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The Business Council of New York State, Inc.





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Vice President

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# The Business Council of NYS, Inc.

- Largest statewide, industry wide advocacy association in New York
- Focus on:
  - New York State legislation
  - Regulatory agencies
  - HR Compliance assistance and regulatory assistance
  - Expanding engagement in DC
- Seven full-time lobbyists
- Partner with nearly 80 regional chambers and business associations



# CARES Act

## Major Provisions for Individuals & Workers

- \$2 Trillion Package
  - Through the Federal Reserve potential for additional \$4 trillion in support for the economy
- Automatic Payments to Individual Taxpayers
  - \$1,200 per individual (\$2,400 joint return) + \$500 per child
  - Phased out for incomes above \$75,000 (\$150,000 joint)
- Expanded Unemployment
  - Most restrictions on eligibility suspended if related to COVID-19
  - Additional \$600 per week on top of regular state benefit (through July 31)
  - Eligibility ends when individual can return to work



# CARES Act

## Major Provisions for Employers

- All Employers
  - Tax Changes
  - Employee Retention Credit
- Larger Employers
  - Loans, Loan Guarantees, Federal Reserve Credit Facilities
- Small Businesses, Self-Employed, Independent Contractors & Non-Profits
  - Paycheck Protection Program
  - SBA Economic Injury Disaster Loans (EIDL)



# CARES Act

## Provisions for all Employers

- Payroll Taxes
  - Delay payment of employer payroll taxes (Social Security) through 1/1/21
    - 50% due 12/31/21 and 50% due 12/31/22
    - Does not apply to employers who have loans forgiven under Paycheck Protection Program
- Federal Income Tax Changes
  - Net Operating Loss (NOL) for '18, '19, & '20 can be carried back 5 years, suspend 80% limitation, extends to pass-throughs and sole proprietors
  - Accelerate recovery of AMT credits
  - Election to increase limit on interest deductibility to 50% for '19 & '20
  - Qualified Improvement Property (QIP) fix



# CARES Act

## Provisions for all Employers

- Employee Retention Credit
  - Employers fully or partially shutdown or with 50% drop in gross receipts in a quarter compared to prior year (until return to 80%)
  - Refundable tax credit for 50% of the wages (including employers health plan expenses) paid by the employer up to \$10,000 per employee
  - Employers with more than 100 employees applies to employees not providing services
  - Employers with 100 or less employees applies to all employees paid during the eligible period
  - Employers are not eligible if they receive a Paycheck Protection Program loan
  - Allows for advance payment of the credit



# CARES Act

## Provisions for Large and Mid-Sized Employers

- Loans, Loan Guarantees, Federal Reserve Credit Facility
  - \$454 Billion to the Treasury Department for loans, loan guarantees, or to support Federal Reserve Credit Facilities
  - Special programs for airline industry and critical national security businesses
  - Restrictions on stock-buy-backs and executive compensation
  - Likely to see new programs through the Federal Reserve that will support lending by financial institutions to businesses



# CARES Act

## Provisions for Small Businesses, Self-Employed, Independent Contractors, Non-Profits

- Paycheck Protection Program (PPP)
  - \$349 Billion in loans for small business (generally less than 500 employees), 501(c)(3)s, self-employed, sole proprietors, and independent contractors
  - Loans equal to the lesser of 2 ½ months of average payroll or \$10 million
  - Loans by local and national lenders
  - Minimal requirements (e.g. no collateral, no personal guarantee)
  - Loans convert to grants equal to amount spent on payroll, rent, interest on mortgage, and utilities for the 8 weeks after origination
  - Loan forgiveness is reduced proportionally if the employer reduces number of FTEs
  - Loan forgiveness is reduced if employer reduces wages by more than 25%
  - Employer can avoid reduction in forgiveness if they bring back employees and restore wages generally within 30 days and maintain through June 30



# US SBA Update

PPP Loans Approved through 4/13/20

- 1,035,086 total loans approved
- \$247.5 billion in approved loans
  - \$239,152 average loan
- 4,664 separate lenders



# US SBA Update

PPP Loans Approved through 4/13/20

<b>Loan Size</b>	<b>Approved Loans</b>	<b>Approved Dollars</b>	<b>% of Count</b>	<b>% of Amount</b>
\$150K and Under	725,058	\$37,178,984,187	70.05%	15.02%
>\$150K - \$350K	156,590	\$35,735,615,983	15.13%	14.44%
>\$350K - \$1M	102,473	\$59,291,602,643	9.90%	23.95%
>\$1M - \$2M	31,176	\$43,278,883,532	3.01%	17.48%
>\$2M - \$5M	16,516	\$49,288,997,593	1.60%	19.91%
>\$5M	3,273	\$22,769,309,582	0.32%	9.20%

# States and Territories

State	Approved Loans	Approved Dollars
AK	2,703	\$602,911,645
AL	19,244	\$3,819,600,518
AR	14,803	\$2,166,563,254
AS	1	\$389,500
AZ	10,898	\$3,524,770,207
CA	54,922	\$20,853,495,045
CO	28,469	\$5,830,781,842
CT	11,930	\$2,923,132,220
DC	1,663	\$791,004,872
DE	1,974	\$590,422,870
FL	52,021	\$12,656,107,018
GA	29,423	\$6,725,718,213
GU	238	\$53,659,254
HI	8,426	\$1,626,051,108
IA	22,295	\$3,748,993,223
ID	8,846	\$1,399,191,164
IL	44,453	\$12,503,648,850
IN	23,583	\$5,986,077,384
KS	19,915	\$3,729,110,056
KY	17,216	\$3,336,402,794

State	Approved Loans	Approved Dollars
LA	17,097	\$3,745,462,888
MA	27,315	\$7,073,245,593
MD	11,937	\$3,756,206,258
ME	10,889	\$1,710,424,025
MI	24,974	\$7,321,573,738
MN	33,819	\$7,633,395,870
MO	34,088	\$6,433,368,771
MP	29	\$7,540,546
MS	14,209	\$1,921,783,598
MT	10,372	\$1,293,105,048
NC	23,786	\$5,729,549,254
ND	8,232	\$1,386,597,176
NE	18,565	\$2,727,637,044
NH	7,113	\$1,520,212,834
NJ	17,187	\$5,897,533,934
NM	5,365	\$1,103,753,677
NV	4,209	\$1,255,172,600
NY	40,975	\$11,737,950,918
OH	38,016	\$10,368,882,724
OK	26,451	\$4,009,914,991

State	Approved PPP Loans	Approved Dollars
OR	9,508	\$2,427,776,445
PA	36,604	\$9,910,549,957
PR	1,001	\$319,308,946
RI	4,110	\$875,591,033
SC	14,273	\$2,756,101,029
SD	7,986	\$1,156,576,164
TN	19,074	\$4,742,194,968
TX	88,434	\$21,776,306,479
UT	12,914	\$2,617,066,864
VA	26,880	\$6,615,120,527
VI	68	\$13,116,530
VT	4,886	\$853,707,598
WA	18,906	\$4,928,845,742
WI	31,702	\$7,288,143,288
WV	5,211	\$1,054,712,809
WY	5,730	\$706,932,317

**Approvals through 4/13/2020**

# CARES Act

## Provisions for Small Businesses, Self-Employed, Independent Contractors, Non-Profits

- SBA Economic Injury Disaster Loans
  - Small businesses and non-profits (including faith-based) with fewer than 500 employees, sole proprietors, independent contractors
  - Up to \$2 million working capital loan up to 30-year term; 3.75% (2.75% non-profits)
  - Payments deferred up to 1 year
  - Loans based on credit scores; no tax returns required
  - Up to \$200,000 without a personal guarantee
  - No collateral for \$25,000 or less; general security interest instead of real-estate for larger loans
  - \$10,000 emergency grant within 3 days that does not have to be repaid
  - Interacts with Paycheck Protection Program
  - Apply through SBA.gov



# Additional Information

- US Small Business Administration
  - <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>
- US Chamber of Commerce
  - [www.uschamber.com](http://www.uschamber.com)
  - <https://www.uschamber.com/co/start/strategy/small-business-resources-for-surviving-coronavirus>
- Business Council of New York State, Inc.
  - <https://www.bcnys.org/managing-coronavirus>



# Our Advocacy Team

- **Heather Briccetti**
- **Johnny Evers**
  - Technology/Telecomm, Manufacturing, Construction, Transportation, Procurement
- **Joseph Foskett**
  - Energy & Environment (regulatory)
- **Lev Ginsburg**
  - Financial Services, Legal Reform, Health & Health insurance
- **Meghan Kayser**
  - Administrator
- **Frank Kerbein**
  - HR & Labor, Workers' Compensation
- **Amber Mooney**
  - Education, Workforce Development
- **Ken Pokalsky**
  - Tax, Economic Development, Chambers
- **Melvin Norris**
  - Economic Development, Gaming, Energy & Environment (legislation)



# Contact

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# Frank Kerbein

Director, Center for Human Resources  
The Business Council of New York State, Inc.



# NYS Emergency Paid Sick Leave (PSL)

## Sick Leave Requirements

- **10 or fewer employees** (as of January 1, 2020) – must provide **unpaid**, job protected sick time during an employee’s period of ordered quarantine or isolation (and then PFL/DBL)
- **10 or fewer employees** with net income of more than \$1 million - must provide **five days of paid** sick leave (and then PFL/DBL)
- **11 to 99 employees** - must provide **five days of paid** sick leave (and then PFL/DBL)
- **100 or more employees** must provide up to **fourteen days of paid** sick leave (no additions PFL/DBL)
- Paid for by the employer...no reimbursement
- Public employers must provide at least fourteen days of paid sick leave



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# NYS Emergency Paid Sick Leave (PSL)

Then...for the duration of the quarantine/isolation-less than 100 employees:

- Combination of PFL and DBL to 100% of pay to a maximum of \$2,884.62 (\$150,000 annually)

## ***Example:***

- An employee making \$150,000 per year (\$2,884.62 per week) may be eligible for:
  - \$840.70 payment from PFL (60% of average weekly wage to the 2020 maximum benefit amount), and
  - \$2,043.92 payment from DBL (a significant – temporary increase over the current maximum of \$170/week)



# Paid Family Leave Change

- Paragraph (16) of subdivision (a) of section 355.9 of Title 12 NYCRR is hereby amended to read as follows:
- (16) Serious health condition means an illness, injury, impairment, or physical or mental condition that involves: inpatient care in a hospital, hospice, or residential health care facility; or continuing treatment or continuing supervision by a health care provider. **Serious health condition also means a COVID-19 diagnosis by a health care provider.**
- Effective 90 days after posting of emergency rule making...June 25, 2020



# Family First Coronavirus Response Act

- Emergency Paid Sick Leave Act
- Emergency Family and Medical Leave Expansion Act
- Tax Credits For Paid Sick And Paid Family And Medical Leave
- Poster Required and updated on 3/25
- Emergency Unemployment Insurance Stabilization And Access Act Of 2020



# Federal Emergency Paid Sick Leave

1. Subject to a federal, state or local quarantine or isolation order related to COVID-19
2. Advised by a health care provider to self-quarantine due to COVID-19 concerns
3. Experiencing COVID-19 symptoms and seeking medical diagnosis
4. Caring for an individual subject to a federal, state or local quarantine or isolation order or advised by a health care provider to self-quarantine due to COVID-19 concerns
5. Caring for the employee's child if the child's school or place of care is closed or the child's care provider is unavailable due to public health emergency; or
6. Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.



# Federal Emergency Paid Sick Leave

- Only applies to employers with less than 500 employees.
- Up to 80 hours of paid sick leave (Part timers paid regular hours worked)
- At regular rate of pay for reasons #1-3 (Capped at \$511/day; \$5,110 total)
- At 2/3 regular rate of pay for reasons #4-6 (Capped at \$200/day; \$2,000 total)
- Provides an exception for employers who are healthcare providers or emergency responders
- This paid sick leave will not carry over to the following year and may be in addition to any paid sick leave currently provided by employers
- This act takes effect April 1, 2020 and remains in effect until December 31, 2020



# Health Care Provider/First Responder

**Anyone** employed at:

- Doctor's office
- Hospital
- Health care center
- Clinic
- Post-secondary educational institution offering health care instruction
- Medical school
- Local health department or agency
- Nursing facility
- Retirement facility
- Nursing home
- Home health care provider
- Any facility that performs laboratory or medical testing
- Pharmacy
- Or any similar institution, employer, or entity.



# Health Care Provider/First Responder

**Anyone** employed at:

An entity that contracts with any of the above institutions, employers, or entities institutions to provide services or to maintain the operation of the facility. This also includes anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments. This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is a health care provider



# Health Care Provider/First Responder

- Military or national guard
- Law enforcement officers
- Correctional institution personnel
- Fire fighters
- Emergency medical services personnel
- Physicians
- Nurses
- Public health personnel
- Emergency medical technicians
- Paramedics
- Emergency management personnel
- 911 operators
- Public works personnel
- Persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility



# Emergency FMLA Expansion

- Only businesses with less than 500 employees and all public employers will be covered by the emergency FMLA
- **Only** available for an employee to take FMLA leave if their child's school has closed due to the pandemic.
- The first 10 days of leave under the FMLA will be unpaid, employees may elect to use their accrued vacation and/or PTO leave during this time.
- After the first 10 days of leave, employees would be entitled to two-thirds of their regular rate. Pay would be capped at \$200 per day/\$10,000
- 10 weeks total
- Job protected leave



# Federal Emergency FMLA

- The provision of PSL or expanded FMLA would result in the small business's **expenses and financial obligations exceeding available business revenues** and cause the small business to cease operating at a minimal capacity;
- The absence of the employee or employees requesting PSL or expanded **FMLA would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities**; or
- There are **not sufficient workers** who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting PSL or expanded FMLA, and these labor or services are needed for the small business to operate at a minimal capacity.
- Department encourages collaboration



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# Tax Credits for Paid Sick and Paid Family and *Medical Leave*

- Provides a series of refundable tax credits for employers who are required to provide the Emergency Paid Sick Leave and Emergency Paid Family and Medical Leave
- Emergency PSL: The qualified sick leave wages are capped at \$511 per day (\$200 per day if the leave is for caring for a family member or child) for up to 10 days per employee in each calendar quarter
- Emergency FMLA: The qualified family leave wages are capped at \$200 per day for each individual up to \$10,000 total per calendar quarter



# Tax Credits for Paid Sick and Paid Family and *Medical Leave*

- Eligible Employers that pay qualified leave wages will be able to retain an amount of all federal employment taxes equal to the amount of the qualified leave wages paid, plus the allocable qualified health plan expenses and the amount of the employer's share of Medicare tax imposed on those wages, rather than depositing them with the IRS.
- Only those employers who are required to offer Emergency FMLA and Emergency Paid Sick Leave may receive these credits.



# NYS WARN Act

The New York State Worker Adjustment and Retraining Notification (WARN) Act requires businesses to give early warning of closing and layoffs. Businesses must give notice to:

- All affected employees
- Any employee representative(s)
- The New York State Department of Labor (DOL)
- The Local Workforce Investment Board (LWIB)



# NYS WARN Act

The WARN Act applies to private businesses with 50 or more full time workers in New York State. It covers:

- Closings affecting 25 or more workers
- Mass layoffs involving 25 or more full-time workers (if the 25 or more workers make up at least 33% of all the workers at the site)
- Mass layoffs involving 250 or more full-time workers
- Certain other relocations and covered reductions in work hours



# NYS WARN Act

- Many businesses are facing rapid and unexpected closures due to the coronavirus. If your business is forced to close, please provide notice as soon as possible and identify the circumstances that required the closure.
- The WARN Act requirement to provide 90 days' advanced notice has not been suspended because the WARN Act already recognizes that ***businesses cannot predict sudden and unexpected circumstances beyond an employer's control, such as government-mandated closures, the loss of your workforce due to school closings, or other specific circumstances due to the coronavirus pandemic.***



# Reduction in Pay

- NYS Wage Theft Prevention Act
- Wage Acknowledgment Forms



# CARES Act – Unemployment Provisions

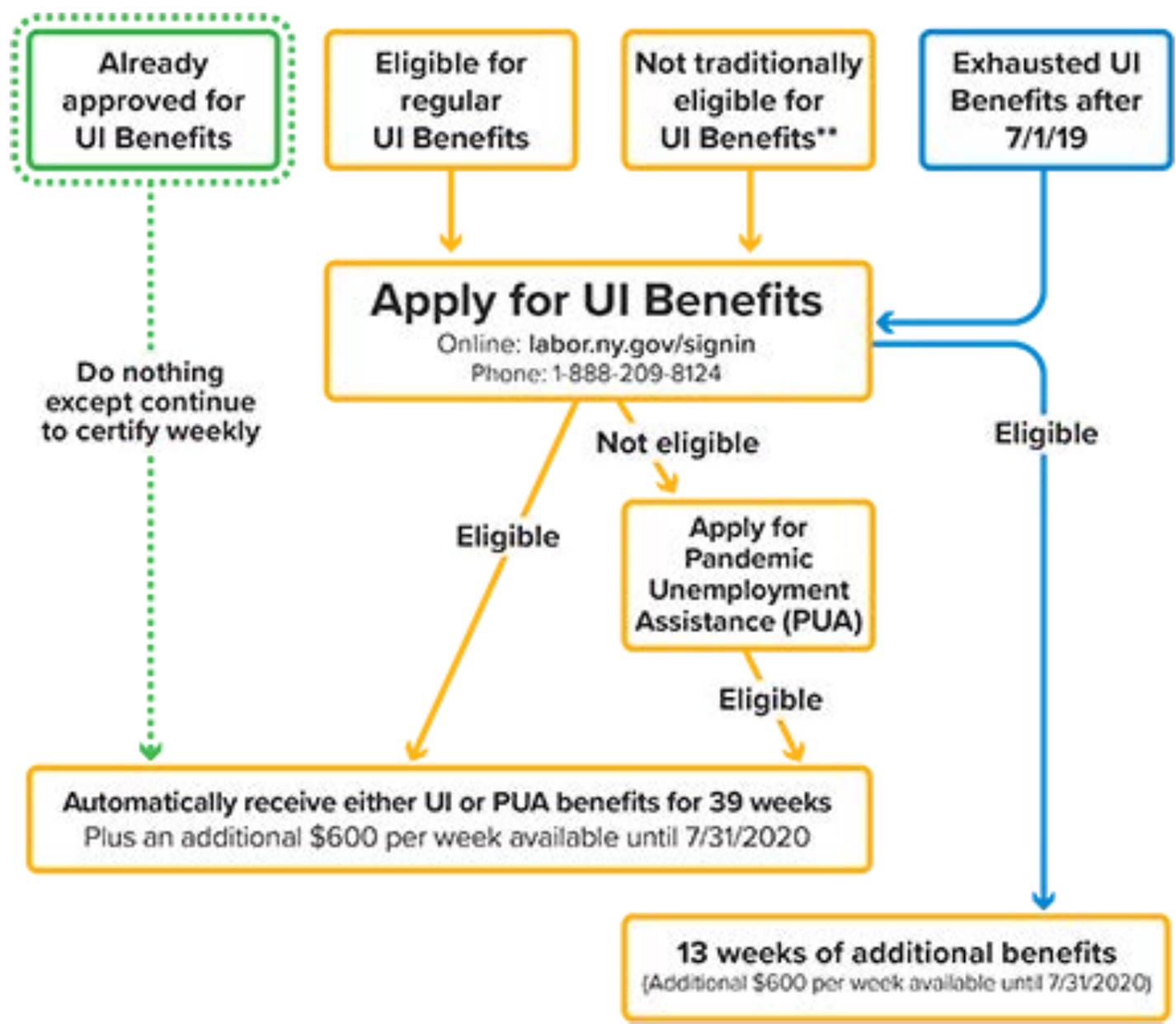
- UI for those not eligible for regular UI
- Must be able/willing to work but is unemployed/underemployed:
  - COVID diagnosis or presentation of symptoms
  - Household member with COVID diagnosis
  - School or daycare closures and individual is primary caregiver
  - Workplace lock-down
  - Advise from health care provider to self-quarantine
  - Breadwinner due to household member died from COVID
  - Quit due to circumstances related to COVID
  - Place of employment closed due to COVID



# CARES Act – Unemployment Provisions

- ***Additional \$600 per worker per week available***
- Additional payment sunsets 7/31/2020
- Does not apply to someone working from home
- Effective 1/27/2020 to 12/31/2020
- Total cap of 39 weeks
- No one week waiting period





Already approved for UI Benefits

Eligible for regular UI Benefits

Not traditionally eligible for UI Benefits\*\*

Exhausted UI Benefits after 7/1/19

**Apply for UI Benefits**  
Online: labor.ny.gov/signin  
Phone: 1-888-209-8124

Do nothing except continue to certify weekly

Not eligible

Eligible

Eligible

Apply for Pandemic Unemployment Assistance (PUA)

Eligible

Automatically receive either UI or PUA benefits for 39 weeks  
Plus an additional \$600 per week available until 7/31/2020

13 weeks of additional benefits  
(Additional \$600 per week available until 7/31/2020)

# Executive Order – Face Coverings

- Provided to employees, contractors, independent contractors at no cost
- Include cloth (homemade sewn, bandanas, etc.)
- “Direct interaction with the public” – less than 6 feet from customers and clients
- Employee health concerns – reasonable accommodation
- Effective April 15 at 8:00 PM
- OSHA concerns



# Contact

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# David Terry

Executive Director

National Association of State Energy Officials



# About NASEO and the State Energy Directors

NASEO's membership includes the governor-designated energy directors and their offices – *over 3,000 state energy professionals* – from each of the 56 states, territories, and District of Columbia. NASEO's Board Chair is Andrew McAllister (CA Energy Commission), and our Vice Chair is Kelley Smith Burk (FL State Energy Office).



# Energy and Economic Recovery: Congressional, Agency, State Actions

1. ***Recovery and Stimulus Recommendations for Congressional Consideration.*** NASEO is gathering ideas and models from State Energy Offices and their private-sector partners across the country and developing recommendations for U.S. House and Senate Offices and Committees to consider as stimulus actions. State Energy Office and NASEO experiences from the “great recession” recovery efforts are being drawn upon (e.g., SEP, WAP, Appliance Rebates, ESPC, EVs, Residential EE, tax credits)
2. ***NASEO’s “Roadmap to Recovery” State Assistance Initiative.*** NASEO is assisting states in accelerating and expanding public and private infrastructure and innovation investments and programs to leverage federal funding (e.g., CARES Act, FEMA, Mainstreet Lending) in support of state economic recovery and energy goals.
3. ***State-Federal Energy Recovery Actions.*** NASEO and the U.S. Department of Energy are collaborating with states to expand initiatives in support of energy-related economic recovery. Specific areas may include energy efficiency and resilience retrofits for mission critical public facilities; manufacturing energy efficiency assistance; financing; electrification; and workforce training.

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# Clinton Britt

Chief of Staff

U.S. Representative Paul D. Tonko (NY-20)



	Public Health Crisis	Economic Crisis
<b>Completed Action</b> (Includes \$2.2T CARES Act)	<u>Short-term</u> : \$ for hospitals; ramping up testing, including no copays; increasing medical workforce; Defense Production Act; FEMA mobilization; <b>remove PREP Act liability for manufacturers (H.R. 4982)</b>	<u>Short-term</u> : Medicaid funding expansion; PPP; EIDL; \$1,200 check; Federal Reserve buying up assets; reduced interest rates; expand UI; <b>no shut off for water and electric utilities;</b>
	<u>Long-term</u> : vaccine development; medical device regulations easing; social distancing	<u>Long-term</u> : Airline funding through Treasury; many federal regulations on hold; <b>LIHEAP (\$900 million)</b>
<b>Future Action</b> (includes extending PPP and health/local govt at approx \$400B as first of multiple next steps)	<u>Short-term</u> : urge HHS to prioritize hardest hit states; <b>increase state and municipal money, including directly to counties and cities</b> ; monthly payments to citizens out of work;	<u>Short-term</u> : <b>HOPE4HOMES</b> ; HOMES; <b>ITC extension – move to direct pay/grants in lieu of tax credits</b> ; EV extension; safe harbor clause; <b>WAP (H.R. 2041) – was \$5B in ARRA</b> ; SEP – was \$3B in ARRA (consider waiving non federal cost share); LIHEAP; EECBG
	<u>Long-term</u> : Medicaid expansion; health insurance; public health; tracing; more testing; <b><u>vaccine</u></b>	<u>Long-term</u> : infrastructure bill, especially with interest rates near zero; Smart Cities; <b>smart climate policy</b>

# Contact

## Clinton Britt

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[Tonko.House.Gov](http://Tonko.House.Gov)

For our approach to climate change in the long-term, visit [Tonko.House.Gov/Climate](http://Tonko.House.Gov/Climate)





# Joseph Berman

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# Questions?

**There will be an opportunity to submit your questions at the end of the post-webinar survey**

