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Congress of the United States
House of Representatives
Washington, DC 20515—1306

COMMITTEE ON
SCIENCE, SPACE, AND
TECHNOLOGY
SUBCOMMITTEE ON ENERGY
SUBCOMMITTEE ON ENVIRONMENT
COMMITTEE ON
FINANCIAL SERVICES
SUBCOMMITTEE ON INVESTOR
PROTECTION, ENTREPRENEURSHIP,
AND CAPITAL MARKETS
SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

The Honorable Nancy Pelosi
Speaker of the U.S. House of Representatives
Washington, DC, 20515

The Honorable Kevin McCarthy
Republican Leader
Washington, DC, 20515

April 14, 2020

Dear Speaker Pelosi and Leader McCarthy,

As you begin work on the next COVID-19 stimulus and recovery package, I urge you to consider including the following proposals. I applaud your hard work on the CARES Act. It was a necessary and urgent response to the toll COVID-19 is taking on our communities. I have spent the last few weeks hearing directly from health care workers, schools, first responders, small businesses, state and local governments, and many more about how they are being impacted by the COVID-19 pandemic, as well as how federal programs are working on the ground. This letter encapsulates some of the most pressing issues my constituents are facing.

Resources for Health Care Providers

In the CARES Act, Congress increased the funding for the Public Health and Social Services Emergency Fund by \$100 billion in order to reimburse eligible health care providers for health care-related expenses or lost revenues attributable to COVID-19. These funds must be distributed directly to providers as soon as possible. As we look forward to the next package, we must also ensure that short-term acute-care, long-term care and critical access hospitals, as well as inpatient rehabilitation and inpatient psychiatric facilities that are incurring expenses related to COVID-19 as they work to treat patients and expand the capacity of the health care system are included in funding, as well. All types of hospitals must be eligible for funds and we must recommit additional funding to ensure our health care system is properly equipped to care for Americans and stop the spread of this virus. Additional funding to hospitals would help cover costs for building temporary hospitals, expanding treatment facilities, buying much-needed personal protective equipment and necessary medical supplies, conducting more testing, training specialized workers, and increasing their workforce to respond to surging caseload. In a health care crisis, we must ensure that our health care providers have the necessary resources to respond.

Personal Protective Equipment

Necessary personal protective equipment is critical to addressing and ultimately stopping the spread of this virus, yet our frontline health care workers are struggling to get the equipment they need, putting themselves, their families, and ultimately the public at risk. Even more so, with the recent Centers for Disease Control (CDC) guidance that all Americans should wear masks, demand for PPE will continue to rise with no solution to manufacture more.

I have heard directly from manufacturers in my district that they have the capacity to ramp up manufacturing of PPE but lack the proper intellectual property rights to do so has prevented them from utilizing their capacity for the greater good. I ask that you include mandates that this Administration utilizes compulsory licensing, which the federal government has the current authority under 28 U.S.C. 1498, to expand production of PPE. While rarely invoked, faced with the anthrax epidemic in 2001, former HHS Secretary Tommy Thompson considered invoking section 1498 in order to import generic versions of the antibiotic ciprofloxacin, or Cipro. Section 1498 applies to every U.S. patent and allows the federal government to either manufacture the patented material or authorizes a contractor to do so on its behalf. I ask that every option to increase the production of PPE be considered including mandating the administration utilizes its authority under Section 1498.

Expansion of Testing

Testing must be expanded if we have any hope of stopping the spread of this virus and returning back to normal life. Rapid testing must be deployed across the country and be accessible at no charge -- both traditional testing to first detect an original infection, but also serological testing to allow us to provide assurance to Americans that they are immune to COVID-19 so they can safely work, travel, and return to normal life. I ask that the Centers of Disease Control be tasked with assessing the epidemiological risk of the spreading virus to formulate, in conjunction with economic planning agencies, a plan with clear, scientifically-based benchmarks to safely reopen our country and the economy. It is critical for our country to get back to business in the safest way and that is only possible with scientific data and benchmarks.

Support for Long-Term Care and Senior Living Facilities

Tragically, we have seen that some of the worst and most deadly outbreaks of COVID-19 have occurred in long-term care and senior living facilities. Getting these facilities the resources they need is important to protect our seniors and vulnerable people who are most susceptible and most likely to need to be hospitalized. Ensuring that the facilities can properly care for their residents will save unnecessary trips to the emergency room and lessen the burden our hospitals.

Additionally, I believe direct funds to these facilities are important so they can provide a safe and healthy environment for their residents. Needs for proper staffing and cleaning equipment have spiked and are critically important to ensure residents are safe. New technological needs are now necessary given the nature of this virus. Contact with residents' families is limited, so telecommunications capabilities are critical for seniors to maintain regular contact with their families and in the worst circumstances the ability to connect families at the end of life.

Paycheck Protection Program

We must ensure that the Paycheck Protection Program (PPP) is implemented quickly and small businesses have the resources they need to keep the economy from further receding, and this includes banks having the proper resources to implement the program. PPP was designed to provide immediate relief to small businesses, and while federal aid has begun to flow, I worry that the full scope of assistance appropriated and authorized under the CARES Act has not reached many businesses quickly enough. One issue is access to the E-Tran system so banks can process applications for small businesses. I have heard from many 7(a) lenders that their access to the system to process applications has been hindered and their ability to make loans under the PPP have been stalled. Additionally, we must ensure that banks have proper assurances that their legal responsibilities to make loans are balanced with Congressional intent to get funds out to small business as quickly as possible. For those banks acting in good faith to enact Congressional intent, regulators should hold harmless those banks.

We also must expand the non-profits who are eligible for PPP loans. Right now, only 501(c)(3) non-profits and 501(c) (19) veteran's organization, but there are many other categories that are doing valuable work. For example, the inclusion of 501(c)(6) which are Chambers of Commerce, Economic Development Organizations, and Convention/Visitors Bureaus are not only crucial to the survival and recovery of local businesses, but are being identified in official Small Business Administration communications as sources of help and info. Additional classes include 501(c)(2), title holding companies, and 501(c)(7), Social and Recreational Clubs, should be considered for inclusion, as well.

Education

The CARES Act gave much-needed funding to our nation's public schools as they enter the uncharted territory of online education. However, I've heard from many school officials in my district that beyond funding, they need more flexibility with how they deliver education to students with disabilities. Though the Department of Education has issued guidance adjusting some of these regulations, this guidance has been insufficient. For instance, many special education services, such as physical and occupational therapy, simply cannot be delivered in a remote fashion, regardless of the available funding. Requirements surrounding minutes spent in these therapies, the timeliness of evaluations of new students, and the transition out of the public school system must be adjusted such that it is still possible for schools to remain in compliance with Individuals with Disabilities Act. It is critical that during this time, students with disabilities receive equal educations to their peers, but we must also ensure that schools acting in good faith are not punished for failing to meet impossible standards during this unprecedented crisis.

Schools should have similar flexibility under other federal requirements that are very difficult or impossible to complete remotely, such as the testing required under the Every Student Succeeds Act and No Child Left Behind. Finally, I urge you to provide increased funding to local educational agencies, both to address the present challenges of remote learning and to insulate them against impending state and local-level budget cuts as the economy contracts.

State and Local Government

While the CARES Act was a critical lifeline to our states, the law includes an unfair spending formula for emergency grants to states and municipalities. Citizens in states with populations above 3.5 million, like Illinois, saw their benefit reduced to \$390 per capita, while citizens of smaller states are due to receive per-capita benefits up to \$2100 per person – over five times larger. At a time when we are all in this together, it is important that emergency aid flow equally to all citizens no matter where they live. An equal per capita distribution of funds is the only way to ensure that all states and territories have an equal fighting chance at rebuilding after this pandemic. I urge you to insist on a truly fair, equal per-capita distribution of funds to all states, territories, and districts and that this correction is retroactive so that the fundamental principle of equal per-capita distribution of relief is applied to all programs in this and future coronavirus response packages.

Additionally, the next phase of legislation addressing the COVID-19 crisis should include a repeal of the 2017 Tax Cuts and Jobs Act provision that capped the state and local tax (SALT) deduction and property tax deduction at \$10,000. At a time when the nation is relying on its local governments, the loss of these tax revenues to state and local coffers is further hindering the ability of these and other hard-hit states to address the current crisis. The SALT deduction strengthens state and local government functions, including public health programs, safety-nets for low-income residents and emergency response services. The fiscal and economic impact of the coronavirus pandemic and response has left states facing significant budgetary challenges which are worsened as high earners move to lower tax states. Facing budgetary challenges, many states are forced to cut services which is an irresponsible proposition in this time of crisis.

Transition to a Clean Energy Future

We must act quickly to transition away from fossil fuels and to lower-priced, clean energy fuels. For too long, we have mis-framed the conversation around the transition to a clean energy future as a trade-off between a moral obligation to our planet and our short-term economic fortunes. This is dead wrong. Virtually every clean energy technology has a lower marginal operating cost than the dirty technology it displaces. I have proven this over my 20-year career prior to coming to Congress. While our failure to articulate this reality has created lasting environmental and economic damage, it is also an opportunity in this moment. As Americans are losing their jobs and income, anything we can do to lower their out-of-pocket expenses will help them stretch limited dollars farther.

For environmental AND economic reasons, it is imperative that we embrace lower cost, clean technologies in our future packages, especially those related to government-funded infrastructure investments. We must also increase our vigilance against the extractive industries who are arguing that we should raise energy prices to protect their employees in this crisis. We should protect all workers of course but should never protect the economic interests of the minority by raising the energy costs of the majority. We have an opportunity in this moment not just to build the green infrastructure of the future, but also to once and for all put an end to the illogical and flawed zero-sum debate about clean energy conversions. We must publicly embrace this opportunity, not simply move this to the “nice to have if we can get it” box that has been the death

of too many environmental priorities. We must refuse to build upon the \$650 billion in taxpayer funded subsidies and bailout companies that have tamped down the competitiveness of the industry and made it complacent against innovation and lowering the carbon intensity of its fuels.

Financial-Climate Regulations

This health and economic crisis was one that few experts saw coming and one for which our national infrastructure was not prepared. We cannot make that mistake again. Catastrophic floods, droughts, wildfires, and storms are becoming all-too-regular occurrences, and there is overwhelming scientific evidence that paints a clear and devastating picture of the changing climate. It is estimated that if temperatures rise to 4 degrees Celsius above preindustrial levels over the next 80 years, global economic losses could mount to \$23 trillion per year-- far more than the 2008 financial crisis. We must act now before the imminent climate crisis causes long-term economic damage. We must prepare our financial system to withstand climate-related shocks and we can do that by 1) requiring public companies to disclose information on the risks that climate change poses to their businesses and 2) direct the Federal Reserve to create climate change stress tests for the largest financial institutions. We must act quickly to address this emerging risk, or we could, yet again, find ourselves unprepared for a global emergency.

Stopping the Rollback of Environmental Regulations

In the midst of one public health crisis, it's now clear that efforts to rollback pollution regulations could cause another one. We must defend the National Environmental Policy Act (NEPA) from the radical changes that the President's administration has proposed, which would curtail the number of projects subject to NEPA reviews and exclude consideration of indirect and cumulative impacts upon the environment. After these past few weeks, it should be clear that sticking our heads in the sand about any issue is a luxury we cannot afford.

Voting Rights

As we move through the 2020 election cycle, several states have asked voters to risk their health by going to the polls, or else sit out of our democratic process. Others have floated canceling in-person voting altogether but are still requiring each voter to proactively request a vote-by-mail ballot. Our democracy depends on the American people being able to vote, and it is unacceptable that states are erecting these barriers. We in Congress must put a stop to this disenfranchisement by putting robust funding into vote-by-mail programs and, to the greatest extent allowed by the Constitution, encouraging states to adopt fair and democratic vote-by-mail systems. The President has signaled opposition to vote-by-mail because it "doesn't work out well for Republicans." However, the participation of our citizens in their own governance is much more important than party politics.

Resources for the United States Postal Service

As we look forward to the next package, we must provide direct funding to the United States Postal Service (USPS) and eliminate the prefunding retirement mandate. During this pandemic, an unprecedented number of Americans are forced to conduct critical functions of their lives from home, but as the volume of mail that largely funds the agency has declined, USPS is expected to lose \$13 billion in revenue this year and officials warn that it might become insolvent as early as June of this year. In the CARES Act, Congress included a \$10 billion loan for the USPS to cover costs due to the COVID-19 emergency. We must include direct funding for USPS to ensure postal workers can continue the nationwide service of delivering essential mail like food and prescription drugs. The next package should also include the bipartisan legislation that would provide USPS with much-needed financial relief by ending the agency's burdensome prefunding mandate on future retiree health benefits. From providing essential medication to protecting voting rights to keeping Americans connected during these times of physical distancing and social isolation, the USPS has never been more important to the functioning of our society and Congress should act in its Constitutional duty to support the USPS.

Thank you for your consideration of these priorities and I look forward to working with you on the next COVID-19 response legislation and supporting our nation's recovery.

Sincerely,

A handwritten signature in black ink, appearing to read "SCasten", with a long horizontal flourish extending to the right.

Sean Casten
Member of Congress