

United States Senate

May 6, 2020

Dear Colleague,

Since the Coronavirus Aid, Relief, and Economic Security (CARES) Act became law, I have spoken with small business owners, farmers, and non-profit directors across Colorado regarding the Paycheck Protection Program (PPP). Those conversations have made clear that the PPP is an essential lifeline for many small businesses. They have also made clear that the program needs to be modified.

I commend Chairman Rubio, Senator Collins, and the Small Business Committee for designing this program on such an abbreviated timeline. I also commend the Administration for its work in executing the program and quickly getting funds to businesses in need. The changes outlined below aim to address the issues that countless Colorado businesses have brought to my attention, and likely many of you have heard directly from your constituents. The proposed modifications will expand access to the program and make it more usable for these businesses that desperately need our assistance.

With those goals in mind, we should:

- **Reload PPP funding and increase the loan amount to four times average monthly payroll** - New applicants to the program should be required to show significant revenue loss as a result of the COVID-19 public health emergency. For those existing borrowers that have also suffered a significant revenue loss due to the COVID-19 emergency, we should permit them to increase their loan amounts to reach the new limit;
- **Set aside PPP funding for businesses being left behind** - Specifically, set aside PPP funding to support our smallest businesses; as well as minority-, veteran-, women-owned, and other underserved businesses that may not have an existing business banking relationship;
- **Shorten timeline for purchase of loans** - Authorize the Department of the Treasury, the Federal Reserve, and/or the Small Business Administration (SBA) to purchase program loans no later than two weeks after processing, with a priority of purchasing loans for businesses with less than 50 employees immediately after origination. Because banks are providing these loans out of their own reserves, permitting the Federal Reserve to purchase the smallest loans immediately after origination would quickly replenish the banks' capital so that they could issue new loans;
- **Ease the guidance-imposed required spending ratio** - The best way to keep workers employed is to make sure businesses survive. Some businesses have payroll-heavy expenses, others have rent-heavy expenses. The program should be flexible to help businesses survive and employ as many workers as possible;
- **Agriculture employment flexibility** - Ensure that small agricultural producers who employ individuals under the H-2A program can have their payroll expenses count for loan forgiveness purposes;
- **Hold harmless credit scores** - Prohibit COVID-19 related credit checks from affecting credit scores;

- **Prohibit lending discrimination** - Prohibit PPP-approved lenders from intentionally discriminating against potential borrowers based on whether the borrower has existing credit with the bank;
- **Expand eligibility for PPP** -
 - Include all nonprofits who should not have been previously excluded, including those operating under Internal Revenue Code section 501(c)(6);
 - Expand the exception to the 500-employee limitation for franchises, which is contained in the SBA guidance, to include franchised businesses beyond those listed in the SBA's franchise listing. Rather than review franchise documents to determine whether a franchisor's control over a franchisee should subject it to the SBA's affiliation rules, the SBA created a list of franchisee that are eligible for SBA programs. But the current economic crisis does not discriminate between franchisees that are more closely connected with their franchisors and those with more autonomy. I have heard from multiple Colorado franchisees that are in desperate need of relief but are not eligible because they are not on the right franchise list. We should expand the list of eligible franchisees to include these small businesses; and
 - Expand the affiliation rule exception to include more firms that, for all intents and purposes have fewer than 500 employees, such as fitness centers and retail trade establishments.
- **Add qualified expenses for PPP** - Add mortgage principal payments in accordance with previously-established amortization schedules (no pre-payments), inventory expenses in advance of re-opening businesses, and past-due inventory invoices;

These ideas reflect the necessary modifications to the PPP to more effectively work for people across the country. We should waste no time in adopting them. I know we share the common goals of helping thousands of small businesses across America stay afloat and retain as many workers as they can.

The last months have required tireless work, and we should be proud of what this nation has accomplished. The PPP is a vital program. It was approved in an overwhelmingly bipartisan and bicameral fashion here in Congress. I have found that in many instances the hardworking Americans that have benefitted from the program are not able come back to tell us how well it worked (the fires they are fighting seem endless right now), but the program is working. However, the program can be improved, as nearly everything can be improved, and our job is not done. We should build on the program's successful momentum and ensure as many people as possible benefit from the relief the PPP can provide.

I look forward to working with each of you and our Democratic colleagues on these modest reforms to the PPP in order to build a stronger and more resilient economy.

Sincerely,



Cory Gardner
United States Senator