

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Joint Budget Committee
FROM JBC Staff, c/o Tom Dermody (303-866-4963)
DATE April 3, 2020
SUBJECT Federal Coronavirus Relief: H.R. 748 – Coronavirus Aid, Relief, and Economic Security Act

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on March 27, 2020. The bill made a variety of changes to support different areas of the U.S. economy impacted by the COVID-19 emergency and provide supports to the health care system. This bill provides material assistance to individuals (through direct payments), to businesses (through a suite of loans, tax breaks, and incentives), and to health care systems throughout the nation. The CARES Act is the third, and most expansive, supplemental appropriations bill passed by Congress and enacted into law to address the impact of the COVID-19 epidemic. This memorandum provides detailed descriptions of those parts of the bill that will have a direct impact on the State's budget.

DIRECT ASSISTANCE TO STATES – CORONAVIRUS RELIEF FUND

Title V of the CARES Act creates the Coronavirus Relief Fund to provide \$150.0 billion to states, tribal governments, territories, and local governments. Of the total appropriated by Congress, \$3.0 billion is set aside for territories and \$8.0 billion is set aside for tribal governments, leaving \$139.0 billion for state and local governments. Based on language in the Act and the most recent federal interpretation available to staff, **these funds cannot be used to address revenue losses but only unanticipated expenses due to COVID-19.** State supplemental budgets are allowed to the extent they are for COVID-19 expenses. According to the National Conference of State Legislatures, the federal government currently plans to distribute the \$150.0 billion in direct aid to states around April 24. This funding is to be used "to cover those expenditures that:

- (1) are necessary expenditures incurred due to the public health emergency with respect to [COVID-19];
- (2) were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and
- (3) were incurred during the period that begins March 1, 2020, and ends on December 30, 2020."

State shares are determined based on their proportion of the nation's population; the minimum required state share of direct aid is \$1.25 billion. Of each state's share, up to 45.0 percent may be allocated to local governments (e.g., county, municipality, town, township, village, etc.) with a population that exceeds 500,000. The Act allows local governments to apply for direct payments from the U.S. Department of the Treasury. In those cases that a local government qualifies for, and is granted, a direct payment, the amount of that payment is deducted from the State's proportion of the overall \$150.0 billion. Allocations to local governments that meet the population requirement, but do not receive a direct payment from the Treasury, are at the discretion of the State.

Estimates from the National Conference of State Legislatures and Legislative Council Staff indicate that Colorado will receive \$2.24 billion in direct aid from Title V of the CARES Act. As reflected in the table below, Legislative Council Staff anticipates that at least \$1.68 billion of this will be allocated to State government, with the balance provided directly to local governments. Of the direct aid to the

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State, \$1.23 billion (55%) is the minimum state share and \$1.01 billion (45%) is the maximum available to local and municipal governments with populations exceeding 500,000. Based on the U.S. Census Bureau July 2019 population estimates for the state and for local governments, five counties would be eligible for funding: Adams (517,421), Arapahoe (656,590), Denver (727,211), El Paso (720,403), and Jefferson (582,881). The state of Colorado is projected to have a total population of 5,758,736 people in 2019.

CORONAVIRUS RELIEF FUND - COLORADO SHARE		
A	Total Colorado share	\$2,237,992,322
B	Maximum local government share	\$1,007,096,545
ALLOCATIONS TO ELIGIBLE LOCAL GOVERNMENTS (COUNTIES)		
	Adams	\$90,487,375
	Arapahoe	114,825,462
	Denver	127,175,770
	El Paso	125,985,177
	Jefferson	101,935,119
C	Calculated local allocation	\$560,408,902
	State share (A-C)	\$1,677,583,419

As the table above indicates, approximately \$560.4 million can be allocated directly to the five counties identified, with the each county's allocation based on their proportion of the state's population. These five counties contain roughly 55.6 percent of the State's population. Subtracting the calculated local allocation from the total Colorado share leaves **approximately \$1.68 billion for the State**. The U.S. Department of the Treasury is authorized to provide oversight and recoup any money that is used in violation of the terms of the direct aid.

APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS

The CARES Act provides additional appropriations to various federal departments and programs affected by and addressing COVID-19. Some of those appropriations will be used to support programs and initiatives managed by the State. The following appropriations are highlighted because they either have a direct impact on an existing program in the State, or will assist a population served by the State and counties. JBC Staff has worked with the various departments affected by this legislation to attempt to estimate the State's share of each appropriation, when possible.

ESTIMATED COLORADO SHARE OF FEDERAL PROGRAMMATIC AND GRANT APPROPRIATIONS	
DEPARTMENT	SHARE TOTAL APPROPRIATIONS
Education	\$120,994,000
Governor's Office (Emergency Education Relief Funds)	43,904,000
Higher Education	166,797,000
Human Services	63,226,543
Local Affairs	86,027,000
State	6,670,000
Total	\$487,618,543

The legislation appropriates funding to many federal programs through which the State may receive a share; this funding is described in detail by department below. At this time, JBC Staff estimates that

the State will receive \$487.6 million in programmatic funding; however, a substantial portion of this funding may not be subject to appropriation by the General Assembly. Additionally, as further guidance and clarity on these appropriations are provided by our federal partners, JBC Staff will be better able to assess the impacts on the State budget. **However, current federal guidance is that the funding provided through the CARES Act is intended to supplement, not supplant, current state funding for the affected programs.**

DEPARTMENT OF AGRICULTURE

The bill includes \$9.5 billion nationally to assist agriculture producers impacted by the coronavirus, including specialty crop producers; producers who support local food systems such as farmers markets, schools, and restaurants; and livestock producers, including dairy.

DEPARTMENT OF EDUCATION

The CARES Act appropriates \$13.5 billion for formula grants to states, with the state distributing 90.0 percent of that amount to local education agencies for "coronavirus response activities." These activities include, but are not limited to, planning for and coordinating during long-term school closures, purchasing educational technology to support online learning, to provide mental health services and supports, and purchasing supplies to sanitize and clean school facilities. In addition to direct response activities related to school closures and distance learning, these funds may be used for "other activities that are necessary to maintain the operation of and continuity of services" of local education agencies. **The Congressional Research Service estimates that Colorado will receive \$121.0 million.¹ JBC Staff will work with the Department to confirm the amount and the General Assembly's role in its appropriation.**

GOVERNOR'S OFFICE

In addition to the above grant dollars, the bill provides \$3.0 billion to the nation's Governors to allocate at their discretion for "emergency support grants to local educational agencies that the State educational agency deems have been most significantly impacted by coronavirus." In addition to grants to K12, the funds would support grants to higher education institutions. Each Governor has one year to award their share of the funds, after which the remaining money is reallocated by the Secretary of Education "to the remaining States." The Congressional Research Service estimates that Colorado will receive \$43.9 million. Staff assumes the General Assembly will not have authority to appropriate this funding.

HEALTH CARE POLICY AND FINANCE

The CARES Act appropriates an additional \$100.6 billion nationally for three programs. Some of this funding *may* be channeled through HCPF, but it is as likely that this funding will take the form of direct grants to providers, or be used to fund efforts at the federal level. The bill identifies the following amounts and purposes:

- \$100.0 billion in grants to hospitals, public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to cover unreimbursed health care related expenses or lost revenues;

¹ Congressional Research Services, "Estimated State Grants Under the Coronavirus Aid Relief, and Economic Security (CARES) Act." <https://www.politico.com/states/f/?id=00000171-31b8-da0d-a17b-fffb32a90000>

- \$425.0 million for the Substance Abuse and Mental Health Services Administration to increase access to mental health services;
- \$200.0 million for the Centers for Medicare and Medicaid Services to reduce the spread of coronavirus in nursing facilities.

The specific amount to be allocated to Colorado is currently unknown; however, JBC Staff will work with the Department to determine the amount and the General Assembly's role in its appropriation.

DEPARTMENT OF HIGHER EDUCATION

The CARES Act appropriates \$13.95 billion in higher education emergency relief. Funding will be provided directly to higher education institutions via a federal formula. The formula includes allocations to public and non-public institutions. **The Congressional Research Service estimates that Colorado will receive \$166.8 million in total. The American Council on Education estimates that, of the total allocated to the State, \$140.8 million would be allocated for public institutions of higher education.**

Institutions are required to spend 50.0 percent on direct grants to students. In addition to this amount, institutions would be eligible for a portion of the funds for education that are subject to allocation by the Governor (see Governor's Office) and could receive a portion of a federal set-aside for severely affected institutions that do not receive much benefit from the federal formula allocation.

DEPARTMENT OF HUMAN SERVICES

The CARES Act provides funding for food and nutritional assistance programs, for childcare providers, to the federal Administration for Community Living, for family violence prevention and services, and for energy assistance. Food and nutritional assistance is provided through the Supplemental Nutrition Assistance Program (SNAP) and The Emergency Food Assistance Program (TEFAP). The bill appropriates an additional \$15.5 billion for SNAP to cover the projected increase in enrollment due to job loss and business closures. SNAP benefits are an entitlement, and the funds are deposited directly from the federal government onto clients' Electronic Benefit Transfer (EBT) cards; the state does not receive or manage these funds. The Department anticipates SNAP benefits will increase among all households who are eligible and enrolled. The bill also appropriates \$8.8 billion in additional funding for Child Nutrition Programs to ensure children receive meals while school is not in session.

The law provides \$450.0 million for the Emergency Food Assistance Program "to prevent, prepare for, and respond to coronavirus," both domestically and internationally. Of this amount, \$150.0 million may be used by the Secretary of Agriculture for "costs associated with the distribution of commodities." TEFAP is a federal program that helps supplement the diets of low-income individuals, including the elderly, by providing them with emergency food assistance at no cost. With many communities suffering from job losses, food banks have seen increased needs. These funds are critical so food banks can continue to assist those most in need.

The bill appropriates an additional \$3.5 billion for the Child Care and Development Block Grant to provide immediate assistance to childcare providers. **Colorado's estimated maximum share of this**

appropriation is \$41.4 million, not including federal set-asides or federal administrative costs.² In addition to the additional funding, the bill waives the following program requirements:

- that a substantial portion of the funds are used to provide assistance to low-income working families;
- that no less than 70% of the funds be spent on Direct Services;
- that 9% of the funds be spent on activities to improve quality; and
- that 3% of the funds be spent on activities related to the quality of care for infants and toddlers.

The law appropriates \$955.0 million to the federal Administration for Community Living to provide resources for aging and disability services programs including senior nutrition, home and community-based supportive services, family caregivers, elder justice and independent living. **It is estimated that Colorado will receive \$11.0 million of this appropriation** for Older American Act programs and services for the elderly.

The bill appropriates an additional \$900.0 million for the Low Income Home Energy Assistance Program (LIHEAP) to help families and provide assistance in managing costs associated with home energy bills, energy crises, and weatherization and energy-related minor home repairs. **It is estimated that Colorado will receive \$10.8 million** for the Low-income Energy Assistance Program in the Office of Self Sufficiency.

Lastly, the law provides \$45.0 million to family violence prevention and services including for family violence shelters and \$2.0 million for the National Domestic Violence Hotline. **The specific amount to be allocated to Colorado is currently unknown; however, JBC Staff will work with the Department to determine the amount and the General Assembly's role in its appropriation.**

DEPARTMENT OF LABOR AND EMPLOYMENT

The CARES Act provides additional federal funds for unemployment insurance claims that will flow through the State's unemployment insurance (UI) system. **These funds are not captured in the state budget, like other UI benefits funds.** The bill includes, among other provisions:

- additional \$600/week in UI;
- full federal payment for the usual "waiting week" before UI benefits are paid;
- expansion of benefits to self-employed persons; and
- an additional 13 weeks of extended UI compensation through December 2021 (beyond the usual 26 weeks).

In addition, during this period the federal government will pay 50.0 percent of the UI benefits payments for state and other government and nonprofit entities that pay UI benefits directly.

The federal government will reimburse states for additional administrative costs related to the new provisions. The law states the federal government will pay 100.0 percent of "any additional administrative expenses incurred by the State by reason of [agreements between the State and federal government for the additional benefits] (as determined by the Secretary)." The Act does not include

² The Department of Human Services provided all estimates of the Colorado share of funding in the CARES Act for programs administered by the Department.

an amount of the federal funds that will be provided for this purpose. Amounts for UI administration are reflected in the state budget, but federal funds are shown for informational purposes only.

DEPARTMENT OF LOCAL AFFAIRS

The CARES Act makes several appropriations to grant programs to assist states and local communities in addressing the effects of COVID-19. The Act includes the following appropriations:

- \$5 billion to the Community Development Block Grant to help communities and states provide a wide range of resources, such as services for senior citizens, the homeless, and public health service. **It is estimated that Colorado will receive \$23.0 million from this appropriation.**³
- \$4 billion in Emergency Solutions Grants to address COVID-19 among individuals who are homeless or at risk of homelessness, and to support additional homeless assistance, homeless prevention, and eviction prevention. Eviction prevention includes rapid rehousing, housing counseling, and rental deposit assistance. **It is estimated that Colorado will receive \$24.8 million from this appropriation.**
- \$1.9 billion for public housing agencies to keep over 3.2 million Housing Choice (Section 8) voucher and public housing households stably housed; \$1 billion to allow continuation of housing assistance contracts with private landlords for over 1.2 million Project-Based voucher households. **The specific amount to be allocated to Colorado is currently unknown; however, JBC Staff will work with the Department to determine the amount and the General Assembly's role in its appropriation.**
- \$1.5 billion Economic Development Assistance Grants for resiliency planning for local governments to support economic stability and job creation in communities that are disproportionately affected (unemployment rate over 1% greater than national average). **It is estimated that Colorado will receive \$30.0 million from this appropriation.**
- \$1.0 billion to the Community Services Block Grant to help local community-based organizations that provide a wide range of social services and emergency assistance for those with the highest need. **It is estimated that Colorado will receive \$8.1 million from this appropriation.**
- \$650.0 million for Housing Opportunities for Persons with AIDS in order to maintain rental assistance and expand operational and administrative flexibilities for housing and supportive service providers to assist nearly 61,000 households. Includes temporary relocation services to contain and prevent the spread of CCOVID-19 for at risk households. **It is estimated that Colorado will receive \$127,000 from this appropriation.**
- \$15.0 million for Section 811 supportive housing funds, for low and extremely-low income adults with disabilities. **The specific amount to be allocated to Colorado is currently unknown; however, JBC Staff will work with the Department to determine the amount and the General Assembly's role in its appropriation.**

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

The CARES Act appropriates \$1.5 billion for deployments of the National Guard. This level of funding will sustain up to 20,000 members of the National Guard, under the direction of the Governors of each state, for the next six months in order to support state and local response efforts. More specifically, the funding allocates the following:

³ The Department of Local Affairs provided all estimates of the Colorado share of funding in the CARES Act for programs administered by the Department.

- \$747 million to the Army National Guard for response efforts both domestically and internationally;
- \$187 million to the Army National Guard Operation and Maintenance Funding Programs;
- \$482 million to the Air National Guard for response efforts both domestically and internationally; and
- \$76 million to the Air National Guard Operation and Maintenance Funding Programs.

The specific amount to be allocated to Colorado is currently unknown; however, JBC Staff will work with the Department to determine the amount and the General Assembly's role in its appropriation.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

The CARES Act appropriates \$4.3 billion to the federal Centers for Disease Control and Prevention (CDC) to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus, including:

- \$1.5 billion to support states, local governments, territories, and tribes in their efforts to conduct public health activities, including:
 - purchase of personal protective equipment;
 - surveillance for coronavirus;
 - laboratory testing to detect positive cases;
 - contact tracing to identify additional cases;
 - infection control and mitigation at the local level to prevent the spread of the virus; and
 - other public health preparedness and response activities.
- \$1.5 billion in flexible funding to support the CDC's continuing efforts to contain and combat the virus, including repatriation and quarantine efforts, purchase and distribution of diagnostic test kits (including for state and local public health agencies) and support for laboratory testing, and communicating with and informing public, state, local, and tribal governments and healthcare institutions.
- \$500 million for global disease detection and emergency response;
- \$500 million for public health data surveillance and analytics infrastructure modernization; and
- \$300 million for the Infectious Diseases Rapid Response Reserve Fund, which supports immediate response activities during outbreaks.

The Act also appropriates \$275.0 million to expand services and capacity for rural hospitals, telehealth, poison control centers and the Ryan White HIV/AIDS program through the Health Resources and Services Administration (HRSA). The Act allows community health centers to use Federal Fiscal Year 2020 funding to maintain or increase staffing and capacity to address COVID-19. The law also provides \$1.5 million to research methods to reduce the risks from environmental transmission of the coronavirus via contaminated surfaces or materials, as well as \$770,000 for the Hazardous Substances Superfund to prepare and respond for the coronavirus.

The specific amounts to be allocated to Colorado are currently unknown; however, JBC Staff will work with the Department to determine the amount and the General Assembly's role in its appropriation.

DEPARTMENT OF PUBLIC SAFETY

The CARES Act appropriates \$45.0 billion to continue the Federal Emergency Management Administration's (FEMA's) entire suite of response and recovery activities. This appropriation also funds reimbursements provided to states and localities nationwide by the Disaster Relief Fund for emergency and major disaster declarations, as well as funding for FEMA facilities and information technology required to support FEMA's lead role in coordinating federal response activities. The Act also includes \$400 million for grants that can be disbursed in a timely manner for firefighters, emergency managers, and providers of emergency food and shelter.

The law provides \$850.0 million for the Byrne-Justice Assistance Grant Program to assist state, local, and tribal officers in responding to coronavirus. This grant program is administered by the Division of Criminal Justice. These funds will go directly to state and local governments, with no match required, and will support criminal justice needs related to coronavirus, including overtime for state, local, and tribal officers; personal protective equipment and supplies; and medical needs and other supplies for inmates in state, local, and tribal prisons, jails, and detention centers. All municipal, county, and state agencies are eligible to apply, including Colorado State Patrol and the Colorado Bureau of Investigation. However, the grant program has been suspended in 2020 while the Division of Criminal Justice awaits the outcome of litigation.

The bill provides an additional \$70.8 million to the federal Forest Service, of which \$7.0 million is identified for "Wildland Fire Management." Much of the \$70.8 million can be used by the Forest Service to cover costs associated with additional personal protective equipment and baseline testing for first responders, as well as for janitorial services and sanitization supplies for public recreation amenities.

The specific amounts to be allocated to Colorado are currently unknown; however, JBC Staff will work with the Department to determine the amount and the General Assembly's role in its appropriation.

DEPARTMENT OF STATE

The CARES Act appropriates \$400.0 million in election security grants to prevent, prepare for and respond to the coronavirus in the 2020 federal election cycle. States must provide an accounting to the Election Assistance Commission of how the funds were spent within 20 days of any 2020 election. **The Department of State estimates that Colorado's share of this appropriation will be \$6.7 million.**

DEPARTMENT OF TRANSPORTATION

The CARES Act appropriates \$25 billion for transit systems. These funds would be distributed through existing formulas including the Urbanized Area Formula Grants, Formula Grants for Rural Areas, State of Good Repair Formula Grants and Growing and High-Density States Formula Grants using fiscal year 2020 apportionment formulas. **The specific amount to be allocated to Colorado is currently unknown; however, JBC Staff will work with the Department to determine the amount and the General Assembly's role in its appropriation.**