

**United States Senate**  
**Washington, D.C. 20510**

April 7, 2020

The Honorable Nancy Pelosi  
Speaker  
House of Representatives  
1236 Longworth House Office Building  
Washington, DC 20515

The Honorable Chuck Schumer  
Democratic Leader  
U.S. Senate  
322 Hart Senate Office Building  
Washington, DC 20510

Dear Speaker Pelosi and Leader Schumer:

As you work to prepare the next package to address the health and economic challenges of the coronavirus pandemic, I write to identify some of the priorities and needs about which I've heard throughout the state of Colorado.

In outlining these priorities, I have sought to specify which constitute ways to strengthen and augment existing programs in the CARES Act and which initiatives are geared toward supporting our long-term economic transition and recovery once the pandemic begins to abate.

As the Administration implements the CARES Act, I will continue to highlight additional issues and needs as they arise.

**BUILDING ON THE CARES ACT:**

**I. HEALTH CARE**

- **Rural Hospital and Provider Relief:** To accommodate the millions of anticipated coronavirus cases, state and federal governments have suspended elective surgeries to alleviate pressure on large, urban hospitals. Although this decision is medically necessary given the pandemic, it could force widespread capacity reductions and closures among rural hospitals that rely disproportionately on elective procedures to keep their doors open.

We should enact the Immediate Relief for Rural Facilities and Providers Act, which I introduced with Senator Barrasso and Representatives Schrier and Roe. The Act would provide an emergency, mandatory one-time grant to Critical Access Hospitals (CAH) and rural Prospective Payment System (PPS) hospitals equaling \$1,000 per patient day for three months for immediate relief. It would also provide a one-time, emergency grant for CAH and rural PPS hospitals equaling the total reimbursement received for services for three months to stabilize the loss of revenue. It would also encourage hospital coordination with a 20% increase in Medicare reimbursement for any patient in a rural hospital using the swing bed program to encourage freeing up capacity in larger, overcrowded hospitals.

- Support Critical Access Hospitals: In Colorado, we have several critical access hospitals that are technically public entities but share many characteristics of private non-profits. The administration has not yet made clear whether they qualify for initiatives like the Paycheck Protection Program. These hospitals took the responsible measure of delaying elective procedures and have seen a significant drop in their patient volume since the start of the pandemic but will be desperately needed as the pandemic spreads to more rural communities. In the meantime, they are encountering significant economic challenges and are at risk of closing. We should enact the Immediate Relief for Rural Facilities and Providers Act (see above) to help keep these hospitals afloat.
- Expand Telehealth: While the CARES Act made significant investments in telehealth across the Veterans Administration, the Health Resources and Services Administration, the Indian Health Service, and the Connected Care Pilot Program, we need additional resources to ensure patients can maintain access to their physicians while practicing social distancing.
- Exclude Unemployment Insurance (UI) Payments in Determining an Individual's eligibility for Tax Credits under the Affordable Care Act: During the crisis, we need to do everything possible to ensure people can maintain their access to health care. We should exclude the temporary \$600 weekly increase in UI benefits in assessing whether an individual is eligible for Affordable Care Act tax credits. We should not imperil people's access to health insurance in the middle of a pandemic, especially after they've lost their job through no fault of their own.
- Cover COVID 19 Treatment, Vaccines, and Antibody Testing: While we have made substantial gains in covering the cost of COVID-19 testing, we need to do more to ensure uninsured or underinsured families don't go bankrupt receiving treatments, vaccines, or antibody testing for the disease. This would also ensure that undocumented individuals can have equitable access to treatment, prevention, and testing.
- Invest in Antimicrobial Drugs to Address Infections: This crisis has exposed the need for investment in and development of innovative antimicrobial drugs to fight infections. As microorganisms are exposed to antimicrobial drugs, they develop resistance making infections harder to treat. The Pioneering Antimicrobial Subscriptions to End Upsurging Resistance (PASTEUR) Act, which I plan to introduce, establishes an antimicrobial subscription reimbursement pilot to encourage the development of innovative antimicrobial drugs targeting the most threatening infections.

## II. STATE, LOCAL, AND TRIBAL GOVERNMENT FUNDING

### **Fiscal Support**

- Provide Additional Funding for State, Tribal, and Local Governments: While the \$150 billion included for state, tribal, and local fiscal relief was a welcome down payment, our governor,

as well as local and tribal leaders, have made clear that they will need major additional infusions of funding to continue to cope with the crisis and offset the loss of revenues due to the economic slowdown. In the wake of the 2008 financial crisis, states faced a \$600 billion budget shortfall. We potentially face much larger and more immediate shortfalls today. We should make a substantial and ongoing commitment to fill state, tribal, and local budget gaps for the duration of the public health crisis and subsequent economic recovery.

- Ensure Necessary Flexibility: The next package should make explicitly clear that state and local governments can use their funding to compensate for revenue losses and a broad array of expenditures that need to be backstopped with federal funding due to the economic slowdown, as was the intent of the previous legislation.
- Support for smaller jurisdictions: As you know, the CARES Act only allowed local jurisdictions with populations in excess of 500,000 people to file direct applications to the Treasury Department for funding. It is my understanding that this population threshold was put in place due to the administrative complexity and potentially substantial delays caused by directly issuing payments to every jurisdiction in the United States with fewer than 500,000 people. The next package should clarify that local governments with populations below 500,000 should receive their fair share of the remaining funding allocated to each state. If administrative difficulties make direct and timely issuance from the Treasury to smaller jurisdictions impossible, there should be a substantial set-aside for local governments of all sizes in any flexible fiscal relief.
- Cover Paid Leave for Local Governments: The Families First Coronavirus Response Act required local governments to provide paid family leave similar to smaller private sector employers. The law, however, did not allow local governments to be eligible for a tax credit. At a time when local governments are already under significant stress, the next package should either allow them to qualify for the refundable credits or entitle them to an alternative form of funding for this expense.
- Ensure Strong Tribal Support: Our Colorado tribes have re-iterated the need for additional support along with the greater ease in disbursement of funds and greater flexibility on their application to specific tribal needs. The next package should clarify that tribal enterprises should also be eligible for SBA relief programs like the Paycheck Protection Program.

## **Education**

- Provide Additional Higher Education Stabilization: The next package should include an additional \$35 billion directed toward higher education institutions to address imminent revenue gaps, enable the continued remote education of students, and to prevent large scale furloughs. This funding will be essential not only to the continuation of our institutions of higher education but to the communities that rely on those institutions for economic stability and growth. The funding should be deployed to states and passed through to institutions in a manner that ensures schools have adequate flexibility to meaningfully address urgent budgetary concerns. The package should also include funding specifically intended to support small, rural schools.

- Expand Internet Access for Low-Income and Rural Students: The next package should provide at least \$2 billion in direct funding to the E-Rate program for internet access. This funding should go to Title I schools and libraries, with any additional funding for all non-Title I schools in proportion to the number of students on free and reduced lunch. The funding should provide Wi-Fi hotspots to loan to students and their families to enable distance learning. As a condition of being an approved provider of said services, an internet service provider (ISP) would waive mobile data caps, subject to reasonable network management, for those devices. The ISPs would also have to report granular, anonymized service data to the FCC, which it can use to fill out the National Broadband Map.
- Address Children's Mental Health: The next package should provide additional funding to LEAs and SEAs to support the expansion of distance mental health services to address the increased distress of youth with existing mental health conditions and those who are at risk of the developing them.
- Provide Needed Support for IDEA Compliance: The next package should direct the Secretary to develop guidance to help LEAs and SEAs adhere to IDEA mandates amid school closures. The package should also include funding for technology and Wi-Fi to help teachers and therapists carry out services for students with disabilities via distance learning.
- Keep Critical Internet Connections for Rural Areas Intact: The next agreement should include at least \$2 billion for the FCC to help small broadband companies provide critical internet services and upgrades for students and their families during the pandemic. The fund would compensate small internet providers with fewer than 250,000 customers that provide distance learning capability for students or free or discounted broadband services or upgrades during the pandemic for low-income families unable to pay their bills.

## **Housing**

- Prevent COVID-19 from Spreading by Supporting People Experiencing Homelessness: The next package should further build on the assistance that the CARES Act provided by providing at least \$11.5 billion in Emergency Solutions Grants (ESG). The funding is critical to helping prevent a further outbreak of the pandemic among the homeless population.
- Require Automatic Renewal of Grants for Continuum of Care Homeless Assistance Funding in 2020: The next package should create an automatic Continuum of Care renewal process for organizations that successfully renewed their funding in 2019. The organization must have documentation demonstrating that: a) there is a continuing demonstrated need for the project; and b) that the project continues to comply with Continuum of Care program requirements. The NoFA process, which often takes months to complete, should be used for new requests for funding.
- Additional Rental Assistance Protections: The next bill should build on the funding that the CARES Act provided to housing providers to ensure that low-income families can remain at home or obtain affordable housing during the duration of the pandemic. Substantial funding is

necessary not only to ensure that families and individuals remain stably housed, but that landlords are able to pay the mortgage on rental properties for the duration of the crisis.

### **III. REFORMS TO THE PAYCHECK PROTECTION PROGRAM**

- Additional Funding for the Paycheck Protection Program (PPP): We need to ensure that there is sufficient funding for the PPP program in the coming months due to the high interest and need in the small business community. We should not be limiting the duration of the program or the scope of what it finances based on artificial budgetary constraints that do not have anything to do with the scale of the challenge our businesses are facing. We should do whatever it takes to keep our acutely affected small businesses intact and maintain their employer-employee relationship for the duration of the public health crisis and in the immediate aftermath as they reopen their doors.
- Clarify Agricultural Eligibility: We should ensure that small producers are eligible to participate in the PPP.
- Permit Small Casinos to Participate in the Program: In a few rural Colorado counties, smaller casinos are a major employer. Traditional SBA rules that typically exclude establishments that receive more than one-third of their income from gambling should be waived, so these casinos can qualify for similar support as other small businesses. I have impressed upon SBA that they should do the right thing on their own, but if they do not, we should ensure that the next round of legislation addresses this issue.
- Relax certain affiliation rules: Many small businesses and startups across my state have some degree of venture capital funding. Because venture capital firms invest in several small businesses, the Small Business Administration's affiliation rules may prohibit these businesses from accessing the PPP. I hope that a future bill could relax these rules so certain venture-backed small businesses could obtain access to the PPP. More broadly, the affiliation rules should not apply to businesses that for all intents and purposes have fewer than 500 employees – especially those who have seen a substantial revenue decline as a result of this crisis.
- Make the PPP program work for the hardest-hit businesses: The Treasury Department's Interim final rule for the PPP program states that "not more than 25 percent of the loan forgiveness amount may be attributable to nonpayroll costs." The statute, however, fails to reference this limit. The interim final rule excludes many businesses from the PPP that are struggling to survive. Consider a business that has effectively closed down and has been asked to rehire all of its workers to receive loan forgiveness but has no reasonable expectation those workers will produce anything during the forgiveness period, as they are responsibly staying at home. The business effectively just passes through payroll and receives no benefit from that portion of forgiveness. Businesses that are truly shuttered, or have seen revenues collapse, should be eligible to have the vast majority of their ongoing fixed costs forgiven, provided they can demonstrate within two years that they suffered a substantial revenue decline year-over-year. No business that was creditworthy and responsibly managed as of February 2020 could possibly be expected to remain so after seeing revenues collapse through no fault of their own. This is not a time for half measures;

we must stand behind our successful small businesses and show a commitment to get them through this crisis intact.

In addition, a two-year term of the PPP loan is insufficient to allow acutely affected businesses to recover enough to pay down any remaining PPP loans. I would suggest a term of 5-7 years as more appropriate, with payments delayed until well after the public health crisis has ended. The next package must ensure that an acutely affected business will not be so limited in the amount of fixed non-payroll costs that can be forgiven. Simply shoveling more money into a program that is broken for the businesses most damaged by the crisis is insufficient.

- Ensure Strong Participation in the PPP Program from Lenders and Access to New Customers: Disturbingly, we are hearing that lenders are hesitant to fully participate in the PPP program due to liability concerns, especially as it pertains to new customers (i.e. businesses that do not already borrow from them or have a direct deposit account with them). We need to ensure that all banks are fully serving their existing customers and that businesses without a strong, existing relationship with a bank are able to access the program. If the program remains limited by artificial budget constraints, a set-aside for the smallest businesses should be considered to ensure they aren't crowded out by less affected, bigger businesses.

#### **IV. SUPPORT FOR INDIVIDUALS**

##### **Rebates**

- Create an Automatic System of Rebates Until the Economy Improves: Prior to the CARES legislation being introduced, I [sent a letter](#), along with Senators Brown, Booker, and 16 other Senators in support of \$2,000 direct payments for every American – including all adults, children, and non-child dependents – up to an income limit. I still believe this is the correct approach. These payments should be designed to continue quarterly until the public health crisis is over and the unemployment rate has returned to levels consistent with those that prevailed before the crisis began. And we should require that Treasury does everything it can to ensure everyone eligible – including the lowest-income families – receive the benefit.
- Support SSI and VA beneficiaries: The next package should require the Treasury Department to work with the Department of Veterans Affairs (VA) and the Social Security Administration to ensure that – in addition to Social Security and Disability Insurance beneficiaries – Supplemental Security Income (SSI) and VA beneficiaries who have not recently filed a tax return obtain their benefits automatically, without having to file. Treasury should also be required to work with states and the private sector to deliver payments to very low-income individuals and families, electronically if at all possible. This will ensure people who may need this money the most won't be forced to wade through unnecessary paperwork and bureaucratic processes to receive this support.
- Allow More Dependent Children and Adults to be Counted for the Purpose of Obtaining Rebates: Under the CARES Act, no credit is allowed for dependents older than 16. This excludes 17- and 18-year-olds, college students, and other dependent adults, such as a family

member who is disabled or an elderly parent for whom a taxpayer is the caretaker. The next package should ensure that all dependents are counted for the purpose of obtaining a rebate.

- Provide additional support for very low-income families: The next package should provide an additional, monthly \$500 cash benefit for very low-income families for the duration of the public health crisis. This can be delivered through electronic benefits transfer (“EBT”) cards like those used by SNAP recipients.
- Hazard Pay for Essential Workers: The next package should provide hazard pay for individuals who are providing essential work during the pandemic and not being adequately compensated for that work. One approach could provide, for example, a wage subsidy of at least 50% of the difference between an individual’s hourly wage and \$40 per hour for all workers in essential businesses who are paid below \$40 per hour. Definitions of essential workers could be modeled off of the Department of Homeland Security (DHS) CISA Cyber and Infrastructure guidelines for “Essential Critical Infrastructure Workers” and expand those definitions to include frontline health workers, delivery drivers, shelf stockers, cashiers, and other workers who are essential in this crisis.

The IRS could deliver a lump sum credit at tax time next year based on number of hours worked during the public health emergency. An alternative would be to allocate funding to states based on an estimate of the essential workers who meet these thresholds and the total cost of financing hazard pay, and allowing states to allocate the funding to meet state-specific labor market needs and timelines.

### **Internet Access for Low-Income Families**

- Emergency Requirements for Internet Service Providers (ISP): For duration of the pandemic, ISPs must suspend data caps, late fees, and overage fees, while maintaining connections for existing customers who are unable to pay due to the pandemic – subject to reasonable network management. ISPs must also loosen eligibility requirements for low-cost “Internet Essentials” packages, for example, which may exclude prior subscribers of such packages.

### **Food Assistance**

- Increased SNAP Benefits: The next package should include a SNAP benefit increase of 15% and a SNAP minimum benefit increase from \$16 to \$30. The bill should also suspend SNAP rulemaking that would limit SNAP access or reduce SNAP benefits. Additionally, the bill should direct the Secretary to expand the SNAP online delivery pilot program to ensure that high risk populations have access to food.
- TEFAP Flexibility & Funding: The next package should provide additional flexibility and funding for the Emergency Food Assistance Program.

### **Repatriation Expenses**

- Commercial Flights: The next package should direct private airlines to provide reimbursements for cancelled international flights due to COVID-19 or expenses incurred due to these cancelled flights.

- Department of State Charter Flights: The package should also delay payments of promissory notes to the Department of State for charter flights to determine process by which individuals can receive loan forgiveness for repatriation flights based on need.

### **Department of Veterans Affairs**

- Direct Hiring: The next package should consider providing for the Department of Veterans Affairs (VA) the authority to allow hospitals to directly hire medical and nursing students currently working on a temporary status at VA facilities.
- Housekeeping Staff: In the next package, we should consider making narrow reforms to 5 CFR 330.401 regarding veterans-preference hiring requirements for hospitals with an urgent need. We should consider waiving these requirements on a case by case basis to allow for expanded hiring pool and expedited hiring process for housekeeping and custodial staff at certain VA facilities.

### **Ensuring Access to Benefits**

- Expand direct payment eligibility. The next bill should remove the Social Security number requirement for the recovery rebate and allow those with an Individual Taxpayer Identification Number (ITIN) to be eligible for the rebate.
- Expand Emergency Medicaid. The next bill should ensure that services under emergency Medicaid covers all COVID-19 related services, regardless of immigration status.
- Halt implementation of the public charge rule. The newly implemented public charge rule serves to prevent individuals from obtaining necessary medical treatment. This is especially dangerous during a pandemic. Implementation of the new public charge rules should be halted.
- Prohibit Immigration and Customs Enforcement (ICE) activities in and around health care facilities. People should be able to access health care without fear of immigration enforcement. ICE should be prohibited from conducting immigration enforcement activities in health care centers.
- Automatic extension of work authorization. The next bill should automatically extend work authorization for DACA and TPS recipients to prevent lapses in work authorization as they await adjudication of immigration benefits due to offices closures and delays at U.S. Citizenship and Immigration Services.



## **LONG-TERM ECONOMIC RECOVERY**

**Public Health Corps:** We should work to build a Public Health Corps that is modeled after President Franklin Delano Roosevelt's Civilian Conservation Corps of the New Deal Era. This Corps would provide much-needed employment opportunities for potentially hundreds of thousands of individuals under the age of 25 and would fill unmet needs as we continue to grapple with the COVID-19 epidemic until vaccine is available. The Corps should employ medical assistants, lab techs, decontamination workers, contact tracers, symptom reporters, customer service representatives for health providers and public health agencies, and digital marketers to promote social distancing. Not only will this help address immediate and extremely pressing health and economic challenges, but it can also help our nation's young people to develop skills that will benefit them over a lifetime.

**Public Health Infrastructure:** The COVID-19 pandemic has revealed the need to invest in public health infrastructure at every level. This includes investing in public health labs, preparedness and response capabilities for local health departments, ensuring that all communities have medical surge capacity and their own stockpile of supplies and equipment for pandemics or other types of emergencies. A provision to establish a public health infrastructure fund was taken out of the final version of the Affordable Care Act. A similar fund and process to arm state and local governments with funding and resources to build up their public health infrastructure will be critical.

**Outdoor Economy/Public Lands:** Congress should support local governments and prepare to get our outdoor economy back on its feet. A long-term package should include full funding for the Land and Water Conservation Fund and investments to eliminate our public land maintenance backlog. Additionally, Congress should consider fee waivers for businesses operating on public lands, including ski areas and guides and outfitters, while investing in shovel-ready projects to improve roads, trails, and recreational facilities.

**Disaster Prevention & Mitigation:** Colorado communities are entering fire season and local and county budgets are already stretched thin as they respond to COVID19. Now is the time for major federal investments in hazardous fuels, fire mitigation, and forest restoration projects to improve watershed health in an effort to prevent new disasters. Congress should also ensure that disaster recovery programs, including USDA's Emergency Watershed Protection Program that Colorado has relied upon for fire recovery, are fully funded and easily administered in the event of a disaster.

**Infrastructure Investment:** As part of a longer-term recovery package, the next bill should include increased funding for Department of Transportation's formula grants to allow improvements to roads, bridges, transit facilities, and rail. Additionally, there should be an expansion of the BUILD program to provide funding for long-term state and local infrastructure projects. As part of this process Congress should include significant new investments in rural roads, bridges, water and wastewater, and other infrastructure. Congress should also streamline project application and delivery, to ensure the federal government puts funds in the hands of local decision-makers. Funding could include direct assistance to rural communities and regional

entities for local capacity building, strategic planning, workforce development, and economic diversification.

**Supporting Clean Energy:** To strengthen our economy, the next policy package should continue to encourage innovation and investment in clean energy and grid modernization. We can also help address economic challenges through investments in clean transportation, new tools and technologies for farmers and ranchers, and greater resilience, efficiency, and electrification in buildings. Colorado has been a leader in demonstrating that a strong economy and job creation go hand-in-hand with protecting air quality and addressing climate change. New, targeted federal programs can build on these examples to bolster our economy, advance American leadership and protect against the urgent threat of climate change.

The next package should also address clean energy tax policy, modifying the investment tax credit (ITC) and the production tax credit (PTC) to ensure that project delays and the state of the market do not undermine clean energy investment and deployment, a major economic driver in communities across Colorado and the country.

**Stabilize Rural County Funding:** Full, permanent funding for Payment in Lieu of Taxes (PILT), and a long term, permanent funding solution for Secure Rural Schools (SRS), would provide budget certainty for rural counties with federal land. PILT and SRS fund essential local services such as law enforcement, education, search and rescue, road maintenance, and public health. As Colorado's rural counties stretch their budgets to respond to COVID-19, Congress should provide financial certainty and stability for the future. Additionally, Congress should consider new mechanisms that enable resource-dependent communities to diversify their economy and plan for the future.

**Election Security:** We should provide \$1.6 billion in election security grants to support state and local election officials to prevent, prepare for, and respond to the coronavirus pandemic. States could use funds to implement or expand vote-by-mail, online registration, absentee voting, as well as to update related systems and policies, secure polling locations, and train poll-workers with the goal of minimizing the risk of in-person exposure for voters should the pandemic continue into the fall.

Thank you for reviewing these critical priorities. If you have any additional questions, please don't hesitate to follow up with me.

Sincerely,

A handwritten signature in black ink, appearing to read "M. F. Bennet". The signature is fluid and cursive, with a prominent "M" and "F".

Senator Michael F. Bennet