



SENATE | SÉNAT  
CANADA

**REPORT ON THE**

*Subject matter of Bill C-9*

*An Act to amend the Income Tax Act (Canada Emergency Rent Subsidy and  
Canada Emergency Wage Subsidy)*

**Standing Senate Committee on National Finance**

**FIRST REPORT**

The Honourable Percy Mockler, Chair

The Honourable Éric Forest, Deputy Chair

The Honourable Marty Klyne, Deputy Chair

The Honourable David Richards, Member of the Steering Committee

November 2020

**MEMBERS OF THE COMMITTEE**

The Honourable Percy Mockler, Chair

The Honourable Éric Forest, Deputy-Chair

The Honourable Marty Klyne, Deputy-Chair

The Honourable David Richards, Member of the Steering Committee

The Honourable Peter M. Boehm

The Honourable Jean-Guy Dagenais

The Honourable Marty Deacon

The Honourable Pat Duncan

The Honourable Rosa Galvez

The Honourable Tony Loffreda

The Honourable Elizabeth Marshall

The Honourable Larry W. Smith

***Ex-officio members:***

The Honourable Marc Gold, P.C. (or Raymonde Gagné) and the Honourable Donald Plett (or Yonah Martin)

***Other Senators who participated in the study:***

The Honourable Kim Pate

***Parliamentary Information and Research Service, Library of Parliament:***

Alex Smith, Analyst

Shaowei Pu, Analyst

***Committees Directorate:***

Maxime Fortin, Clerk of the Committee

Louise Martel, Administrative Assistant of the Committee

Amanda Baldo, Administrative Assistant

Andrea Mugny, Procedural Clerk

**ORDER OF REFERENCE**

Extract from the *Journals of the Senate* of Thursday, November 5, 2020:

With leave of the Senate,

The Honourable Senator Gold, P.C., moved, seconded by the Honourable Senator Gagné:

That, in accordance with rule 10-11(1), the Standing Senate Committee on National Finance be authorized to examine the subject matter of Bill C-9, An Act to amend the Income Tax Act (Canada Emergency Rent Subsidy and Canada Emergency Wage Subsidy), introduced in the House of Commons on November 2, 2020, in advance of the said bill coming before the Senate, when and if the committee is formed;

That, notwithstanding any provision of the Rules or usual practice, for the purposes of its organization meeting and of this study, and taking into account the exceptional circumstances of the current pandemic of COVID-19, the committee have the power to meet by videoconference or teleconference, if technically feasible;

That, for greater certainty, and without limiting the general authority granted by this order, when the committee meets by videoconference or teleconference:

- (a) members of the committee participating count towards quorum;
- (b) such meetings be considered to be occurring in the parliamentary precinct, irrespective of where participants may be; and
- (c) the committee be directed to approach in camera meetings with the utmost caution and all necessary precautions, taking account of the risks to the confidentiality of in camera proceedings inherent in such technologies;

That, if a meeting of the committee by videoconference or teleconference is public, the provisions of rule 14-7(2) be applied so as to allow recording or broadcasting through any facilities arranged by the Clerk of the Senate, and, if such a meeting cannot be broadcast live, the committee be considered to have fulfilled any obligations under the Rules relating to public meetings by making any available recording publicly available as soon as possible thereafter;

That, for the purposes of its organization meeting and of this study, the committee be authorized, to meet even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto; and

That, for the purposes of its organization meeting and of this study the committee have the power, pursuant to rule 12-18(2)(b)(i), to sit from Monday to Friday, even though the Senate may then be adjourned for a period exceeding one week.

The question being put on the motion, it was adopted.

*Interim Clerk of the Senate*

Richard Denis

## **Observations on the Subject Matter of Bill C-9, An Act to amend the Income Tax Act (Canada Emergency Rent Subsidy and Canada Emergency Wage Subsidy)**

### **Introduction**

On 2 November 2020, the government introduced Bill C-9, An Act to amend the Income Tax Act (Canada Emergency Rent Subsidy and Canada Emergency Wage Subsidy), in the House of Commons. On 5 November 2020, the Senate authorized the Standing Committee on National Finance to study the subject matter of the bill (i.e., conduct a pre-study).

To consider the bill, your committee held three meetings with 17 witnesses representing businesses impacted by the bill and government organizations. The committee also heard from the Deputy Prime Minister and Minister of Finance, the Honourable Chrystia Freeland. Your committee notes that it is the first standing committee to consider legislation providing financial support related to the COVID-19 pandemic.

This report summarizes the testimony your committee heard, as well as its observations on the subject matter of the bill.

### **Background**

Canadian businesses have been hit hard by the COVID-19 pandemic. The Canadian Federation of Independent Business (CFIB) conducted a survey of its 110,000 small- and medium-sized business members and found that, of the 4,221 responses, only 66% are fully open and only 29% are currently making a normal level of sales; whereas, 37% are losing money every day they are open and 14% are considering shutting down permanently.

Recognizing the vast differences in business sectors, a representative of Restaurants Canada informed us that the food service sector lost more jobs in the first six weeks of the pandemic than were lost during the 2008-09 recession for the entire Canadian economy. Moreover, since the beginning of the pandemic, more than 10,000 of the 98,000 restaurants in Canada have already shut down permanently. The Hotel Association of Canada indicated that 60% of its members are concerned that they may not make it past Christmas without additional support.

### **Canada Emergency Wage Subsidy**

The Canada Emergency Wage Subsidy (CEWS) was enacted by Bill C-14, A second Act respecting certain measures in response to COVID-19, on 11 April 2020. Under Bill C-14, there were three “qualifying periods” wherein CEWS could be claimed; the last of such periods ended on 6 June 2020. Bill C-20, An Act respecting further COVID-19 measures, extended CEWS until 21 November 2020 by adding qualifying periods 4 to 9. Bill C-9 seeks to add qualifying periods 10 to 17, with the last qualifying period ending in June 2021.

CEWS is comprised of a base wage subsidy and an additional top-up subsidy. The maximum base rate is 60% (of \$1,129) for qualifying periods 5 and 6 and gradually decreases thereafter. Bill C-9

would amend the maximum base CEWS rate to 40% for qualifying periods 8 to 10, and the maximum CEWS rate for qualifying periods 11 to 17 would be set by regulation. The bill would also allow the top-up percentage (currently 25%) to be set by regulation.

Representatives from various business organizations expressed their appreciation for CEWS, noting that it has been instrumental in keeping many businesses in operation. Representatives from the CFIB indicated that 63% of its members have used CEWS at some point over the last few months.

While they commended the CEWS program in general and the changes in Bill C-9, witnesses also highlighted some areas for improvement, including the predictability of the program. Representatives from the accounting firm MNP noted that CEWS is administratively challenging for many small businesses.

In addition, several organizations suggested changes to the wage subsidy rates. Specifically, representatives from Restaurants Canada recommended that CEWS be modified to equal 1.6 times the percentage decline in revenues, up to a maximum subsidy of 75% of qualifying wages. The Canadian Chamber of Commerce suggested increasing the maximum top-up subsidy from 25% to 35%, which would allow the hardest hit sectors to receive a total subsidy of 75% when combined with the base subsidy of 40%. The Hotel Association of Canada recommended that the government increase the CEWS rate to 85% for the hardest hit sectors. Lastly, the CFIB suggested that businesses shut down a second time by public health orders should be eligible for a 65% wage subsidy and a 25% top up, for a total wage subsidy of up to 90%.

While Bill C-9 extends CEWS to June 2021, the formulae for calculating the amount of the subsidy are only effective up to December 19, or for the next five weeks. Given the uncertainty businesses are facing during the pandemic, witnesses indicated that program details relating to the periods after December 19 should be provided as soon as possible.

### **Canada Emergency Rent Subsidy**

Bill C-9 would introduce the Canada Emergency Rent Subsidy (CERS), which replaces the Canada Emergency Commercial Rent Assistance (CECRA) program. CERS would provide a subsidy for eligible fixed property expenses incurred by commercial tenants and eligible property owners. CERS would apply for qualifying periods occurring between 27 September 2020 and 19 December 2020, and any other prescribed period that ends no later than 30 June 2021.

Qualifying rent expenses would be limited to a maximum of \$75,000 for a qualifying period per location and would include rent, interest payments made in relation to a mortgage on a qualifying property, property taxes and property insurance. In general, the amount of rent subsidy that could be claimed would be proportional to the percentage of revenue reduction incurred by the business. A maximum qualifying rent expense would be \$300,000 for a qualifying period for all “affiliated” entities that would be claiming CERS.

CERS would also include a new “lockdown support” program. This program would provide an additional 25% rent subsidy to businesses that are subject to a public health order related to COVID-19 that results in the business having to stop or restrict its operations for a period of at least one week. It would be available from 27 September 2020 until 30 June 2021.

Witnesses commented that the new rent subsidy is a significant improvement over the previous program because businesses can apply for support directly, rather than rely on landlords to apply. Also, businesses that own their property will be eligible for support.

However, witnesses identified a number of concerns with the new program, notably:

- The legislation requires businesses to pay rent before receiving the subsidy, even though they may not have sufficient funds to pay their rent;
- The new subsidy should be retroactive to April 2020 for businesses that were unable to access the previous program, CECRA;
- Businesses that change the terms of their lease, for example, by moving to a less expensive location, would be excluded from the subsidy;
- To be eligible, businesses need to have a track record of expenses in 2018 or 2019, or at least January and February 2020, which excludes new businesses;
- Businesses that do not have a business number, for example, a music school that is exempt from the GST or HST, would not be eligible;
- The maximum cap on the subsidy reduces the level of support for businesses with multiple locations, such as franchisees, as well as businesses operating in the downtown core of cities where rent is much more expensive;
- The subsidy top-up is only available to businesses that must cease operations due to public health orders, even though other public health restrictions, such as ongoing capacity limits, may lead to similar levels of revenue decline;
- Seasonal businesses may only have to pay fixed costs at certain times of the year;
- Indigenous businesses renting space in band-owned buildings on reserves are not eligible;
- Businesses that rely on the Scientific Research and Experimental Development tax credit may be at a disadvantage, as the wage and rent subsidies reduce eligible expenses for the credit;
- Property owners' fixed costs are approximately 25% of normal revenue but only 10% of the costs are eligible; and
- Property owners were not eligible under the previous rent program.

Minister Freeland informed the committee that the government has an interim solution to address the concern of having businesses pay rent before receiving the subsidy. She said the government would introduce additional legislation to formalize rent payable as an eligible expense under the program, and given the government's stated intent, the Canada Revenue Agency (CRA) will consider rent payable as an eligible expense from the moment the program is launched.

She also noted that the previous program, CECRA, reached approximately 139,000 businesses with assistance of over \$2 billion. The new program is expected to cost \$2.2 billion until December 2020.

Officials from the CRA explained that they would be accepting applications to the program shortly after Bill C-9 receives Royal Assent, with the goal of issuing cheques in the first week of December. They have established a dedicated phone line and allocated additional employees to provide support. They are seeking to simplify the process for businesses by integrating CERS with CEWS.

In addition to the need for financial support, representatives from Restaurants Canada and the CFIB voiced their frustrations with the lack of open, transparent and timely information as it relates to

lockdown orders. Representatives from the CFIB told the committee that its members were increasingly starting to feel like they were being shutdown to send a message to the public.

The federal government should take a proactive role in supporting provincial and local governments in providing businesses and consumers with this critical information.

### **Observations**

Your committee notes that all witnesses were appreciative of the financial support provided by the federal government and, without exception, they recommended that Bill C-9 be passed quickly to provide support to businesses as soon as possible. Your committee agrees. As the second wave of the COVID-19 pandemic has arrived and public health orders lead to additional shutdowns, businesses will need timely financial support to help them survive and prosper.

Your committee notes that the programs need several improvements to ensure that support is provided equitably. The federal government should work with the business community to address the outstanding issues outlined in this report.

Businesses also indicated that they need predictability in uncertain times. It is very hard for businesses to plan for the future when they have very little advance notice of the level of financial support going forward. For example, the end of the initial CERS subsidy period is only a few weeks away.

The government must simplify its programs where possible, as well as provide assistance to small- and medium-sized businesses to help them access the financial support they need.

Your committee also believes in the transparency of government spending. Prior to August 6, the government was providing a bi-weekly report on COVID-19 spending. The government should reinstate the publication of this report and publish timely monthly updates on all of its COVID-19 program spending.

More broadly, your committee believes the federal government should consider:

- additional measures to help small- and medium-sized businesses in the hardest hit sectors, such as, hospitality, arts and recreation, personal and miscellaneous services, social services, transportation, seasonal businesses and city centers;
- requiring businesses that receive financial support not provide dividends or bonuses to shareholders;
- sending CERS cheques out in the name of both landlords and business owners to ensure they receive support;
- supporting individuals and businesses that fall through the cracks, such as seasonal workers, new businesses, the self-employed, professional services businesses, private schools and academies, and the living arts;
- establishing tax credits for business investments in safety equipment and separation barriers;
- developing mechanisms to enhance cooperation between business sectors, for example, banks need to be mindful of the challenges facing hotels and restaurants;
- identifying indicators to assess the performance of its financial support programs, providing timely and meaningful data on actual results and ensuring the efficiency of its stimulus spending;

- adopting a government-wide strategy to support Indigenous businesses, similar to its Women Entrepreneurship Strategy and the Black Entrepreneurship Program; and
- providing additional support to vulnerable regions to position them for recovery.

**APPENDIX – WITNESSES WHO APPEARED BEFORE THE COMMITTEE**

***Canada Mortgage and Housing Corporation (2020-11-13)***

Nadine Leblanc, Chief Risk Officer

Paul Mason, Senior Vice-President, Client Operations

Elizabeth Leblanc, Senior Manager

***Canada Revenue Agency (2020-11-13)***

Ted Gallivan, Assistant Commissioner, Compliance Programs Branch

Geoff Trueman, Assistant Commissioner, Legislative Policy and Regulatory Affairs Branch

Randy Hewlett, Director General, Legislative Policy and Regulatory Affairs Branch

***Canadian Chamber of Commerce (2020-11-12)***

Alla Drigola, Director, Parliamentary Affairs and SME Policy

***Canadian Council for Aboriginal Business (2020-11-12)***

Tabatha Bull, President and Chief Executive Officer

***Canadian Federation of Independent Business (2020-11-12)***

Dan Kelly, President and Chief Executive Officer

***Chamber of Commerce of Metropolitan Montreal (2020-11-12)***

Michel Leblanc, President and Chief Executive Officer

***Department of Finance Canada (2020-11-12)***

The Honourable Chrystia Freeland, P.C., M.P., Minister of Finance

Andrew Marsland, Senior Assistant Deputy Minister, Tax Policy Branch

Maude Lavoie, Director General, Business Income Tax Division

***Hotel Association of Canada (2020-11-12)***

Susie Grynol, President and Chief Executive Officer

***MNP LLP (2020-11-12)***

Kim Drever, Partner and Regional Tax Leader

Am Lidder, Senior Vice-President, Taxation Services

***Restaurants Canada (2020-11-12)***

Lauren van den Berg, Executive Vice-President, Government Relations

David Lefebvre, Vice-President, Federal & Quebec Affairs