

Key Federal & Private COVID-19 Relief Programs
 For Unions, AFL-CIO Central Labor Bodies, & 501(c)(3)s

	Description	Generally available to:				Key Considerations	More Information
		Local Unions	Nat'l/Int'l Unions	Central Labor Bodies	501(c)(3) orgs		
Tax Credits for Paid Leave <i>Families First Coronavirus Relief Act</i>	Federal payroll tax credit to reimburse employers for specified COVID-19-related medical and family leave Credit amount depends on employee pay, up to daily and aggregate limits	Yes	Yes	Yes	Yes	Only available to employers with fewer than 500 employees Available to pay for leave in specific circumstances determined by FFCRA Amount of the credit <i>can exceed</i> the payroll taxes normally due—employer will receive the excess from the IRS Employer can withhold credits from payroll tax deposits or apply for advances from the IRS using Form 7200	IRS FFCRA Tax Credits - Frequently Asked Questions Dep't of Labor FFCRA Paid Leave – Frequently Asked Questions Article on Families First Coronavirus Response Act from Calibre CPA Group

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Employee Retention Tax Credits <i>CARES Act</i>	<p>Federal payroll tax credit to incentivize keeping employees during COVID-19-related hardships</p> <p>Credit amount is 50% of qualified wages, up to \$5,000 per eligible employee</p>	Yes	Yes	Yes	Yes	<p>Available to all private employers (including labor orgs <i>and</i> 501(c)(3) orgs) of any size, but different rules for determining who is an “eligible employee” apply to orgs that had more than 100 employees in 2019</p> <p>Available in a quarter when employer has full or partially suspended operations due to a COVID-19 gov’t order <i>or</i> has 50% drop in gross receipts compared to 2019</p> <p>Amount of the credit <i>can exceed</i> the payroll taxes normally due—employer will receive the excess from the IRS</p> <p>Employer can withhold credits from Social Security or RRTA tax deposits; if credits exceed deposits otherwise due in a quarter and employer has immediate cash flow needs, can apply for an advance from the IRS using Form 7200</p> <p>Can be combined with FFCRA tax credits (but not for the same wages), tax deferral, and EIDL, but <i>not</i> available to PPP loan/grant recipients (<i>labor orgs do not need to worry about this because they are not eligible for PPP</i>)</p>	<p>AFL-CIO Memo: <i>Federal Payroll Tax Credits and Deferrals</i> (Included below)</p> <p>IRS Employee Retention Credit – Frequently Asked Questions</p> <p>Article on CARES Act Employee Retention Tax Credits from Calibre CPA Group</p>

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Option to Defer Payroll Taxes <i>CARES Act</i>	Allows employers to defer payment of federal payroll taxes that would otherwise be owed from March 27 to Dec. 31, 2020	Yes	Yes	Yes	Yes	<p>Available to private nonprofit organizations (including labor orgs <i>and</i> 501(c)(3) orgs) of any size</p> <p>At least 50% of deferred federal payroll taxes must be paid by Dec. 31, 2021; remaining taxes must be paid by Dec. 31, 2022</p> <p>Can be combined with FFCRA tax credits, CARES Act employee retention tax credits, EIDL and PPP loans, but this payroll tax deferral is <i>not</i> available to recipients of loan forgiveness (PPP & other) under the CARES Act (<i>labor orgs do not need to worry about this because they are not eligible for the loan forgiveness</i>)</p>	<p>AFL-CIO Memo: <i>Federal Payroll Tax Credits and Deferrals</i> (Included below)</p> <p>See “Payroll Tax Deferral” Section in Article on CARES Act Employee Retention Tax Credits from Calibre CPA Group</p>

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<p>Economic Injury Disaster Loans/Grants (EIDL) <i>CARES Act</i></p>	<p>Loans from Small Business Administration (SBA) to cover economic injury due to COVID-19, up to \$2 million; 2.75% interest rate; repayment may be deferred up to 4 years</p> <p>Advance emergency grant of \$10,000 available—does not need to be repaid even if the loan application is denied</p>	Yes	Yes	Yes	Yes	<p>All private nonprofit organizations with current tax-exempt status are eligible, regardless of their size</p> <p>Loans and grant can be used to meet financial obligations like payroll, rent/mortgage, and other fixed debts that cannot be paid because of the impact of COVID-19</p> <p>\$10,000 grants are provided on the basis of self-certification of eligibility</p> <p>Eligible 501(c)(3) orgs (but not labor unions) can be used in combination with a PPP loan, but only for what the PPP loan is <i>not</i> used for; can also refinance EIDL loan into PPP loans</p>	<p>AFL-CIO Memo: <i>SBA Emergency Economic Injury Loans & Grants</i> (Included below)</p> <p>SBA COVID-19 Economic Injury Disaster Loan/Advance Application</p> <p>SBA EIDL Emergency Advance Information</p> <p><i>Specific questions about eligibility and certifications on the application should be referred to the applicant's attorney.</i></p>

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Paycheck Protection Program (PPP) <i>CARES Act</i>	<p>SBA-guaranteed, private-lender, low-interest loans available for payroll, employee health insurance, mortgage interest, rent, and other fixed costs; 1.0% interest rate; repayment deferral for 6 months; loan maturity is 2 years</p> <p>Recipients are eligible for loan forgiveness based on maintaining staff and compensation for eight weeks</p>	No	No	No	Yes	<p>Available to 501(c)(3) organizations with 500 or fewer employees</p> <p>Applications are submitted to participating lenders (banks, credit unions, etc.)</p> <p>Recipients of a PPP loan: (1) cannot use an EIDL loan for the same costs; (2) are <i>not</i> eligible for employee retention tax credits; (3) must exclude paid leave under FFCRA from payroll costs; and (4) if PPP loan <i>forgiveness</i> is secured, cannot defer payroll taxes</p>	<p>SBA Paycheck Protection Program Information</p> <p>PPP Loan Application</p>
Bank of Labor COVID-19 Emergency Loan Program <i>Private loan program</i>	<p>Loans at favorable interest rates available from Bank of Labor to AFL-CIO affiliated unions</p>	Not at present	Yes	Not at present	No	<p>Currently available only to national and international unions affiliated with the AFL-CIO</p> <p>Loan proceeds can be used for any ordinary purpose</p> <p>Terms and conditions subject to application by union with Bank of Labor</p>	<p>Bank of Labor: <i>COVID-19 Emergency Loan Program Term Sheet</i> (Included below)</p>

COVID-19 Assistance for Labor Unions

Federal Payroll Tax Credits and Deferrals

The CARES Act allows some employers—including labor unions—to receive federal payroll tax credits in order to help retain employees. Eligibility for the credits depends on meeting certain criteria set in the new law, as does the amount of relief that is available. In addition to the tax credits that may be available to some labor unions, *all* unions with employees are eligible to delay paying 2020 payroll taxes in order to help manage cash flow. This memo provides an overview of the **federal payroll tax deferral** and the **employee retention federal payroll tax credit** programs for labor unions. *The CARES Act made some programs available to 501(c)(3) nonprofit organizations that are NOT available to labor unions, including a loan program that cannot be used in combination with the relief described in this memo. Organizations that are not labor unions should NOT refer to this memo for information about CARES Act relief.*

Federal Payroll Tax Deferral: Available To ALL Unions

What help is available to labor unions under this tax deferral program?

All unions may delay paying the employer portion of the Social Security or RRTA payroll tax that they would normally owe for wages paid to employees between March 27, 2020 and December 31, 2020. A union must pay at least 50% of the total amount of the employer portion of the Social Security or RRTA payroll tax it defers by December 31, 2021, and it must pay the remaining 50% of the deferred tax by December 31, 2022.

How can a union take advantage of the option to defer paying these taxes?

The CARES Act simply permits employers to defer paying the taxes to the IRS. A union wishing to take advantage of this program will still need to file the IRS Form 941 on a quarterly basis, to report the amount of payroll taxes it owes and is choosing to defer. Unions should check the IRS website for more information before filing their payroll taxes: <https://www.irs.gov/coronavirus>.

Employee Retention Federal Payroll Tax Credits: Available To Some Unions

What help is available to labor unions under this tax credit program?

Eligible labor unions can receive a federal payroll tax credit for retaining employees. The amount of the tax credit is 50% of the what the union pays each eligible employee plus the employer-paid health care costs, up to a maximum credit of \$5,000 per employee—but the exact amount available to a union will depend on a number of factors. If a union is eligible for a tax credit that is more than the amount it would otherwise owe its Social Security payroll taxes (or RRTA payroll taxes for unions with employees that fall under the RRTA), the IRS will give the union the excess amount. This Q&A is written to guide you through an initial look at the employee retention tax credit program. You should consult with your counsel or your accountant if you have questions about how the CARES Act applies to your union.

When will the tax credit be available?

Eligibility for the employee retention tax credit is determined on a quarterly basis—meaning, a union can be ineligible in the second quarter of 2020 but may become eligible in the third or fourth quarter of 2020. You should check for eligibility now *and* each time you pay your payroll taxes until January

2021. The credit is available based on wages paid to employees after March 12, 2020 and before January 1, 2021, *however* the IRS has instructed employers *not* to include the credit on the first quarter payroll tax filing due April 30, 2020 (for most unions, this filing is done on [IRS Form 941](#)). See below for more information about how to receive the credit.

How do I determine if this tax credit is available to my union?

A labor union is eligible to claim the CARES Act employee retention credit for a particular quarter if the union has at least one employee *and* the union experiences a hardship described in the Act.

- **Who counts as an employee?** In this case, an employee is any full- or part-time worker for whom the union owes Social Security (or RRTA) and Medicare taxes to the federal government. Consultants or other workers who receive a Form 1099 do not count as employees for this program.
- **What kind of hardship makes this tax credit available?** The union can claim the tax credit in any quarter in which it experiences *either or both* of the following: (1) its operations are fully *or partially* suspended because of a government order limiting commerce, travel, or group meetings due to COVID-19, *or* (2) its gross receipts are 50% less than its gross receipts in the same quarter in 2019.

What does it mean for operations to be fully or partially suspended due to a government order?

The information that the IRS has provided so far mostly clarifies this question for businesses—for example, the IRS has said that a restaurant’s operations are partially suspended (and thus it qualifies for the tax credit) if in-service dining has been ordered closed, even if the restaurant may still provide take-out and delivery options. The IRS has also said that operations are partially suspended when a business or an organization cannot operate “at its normal capacity.”

- If you think your union may be eligible for the employee retention tax credit because of full or partial suspension of its operations due to a government order, you should contact your counsel or accountant.
- You should assemble information about programs and events that the union has cancelled, postponed, or modified after an order in your state banning large gatherings or requiring residents to stay at home. You may also want to note activities like bargaining or other representational duties that have been affected by the closure of your members’ employers.

How does this employee retention credit relate to the tax credits for COVID-19-related paid leave?

Earlier federal legislation made a different payroll tax credit available to help employers with fewer than 500 employees pay for medical and family leave taken because of COVID-19. Unions may be eligible for those tax credits as well, and the calculations for the employee retention tax credit described here will be different for any individual employee on whom you base a claim for the medical and family leave credit. You should consult with your union’s counsel or accountant if you are eligible for both types of payroll tax credits.

What taxes can a union claim the credit against? Are there limits that apply to the amount of money the union can claim?

The tax credit is applied to reduce the amount of money that the union owes in Social Security payroll taxes to the federal government or, in the case of unions that pay RRTA taxes instead of Social Security taxes, the credit is applied to the RRTA taxes. There is no overall cap on the total amount of the tax credit a union can claim for all its employees in combination, but the union can only claim a credit of up

to \$5,000 per eligible employee. (See the next question for determining who is an eligible employee.) The exact amount of tax credit that a union can claim will depend on how many eligible employees the union has, how much the union pays each eligible employee, and whether the union is already taking other federal payroll tax credits (like the Work Opportunity Tax Credit) for any employees.

Who is an “eligible employee” of the union for purposes of calculating this tax credit?

For unions that had an average of 100 or fewer full-time employees in 2019, *all* wages paid to employees, regardless of whether the employees are providing services, qualify for the credit. A “full-time employee” is an employee who is employed on average at least 30 hours of service per week. For unions with an average of more than 100 full-time employees in 2019, only wages paid to employees who are *not providing services* to the union, due to one of the two kinds of COVID-19 hardships this program addresses, qualify for the credit. If your union had more than 100 full-time employees in 2019, or if you have questions about how to calculate the number of “average full-time employees” the union had in 2019, you should contact the union’s counsel or accountant to help you calculate the tax credit you may claim.

How does a union claim the tax credit? What if the amount of the credit that’s available is *more than the total amount of money the union will owe in payroll taxes*?

Most unions will claim the tax credit on their regular quarterly payroll tax filings. A union that calculates it is eligible for a credit should reduce the amount of money it deposits into their [EFTPS](#) to account for the credit it can receive. The union can withhold from deposit the employer portion of Social Security (or RRTA) taxes—and *also* the federal income tax withheld, the employee portion of Social Security, and the employer and employee portions of Medicare taxes – up to the total amount of the credit that the union is due for that quarter. The union still has to file the quarterly tax form (IRS Form 741 for most) but if the amount of the credit is more than the total amount of Social Security (or RRTA) tax that the union would normally deposit, the IRS will pay the excess to the union.

The IRS has announced that it will update the quarterly payroll tax forms to include an option for requesting a refund of the excess credit. The IRS has asked that employers *wait* to apply any credit in the first quarter of 2020 (March 13 to March 31) until filing their employment tax forms for the second quarter of 2020 (in July). However, a union *can* request an advance of the excess credit by filing [IRS Form 7200](#) if the total amount of the credit for a quarter is more than the total amount of Social Security (or RRTA) tax that the union would normally deposit, *and* the union is in immediate need of cash flow.

When does the tax credit stop being available?

The tax credit is meant to incentivize employers to keep employees on their payroll during the COVID-19 crisis. A union can claim the tax credit for an employee until one of the following things happens:

- The employee no longer works for the union,
- The union has claimed the maximum allowable tax credit for that employee, *or*
- The union no longer meets either of the hardship requirements—full or partial suspension of operations due to a COVID-19 government order *or* a 50% reduction in gross revenue.

Specifically, the hardship measured by a reduction in gross revenue ends after a union returns to taking in more than 80% of the amount of gross receipts in a quarter, compared to the previous year. In other words, if a union experiences a 50% reduction in the second quarter of 2020 and in the third quarter, the union bounces back to receiving 85% of what it took in during the third quarter of 2019, then the *fourth quarter* of 2020 is when it can no longer claim the tax credit.

COVID-19 Assistance for Labor Unions

SBA Emergency Economic Injury Loans & Grants

The CARES Act expands the Small Business Administration's Economic Injury Disaster Loan (EIDL) program. Although these SBA loans are normally only available to small businesses, the CARES Act allows nonprofits like labor unions to apply. The new law also makes \$10,000 emergency grants available, even to applicants that are ultimately denied the loans.

The CARES Act made some other, forgivable loans available to 501(c)(3) nonprofit organizations that are NOT available to labor unions. Organizations that are not labor unions should NOT refer to this memo for information about CARES Act relief.

What can labor unions borrow under this program?

Labor unions, as a type of private nonprofit, are temporarily eligible to apply for loans available through the SBA's Economic Injury Disaster Loan program. These loans can be for amounts up to \$2 million and can be used to cover bills that cannot be paid due to the COVID-19 crisis, like payroll and mortgage or rent payments. Except for the emergency grant assistance described below, the loans must be repaid at an interest rate of 2.75%. Other terms are determined on a case-by-case basis, including the possibility to defer repayment for up to four years.

What grant assistance is available to labor unions?

Applicants for an EIDL can also request up to \$10,000 in immediate assistance in the form of an emergency grant. The emergency grant does not need to be repaid, *even if the loan application is ultimately denied*. The SBA will rely on the applicant's self-certification (made under penalty of perjury by submitting the [online loan application](#)) that it is eligible to receive the funds.

What labor unions are eligible to receive funds?

The CARES Act makes the EIDL program loans and grants available to all private nonprofit organizations that have a current tax-exempt status with the IRS. For a local union, this generally will mean that it applied for tax-exempt status at some point in the past (or that it falls under a group exemption held by the national or international) *and* that its tax-exempt status isn't currently revoked, such as for failure to file its annual IRS Form 990 for three consecutive years. Unlike businesses, labor unions are eligible for the program *regardless of their size or number of employees*. The union will also need to certify that it does not engage in illegal activity, among other statements. The AFL-CIO can provide additional information concerning this certification to your counsel.

How does a labor union apply and when are applications due?

The SBA has created an online application that is available at <https://covid19relief.sba.gov/>. Labor unions that are eligible and want to apply should do so *as soon as possible*. A limited total amount of funds are available to all applicants.

Where can I get more information about eligibility or the application process?

The SBA has a 24-hour hotline for questions, but because many of the general rules about these loans were written with only small businesses in mind and not nonprofits or unions, it is *strongly recommended* that labor applicants contact their attorney with questions.



COVID-19 Emergency Loan Program for AFL-CIO Affiliate Unions

For nearly a century, Bank of Labor has supported America's Labor movement. Our unique mission and the values we share with organized Labor put us in the right position to go above and beyond in serving Labor's financial needs. Never before has our mission focus been more critical.

The AFL-CIO is working nonstop to ensure workers and their unions devastated by the COVID-19 pandemic receive the protections and support they need during this challenging time, and both Bank of Labor and the AFL-CIO recognize that AFL-CIO Affiliate Unions are a critical link in providing that support. As a result, Bank of Labor has developed the COVID-19 Emergency Loan Program to support both the AFL-CIO and its Affiliate Unions.

We've pulled out all the stops to create a program that will be most helpful to Affiliate Unions during these uncertain times. On the Term Sheet, you will see that the terms are designed *specifically for our Labor friends*, the structure is unusually Labor friendly and we've waived all customary fees. Our objective is to provide financial support in this unprecedented time of need.

We recognize that each Affiliate Union will have different borrowing needs, timelines, capabilities and resources, and our plan was to put the framework and resources in place *now* to meet those needs and circumstances in the coming months.

Bank of Labor has initially earmarked \$30 million to fund the COVID-19 Emergency Loan Program, available to support AFL-CIO Affiliate Unions today. We also have the resources to grow the COVID-19 Emergency Loan program, and our goal is to earmark up to \$100 million for that purpose.*

COVID-19 Emergency Loan Program for AFL-CIO Affiliate Unions

Bank of Labor stands ready to serve in this role with our Labor friends during these uncertain times and the rapidly changing financial environment. This Term Sheet sets forth the terms, conditions and limitations of the COVID-19 Emergency Loan Program available to AFL-CIO Affiliate Unions through Bank of Labor. **For additional information, contact Senior Vice President Bridget Martin at bmartin@bankoflabor.com or 703-850-6124.**

Type of Instrument Used to Fund Loan(s)	Non-revolving Single Advance Term Note
Duration of Each Note	Up to 5 years
Maximum Program Allocation Amount to Each Participant	The Program Allocation amount will be subject to the needs and timing of each AFL-CIO Affiliate Union with an initial allocation cap of \$3,000,000 per Affiliate Union. However, we reserve the right to allocate amounts above \$3,000,000 per Affiliate Union or transition to a more standardized loan program, if applicable.
Maximum Amount Per Each Loan Request	We anticipate issuing individual notes in value not more than \$1,000,000 per note. This provides liquidity and flexibility to the Affiliate Unions as needed.
Notice of Note Preparation	Each Affiliate Union seeking a loan shall provide Bank of Labor with a written request. Bank of Labor anticipates issuance of the notes within five (5) business days of receipt. Each Affiliate Union may submit one (1) request during each five (5) consecutive business day period.
Repayment of Note	Standard Terms—Each note will be repaid / prepaid in the order of the oldest note first. Note may be repaid/prepaid on quarterly interest rate reset dates.
Collateral Types & Advance Rate % of Market Value	Certificates of Deposit issued by Bank of Labor—100% Government Bonds (including Agencies)—up to 90% Certificates of Deposit issued by another financial institution—95% Corporate Bonds Rated “AA” or better—up to 85% Securities actively traded on recognized stock exchange—up to 70% Other assets mutually agreed upon—TBD
Collateral Custodian**	Bank of Labor Trust Division
Outstanding Availability	The cumulative value of the collateral pledged to secure the outstanding sum of the loans to each Affiliate Union will be reviewed periodically and is subject to prepayment prior to maturity if the sum of the outstanding loan(s) to the Affiliate Union exceeds the market value of the margined collateral.
Interest Rate**	3 month LIBOR + 2.70%, adjusted quarterly from date of note, with a LIBOR floor of 1.00% and a ceiling of 2.00%. (2.00% ceiling through June 30, 2021, expiring thereafter.)
Administrative Fee Per Note	Waived
Documentation Fee Per Note	Waived
Prepayment Fee	Waived
Facility Fee	Waived
Commitment Fee	Waived
Attorney Fee	Waived
Documentation	Normal and customary for the type(s) of collateral pledged to the note(s)

Each Affiliate Union may be allocated a dollar amount of a portion of a \$100,000,000 COVID-19 Emergency Loan Program that Bank of Labor has offered at the behest of the AFL-CIO and with the consent of Bank of Labor.

* While we will make every attempt to fulfill request(s) for loans pursuant to the COVID-19 Emergency Loan Program, uncertain times and the rapidly changing financial environment may create market conditions or other circumstances that limit or prohibit Bank of Labor's ability or willingness to fulfill any or all of a portion of a loan request pursuant to the COVID-19 Emergency Loan Program. The AFL-CIO and each Affiliate Union acknowledge that the establishment of the COVID-19 Emergency Loan Program by Bank of Labor does not constitute a commitment to loan money and that nothing has been paid or conveyed to Bank of Labor that would constitute consideration for establishing the COVID-19 Emergency Loan Program. We also seek confirmation from all participating Affiliate Unions that Bank of Labor, at its sole discretion, may cease to loan money, at any time, pursuant to the COVID-19 Emergency Loan Program, whether generally or to an individual Affiliate Union.

** Bank of Labor custodial fees will be waived until June 30, 2021 on any assets pledged to the Bank pursuant to the Loan Program.

Existing customers of Bank of Labor will see an interest rate reduction of 25 b.p. on their loan through June 30, 2021. International Unions who do not presently have their main banking relationship but who commit to moving their primary accounts to Bank of Labor will see an interest rate reduction of 25 b.p. on their loan through June 30, 2021.