



NHCSL

THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS

EMERGENCY RESOLUTION No. 2020-02

Adjust federal relief or assistance to account for disproportionate burdens on the urban poor and other high-cost area dwellers

Reported to the Caucus by the NHCSL Government, Social Justice and Taxation
Task Force
Del. Alfonso López (VA), Chair

Sponsored by Del. Alfonso López (VA)

Unanimously approved by the NHCSL Executive Committee on behalf of the entire
Caucus on September 18, 2020

1 **I. COVID-19 relief rebate amounts and income thresholds in the CARES**
2 **Act, along with those of other ongoing federal cash or near-cash**
3 **benefits, disproportionately shortchange high-cost area residents**

4 **WHEREAS**, the recent approval of the CARES Act, which mandated, among other
5 provisions to help Americans deal with the COVID-19 pandemic, special 2020 income
6 tax rebates of \$1,200 for individuals making \$75,000 or less, along with decreasing
7 payment amounts until an annual income cap of \$99,000,¹ without adjusting either
8 the threshold income caps or payment amounts for geographical cost-of-living
9 differences, unleashed a wave of viral complaints on social media from Americans
10 living in high-cost areas for whom the amount either could not cover or could barely

¹ The payment amounts and income caps doubled for couples filing jointly, plus an extra \$500 per dependent child.

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11 cover one month's rent, or who were unfairly denied the relief payments despite their
12 income barely covering their reasonable monthly expenses, or both; and,

13 **WHEREAS**, those complaining consistently brought up the disparity that the same
14 \$1,200 payment could cover two months of rent in many other areas of the country;
15 and,

16 **WHEREAS**, for example, according to the Economic Policy Institute, a single parent
17 with two children in the New York City metro area, the epicenter of the US pandemic,
18 needs to make \$115,295 annually "to secure a modest yet adequate standard of
19 living,"² and yet, that family was denied any relief by the CARES Act as if they were
20 living in a situation of plenty; and,

21 **WHEREAS**, in contrast, a similarly situated single parent with two children with the
22 same modest yet adequate standard of living but living in the Louisville, Kentucky
23 metro area, would have had an income of \$66,160 and been fully covered by a CARES
24 Act relief payment of \$2,200, counting the \$500 per child bonus;³ and,

25 **WHEREAS**, had the New York parent benefited from a cost-of-living adjusted income
26 cap and received the rebate, the \$2,200 would not have covered the family's modest
27 rent and food expenses of \$2,467 for one month, while the Louisville family could
28 have paid their monthly rent and food costs of \$1,363 and had enough left over to
29 cover the next month's \$821 rent with a few dollars to spare;⁴ and,

30 **WHEREAS**, while the example cited above is an extreme disparity, even more
31 extreme or somewhat smaller unequal treatment harmed millions of Americans; and,

32 **WHEREAS**, those affected Americans living in high-cost areas are more likely to be
33 people of color than Americans living in low-cost areas; and,

34 **WHEREAS**, these harmful disparities in CARES Act relief payments are not an
35 anomaly for federal cash or near-cash benefits; and,

36 **WHEREAS**, in fact, "with the exception [of public housing allowances, which are
37 implicitly tied to the cost of rentals and which vary widely across the nation and] of
38 SNAP, none of the cash or near-cash benefits paid to low-income people, including the
39 EITC and the CTC, contains any set of regional COLAs. The benefits are the same
40 nominal amount across the entire nation;"⁵ and,

² Economic Policy Institute, *Family Budget Calculator*. Available at
<https://www.epi.org/resources/budget/>

³ Ibid.

⁴ Ibid.

⁵ National Academies of Sciences, Engineering, and Medicine. *A Roadmap to Reducing Child Poverty*, p.
320. Washington, DC: The National Academies Press (2019). Available at:
<https://doi.org/10.17226/25246> ("SNAP contains a modest adjustment for differences in housing
costs across areas by allowing for deductions (against earned income) for shelter cost.").

41 **II. Official poverty calculations and funding formulas have historically**
 42 **failed to fully capture the disproportionate burdens faced by the**
 43 **urban poor**

44 **WHEREAS**, the same sort of disparity affects not only individual payments but
 45 numerous “cash grants ... provided to states, cities, and school districts, and the
 46 allocation of those grants [which] is often based on the area’s poverty rate”⁶ and
 47 which are meant to help the same populations; and,

48 **WHEREAS**, the U.S. official poverty measure (OPM) has been basically calculated the
 49 same way since the 1960’s;⁷ and,

50 **WHEREAS**, the OPM is determined on a nationwide level⁸ and is calculated based on
 51 income adjusted by inflation, although its anchor income was determined by
 52 consumption, specifically research showing that, in the 1950’s, the average family
 53 spent about one third of its after-tax income on food, which led to multiplying the
 54 “U.S. Department of Agriculture’s ‘basic’ [minimally nutritious and palatable] food
 55 plan by three to calculate poverty thresholds for families of different compositions
 56 and sizes;”⁹ and,

57 **WHEREAS**, according to a consensus study by the National Academies of Sciences,
 58 Engineering, and Medicine, this “approach to measuring poverty has numerous
 59 shortcomings: It is based on the now outdated assumption that families spend one-
 60 third of their post-tax income on food (today they spend less than one-half that
 61 amount); it fails to adjust for geographic differences in living costs; ...it counts neither
 62 in-kind benefits nor refunded tax credits as income [and, though it is updated for
 63 inflation, it fails to account] for changes in the country’s standard of living;”¹⁰ and,

64 **WHEREAS**, Congress started expressing concern regarding this problem in 1988,
 65 mandating a study on alternatives by the National Research Council;¹¹ and,

66 **WHEREAS**, while that study was ongoing, the “Improving America’s Schools Act,
 67 passed in 1994, called for the use of updated Census Bureau estimates of poor school-
 68 age children to allocate Title I funds, provided the estimates were found to be
 69 sufficiently reliable by a panel of the National Research Council (NRC). In response to
 70 the 1994 act, the Census Bureau established a small-area income and poverty
 71 estimates (SAIPE) program to develop estimates by state, county, and ultimately by

⁶ Ibid., at 292.

⁷ Ibid., at 291.

⁸ Except for Alaska and Hawaii which get a somewhat different number.

⁹ Ibid. (‘Basic diet’ was defined as one “minimally nutritious and palatable” based on what was known about nutritional science in 1963, including lowering the costs for those 65 or older, single or without children. See p. 303).

¹⁰ Ibid. at pp. 291-92.

¹¹ Ibid. at p. 292.

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72 school district, using a model-based approach that combined data from the decennial
73 census, the CPS, and administrative records;¹² and,

74 **WHEREAS**, in 1995, the National Research Council panel of poverty experts finally
75 produced the report, *Measuring Poverty—A New Approach* which “recommended
76 what it termed a ‘quasi-relative’ updating procedure, based on changes in
77 consumption of basic necessities [or FSCU] (food, clothing, shelter, and utilities) in
78 the lower part of the distribution of consumer expenditures” because, among other
79 reasons “what is regarded as a basic need by society generally increases along with
80 living standards;”¹³ and,

81 **WHEREAS**, for example, the United Way already currently considers smartphone
82 costs to be a basic need in a Household Survival Budget;¹⁴ and,

83 **WHEREAS**, as a result of all these experiences and recommendations, and after more
84 than a decade of study by the Bureau of Labor Statistics and the U.S. Census Bureau,
85 in 2011, the Census Bureau started publishing the Supplemental Poverty Measures
86 (SPM) which account for FSCU cost using a five-year moving average and expand
87 income to include “noncash benefits that resource units can use to meet their FCSU
88 needs, minus taxes (or plus tax credits), minus work expenses, medical expenses, and
89 child support paid to another household”¹⁵ but only “*partially* [adjust] to reflect
90 geographic differences in families’ living costs” by taking into account median rent
91 and utilities outlays;¹⁶ and,

92 **WHEREAS**, although they are an improvement over the OPM,¹⁷ the SPM still fail to
93 account for other non-housing geographical cost-of-living variations on other goods

¹² National Research Council. *Statistical Issues in Allocating Funds by Formula*, p. 51. Washington, DC: The National Academies Press (2003). Available at: <https://doi.org/10.17226/10580>

¹³ National Academies of Sciences, Engineering, and Medicine. *A Roadmap to Reducing Child Poverty*, pp. 305-306. Washington, DC: The National Academies Press (2019). Available at: <https://doi.org/10.17226/25246> (See also p. 311 explaining that although the 1995 report called for using the measurements of the Consumer Expenditure Surveys (CE) to determine consumer expenditures, a further 2013 assessment determined that “expenditures in the CE are underreported and are subject to important measurement error, attrition bias, and nonresponse bias” and that “in its current form, the CE is not well suited to generate subnational estimates for poverty; in fact, the public-use version of the CE does not even identify state of residence.”)

¹⁴ *Ibid.*, at at p. 306 n. 5.

¹⁵ US Cansus Bureau, *What Is the Supplemental Poverty Measure and How Does It Differ From the Official Measure?* (2018). Available at: https://www.census.gov/newsroom/blogs/random-samplings/2018/09/what_is_the_suppleme.html

¹⁶ National Academies of Sciences, Engineering, and Medicine. *A Roadmap to Reducing Child Poverty*, pp. 320-22. Washington, DC: The National Academies Press (2019). Available at: <https://doi.org/10.17226/25246>

¹⁷ The superiority of the SPM is demonstrated by the similarity in its findings to basic family budgets calculated by independent non-partisan NGO’s like the United Way ALICE Project on the working poor; see <https://www.unitedwayalice.org/overview>. The National Academies report explains that “alternative basic budgets typically need to have several components subtracted for comparability with the SPM thresholds—e.g., child care, work-related transportation, medical care, and taxes must be subtracted from the ALICE Household Survival Budget because these

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94 and services like food, apparel, transportation, education, recreation, and medical
95 expenses;¹⁸ and,

96 **WHEREAS**, the Economic Policy Institute’s Family Budget Calculator accounts for
97 some of those additional differences and claims to therefore “provide a more accurate
98 and complete measure of economic security in America” than the SPM;¹⁹ and,

99 **WHEREAS**, despite the limitations of the SPM, they start to correct the record about
100 poverty, showing higher levels of poverty than the OPM shows in most of the urban
101 states of the Northeast and Mid-Atlantic,²⁰ and in California, Colorado, Florida,
102 Hawaii, Illinois, and Nevada;²¹ and,

103 **WHEREAS**, the SPM increases the national poverty rate s of 2018 from 11.8% in the
104 OPM to 12.8%;²² and,

105 **WHEREAS**, for Hispanics, SPM increase poverty rates from the OPM’s 17.6% to
106 20.3%, and increase it for Asians from 10.1% to 13.9%, precisely because Hispanics
107 and Asians are overrepresented in high-cost areas;²³ and,

108 **WHEREAS**, the most recent National Academies report admits that the “impact on
109 poverty threshold levels of including regional COLAs—whether based only on
110 housing costs or on consumption items more broadly—turns out to be quite
111 significant in terms of the resulting distribution of the population on either side of the
112 line. It follows that incorporating geographic variation into poverty guidelines used
113 in determining eligibility for public-benefits programs would have a considerable
114 impact on the number of families eligible in different parts of the country (the overall
115 number eligible nationwide might not vary much, if at all);”²⁴ and,

items are subtracted from SPM resources and are therefore not included in SPM thresholds.”
(National Academies, *supra*, note 16 at p. 306, n. 5).

¹⁸ The Census Bureau continues to work on accounting for some or all of these disparities in the SPM.
See <https://www.census.gov/topics/income-poverty/supplemental-poverty-measure/library/working-papers/topics/potential-changes.html>

¹⁹ <https://www.epi.org/resources/budget/budget-map/>

²⁰ Specifically, the SPM show higher levels of poverty than the OPM in Connecticut, Massachusetts, New York, New Jersey, Delaware, Maryland, Virginia, New Hampshire and Washington, DC. In that region, SPM only show a lower poverty level in Rhode Island. For a map, see: <https://www.census.gov/content/dam/Census/library/visualizations/2019/demo/p60-268/figure7.pdf>

²¹ Across the country, the SPM shows statistically equivalent levels of poverty than the OPM in Georgia, North Carolina, Pennsylvania, Vermont, Indiana, North Dakota, Utah, Arizona, Washington, Oregon and Alaska.

²² US Census Bureau, *Percentage of People in Poverty by Different Poverty Measures: 2018*. Available at <https://www.census.gov/content/dam/Census/library/visualizations/2019/demo/p60-268/figure3.pdf>

²³ *Ibid.* (The differences for non-Hispanic whites and blacks are roughly one half of one percent and therefore statistically equivalent).

²⁴ *Ibid.*, at 322.

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116 **WHEREAS**, in 2018, the President’s Council of Economic Advisers (CEA), citing with
 117 approval a consumption-based (instead of income-based) study that concluded that,
 118 as of 2016 and without accounting for geographic differences, only 3 percent of the
 119 population was living in poverty, came to the grossly absurd conclusion that, “our
 120 War on Poverty is largely over and a success;”²⁵ and,

121 **WHEREAS**, the updated version of the underlying report cited by the CES goes further
 122 to conclude that poverty fell even more, from 3% to 2.8%, between 2016 and 2018,²⁶
 123 less than a quarter the rate that SPM reveal for the same year; and,

124 **WHEREAS**, the consensus report of the National Academies of Sciences, Engineering,
 125 and Medicine severely criticized the study cited with approval by the CEA for failing
 126 to assess basic consumption needs “to see if the thresholds made sense relative to
 127 living standards,” for lacking “any direct assessment of whether needs are changing,
 128 unlike what is done in the SPM,” for using a “bias correction, which is applied at the
 129 same rate every year, [but] does not have a direct basis in any particular prior study,”
 130 for making the poverty rate an “arbitrary function of the anchoring year chosen,” and
 131 for “produc[ing] contemporary thresholds and poverty rates that seem unrealistically
 132 low compared with other thresholds and rates;”²⁷ and,

133 **III. Fair income taxation brackets and deductions require realistic**
 134 **estimates of marginal income use and utility**

135 **WHEREAS**, progressive marginal income tax brackets assume that, beyond the point
 136 at which all income stops being used to cover basic necessities, the impact of income
 137 taxation on quality of life is inversely proportional to personal income increases
 138 because the proportion of income used to cover necessities, fixed costs and a
 139 reasonable standard of living decreases; and,

140 **WHEREAS**, thus, determining the income needed to cover basic necessities and a
 141 reasonable standard of living in the city or small-area in which a person or family lives
 142 is essential to fairly define marginal income brackets; and,

²⁵ Council of Economic Advisers, *Expanding Work Requirements in Cash Welfare Programs*, p. 29. Washington, DC: The White House (2018). Available: <https://www.whitehouse.gov/wp-content/uploads/2018/07/Expanding-Work-Requirements-in-Non-Cash-Welfare-Programs.pdf> (citing Meyer, B. D., and Sullivan, J. X. *Annual report on U.S. consumption poverty: 2016*. American Enterprise Institute (2017)).

²⁶ Meyer, B. D., and Sullivan, J. X. *Annual report on U.S. consumption poverty: 2016*. American Enterprise Institute. (2019). Available at: <https://www.aei.org/research-products/report/annual-report-on-us-consumption-poverty-2018/>

²⁷ National Academies of Sciences, Engineering, and Medicine. *A Roadmap to Reducing Child Poverty*, pp. 312-16. Washington, DC: The National Academies Press (2019). Available at: <https://doi.org/10.17226/25246>

143 **WHEREAS**, despite this, marginal tax rates and deductions have been unfairly defined
144 by law in absolute nationwide numeric terms, without adjusting for small-area
145 geographic differences in cost-of-living.

146 **IV. Conclusion**

147 **THEREFORE, BE IT RESOLVED**, that the National Hispanic Caucus of State
148 Legislators calls on the United States Congress and the President to legislate as soon
149 as possible to enact and implement permanent small-area cost-of-living adjustments
150 to personal income tax brackets, cash or near-cash benefits, including COVID-19 relief
151 payments, and the official poverty measure (or switch the OPM to an improved
152 version of the SPM) to fairly account for disproportionate burdens on the urban poor
153 and other city and high-cost area dwellers.

154 PURSUANT TO THE IMMEDIATE NEEDS PROCESS OUTLINED IN THE BYLAWS, THE
155 NHCSL EXECUTIVE COMMITTEE UNANIMOUSLY ADOPTED THIS RESOLUTION, ON
156 BEHALF OF THE CAUCUS, AT ITS VIRTUAL MEETING OF SEPTEMBER 18, 2020.

