



MEMORANDUM

To: Representative Neal Foster, Co-Chair
Representative Jennifer Johnston, Co-Chair
Finance Committee
Alaska House of Representatives

From: Center of Innovation, The Council of State Governments (CSG)
Sarah Needler, Director of Research
sneedler@csg.org

Re: Follow-up to April 12, 2021 Finance Committee Meeting

Date: April 15, 2021

Thank you for the opportunity to present before the Finance Committee. Per our conversation, I provide below responses to several Committee member questions. Please let me know if there are additional questions or if you and your colleagues need additional information.

1. Representative Adam Wool: Could you define “other non-counties”?

In the State and Local Recovery Fund, \$43.517 million is allocated to *other non-counties*, defined as non-metropolitan cities. In Alaska, this means all cities except Anchorage which will receive a separate allocation of \$45 million. Funding to non-counties will be distributed through the Department of Commerce, Community and Economic Development (DCCED).

2. Representative Dan Ortiz: How are essential workers defined in the American Rescue Plan?

The Act defines “eligible workers” as “those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each chief executive officer of a metropolitan city, non-entitlement unit of local government, or county may designate as critical to protect the health and well-being of the residents of their metropolitan city, non-entitlement unit of local government, or county”.

3. Representative Bart LeBon: On Slide 6, define “usage for tribes”? What are the sidebars?

The same terms that apply to states as part of the State and Local Recovery Fund also apply to tribal governments. A portion of this Fund will be allocated by the Secretary of the U.S. Department of the Treasury equally among each of the tribal governments, and additional funds will be allocated to the tribal governments in a manner determined by the Secretary.



4. Representative Bryce Edgmon: What's your confidence level that the guidelines on May 10 will adequately answer all the questions that Alaska and other states have?

CSG and several sister organizations have been in contact with officials at the U.S. Treasury and have shared questions and concerns from all 50 states. It is our expectation that these questions will be fully addressed in the expected May 10 guidance.

5. Representative Lebon: On Slide 8, are the two installments 50/50 or is there a formula for determining amounts?

The bill specifies that there will be two tranches. Fifty percent of the amount allocated as part of the State and Local Recovery Fund will be distributed in the first tranche, and the remaining 50 percent will be distributed in the second tranche. The Act grants the Treasury authority to split payment: the Treasury "...shall have the authority to withhold payment of up to 50 percent of the amount allocated to each State and territory". The withheld payment can be held for up to 12 months from the date on which the state or territory provides the Treasury with a signed certification that the state or territory requires payment to carry out the activities specified in the Act and will use this payment in compliance with requirements as outlined. The Coronavirus Capital Projects Funds will be made available to states through a grant application process established by the Treasury no later than May 10, 2021.

6. Representative Ortiz: Will the fund arrive in two tranches definitively?

See answer to #5.

7. Representative Edgmon: What is the certification process? What do we know about states having to apply for these funds and the ability to craft things into state budgets?

See answer to #5

8. Representative Wool: There is a lot of talk about tax modifications. It seems like the presumption is that governments will lower tax rates and make up for lower revenue with federal funds. Alaska cannot do that since we do not have taxes. What if we raise a tax (for example, motor fuel tax)? Would this count as a modification?

The bill restricts State Fiscal Recovery Funds from being used to offset a reduction in net tax revenue resulting from certain changes in law. The Act does not address tax increases. The U.S. Treasury will provide comprehensive guidance on May 10, 2021. However, on April 22, 2021, the Treasury addressed the question of whether income tax changes that conform a state or territory's tax law with recent changes in federal income tax law are subject to the offset provision. The Treasury stated, "Regardless of the particular method of conformity



and the effect on net tax revenue, Treasury views such changes as permissible under the offset provision.” A group of state attorneys general have filed suit in federal court regarding this provision and interpretation.

9. Representative Wool: The 90% directed for local education agencies is based on population of Title I in each district is that correct?

The U.S. Department of Education provided [responses to Frequently Asked Questions about the Elementary and Secondary School Relief Fund \(ESSER\)](#). It clarifies that local education agencies (LEAs), or school districts, must apply for funds through the state education agency. State education agencies must use at least 90 percent of ESSER Fund grants to make subgrants to LEAs by a formula based on Fiscal Year 2019 Title I, Part A allocations. This same document includes a technical appendix detailing the formula for distributing subgrants to LEAs.

10. Representative LeBon: How is higher education treated, specifically the University of Alaska?

In addition to ESSER funds, the Act appropriates funds for a Higher Education Emergency Relief Fund to the U.S. Department of Education for Fiscal Year 2021. The Department will make allocations to institutions of higher education in accordance with the same terms and conditions for higher education funds in the Coronavirus Response and Relief Supplemental Appropriations Act. Specific state fund amounts are not included in the Act. The American Council on Education (ACE) has simulated distribution of higher education funds for public and private nonprofit and propriety institutions. [According to these estimates](#), the University of Alaska will receive approximately \$30 million.

11. Representative Edgmon: The fiscal years referenced in the Education Maintenance of Effort requirement are state fiscal years and not the federal fiscal year?

Correct.

12. Representative Edgmon: Can funding be used for direct investment in infrastructure without a direct link to COVID-19 or the public health emergency?

The Act states that Coronavirus Capital Projects Funds can be used to “carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID–19)”.

13. Representative Edgmon: Some states are already putting together budgets based on what we currently know, which seems risky considering we do not have additional guidance. Have you heard other states who are doing this?



While we cannot infer motivations in appropriating American Rescue Plan funds, a trend we have noticed is that some states may have a greater need given the instability of their fiscal situation. States that are in a more resilient situation may not have the same urgency to allocate funds.

14. Representative Ortiz: How does the bill define learning loss? Will this be measured by test scores or school days? Or is this an assumption of number of days lost?

The Act does not define “learning loss,” but includes examples of programs that could be implemented. States can “...carry out, directly or through grants or contracts, activities to address learning loss by supporting the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs, and ensure that such interventions respond to students’ academic, social, and emotional needs and address the disproportionate impact of the coronavirus on the student subgroups described in section 1111(b)(2)(B)(xi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B)(xi)), students experiencing homelessness, and children and youth in foster care, including by providing additional support to local educational agencies to fully address such impacts”.

15. Representative Wool: Does the Education Maintenance of Effort require both K-12 and postsecondary to maintain the same overall level for both or are the requirements separated?

The Act directs that states must “...maintain support for elementary and secondary education, and for higher education (which shall include State funding to institutions of higher education and State need-based financial aid, and shall not include support for capital projects or for research and development or tuition and fees paid by students), in each of fiscal years 2022 and 2023 at least at the proportional levels of such State’s support for elementary and secondary education and for higher education relative to such State’s overall spending, averaged over fiscal years 2017, 2018, and 2019”. It is unclear whether this maintenance of effort applies to elementary and secondary education and higher education together or separately. It is our interpretation that this maintenance of effort requirement applies to elementary and secondary education separately from higher education.