

# BUSINESS BRIEFING

NEW CARES Act Guidance to Assist Your Business

April 9, 2020



**Governor  
Doug Burgum**



**Michelle Kommer,  
Commerce  
Commissioner**



**Bryan Klipfel,  
Executive Director  
Job Service & WSI**



**Arik Spencer,  
President & CEO  
Greater ND Chamber**



This presentation is NOT all-inclusive of all federal stimulus aid. The information you receive today does not serve as legal or financial advice. You should consult with your financial services professional before making any decisions regarding your business. At this time, many questions of implementation remain unanswered.

*4/9/2020*

# TODAY'S GOAL

The goal today is to make you aware of financial resources you might consider and updated guidance— NOT to help you choose a course of action. This decision should be made in consultation with a financial services professional.





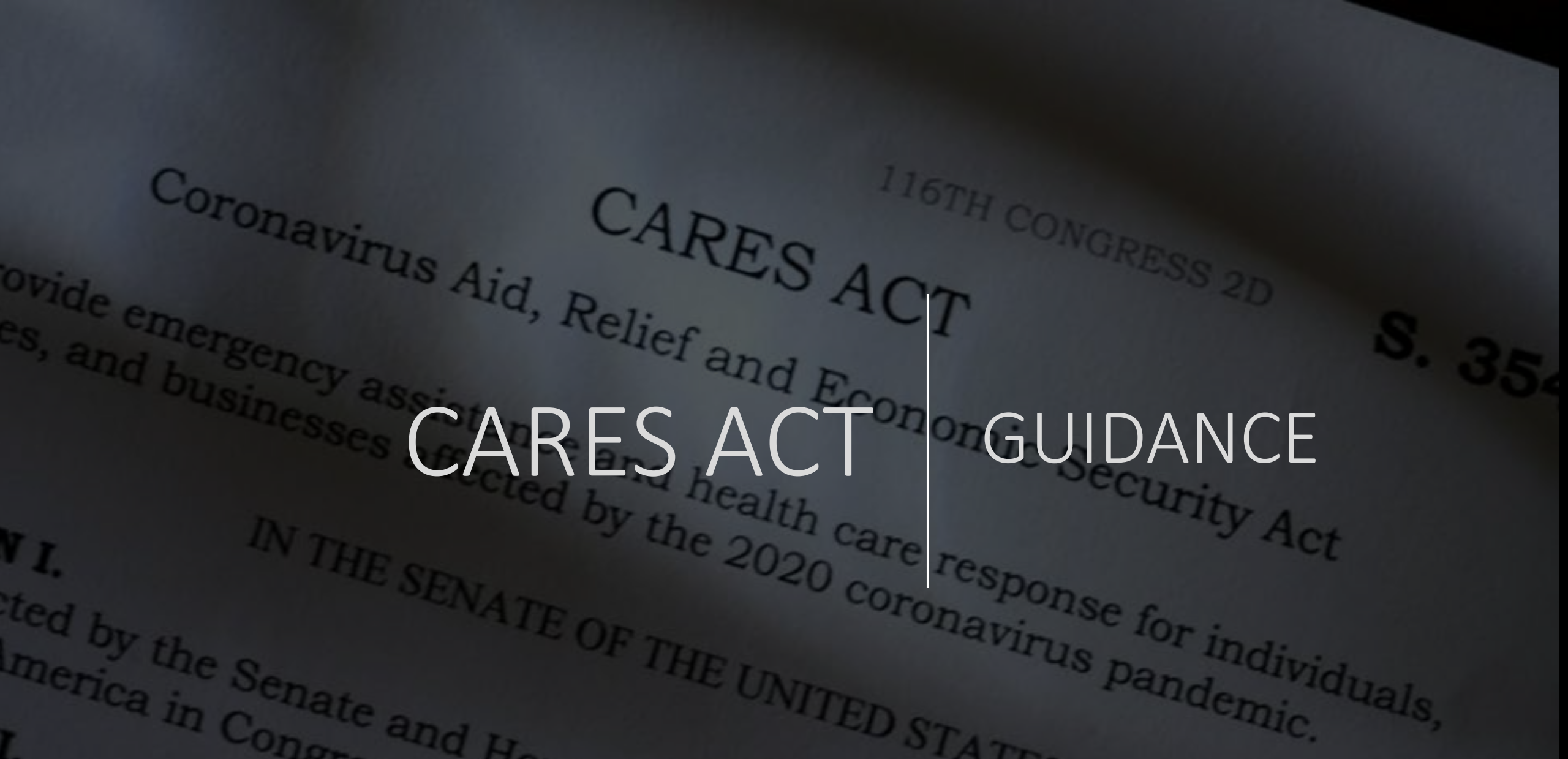
# ASK QUESTIONS

SUBMIT YOUR QUESTIONS TO  
[businesshelpCOVID19@nd.gov](mailto:businesshelpCOVID19@nd.gov)



# AGENDA

- CARES Act – Quick Review
- Updates as of 4/2/2020:
  - Economic Injury Disaster Loan (EIDL)
  - Paycheck Protection Program (PPP)
  - Expanded Unemployment
  - Direct Payments
- Special Callout:
  - Sole Proprietors, Non-Profits & Faith-based Organizations
- Closing Remarks



# CARES ACT | GUIDANCE

# Business

## LET'S REVIEW

- Economic Injury Disaster Loans
- Paycheck Protection Program
- Expanded Unemployment Insurance
- Direct Payments



# COMPARISON of EIDL to PPP



## SBA – COVID-19 RELIEF PROGRAMS

### SBA Paycheck Protection Program

### Small Business Disaster Relief Program (EIDL)

<b>Eligibility</b>	<ol style="list-style-type: none"> <li>1. Small Business with 500 employees or less</li> <li>2. Nonprofit Organization - 501(c)(3) and Veteran's Organization - 501(c)(19)</li> <li>3. Tribal Business</li> <li>4. Sole Proprietors</li> <li>5. Independent Contractors</li> <li>6. Self-employed Individuals</li> <li>7. Small business with more than 1 physical location (e.g. Accommodation and Food Services)</li> <li>8. Business operating under affiliated rules (e.g. a franchise business)</li> </ol>	<ol style="list-style-type: none"> <li>1. Small Businesses with 500 employees or less</li> <li>2. Sole proprietors</li> <li>3. Individual contractors</li> <li>4. Cooperatives with fewer than 500 employees</li> <li>5. ESOPs with fewer than 500 employees</li> <li>6. Tribal Business</li> <li>7. Private Nonprofit Organizations</li> <li>8. Small Agricultural Cooperatives</li> <li>9. Small business with more than 1 physical location (e.g. Accommodation and Food Services)</li> <li>10. Business operating under affiliated rules (franchise)</li> </ol>
<b>Requirements</b>	Must certify business impact by COVID-19 and use of funds to retain workers, maintain payroll and other debt obligations	Waives the requirement that a business be operational one year before the disaster
<b>Loan Max</b>	\$10M	\$2M
<b>Government Guarantee</b>	100%	Per criteria
<b>Payment Deferment Allowed</b>	Yes	Yes
<b>Allowable Uses of Funds</b>	<ol style="list-style-type: none"> <li>1. Payroll costs</li> <li>2. Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums</li> <li>3. Employee salaries, commissions, or similar compensations</li> <li>4. Payments of interest on any mortgage obligations (which shall not include any prepayment of or payment of principal on a mortgage obligation)</li> <li>5. Rent (including rent under a lease agreement)</li> <li>6. Utilities</li> <li>7. Interest on any other debt obligations that were incurred before February 15, 2020</li> </ol>	<ol style="list-style-type: none"> <li>1. Providing paid sick leave to employees unable to work due to the direct effect of the COVID-19</li> <li>2. Maintaining payroll to retain employees during business disruptions or substantial slowdowns</li> <li>3. Rent Payments or mortgage payments</li> <li>4. Meeting increased costs to obtain materials unavailable from the applicant's original source due to interrupted supply chains</li> <li>5. Repaying obligations that cannot be met due to revenue losses</li> </ol>
<b>Payment Forgiveness</b>	Per criteria	Per criteria
<b>How/where to apply</b>	Local Lender	<a href="http://www.sba.gov/disaster">www.sba.gov/disaster</a>
<b>Loan term</b>	2 years	30 years

Please note: This information was accurate on the day it was produced but is changing rapidly. Consult your advisors before making decisions.

\* Other sources: <https://disasterloan.sba.gov/ela/Information/EIDLloans>

Notes to consider: EIDL assistance is available only to small businesses when SBA determines they are unable to obtain credit elsewhere.

# EIDL RESOURCES

- Small Business Administration EIDL Main Page
  - Overview
  - Eligibility
  - FAQ's
  - Application

# PPP RESOURCES

- [PPP Overview](#)
- [Borrower – More Information](#)
- [Borrower Application Form](#)
- [Lender – More Information](#)
- [Lender Application Form](#)
- [Frequently Asked Questions](#)

# EXPANDED UNEMPLOYMENT INSURANCE

- Pandemic Unemployment Assistance (PUA)
- Pandemic Emergency Unemployment Compensation (PEUC)
- Federal Pandemic Unemployment Compensation (FPUC)
- Waiting Week Waiver



## DIRECT PAYMENTS

- Individuals: \$1,200
- Couples: \$2,400
- Kids under 17: \$500
- Income exceptions apply

A nighttime photograph of a tall, multi-story building with many lit windows. In the foreground, a large, dark statue of a person in a long coat stands in profile. The sky is a deep blue, and some bare tree branches are visible in the upper left. The text "RECENT UPDATES" is overlaid in white, sans-serif font across the center of the image.

# RECENT UPDATES



EIDL

ECONOMIC INJURY  
DISASTER LOAN

# CLARIFICATIONS\*

- The \$10,000 loan advance feature is “UP TO” \$10,000...not a guaranteed \$10,000; loan advance is based on FTE’s
  - This guidance/formula is not final
- The borrower may apply for the emergency advance only
- The EIDL loan advance “may be” forgiven
- If the borrower receives a loan advance AND the PPP, the advance under EIDL is subtracted from the PPP amount forgiven

*\*Al Haut, ND District Director, 4/8/20 BND Call*



# Business

PPP

PAYCHECK PROTECTION PROGRAM

NORTH  
**Dakota**

Commerce

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# INTERIM FINAL RULE (4/2/20)

- 1% interest rate
- Provided example to calculate maximum loan
  - There appears to be more than one permissible way to calculate maximum loan
- Forgiveness
  - No more than 25% of forgivable costs may be non-payroll
  - [The loan forgiveness formula is “still in development” and further guidance is expected “in the next week or so”\*]
- USE MOST RECENT FORMS

*\*Al Haut, ND District Director, 4/8/20 BND Call*

# CLARIFICATIONS\*

- Employee salaries over \$100,000 cannot be counted (but benefits are not reduced)
- In calculating allowable costs, you may include interest on mortgages, but not interest on other payments (like equipment)

*\*Al Haut, ND District Director, 4/8/20 BND Call*

# MORE TO COME

- Additional Guidance
  - ~~Lender documents~~ *made available 4/7/20*
  - How to calculate payroll costs for employees making > 100K
  - Forgiveness
  - Closing process/Funding date
- Will there be additional funding?
  - U.S. Chamber and others have written in support of more funding



SCENARIOS

PPP

# “Josie’s Coffee Shop” Employees: 5

Annual payroll:	\$120,000
Average monthly payroll:	\$10,000
Multiply by 2.5 =	<u>\$25,000</u>
Maximum loan amount:	<b>\$25,000</b>

8 weeks

Payroll \$10,000 (2x):	\$20,000
Rent \$1000 (2x):	\$2,000
Utilities \$500 (2x):	\$1,000
Interest \$500 (2x):	<u>\$1,000</u>
Total Expenses (8 weeks)	<b>\$24,000</b>

Maximum loan amount:	\$25,000
Total Expenses (8 weeks)	<u>\$24,000</u>
<b>Difference:</b>	<b>\$1,000</b>



# “ND Inn”

## Employees: 120

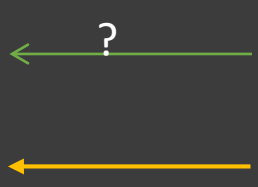
Annual payroll: \$5,400,000  
 Average monthly payroll: \$ 450,000  
 Multiply by 2.5 = \$1,125,000  
 Maximum loan amount (PPP): **\$1,125,000**

8 weeks

	(Full Staff)	(80% Staff Reduction)
Payroll \$450,000 (2x):	\$900,000	\$180,000
Rent \$75,000 (2x):	\$150,000	\$150,000
Utilities \$50,000 (2x):	\$100,000	\$100,000
Interest \$25,000 (2x):	\$50,000	\$50,000
<b>Total Expenses (8 weeks)</b>	<b>\$1,200,000</b>	<b>\$480,000</b>

Maximum loan amount (EIDL included):	\$1,125,000	\$1,125,000
<b>Total Expenses (8 weeks):</b>	<b>\$1,200,000</b>	<b>\$480,000</b>
<b>Difference:</b>	<b>\$ -75,000</b>	<b>\$645,000</b>

**Possible Amount Forgiven:** \$1,125,000      **\$ Unknown**





UI

UNEMPLOYMENT  
INSURANCE

NORTH  
**Dakota**

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# IMPLEMENTATION UPDATE

- PUA
  - Initial high level USDOL guidance came 4/6. Additional guidance will be coming. ND is accepting claims but is targeting week of 4/12-4/18 for processing after additional guidance arrives
- PEUC
  - Still awaiting federal guidance
- FPUC
  - First payments are targeted for week of 4/12-4/18
- Waiver of week waiting period
  - Programming completed and payments began 4/7

# COMMONLY ASKED QUESTIONS

- Does the recipient collect an extra \$600 if working minimum hours currently and collecting unemployment?
  - Yes, anyone receiving unemployment insurance benefits will receive the extra \$600
- What happens if an employee's hours are reduced (either in one job across two jobs)? Still eligible to apply for UI?
  - Individuals with reduced hours can receive benefits. Up to 60% of the individual's weekly benefit amount can be earned in employment with no impact on their benefit amount. Anything over 60% is deducted from their benefit amount that week on a dollar-for-dollar basis
- Can a business owner "lay him/herself off" and collect unemployment?
  - If the business owner must close or reduce their business operations due to the pandemic, they can receive unemployment insurance benefits

# HOW TO APPLY

UNEMPLOYMENT INSURANCE



## Regular Unemployment Insurance

[UI ICE Regular Unemployment  
Apply Here](#)

For Regular Unemployment Insurance Benefits, including employees laid off due to COVID-19

UNEMPLOYMENT INSURANCE

## COVID-19 Pandemic Emergency Unemployment Compensation

[PEUC Unemployment Extension  
Apply Here](#)

A 13-week benefit extension program after regular UI Benefits are exhausted

UNEMPLOYMENT INSURANCE

## COVID-19 Pandemic Unemployment Assistance

[PUA Unemployment  
Apply Here](#)

If you are an Independent Contractor or 1099 Worker to apply for COVID-19 related Pandemic Unemployment Assistance



[Find a Job or Recruit Employees](#)  
ND's Online Workforce Connection



[UI EASY Login](#)  
Unemployment Insurance Business Tax Login



[Labor Market Information](#)  
Workforce and Employment Data, and More

# EXAMPLE

Consultant (S-Corp, single owner) lays him/herself off due to lack of work relating to COVID. Can s/he collect unemployment?

Yes, the consultant should file a Pandemic Unemployment Assistance claim at [www.jobsnd.com](http://www.jobsnd.com)



# REMINDERS





# DIRECT PAYMENTS HOW & WHEN

# HOW

- Direct-Deposit for those who have previously authorized direct-deposit IRS tax refund
  - In 2019, 92 million people (60% of all filers) received refunds via direct deposit
- Paper Checks
- There is discussion of creating a portal (like VENMO) for people to enter their banking information to get payments more quickly
- Those on social security are eligible and need not have filed a tax return – their payments will be received in the same manner they receive their social security benefits

*\*Al Haut, ND District Director, 4/8/20 BND Call*

# WHEN

- US Treasury Secretary Mnuchin on March 30 estimated payments to begin “in 2 weeks”





# SPECIAL CALLOUT

- Sole Proprietors
- Independent Contractors
- Self-Employed
- Non-Profit
- Faith-Based Organizations

# SOLE PROPRIETOR, INDEPENDENT CONTRACTOR & SELF-EMPLOYED

*The CARES Act states: “...individuals who operate under a sole proprietorship or as an independent contractor and eligible self-employed individuals shall be eligible. Applicants who fall in this category will need to provide documentation such as “payroll tax filings reported to the Internal Revenue Service, Forms 1099–MISC, and income and expenses from the sole proprietorship, as determined by the (SBA) Administrator and the (Treasury) Secretary.”*

# SOLE PROPRIETOR – EIDL AND PPP

- Applications open now
- *We are expecting further guidance for documentation required to show income, among other things*

# INDEPENDENT CONTRACTOR & SELF-EMPLOYED: EIDL AND PPP

- When you can apply:
  - EIDL: Now
  - PPP: April 10
- *We are expecting further guidance for documentation required to show income, among other things*
- Independent contractors do not “count” as employees for small businesses (because they can apply for PPP too)
- Other terms the same

# NON-PROFIT ORGANIZATION

# NON-PROFIT - EIDL

- A nonprofit organization is eligible for EIDL only if it:
  - (a) was in operation before January 31, 2020; and
  - (c) with fewer than 500 employees
- Nonprofits businesses who primarily engaged in political or lobbying activities (13 CFR § 120.110 (r)) or derives over 50% of its gross annual revenue from political or lobbying activities are not eligible.

# NON-PROFIT - PPP

- A nonprofit organization is eligible for PPP only if it:
  - a) was in operation on February 15, 2020;
  - b) is an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code; a 501(c)(19) veterans organization; or a tribal business concern on the terms set forth in the CARES Act;
  - c) with fewer than 500 employees
- Nonprofits businesses who primarily engaged in political or lobbying activities (13 CFR § 120.110 (r)) or derives over 50% of its gross annual revenue from political or lobbying activities are not eligible.

# NON-PROFIT – UNEMPLOYMENT INSURANCE

- Most nonprofit organizations do not pay per-worker unemployment taxes and instead have “reimbursable arrangements” with state unemployment programs, which require them to reimburse the state for 100 percent of the cost of unemployment compensation paid to their laid off or furloughed workers.
  - **The CARES Act - Sec. 2103. Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations** does offer flexibility in paying reimbursement where provisions would reduce the amount that nonprofits organizations are required to reimburse states for benefits paid to their workers who claim unemployment insurance by 50 percent through December 31, 2020. Check with the ND Job Service <https://www.jobsnd.com/> and your nonprofit employer to determine if unemployment benefits were paid to the state.
- Workers at nonprofit organizations are also eligible for the Federal Pandemic Unemployment Compensation supplement (\$600 a week).

ADDITIONAL FEDERAL RULES IN PROGRESS



FAITH  
BASED  
ORGANIZATIONS



# FAITH-BASED ORGANIZATIONS – EIDL & PPP

Eligible if:

- In operation on February 15, 2020;
- Is either (a) an organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; and
- with fewer than 500 employees

# FAITH-BASED ORGANIZATIONS – UNEMPLOYMENT INSURANCE

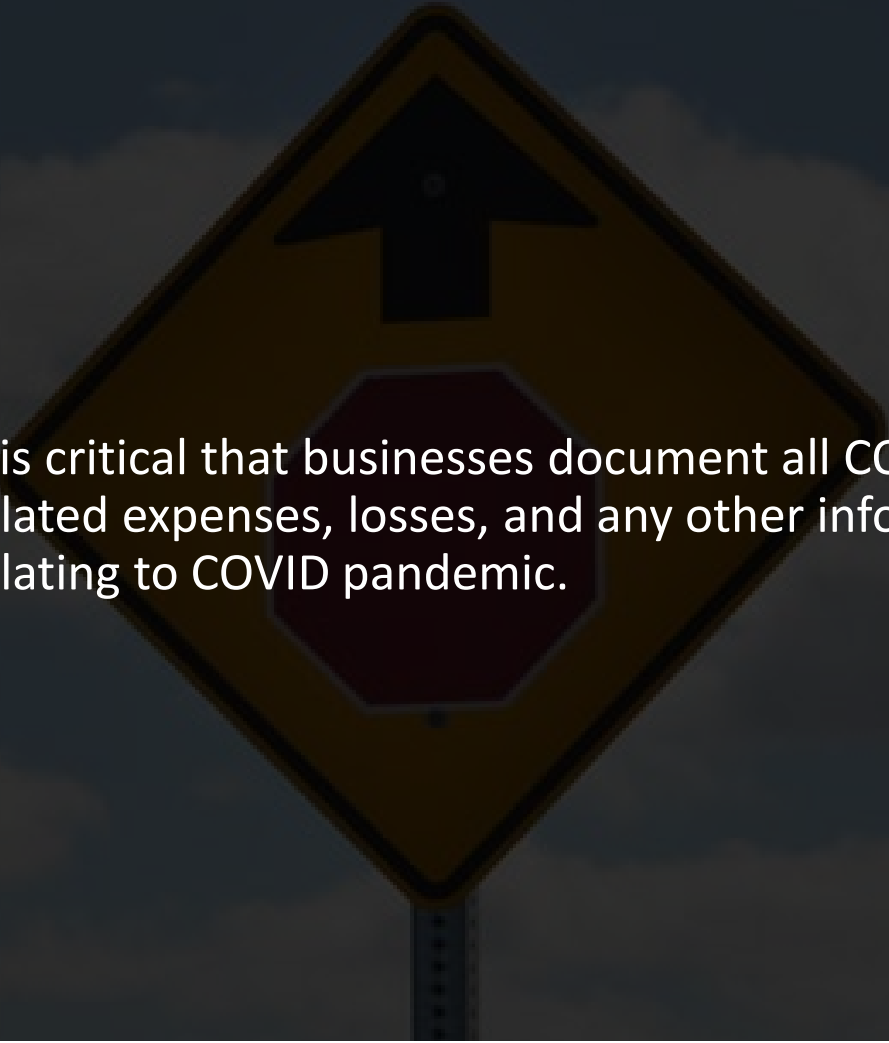
- Most faith-based organizations do not pay per-worker unemployment taxes and instead have “reimbursable arrangements” with state unemployment programs, which require them to reimburse the state for 100 percent of the cost of unemployment compensation paid to their laid off or furloughed workers.
  - **The CARES Act - Sec. 2103. Emergency Unemployment Relief for Governmental Entities and Faith based Organizations** does offer flexibility in paying reimbursement where provisions would reduce the amount that faith-based organizations are required to reimburse states for benefits paid to their workers who claim unemployment insurance by 50 percent through December 31, 2020. Check with the ND Job Service <https://www.jobsnd.com/> and your faith-based employer to determine if unemployment benefits were paid to the state.
- Workers at nonprofit organizations are also eligible for the Federal Pandemic Unemployment Compensation supplement (\$600 a week).

ADDITIONAL FEDERAL RULES IN PROGRESS

# RECOMMENDED RESOURCES

- [NDresponse.gov](https://ndresponse.gov) (Select “Business and Employers”)
- [U.S. Department of Treasury](https://www.treasury.gov)
- [SBA COVID-19 RESOURCES](https://www.sba.gov/covid-19)
- [U.S. DOL \(FFCRA\)](https://www.dol.gov)
- [USChamber.com](https://www.uschamber.com)
- [NDchamber.com](https://www.ndchamber.com)
- [North Dakota Small Business Development Center](https://www.ndsmallbizcenter.com)
- [SCORE Mentors](https://www.score.org)
- [ND Women’s Business Center](https://www.ndwomensbizcenter.com)
- [Veteran’s Business Outreach Center](https://www.veteranbizcenter.com)

DOCUMENT  
DOCUMENT  
DOCUMENT



It is critical that businesses document all COVID-related expenses, losses, and any other information relating to COVID pandemic.

# OTHER REMINDERS

- CARE19
- Census 2020
- Main Street Business Survey





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*4/9/2020*

# IN CLOSING

More to come – implementation resources and guidance are developing.





# THANK YOU

SUBMIT YOUR QUESTIONS TO  
[businesshelpCOVID19@nd.gov](mailto:businesshelpCOVID19@nd.gov)