to incentivize returning to work — all workers who earned less than $40,100 in annualized income (the amount under which employees would otherwise receive more from PUC than PGA) would be eligible for a $1,500 rehiring bonus upon returning to their employers under the PGA program (and exiting the UI system). If the Paycheck Recovery Act continues after the initial three-month grant period because the economy has not yet recovered, and the Pandemic Unemployment Compensation program is also continued beyond July 31, 2020, these workers would be eligible for a $1,200 monthly rehiring bonus check for every month that PUC is in place. Like PUC benefits, workers' rehiring bonus will be disregarded when determining eligibility for Medicaid and CHIP.

Automatic renewal. The program will automatically renew on a monthly basis, until the unemployment rate nationwide remains below 7 percent for three months in a row. (It is also possible to have the automatic trigger tied to state unemployment numbers to better reflect the economic conditions in particular states, as it is clear that states will reopen at different times, corresponding to public health conditions in a particular state. For example, the program could renew until each state's unemployment rate is double that of the 2019 unemployment annual average.) While the program will remain in effect until this trigger is met, following the initial three month disbursement, employers must reapply every month (e.g., in months 4, 5 and 6), submitting a sworn attestation of actual or anticipated revenue loss of at least 10 percent each month, to continue to be eligible for the program. The grant award in months 4, 5, 6 and beyond will be based on the percentage of actual or anticipated revenue loss multiplied by the total payroll as reported on Form 941 for the quarter in 2019 corresponding to the current quarter divided by three. To incentivize employers to maintain payrolls and benefits, and to ensure that the recovery is robust, once these triggers are met, Congress should give the IRS the authority to continue the paycheck recovery program for an additional three months, in the form of zero-interest loans rather than grants, on a case by case basis.

Mechanism for disbursement of funds: The IRS shall be responsible for the development of speedy delivery systems to deliver funds and the disbursements of funds pursuant to this program. The IRS may either: 1) disburse funds as a payment directly to employers or 2) disburse funds through the Employee Retention Tax Credit, which would need to be modified to become the delivery vehicle for Paycheck Recovery funds.

Conditions on relief. As a condition of receiving any funds, employers must accept the following conditions:

1. Recipients may not make involuntary furloughs, layoffs, and reductions in pay while receiving funds pursuant to this program and for a period of three months afterwards. If employers determine that they no longer need the same level of employment during the period of the grant and/or during the three months following the grant, they will be required to pay back a proportion of the paycheck recovery as a no-interest or low-interest loan in the amount of the salary of each employee that is terminated, prorated to the amount of time remaining of the grant.
2. Where applicable, the recipient should be prohibited from engaging in share repurchases, increasing dividends, paying executive bonuses while they are receiving grant funding. and, in the case of employers whose grants are converted into loans due to overpayment, until such loan is repaid.
3. During the grant period, no employee whose compensation exceeds $425,000 may be given a termination package that exceeds twice the maximum total compensation received in 2019.

4. Recipient businesses will be required to cut executive compensation that exceeds $3,000,000 annually by half.
5. Where applicable, collective bargaining agreements shall remain in place and shall not be reopened or renegotiated pursuant to this relief program, unless agreed to by both parties. Further, recipients shall not engage in or hire any entities to conduct union avoidance activities. Violation of this section will result in loss of program funds.
6. If necessary, companies may be compelled and supported to turn unused manufacturing or other capabilities to produce necessary items to address the pandemic, such as personal protective equipment, testing supplies or kits, or ventilators.
7. Any company that files for Chapter 11 bankruptcy after receiving payroll grants will be subject to all of the provisions of the Protecting Employees and Retirees in Bankruptcies Act, S. 2518 (Durbin, 2018).

Penalties for noncompliance or fraud. The policy design purposely prioritizes providing as much relief as quickly as possible to employers to keep employees paid and to stay afloat. In this moment, the costs of doing too little far outweigh the risk of doing too much. But to discourage fraud and gaming, it is important to specify both claw back mechanisms (in case of innocent reporting errors that result in overpayments) and penalties (in case of fraud). In the event of overpayment, the IRS should convert direct payments into loans. For example, if an employer lays off 20 percent of its workforce during the grant period, the IRS should require 20 percent repayment of payroll costs. Loans will be no-interest or low-interest, and must be repaid within two years of completion of the program.

To ensure that recipient businesses use payroll recovery grants to benefit workers and fully comply with the programs, the IRS should be empowered and funded to accept complaints of fraud and to conduct random audits of all companies that claim a payroll guarantee. In the event of fraud or failure to abide by any of the above payment conditions, criminal penalties for executives and owners will be triggered and claw back of funds will be required. Fraud shall be subject to prosecution under Section 1001 of title 18, U.S. Code. In addition, all other existing enforcement mechanisms shall apply to address misuse of grant funds.

The IRS can ensure that the payroll grants go to employees by cross-checking the employers' grants with the payroll taxes that they paid over the period. Any mismatches should be prioritized for audit. Any non-fraudulent overpayments identified should simply be converted into a low or no-interest loan.

At the end of 2020, the IRS shall review the income tax returns of employers that participate in the grant program. If an employer's tax return demonstrates that the employer did not experience a 10 percent decline in gross receipts, then the employer shall be required to repay the amount of the grant as a no-interest loan over a period to be determined by the Secretary that is not less than five years. The 2020 income tax return form shall be amended to include a line for employers to report their 2019 revenues, and the total amount of grant received. The IRS should audit the program within one calendar year of its completion to identify any fraud and to determine whether overpayments were made.

Oversight and monitoring. To ensure that these conditions are met, Congress shall set up a temporary oversight body, with oversight authorities such as subpoena power, and full access to the staff and resources of the Internal Revenue Service's audit division. The board shall be comprised of four members of Congress; four representatives from the private sector, including labor unions and management representatives; and four representatives from state and local governments, to ensure that this program is carried out fairly and quickly, and to maximize the impact of this program on employee retention and keeping employers afloat.

Interaction with existing programs. Employers that take advantage of the paycheck recovery program cannot also access the Employee Retention Tax Credit (passed in the CARES Act), the Unemployment Insurance system (in the case of self-employed and independent contractors), the Exchange Stabilization Fund, the Paycheck Protection Program, or the Main Street Lending Program.

Conducting outreach and providing technical assistance. The Treasury Department shall conduct outreach targeted at small businesses and provide technical assistance to eligible small businesses to encourage use of the program.

Appropriations. Congress should appropriate sufficient funding to carry out the provisions of this Act, including funds necessary to carry out ongoing oversight, enforcement, and monitoring provisions, as well as program audits.

Sunset. The Secretary shall terminate the program after unemployment remains below seven percent for three consecutive months.

Cost Estimate and Targeted Benefit

Overall Cost: Initial cost estimates from a variety of economists all arrive at similar conclusions. A new analysis by Mark Zandi, Chief Economist at Moody's Analytics, estimates that, after taking into account savings (from reduced unemployment insurance and Medicaid, taxes and claw backs) the Paycheck Recovery Act would provide **greater and faster relief at a lower cost** than PPP: $654 billion to cover payroll for 36.4 million workers over six months.

Number and Income Quartiles of Workers Covered: Zandi also estimates that two-thirds of the program's benefit would go to workers in the bottom two income quartiles—getting resources where they're needed most.

Cost Comparison to Paycheck Security Act*:* Zandi estimates that a similar proposal introduced in the Senate by Senators Warner, Sanders, Blumenthal and Jones – the Paycheck Security Act – would cover 25.4 million workers, again with two-thirds of the benefit going to those in the bottom half of the wage distribution, and would cost $608 billion after savings. According to Zandi, "Adding to the cost of the PGA is the program's less restrictive revenue decline eligibility threshold for help, the inclusion of public entities, and its longer length, and adding to the cost of the PSA is the more generous help to businesses for their operating costs."