NEVADA CARES ACT OVERVIEW

July 13, 2020

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COVID-19 FEDERAL FUNDING SUPPORT FOR STATES

In order to mitigate the impacts of stay-at-home orders and to support each state's efforts to respond to the Coronavirus Disease 2019 (COVID-19) pandemic, the federal government has provided temporary funding through the passage of four federal bills. These federal bills were designed to help states pay for testing and contact tracing, emergency response, financial relief to businesses, individuals and families, health care and state and local governments including K-12 schools and higher education institutions.

- **Coronavirus Preparedness and Response Supplemental Appropriations Act (HR 6074)** — Provided emergency funding for public health and health care.
- **Families First Coronavirus Response Act (HR 6201)** — Provided some early assistance to families and temporarily increased the federal match for some state programs including Medicaid and In-Home Supportive Services.
- **Paycheck Protection Program and Health Care Enhancement Act (HR 266)** — Expanded funding for small businesses, hospitals, community and rural health centers, and substantially expanded funding for testing and contact tracing to support reopening businesses and the economy while continuing to be vigilant about protecting the public.
- **Coronavirus Aid, Relief, and Economic Security (CARES) Act (HR 748)** — Broadened the assistance available including funding for states, local governments, education, child care, individuals and families. Funding also expanded, extended, and supplemented unemployment insurance benefits. Finally, this measure provided assistance to businesses, including the health care sector, small businesses, farmers, airports, and transit agencies.

NEVADA AND THE CARES ACT

The Coronavirus Aid, Relief, and Economic Security (CARES) Act economic relief package provided dozens of temporary federal funding sources for Nevada workers, families, businesses, and communities during the coronavirus pandemic. This critical funding has been used to support state, tribal and local governments, small businesses, non-profit organizations, working families, and individual Nevada taxpayers.

Federal funding has been distributed throughout Nevada from the CARES Act to address public health needs and to fund state and local government programs for children, families, seniors, law enforcement and health care providers.

Part of that funding includes an estimated $1 billion that has or will be distributed directly to entities within Nevada, including health care providers and community health services, and for programs offered through state and local governments to date. The highlights of some of these allocations include:

- **$241 million** in direct cash payments to Medicare providers in the State of Nevada to assist in their response to the COVID-19 pandemic.
- **$88 million** in grant funding from the Centers for Disease Control and Prevention (CDC) to be used for enhanced testing and contact tracing of coronavirus cases in Nevada.
- **$70 million** to health care providers and community health services across Nevada to address costs associated with the coronavirus pandemic.
- **$32 million** in funding for Nevada's Child Care and Development Block Grant to help ensure Nevada families have child care options during this public health crisis.
- **$30 million** to fund Community Development Block Grants (CDBG), Emergency Solutions Grants (ESG), and Housing Opportunities for Persons with AIDS (HOPWA).

- **$8 million** to help meet the needs of older adults and people with disabilities as communities implement measures to prevent the spread of COVID-19. The grants will fund services including home-delivered meals, care in the home, respite care, and other support to families and caregivers.
- **$7.3 million** to help state, local, and tribal law enforcement to respond to the coronavirus. Allowable projects and purchases include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, sanitizer), training, travel expenses, and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.
- **$7.2 million** in Centers for Disease Control (CDC) funding to help Nevada's efforts to safely reopen through increased testing capacity and improved contact tracing.
- **$4.5 million** to help Native American communities across Nevada maintain operations and funding for affordable housing programs during the coronavirus pandemic.
- **$1 million** to fund small rural hospitals working to combat the coronavirus pandemic.
- **$17.5 million** for skilled nursing facilities relief funds.
- **$117 million** in funding for education under the Elementary and Secondary Education School Emergency Relief (ESSER) funds to assist local educational agencies throughout the state and provide support for remote learning.
- **$26 million** Governor's Emergency Education Relief Fund (GEER) to provide educational agencies with emergency assistance as a result of the COVID-19 pandemic.
- **$61 million** in Provider Relief Funds for "safety net hospitals" treating Medicaid patients that represent those most in need during the

coronavirus pandemic, including low-income communities and communities of color.

- **$15 million** in vital financial assistance under the Coronavirus Fund Assistance Program directly to producers of agricultural commodities to give them the ability to absorb sales losses and increased marketing costs associated with the COVID-19 pandemic.
- **$1.8 million** to support the preparedness and response activities and needs of hospitals, health systems, and health care providers on the front lines of the COVID-19 pandemic.

Outside the CARES Act, Nevada has received over $100,000,000 in federal appropriations and grant funding since the beginning of the COVID-19 health crisis to support Nevada's frontline workers and vital safety net programs, including some highlights below:

- **$6.5 million** in federal funding from the Centers for Disease Control and Prevention (CDC) to support Nevada's COVID-19 planning, preparedness and response through the *Coronavirus Preparedness and Response Supplemental Appropriations Act* of 2020.
- **$2.4 million** in grants from the Federal Emergency Management Agency (FEMA) to provide food and housing assistance to Nevadans who need it.
- **$1.9 million** in grant funding from the Nevada Substance Abuse and Mental Health Services Administration (SAMHSA) to improve access to mental health and substance use treatments during the coronavirus pandemic.
- **$292,206** in federal funding from the U.S. Department of Health and Human Services (HHS) to Tribal communities in Nevada to provide mental health and substance use treatment during the coronavirus pandemic. The Shoshone-Paiute Tribes, Washoe Tribe of Nevada and California and Pyramid Lake Paiute Tribe each received $97,402.

CARES Act - Coronavirus Relief Fund (CRF) for State and Local Governments

In addition to the funding for Nevada under the CARES Act outlined above, Nevada also received an allocation under the Coronavirus Relief Fund (CRF) established under Title V of the Act. This section of the CARES Act authorized a $150 billion direct allocation to State, Local and Tribal Governments across the country to assist in navigating the impact of the COVID-19 outbreak. The State of Nevada received the guaranteed small state allocation per Title V of the CARES Act in the amount of $1.25 billion.

In accordance with the CARES Act Title V, 45 percent of this amount was to be allocated to local governments and those with populations in excess of 500,000 could elect to receive direct payments from the United States Department of the Treasury (Treasury).

Accordingly, Clark County elected to receive a direct payment of $295,004,620, and the City of Las Vegas elected to receive $118,944,280.

The remaining amount of $836,051,100 was distributed to the State of Nevada, $148,551,100 of which was received by the State to allocate to the counties and incorporated cities outside of Clark County with populations of less than 500,000. After the local governments' allocations, the final amount left to the State for its direct spending was $687,500,000.

> *(Sec. 5001) This section makes appropriations for the Coronavirus Relief Fund to make payments to states, territories, tribes, and certain local governments with populations of at least 500,000 for necessary expenditures with respect to the COVID-19 outbreak. Expenditures must be incurred between March 1 and December 30, 2020, and must be unaccounted for in the budget of the recipient jurisdiction….The Inspector General of the Department of the Treasury must provide oversight of the disbursement and use of these funds.*

The Governor's priority is to ensure the State's limited funding is utilized in a manner consistent with the federal requirements for the use of the CRF that bolsters the state and local government response to the public health emergency to protect the lives and health of all Nevadans.

It is important to note there are restrictions and prohibitions on the manner in which these funds may be used. CRF can only be used for certain, limited expenditures, as enumerated by Congress in the CARES Act. Eligible costs include:

- Necessary expenditures incurred due to the public health emergency with respect to COVID–19;
- Expenditures that were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
- Expenditures incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

Additionally, Treasury continues to issue updated guidance, including CRF Frequently Asked Questions (FAQ), regarding the use of the CRF dollars. The initial Treasury guidance was published on April 22 and has been revised five times, most recently on July 8. Major takeaways from subsequent Treasury guidance include:

- **Government revenue replacement is not an allowable use of the funds:** Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.
- **Prohibits use of the Fund for payroll or benefits for employees whose work duties are not substantially dedicated to mitigating or responding to COVID-19:** Payroll expenses are allowed solely for public safety, public health, health care, human services, and similar employees whose services are "substantially dedicated to mitigating or responding to the COVID-19 public health emergency."
- **Public health response is included:** The guidance also indicates that "due to the public health emergency" includes first order, direct responses (e.g., spending to address medical or public health needs of the emergency) as well as second order effects of the emergency (e.g.,

spending to provide economic support for individuals and businesses that have suffered impacts from COVID-19). Allowable expenses include:

- Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
- Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
- Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.

Penalties & Audits for Misuse of CARES Funds:

Title V of the CARES Act subsection (f) assigned the U.S. Treasury Office of Inspector General (OIG) with the responsibility for monitoring and oversight of the receipt, disbursement, and use of funds and recoupment authority if the Treasury OIG determines that a State, Tribal government, or unit of local government has failed to comply with subsection (d) of the Act.

This unique authority gives Treasury OIG the ability to monitor recipients and establish reporting and record keeping requirements. To summarize, if an audit by the Treasury Department determines that a State, Tribal Government, or local government did not use their CARES Act funding appropriately, they have the ability to recoup those funds from the entity.

For this reason, the Governor's Office and State agencies have been moving as quickly as possible (under the established interim procedures for the Interim Finance Committee (IFC) whose approval is required) to move funds

into specific state agency accounts to respond to the most pressing needs first, while following all rules and guidance on the federal funding to ensure compliance.

Coronavirus Relief Fund (CRF): Nevada Plan

Following is a summary of approximately $576 million in planned uses before December 30. 2020 from the State's $836 million distribution in CRF funds, as of July 13:

Local Governments:

- **$148.5 million** – Distribution to local governments: Per the CARES Act, and Treasury's per capita allocation formula that governs payments to larger local governments, Nevada is allocating $148.5 million to counties and incorporated cities outside of Clark County with populations of less than 500,000. A breakdown of the CRF funding to be distributed to local governments to assist with COVID-19 expenses is available on the Nevada Health Response website. These funds will help local governments to manage recuperation efforts, as they can be used for expenses already incurred as well as pandemic-related costs moving forward. By distributing the CRF to counties and incorporated cities outside of Clark County using the same population-based formula that was applied to Clark County and the City of Las Vegas, the State of Nevada is ensuring all local governments receive funds in an equitable manner, as intended by the Federal government.

Immediate Public Health Response:

- **$158 million** – Support for contact tracing, testing and PPE under Nevada's COVID-19 Outbreak Management Strategy and Concept of Operations (COP) administered through the State Public Health Lab, the Division of Emergency Management and the Division of Public and Behavioral Health: The purpose of COP is to develop an operations surge and sustainment capability to prevent the spread of COVID-19 and mitigate any outbreak as well as develop a strategy to transition

state response to shared public and private partnership utilizing Nevada's public and private health care systems. As the state transitions from crisis management, Nevada has established six lines of effort as a bridge to a normal process:

- PPE surge capacity
- COVID-19 specimen collection
- laboratory testing (PCR and antibody)
- case investigation and contact tracing
- preparing vaccination operations
- Nevada National Guard support

- **$8.5 million** – Food Security: Administered by the Nevada Department of Agriculture to address food insecurity for Nevadans and relief for Nevada's agriculture and food industries. Funding may be utilized by community organizations and public entities working to reduce food insecurity in Nevada during the COVID-19 pandemic, including Three Square Food Bank in Las Vegas and the Food Bank of Northern Nevada in Reno/Sparks.
- **$6.25 million** – FEMA's Cost Share Requirement for Stafford Act Assistance: Treasury Guidance allows for government entities to use the CRF to pay for FEMA's cost share requirements for the Stafford Act assistance only for COVID-19-related costs that satisfy the Fund's eligibility criteria and the Stafford Act.
- **$3.12 million** – WIC Online Grocery Delivery Access Program: Under the Nevada Department of Health and Human Services, this program is designed to ensure WIC participants are able to have confidential grocery delivery so that recipients can remain at home to self-isolate and reduce the risk of contracting and spreading COVID-19.
- **$849,000** – SNAP Pandemic Electronic Benefit Transfer (P-EBT): Administered by the Nevada Department of Health and Human Services, the Pandemic Electronic Benefit Transfer (P-EBT) was

approved by the U.S. Department of Agriculture on May 1. This enables SNAP recipients to receive groceries delivered to their home. The allocation of CRF funds allows DWSS to issue additional funds for children that are on the National School Lunch Program (NLSP). This benefit will address temporary food needs for approximately 324,850 children statewide.

Economic Support: Respond to Secondary Effects of COVID-19 Emergency

- **$30 million** – COVID-19 Statewide Rental Assistance Program**:** Administered by the Nevada Housing Division in cooperation with the Nevada Treasurer's Office, the program is intended to provide rental stability to thousands of Nevadans, enabling those individuals and families to avoid eviction and potential homelessness. Such a program will also reduce the risk of contracting and spreading COVID-19, allowing these eligible individuals and families to remain in a stable home.
- **$20 million** – COVID-19 Statewide Commercial Real Estate Rental Relief Program: To assist Nevada business owners including non-profit organizations who have lost monthly revenues due to COVID-19 since March 2020.
- **$480K** – The Homeowner Connect Program (THOC): The COVID-19 pandemic and the resulting dramatic reduction in economic activity has had an impact on Nevada homeowners who are now seeking mortgage assistance relief and are struggling to navigate through confusing program requirements. Offered through Home Means Nevada, Inc. (HMN), an existing state affiliated nonprofit organization, THOC will offer a free self-service web portal for Nevada borrowers needing relief at every stage of delinquency; provide on-demand assistance from HUD-certified non-profit housing counselors; and offer systemic support for homeowners who want to retain their homes through an end-to-end foreclosure avoidance process and program.

State Government and Supporting the Response to COVID-19 Public Health Emergency

- **$200 million** – State Costs and Reimbursement: There are seven primary eligible cost categories for use of CRF Funds:
    - medical needs
    - public health needs
    - specific payroll expenses for public employees for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency
    - actions to facilitate compliance with COVID-19-related public health measures
    - economic support
    - response to secondary effects of the current COVID-19 public health emergency
    - any other COVID-19-related expenses reasonably necessary to the function of government that satisfies the Fund's eligibility criteria

  A portion of these funds are included, as allowed under US Treasury guidance, in the proposed plan to address the state's historic General Fund shortfall in Fiscal Years 2019-2020 ($36 million) and 2020-21 ($44 million), including funding for payroll costs, administrative leave, and agency expenses to date.

  In addition, the use of CRF for reimbursement and other applicable costs impacts other funds, including the Highway Fund.

  This amount is an estimate as expenditures, costs and eligible categories continue to evolve when continually updated Treasury guidance is issued.

Priorities for remaining CRF Funds

The COVID-19 pandemic continues to impact the State of Nevada and the rest of the nation as the number of positive cases and hospitalizations is currently on an upward trajectory. With the constantly changing environment, there may be a need to increase funds for proposals outlined above. In addition, there are multiple proposals currently under review related to the State's public health response, support of the State's healthcare system, education, housing, and the unemployment system, including the following:

- **Estimated $100 million** – Funding for Nevada's health care system during the ongoing COVID-19 Pandemic: With the increasing trend in COVID-19 cases and hospitalizations and based on observations of the experience in other states, Nevada continues to prepare for the ongoing impact of the COVID-19 public health emergency and anticipate that funding will need to be augmented for the testing, PPE and contract tracing under the COP (above), as well as ongoing emergency management. In addition, support for the state's hospitals will be needed, including but not limited to surge capacity, PPE and healthcare personnel, depending on the levels of COVID-19 outbreaks and surges Nevada experiences over the coming months The Governor's Office is working with the Nevada Hospital Association to provide the necessary, eligible support within the funding available.
- **Estimated $33 million** – K-12 Education: Nevada's education system must prepare for the upcoming academic year. Funding requests include testing, PPE and contact tracing for the State's 17 school districts and public charter school authority for the upcoming school year.
- **Unemployment System:** Since February 2020, more than one in four Nevada workers have been displaced statewide, pushing the State's unemployment rate to 30.1 percent, the highest level ever reported by any state in modern history and generating an unemployment insurance caseload orders-of-magnitude higher than anything the

State has witnessed previously. While other sections of the CARES Act include funding for certain unemployment costs, the funding and uses are limited. To the extent allowable under the CRF, Nevada is reviewing options for additional support and improvement in the state's unemployment system with funds available.

- **Ongoing Economic Development Support:** As Nevada struggles to respond to the public health needs of its citizens, it is also committed to responding to the secondary economic effects to the State. The CRF funds allow for certain economic support programs. The Governor's Office is working with the Governor's Office of Economic Development and the Department of Business and Industry, as well as regional partners to determine the most effective economic development programs with the limited amount of CRF funding to improve the health of Nevada's economy.
- **Shared Priorities for COVID-19 Response:** As Governor Sisolak and legislative leadership continue to review the communities and populations most impacted by the current pandemic, they are working together to determine priorities for remaining CRF funds in the areas of education and public health response.

ADVOCATING FOR FEDERAL ASSISTANCE FOR STATE AND LOCAL REVENUE

The federal funding received by Nevada will not be sufficient to address the State's fiscal crisis and historic budget shortfall caused by the COVID-19 pandemic. Without further assistance from the federal government, Nevada families, businesses and governments will continue to face enormous hardships.

The State of Nevada continues to join other states to advocate for federal assistance for state and local revenue shortfalls resulting from the COVID-19 pandemic. This economic crisis is forcing states to make painful decisions to cut education, health care and state workforce budgets. Just a few of these efforts, in addition to updates on federal funding, are noted below:

- In a May 11, 2020, letter to congressional leadership that Nevada signed jointly with other western states, state leaders explain that without federal assistance, states will be forced to make impossible decisions, including whether to cut funding to education or health and human service programs so desperately needed during this time, or to lay off or furlough the employees who have been working hard to support the State and the people of Nevada during these very challenging times, while trying to protect the health of themselves and their families as well.
- On May 13, 2020, National Governors Association Chair and Vice Chair called on Congress to act on state fiscal relief.

> *"As Congress reconvenes, delivering urgent state fiscal relief must be a top priority. Each day that Congress fails to act, states are being forced to make cuts that will devastate the essential services the American people rely on and destroy the economic recovery before it even gets off the ground.*
>
> *"With widespread bipartisan agreement on the need for this assistance, we cannot afford a partisan process that turns this urgent relief into another political football. This is not a red state and blue state crisis.*

This is a red white and blue pandemic. The coronavirus is apolitical. It does not attack Democrats or Republicans. It attacks Americans.

- On May 15, 2020, the HEROES Act was passed by the U.S. House of Representatives, and is currently awaiting review by the U.S. Senate. The House passed the $3.5 trillion stimulus bill because they recognized that the CARES Act monies are: (1) too limited in dollar value; and (2) too limited in scope to keep state and local governments solvent. Below is more information on the HEROES Act:
    - Like the CARES Act, the Heroes Act provides fiscal assistance to states and locals:
        - $500 billion in direct assistance to states and territories; and
        - $375 billion Coronavirus Local Fiscal Relief Fund is provided to metropolitan cities, counties, and other units of general local government.
    - Critically, the Heroes Act allows the $500 billion Coronavirus State Fiscal Relief Fund to be used to replace revenue shortfalls and may be used to cover "foregone revenues not projected on January 31, 2020."
- On June 29, 2020, a coalition of state and local organizations, including the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, business groups, labor unions and others wrote a letter to leadership in the Senate advocating for urgently needed assistance:

    Previous federal bills responding to COVID-19 provided important support, many through well-established grant programs, yet none allow for the replacement of billions of lost revenue due to COVID-19. More robust and direct stimulus is needed for state and local governments to both rebuild the economy and maintain essential services in education, health care, emergency operations, public safety and more.

- In its Report to Congress released on June 25, 2020, *COVID- 19: Opportunities to Improve Federal Response and Recovery Efforts*, the Government Accountability Office (GAO) observed the following with regard to funding to state and local governments:

> *The Treasury guidance emphasized that recipients may not use the funds to fill shortfalls in government revenue, and included examples of ineligible expenses, such as payroll or benefits for employees whose work duties are not substantially dedicated to COVID-19 mitigation or response.* [511] *Organizations representing state and local governments expressed concern to Congress that the economic contraction resulting from the pandemic and related closures of non-essential businesses is substantially affecting their revenues and, without more flexible federal funding, state and local governments will be forced to drastically cut services, which could prolong the economic downturn.* [512]

Nevada has unique structural issues that make it the most vulnerable state in the nation any time the economy takes a hit and while the end of 2019 represented a highwater mark for Nevada's economy - with a historically low unemployment rate and no projected recession on the horizon - the structure itself has repeatedly demonstrated vulnerability, with significant overreliance on casino gaming and other tourism-related taxes.

This unbalanced structure is important to note as a primary reason the COVID-19 pandemic caused the Nevada economy to retrench in such dramatic fashion resulting in substantial budget shortfalls, the highest unemployment rates of any state in the U.S. and the need for the Governor to declare a State of Fiscal Emergency and to call for a special session of the Nevada Legislature.

As a result, Nevada has been forced to take deep cuts in services and programs designed to help many of those most impacted by the COVID-19 pandemic. Unfortunately, all COVID-19 federal assistance that has been provided to the State thus far, such as CARES Act funding, are prohibited from being used to fill the State's revenue shortfall.

Without additional federal assistance, a slow recovery, or one in which Nevada lags behind the nation, will exacerbate the current economic and fiscal crises facing the State.

Additionally, funding will allow the State to restore reductions related to education, health and human services, and the state workforce to ensure State government is providing core, critical services to residents.

Governor Sisolak joins the National Governor's Association in strongly calling for the federal "passage of critical priorities that will help states and territories lead us through this pandemic response and get America moving again: $500 billion in fiscal support for state budgetary shortfalls resulting from the pandemic, enhanced FMAP funding to provide healthcare to our most vulnerable, and 100 percent federal cost share for FEMA response and recovery efforts."

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