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May 21, 2020

Hon. Nancy Pelosi
Speaker
House of Representatives
Washington, DC 20515

Hon. Kevin McCarthy
Minority Leader
House of Representatives
Washington, DC 20515

Hon. Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

Hon. Chuck Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Congressional Leaders:

As state and territorial attorneys general, we urge Congress to close the digital divide and help ensure that all Americans have home internet connectivity necessary to participate in telemedicine, teleschooling, and telework as part of any additional legislation that provides relief and recovery resources related to addressing the COVID-19 pandemic. As Americans know after weeks of learning, working, socializing, and seeking healthcare from home, internet access is critical for basic needs—education and healthcare—and economic resilience. A failure to act promptly will continue to leave millions of Americans struggling to catch up. And the importance of broadband has skyrocketed just at the time when so many Americans are struggling financially – more than 30 million unemployment claims have been filed in the last two months, a harbinger of the recession to come.

The COVID-19 pandemic triggered unprecedented disruptions to our educational and healthcare systems, as well as the broader economy and core social activities. In many cases, individuals were able to compensate by moving online to learn, work, and obtain healthcare services. In other cases, however, longstanding disparities in household access to high-speed internet and mobile devices prevented individuals from taking advantage of these opportunities. Consequently, as telemedicine, teleschooling, and telework become the new normal for many Americans, those without access to broadband and internet-enabled devices are left behind. To better enable our nation’s resilience in the face of this and future crises, we must make access to broadband for all a national priority.

At present, large swaths of rural America¹ and tribal lands² as well as many metropolitan neighborhoods³ lack access to or have not adopted broadband. In

¹ Christopher Ali, *We Need a National Rural Broadband Plan*, N.Y. TIMES (Feb. 6, 2019), <https://www.nytimes.com/2019/02/06/opinion/rural-broadband-fcc.html>. Enhancing broadband access in rural America would have the added benefit of providing farmers and ranchers greater ability to take advantage of precision agriculture, which in turn would help ease the kind of food supply and distribution problems that states have experienced during the COVID-19 crisis. See U.S. DEP’T OF AGRIC., A CASE FOR RURAL

areas where infrastructure is available but families are not able to afford access to it, children either forgo streaming live video for educational purposes—or are forced to attempt to use parking lots where Wi-Fi is available (say, near a McDonald’s) to do their homework.⁴ In the past, we talked about this problem as a “homework gap”; today, it has become a “schooling gap.” Similarly, without broadband, many patients are unable to access preventive or diagnostic healthcare, and even certain forms of treatment, especially from medical specialists.⁵

Unless Congress acts quickly, disparities in access to home internet connectivity will exacerbate existing gaps in educational⁶ and health⁷ outcomes along lines of geography, economic resources, and race. In recent months, hundreds of broadband service providers have pledged to keep existing customers connected, waive late fees, and open Wi-Fi hotspots to Americans in need.⁸ Many companies have gone even further, temporarily offering free or discounted internet access to K-12 and college students, medical providers, and low-income families.⁹ These voluntary commitments are laudable, but they are not sustainable. Ultimately, we need a national solution to enable universal access to broadband internet, including adequate upstream and downstream capacity, to support full participation in telemedicine, teleschooling, and telework.

BROADBAND (April 2019), available at <https://www.usda.gov/sites/default/files/documents/case-for-rural-broadband.pdf>.

² FCC, REPORT ON BROADBAND DEPLOYMENT IN INDIAN COUNTRY (May 2019), available at <https://docs.fcc.gov/public/attachments/DOC-357269A1.pdf>.

³ Lara Fishbane & Adie Tomer, *Neighborhood Broadband Data Makes it Clear: We Need an Agenda to Fight Digital Poverty*, BROOKINGS INST. (Feb. 6, 2020), <https://www.brookings.edu/blog/the-avenue/2020/02/05/neighborhood-broadband-data-makes-it-clear-we-need-an-agenda-to-fight-digital-poverty/>.

⁴ See, e.g., Ivan Pereira, *Rural Communities’ Digital Deserts Cripple Tele-education During Coronavirus Outbreak*, ABC NEWS (Mar. 24, 2020), <https://abcnews.go.com/Technology/rural-communities-digital-deserts-cripple-tele-education-coronavirus/story?id=69618843>.

⁵ See Brittney Crock Bauerly et al., *Broadband Access as a Public Health Issue: The Role of Law in Expanding Broadband Access and Connecting Underserved Communities for Better Health Outcomes*, 47 J.L. MED. & ETHICS 39 (July 12, 2019), available at <https://doi.org/10.1177/1073110519857314>; Anna Brugman, *A Healthy Connection: Pandemic Shows Need For Rural Broadband as Health Care Providers Turn to Telemedicine*, COLUM. DAILY TRIB. (Apr. 18, 2020), <https://www.columbiatribune.com/news/20200418/healthy-connection-pandemic-shows-need-for-rural-broadband-as-health-care-providers-turn-to-telemedicine>; Nicole Lewis, *Telehealth Helps Close Health Care Disparity Gap in Rural Care*, AAMC NEWS (Dec. 5, 2016), <https://www.aamc.org/news-insights/telehealth-helps-close-health-care-disparity-gap-rural-areas>.

⁶ See CRISTOBAL DE BREY ET AL., U.S. DEP’T OF EDUC., NCES 2019-038, STATUS AND TRENDS IN THE EDUCATION OF RACIAL AND ETHNIC GROUPS 2018 67-92 (Feb. 2019), available at <https://nces.ed.gov/pubs2019/2019038.pdf>; *Rural Education*, U.S. DEP’T OF AGRIC., <https://www.ers.usda.gov/topics/rural-economy-population/employment-education/rural-education/> (last updated Aug. 20, 2019).

⁷ See INST. OF MED., HOW FAR HAVE WE COME IN REDUCING HEALTH DISPARITIES?, WORKSHOP SUMMARY (2012), available at https://www.ncbi.nlm.nih.gov/books/NBK100492/pdf/Bookshelf_NBK100492.pdf; *About Rural Health*, CDC, <https://www.cdc.gov/ruralhealth/about.html> (last updated Aug. 2, 2017).

⁸ *Keep Americans Connected*, FCC, <https://www.fcc.gov/keep-americans-connected> (last updated May 5, 2020).

⁹ *Companies Pledging to Keep Americans Connected During Pandemic Go Above and Beyond the Call*, FCC, <https://www.fcc.gov/companies-pledging-keep-americans-connected-during-pandemic-go-above-and-beyond-call> (last updated May 1, 2020).

To address this critical need, we request that Congress include the following in the next COVID-19 relief legislation:

1. Provide adequate and flexible funding to state, territorial, and local governments to expand broadband internet access.

Provide state, territorial, and local governments adequate funding expressly dedicated to ensuring that all students and patients, especially senior citizens who are at risk, have adequate internet-enabled technology to participate equally in online learning and telemedicine. Regardless of the how these funds are appropriated, we urge Congress to allow state, territorial, and local governments to use these funds flexibly, including by investing in broadband infrastructure, giving schools and libraries flexibility in how to use their existing broadband connections to reach people, subsidizing broadband access, and providing Wi-Fi-enabled devices directly to students and patients in need. Additionally, such funding should remain available for states to deploy for an extended period of time to allow for both immediate-term and long-term solutions because the impact and harm to communities from the COVID-19 crisis—particularly in the education and health fields—will remain with us long after the immediate crisis abates. Finally, we urge Congress to ensure that any funds provided to state, territorial, and local governments for these purposes will not impact or affect a state’s ability to be qualified to receive, or be awarded, broadband infrastructure expansion funding from other federal or state-broadband subsidy or grant programs.

2. Increase funding to the U.S. Federal Communication Commission Universal Service Fund.

Increase funding to the U.S. Federal Communication Commission Universal Service Fund. This Fund, which supports the Connect America Program, the Lifeline Program, the E-Rate Program, and the Rural Health Care Program, provides vital funding to rural and low-income populations, healthcare providers, and educators with the goal of bridging the digital divide.¹⁰ If anything, the COVID-19 crisis has shown us that all Americans, regardless of where they live or how much they earn, need access to affordable and reliable high-speed internet. For many low-income households, especially households with multiple users and multiple devices, current benefits under the Lifeline Program are simply insufficient.¹¹ Indeed, those same households are relying more than ever on the devices and connectivity provided by their local libraries or schools and subsidized by the E-Rate Program, which is helpful but not a substitute for full connectivity. We urge Congress to take this opportunity to support the FCC’s critical work in bringing broadband connectivity to all Americans, including those in low-income and rural populations, in a responsible and sustainable fashion.

With public health experts warning that a second wave of coronavirus infections may require teleschooling and telemedicine to continue for millions of Americans throughout 2020, it is

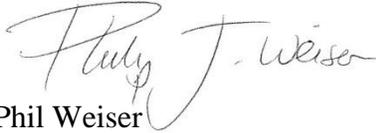
¹⁰ CONG. RESEARCH SERV., RL30719,

BROADBAND INTERNET ACCESS AND THE DIGITAL DIVIDE: FEDERAL ASSISTANCE PROGRAMS 11-16, *available at* <https://fas.org/sgp/crs/misc/RL30719.pdf> (updated Oct. 25, 2019).

¹¹ See JONATHAN SALLET, BROADBAND FOR AMERICA’S FUTURE: A VISION FOR THE 2020S 65-66 (2019), *available at* https://www.benton.org/sites/default/files/BBA_full_F5_10.30.pdf.

critical that Congress act now to help ensure that all Americans have the home internet connectivity they need to access educational opportunities, healthcare, and to earn a livelihood.

Sincerely,



Phil Weiser
Colorado Attorney General



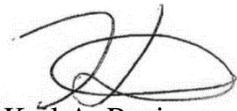
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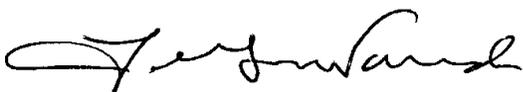
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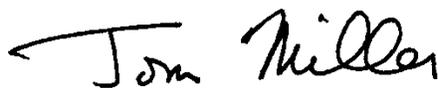
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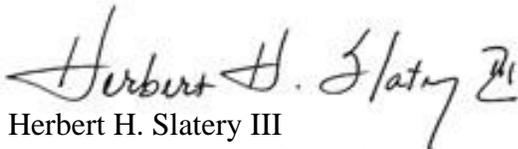
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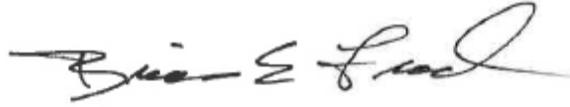
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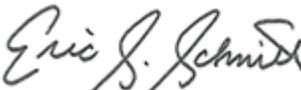
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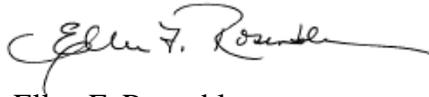
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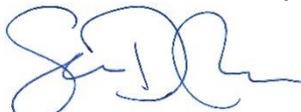
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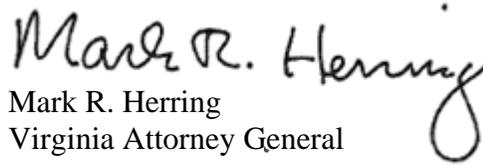
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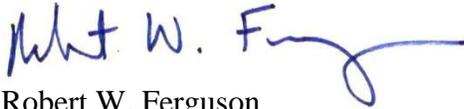
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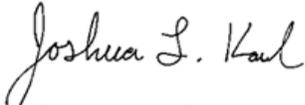
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