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Tuesday, June 2, 2020

**House Energy & Commerce Subcommittee on Oversight and Investigations:** “On the Front Lines: How Governors are Battling the COVID-19 Pandemic”

**Witnesses:**

**Jared Polis:** *Governor, State of Colorado*

**Gretchen Whitmer:** *Governor, State of Michigan*

**Asa Hutchinson:** *Governor, State of Arkansas*

**Executive Summary:**

The House Energy & Commerce Subcommittee on Oversight and Investigations held a virtual hearing on Tuesday, June 2, 2020 to discuss governors’ responses to the COVID-19 pandemic. The subcommittee heard from Jared Polis of Colorado, Gretchen Whitmer of Michigan, and Asa Hutchinson of Arkansas. Polis outlined Colorado’s priorities from when the pandemic started and gave an update on the decisions they have made to address the crisis, such as expanding benefits for healthcare workers, granting paid leave, and aiding small businesses. Governor Whitmer discussed up Michigan’s difficult time working with the federal government and the challenges the state faced in navigating the supply chain. She emphasized the need for adequate testing come fall, when a potential second wave is expected, and she closed her remarks by addressing the racial disparities that exist in infection rates. Governor Hutchinson described Arkansas successes in combatting the crisis and explained his reasoning behind not implementing a state-wide stay-at-home order.

Subcommittee Chairwoman Diana DeGette (D-CO) criticized the Trump administration for its failure to deliver on numerous promised testing benchmarks dating back to March. She gave a detailed timeline of each promise, how many tests were expected to have been done, and the subsequent failure to reach that number.

Subcommittee Ranking Member Brett Guthrie (R-KY) began his remarks by touching on the protests occurring across the country, specifically the deaths of Breonna Taylor and David McAtee in his home state of Kentucky. Guthrie then championed Kentucky’s progress on testing and stressed the importance of preparation for a possible second wave in the fall. Full Committee Chairman Frank Pallone (D-NJ) also criticized the President Trump’s lack of a national testing strategy, and he pointed to the \$75 billion that HEROES Act provides for testing. Full Committee Ranking Member Greg Walden (R-OR) discussed the great strides that states have made in testing.

During the question and answer portion of the hearing, members focused their inquiries on each of the governors’ strategies for testing, contact tracing, and reopening. All of the governors stressed the importance of testing and tracing and how they are imperative to ensuring a successful return to normal life with no regression.

**Member Statements:**

**Subcommittee Chairwoman Diana DeGette (D-CO):** Committee leaders have repeatedly emphasized that widespread testing is key to both monitoring the spread of coronavirus and enabling states and communities to safely reopen. But six months into this crisis, there is still not enough testing being done. Back in the first week of March, Vice President Pence estimated that 1.5 million tests would be available by the end of the week, but a week later only 4,000 tests had been conducted across the country. We all remember President Trump visited the CDC on March 6th and declared, “Anybody that needs a test can have a test. They’re all set; they have them out there.” Those infamous words were simply a lie, with states and doctors across the country pleading for more tests.

Then on March 15th, HHS said that 1.9 million tests would be available in the next week, calling it a “game changer.” A week later, just over 250,000 tests had been conducted in. And on March 19th, FDA told Committee staff that over 27 million tests would be available by March 28th. Today, in a country with over 329 million people, only about 17 million tests have been conducted. As recently as May 11th, President Trump said, “if people want to get tested, they get tested.” If we are going to give the American public confidence that they can resume familiar activities and safely return to work, we need to greatly expand testing to more people, including asymptomatic people.

*To view DeGette’s full statement, click [here](#).*

**Subcommittee Ranking Member Brett Guthrie (R-KY):** I’m glad that the first oversight hearing this committee is holding is on testing. In Kentucky, we have significantly increased our testing to exceed the daily capacity recommended by the White House. I appreciate how rapidly the federal government, states, and private sector has responded to the challenges in the supply chain. The FDA is continuously working to approve rapid testing through emergency use authorizations and to increase out testing capacity.

This effort will prepare us for a potential second wave in the fall. Committee Republicans have been closely monitoring current issues and how to best prepare for a second wave. Today, we released the findings from the first pillar of our work, and we expect to release the rest when it is finalized. The 50-page report addresses viral detection testing, antibody testing, contact racing, and surveillance. I hope we can discuss today how we can prepare for the potential overlap of COVID-19 cases and influenza in the fall.

**Full Committee Chairman Frank Pallone (D-NJ):** I am disappointed that the president still has not released a national testing strategy and it is the latest example of the president’s failure to address the crisis. States have been in a bidding war which increases prices and makes it harder to get the equipment they need. House Democrats passed the HEROES Act which provided resources like up to \$75 billion in grants to support testing, contact tracing, and surveillance, and it also requires the president to create a national strategy. The act also puts in place guidelines for how an addition \$100 billion should be allocated through the Provider Relief Fund.

**Full Committee Ranking Member Greg Walden (R-OR):** States have had a hard time implementing effective testing strategies, but huge strides have been made in recent months. Nearly every state is in a better position now to test those who need it. In May, the U.S. achieved more than 400,000 tests on multiple days. Some states have responded better than others and I understand that Arkansas has already reached the federal government’s recommended two percent.

[Witness Statements](#)

**Jared Polis:** We know that given the freedom of movement throughout the United States, it would be impossible to eradicate the virus in Colorado until there is a cure or a vaccine. So, on the public health side, our focus has been on saving as many lives as possible by:

- Limiting the spread of the virus,
- Protecting the most vulnerable - particularly older Coloradans in congregate care
- Supporting our healthcare providers and continuing to ensure people have access to care despite the pandemic
- Doing everything we can to obtain testing equipment and personal protective equipment and being as smart as we could about the uses of these resources, given the constrained supply

And during this period, we enacted a number of extraordinary measures to help individuals and businesses weather the economic storm, including:

- Paid sick leave for frontline workers so workers didn't go into work sick and spread coronavirus
- Expanding childcare benefits for frontline workers
- Helping small businesses and individuals make ends meet by delaying payment of income, sales, and property taxes.
- A temporary moratorium on evictions and foreclosures -- this was absolutely crucial to keeping people in their homes and small businesses afloat.
- Setting up a private relief fund at HelpColoradoNow.org to help nonprofits continue to meet the needs of Coloradans across our state, which has now raised over \$18,000,000 from philanthropic, corporate, and individual donors.
- And convening a Council on Economic Stability and Recovery chaired by Former U.S. Transportation Secretary and Denver Mayor Federico Pena. This bipartisan council of business leaders from across the state put forward recommendations for executive actions, state legislation, and federal consideration.

*To view Polis' full statement, click [here](#).*

**Gretchen Whitmer:** Though the numbers have mostly trended in the right direction, the COVID-19 virus remains aggressive and persistent: as of May 29, 2020, there have been 56,621 confirmed cases of COVID-19 in Michigan, and 5,406 deaths from the virus. The virus remains easy to transmit, passing from asymptomatic individuals, and we still lack adequate means to fully test for it and trace its spread. COVID-19 remains present and pervasive in Michigan, and it stands ready to quickly undo our recent progress in slowing its spread. There was a time in March when some hospitals in our state did not have enough masks, face shields, gowns, or gloves to last one day. The federal government delivered several allocations of PPE from the Strategic National Stockpile (SNS), but they were dangerously insufficient to meet our needs in the early days of the virus's spread.

Throughout much of April, our state averaged about 5,000 tests per day. Several weeks later, our average has tripled to roughly 14,500 tests per day. We are on track to conduct about 375,000 tests during May, well over three percent of the state's population. The COVID-19 pandemic has impacted so many in my state, but disproportionately so to those in communities of color in Michigan. While African Americans are 13.6 percent of Michigan's population, they have represented a staggering 40 percent of the deaths from COVID-19, so in April, I signed Executive Order No. 2020-55 creating the Michigan Coronavirus Task Force on Racial Disparities. Chaired by Lieutenant Governor Garlin Gilchrist II, this task force is studying the causes of racial

disparities in the impact of COVID-19 and recommending actions to immediately address such disparities and the historical and systemic inequities that underlie them.

*To view Whitmer's full statement, click [here](#).*

**Asa Hutchinson:** One of the easiest and most important of my tasks as Governor was to keep the state focused on the importance of testing, so I set goals as a way to focus attention and keep interest. On April 23, I initiated a two-day Arkansas Surge to increase testing from 1,000 tests to 1,500 tests a day over two days. Then, in late April, I announced a goal of testing 60,000 people in the month of May. By May 27, we had topped 66,000 tests. That is more than two percent of our population tested in a month.

One of my most significant decisions was to resist the pressure to issue a stay-at-home order. As the national call for shelter-in-place orders increased, the unemployment rate in Arkansas had jumped from 3.6 percent at the beginning of the year to 5 percent in March. By mid-April, the rate had doubled to 10 percent. Our business and our workers were hurting. My public-health team advised that a stay-at-home order would not significantly slow the spread of COVID, and I knew a stay-at-home order would cost thousands more Arkansans their jobs and possibly cause more small businesses to close permanently. We concentrated on sending strong messages encouraging Arkansans to follow social distancing guidelines, wash their hands often and well, and to wear masks in public. I trusted the citizens of my state to act responsibly in their personal choices.

*To view Hutchinson's full statement, click [here](#).*

#### Key Exchanges

**Subcommittee Chairwoman Diana DeGette (D-CO):** Governor Whitmer, you said the federal response has been uneven. Could you elaborate on this and how it impacted Michigan and specifically its testing capacity?

**Whitmer:** Uneven is the right word but we are grateful for the resources we have received. The allocation from the federal government has undermined our ability to coordinate testing and its role in supporting testing was narrow. We were given little info about shipments of supplies and it was/is sometimes inaccurate. If they could be allocated quicker and with more accurate info we could reach our testing capacity of 25,000 a day. For flu season, our experts are very worried about it.

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**Subcommittee Ranking Member Brett Guthrie (R-KY):** Dr. Fauci told us that we needed to flatten the curve until we have a vaccine. As you look to open up, what data does your state look for when deciding to open or not?

**Hutchinson:** In the beginning, it was all about hospital capacity but that's no longer an issue for us. It's about the number of cases, the positivity rate, the contact tracing, and ultimately the deaths. Looking towards the future, you have to manage the risk. Come the fall, if there is another wave we can't go back into stay at home. We're at phase one now.

**Polis:** Everyone wants to open as soon as possible but they don't want to have to close back down after doing so. We opened barbershops and salons in late April, and we haven't heard any increase in cases. The answer is as soon as possible in a way that does not have to be reversed.

**Whitmer:** Because there hasn't been a national strategy, each state has their own plan. We've worked with business communities to develop protocols for each industry to adapt. But testing is the key, specifically diagnostic testing.

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**Full Committee Chairman Pallone (D-NJ):** I think that Democrats on this committee do not trust the president to implement any kind of national strategy. We tried to force the administration to create a plan through the various acts but that's not really worked. We need a lot more detail for reopening strategies so could Governor Whitmer and Polis talk about that?

**Whitmer:** A national strategy to ensure that we have these test kits is the most important thing right now. Absent a national policy, adequate supplies is the best we can hope for.

**Polis:** It is important to have a national strategy for testing or else it will be a free-for-all again. What I would like to see is the federal government coordinate this effort and let the states execute it. I also saw the increase in FMAP in the HEROES Act and I am very supportive of that.

**Pallone:** As you know, we increased it from 6.2 to 14, would you support that Governor Whitmer?

**Whitmer:** Yes, absolutely. We know the economic effects will be around long after.

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**Full Committee Ranking Member Greg Walden (R-OR):** On nursing home deaths, we saw in New York, I think, that patients who were positive were sent back into nursing homes. How did each of you handle that in your state and were positive patients sent back?

**Hutchinson:** We would never send a positive patient into an environment where they could expose others. We would make sure that the positive patients were separate.

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**Rep. Tim Walberg (R-MI):** I recognize that we're all learning how to do this for the first time. Michigan is fifth in the nation for overall deaths in nursing homes with most recent numbers from the CDC saying that 1,654 patients and 12 staff had died. Could you inform us as to why reports only just came out about the numbers in nursing homes?

**Whitmer:** I think that Michigan had a different experience than other states as our growth was so exponential. When it comes to the data, people don't always reflect COVID-19 on their death certificate.

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**Rep. Janice Schakowsky (D-IL):** We learned of the first case in Illinois back in January. In my home state, we know that nursing home residents account for over half of all COVID-19 deaths. The racial disparities in overall cases and fatalities also extends to nursing homes. Governor Polis and Governor Whitmer, how have you been taking care of your nursing home residents and what do you need from the federal government.

**Whitmer:** In lieu of a national policy, it falls to the nation's governors to make sure that everyone is getting tested regularly. Without a vaccine that is the most important thing. I would like to have every nursing home resident be tested regularly and for their caregivers to get paid leave.

**Polis:** We have required isolation plans for all our facilities in Colorado, and we have drastically increased the testing of asymptomatic workers.

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**Rep. Michael Burgess (R-TX):** What is the impact of the delay in getting the CDC up to a level of testing that is sufficient?

**Hutchinson:** Every governor recognizes that the supply chain before this was weak, but in the past 90 days this country has really increased its reagent production. In terms of the federal standards, I see the CDC guidelines as being very helpful in how we reopen.

**Polis:** The supply chain is better now, but the CDC was not helpful in the beginning. We've relied on state labs and private labs to know where we are on the virus.

**Whitmer:** Michigan has brought on nearly 70 in-state labs, but we can't fully utilize them without a consistent supply of testing materials.

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**Rep. Joe Kennedy (D-MA):** According to experts, the nation will need over 100,000 contact tracers. Chairman Pallone pointed out that the HEROES Act supplies funding for that workforce. Governor Polis, can you explain the importance of contact tracing?

**Polis:** A test is only as good as how we can better isolate the individual and who comes into contact with them. The benefit from testing identifies asymptomatic cases and who came into contact with them.

**Kennedy:** What obstacles are you facing trying to implement this?

**Polis:** Time, as it takes time to train people how to track and trace. The other challenge is money. We will need federal funds to help implement this.

**Kennedy:** Governor Hutchinson, what challenges have you faced trying to ramp up this project?

**Hutchinson:** It takes time to train these people to go out and handle that kind of sensitive work.

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**Rep. Susan Brooks (R-IN):** What are each of your plans for reopening schools and game plan for testing?

**Hutchinson:** Schools are often the safest environment for children and so we are committed to reopening schools in the fall. We're making plans for a blended working environment in the event that a school needs to close a few days to be cleaned. We also need to make sure teachers have the resources they need in that environment.

**Polis:** I expect schools will largely be back in the fall. Largely as in there might be outbreaks that require two-week closures.

**Whitmer:** We're now creating a group to develop practices to reopen in the fall. It may involve smaller class sizes or other things like that.

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**Rep. Scott Peters (D-CA):** What do you think are the most effective ways that the federal government can collaborate with states and what else would you like to see from the federal government?

**Hutchinson:** For the vaccine, we need national guidelines to guide the distribution. For the CARES Act we need more flexibility to get money to our states and counties. We are also keeping some of our CARES funding for the fall.