

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM JBC Staff
DATE February 2, 2021
SUBJECT Stimulus Components of Federal H.R. 133 - Consolidated Appropriations Act, 2021

Federal H.R. 133, Signed by the President on December 27, 2020, includes annual appropriations components for federal FY 2020-21 (October 1, 2020 through September 30, 2021), changes to substantive law in a number of areas (e.g., applications for federal student aid), and two sections (Division M and N) that represent a continuation and expansion of provisions that were included in the CARES Act and the Families First Coronavirus Response Act, the two large federal stimulus bills that were adopted in 2020. The National Conference of State Legislatures (NCSL) has assembled national-level substantive and fiscal descriptions of the bill which may be accessed at: <https://www.ncsl.org/ncsl-in-dc/publications-and-resources/covid-19-economic-relief-bill-stimulus.aspx>

The following memo, assembled by JBC staff, focuses on Divisions M & N. This memo relies on the NCSL analysis (from which most of the *National Description* sections are directly excerpted), preliminary analysis from the Governor's Office of State Planning and Budgeting, and data from Colorado state departments, among other sources, to highlight what we expect to be the primary impact of this portion of the bill on the Colorado state budget. The memo describes over \$3 billion in new federal revenue for the state, most of which will be managed by the state government, whether or not it appears in appropriations bills. A portion of these funds are subject to state appropriation, and it may be helpful to reflect some of the other funds in the budget for informational purposes. Staff will make related recommendations during the figure setting process.

This memo focuses on funds that are directly managed by state government or that are used in ways similar to state government funds. However, as the JBC is doubtless aware, the bill also includes provisions for \$600 direct stimulus payments to individuals and a second round of "PPP" Paycheck Protection Program business loans, as well as other provisions that are expected to affect many Coloradans and the state economy, even though the funds will not pass through or be managed by state government.

CORONAVIRUS RELIEF FUND: The bill changes the date for expiry of the Coronavirus Relief Fund, which included \$1.68 billion for Colorado state government, from December 30, 2020 to December 30, 2021. The Governor and General Assembly allocated these funds for a wide range of purposes throughout state government, including significant amounts for K-12 education, higher education institutions, Human Services, Public Health, and local governments.

EDUCATION

National Description

- \$54.3 billion nationwide for the Elementary and Secondary School Emergency Relief (ESSER) Fund originally created in the CARES Act, with the second distribution commonly referred to as ESSER II. Schools can use the relief to address learning loss, improve school facilities and infrastructure to reduce the risk of transmitting the coronavirus, and purchase education technology. States must distribute at least 90% of funds to local education agencies based on their

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proportional share of ESEA Title I-A funds. States have the option to reserve 10.0 percent of the allocation for emergency needs as determined by the state to address issues responding to the COVID-19 pandemic.

- As in the earlier CARES Act, funds flow through state government.

Colorado Funding Impact:

- According to the Department of Education, Colorado is receiving **\$519,324,311** in its ESSER II allocation. As the State Education Agency, the Department may retain up to 10.0 percent of that amount (\$51,932,431) for emergency needs. As a result, the Department currently expects to distribute the other 90.0 percent (\$467,391,880) based on the same Title I-A allocation used for the original CARES Act.¹
- The Department must award funds to local education agencies within one year of receiving the funds (by January 2022). Funds are available for obligation (by the State or sub recipients) through September 30, 2023.

GOVERNOR'S OFFICE - BOTH K-12 AND HIGHER EDUCATION

National Description

- \$4.1 billion nationwide for the Governors Emergency Education Relief Fund to use for education-related pandemic assistance, of which \$2.75 billion is set aside for emergency awards to non-public schools (EANS Grants), with the remaining \$1.3 billion distributed as supplemental GEER funds (GEER II), similar to the initial awards in the CARES Act (GEER I) Funds for non-public schools are limited to COVID-related needs and cannot be used for vouchers or scholarships for parents.

Colorado Funding Impact: On January 8, 2021, the federal Department of Education announced award amounts by state. Colorado will receive \$19,431,573 in supplemental (GEER II) funding for purposes similar to the funds received under GEER I and will also receive \$28,433,931 for emergency distributions to nonpublic schools (EANS grants). For comparison, Colorado received \$44,004,996 under the CARES Act for GEER I and was allowed to use all of this more flexibly, e.g., for the Governor's RISE grants for K-12 and higher education institutions. Of the new funds **\$19.4** million would be available for similar activities.

HIGHER EDUCATION

National Description

- \$20.2 billion nationwide to be allocated to public and private non-profit institutions. This allocation formula is a change from the CARES Act, which used only full-time equivalent (FTE) enrollment in its allocation formula:
 - 37.5% based on FTE enrollment of Federal Pell Grant recipients.
 - 37.5% based on headcount enrollment of Pell recipients.
 - 11.5% based on FTE enrollment of non-Pell recipients.
 - 11.5% based on headcount enrollment of non-Pell recipients.
 - 1% based on the relative share of full-time equivalent enrollment of students who were Federal Pell Grant recipients and who were exclusively enrolled in distance education courses prior to the qualifying emergency.

¹ The Department's preliminary allocation of funds by school district is available at <https://www.cde.state.co.us/caresact/esseriipreliminaryallocations>

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- 1% based on the relative share of the total number of students who were Federal Pell grant recipients and who were exclusively enrolled in distance education courses prior to the qualifying emergency.
- Provides \$113 million nationwide for institutions with the greatest unmet need related to the pandemic or those not served by the primary formula, such as independent graduate students.
- Use of funds: Institutions can use the stimulus money for lost revenue, reimbursement for expenses, technology costs due to the shift to online learning, financial aid for students and more. The bill directs schools to prioritize grants for students with exceptional need. Colleges and universities cannot use the funds for recruitment activities, athletics facilities, religious instruction or senior administrator salaries or bonuses.
- As in the CARES Act, the bill includes Maintenance of Effort provisions that can be waived by the Secretary of Education.
- Institutions may apply the fund to expenses incurred on or after December 27, 2020 and have a calendar year from the date of their award to expend the funds. They may also see a no-cost extension, if required.
- As in the CARES Act, **funds flow directly to the institutions and not through state government.**

Colorado Funding Impact: Based on allocations released by the Secretary of Education on January 14, 2020, public and not-for-profit higher education institutions in Colorado will receive \$280,046,371 total funds from this second round of Higher Education Emergency Relief Funds (known as the Coronavirus Response and Relief Supplemental Appropriations Act/CRRSAA HEERF II). For-profit proprietary entities are expected to receive \$1.3 million.

The state's public institutions of higher education will receive the vast majority of available funds: \$258,152,853. Of the total, no less than \$69,593,685 (27.0 percent) must be provided to students for direct aid, leaving **\$188,559,168** as the maximum that can be used to address institutional needs at public institutions of higher education.

For comparison, the initial HEERF allocations in the CARES Act (first round allocations provided in Spring 2020) provided \$139.2 million for Colorado public higher education, and institutions were required to dedicate at least 50.0 percent of this (a considerably larger share) to direct student aid. The new round of funding provides a similar total amount for student aid as the original allocations but nearly doubles the funding for institutional support when compared to the CARES Act.

HUMAN SERVICES

National Description

Appropriations provisions likely to have state implications include:

- \$1.65 billion nationwide for Substance Abuse Prevention and Treatment Block Grant
- \$1.65 billion nationwide for the Mental Health Services Block Grant
- \$240 million nationwide for substance abuse and mental health emergency grants to states, as well as other grant programs for suicide prevention and school mental health services.
- \$10.0 billion nationwide for the Child Care and Development Block Grant
- \$100 million nationwide for adult protective services and related services to protect the elderly.

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- \$100 million nationwide for state administrative costs for food and nutrition services under the Supplemental Nutrition Assistance Program (SNAP).
- 15.0 percent increase in SNAP benefits (not reflected in the budget, but managed by the state) and broadens some SNAP eligibility provisions

There are also a number of substantive changes to child welfare programs that may have financial implications for the State. Changes include:

- Temporary freeze for “aging out” foster youth: Provides older foster youth who would normally “age out” with the assurance that they may continue to receive foster care supports and services during the pandemic, or if they left, may return. It permits states to use pandemic Chafee Foster Care Independent Living Program funds to offset the cost of meeting this requirement for youth for whom federal foster care matching is not available.
- Temporary Family First match waived: Temporarily waives the match for Family First Prevention Services until the end of the public health emergency period. While the opt-in deadline for (Family First) is October 1, 2021, the State has not fully implemented Family First and therefore is not currently receiving Title IV-E reimbursement for prevention services.
- Temporary Prevention Services Clearinghouse State Match Waived: Temporarily waives the required state match and the requirement that the specific model be in the federal Prevention Services Clearinghouse for kinship navigator programs funded with FY 2020 funds and requires that programs, which are not in the Clearinghouse be under evaluation, or begin an evaluation to be funded. The evaluation costs are included in the costs of federal funds.
- Title IV-E Technical FMAP Correction- technical correction to Title IV-E treatment of the 6.2% Federal Medical Assistance Percentage (FMAP) rate increase from the Families First Coronavirus Response Act making it so it applies to the baseline based on the annual average FMAP rate in the state for FY2020 and FY2021, to ensure access to Funding Certainty Grants.

There are several provisions dictating how the additional Child Care Development Block Grant allocations can be used:

- Minimum spending requirements on direct services, quality activities, and infant and toddlers are waived.
- Income eligibility requirements are waived for the provision of child care assistance to health care sector employees, emergency responders, sanitation workers, and other workers deemed essential during the pandemic.
- Provides continued payments and assistance to child care providers in the case of decreased enrollment or closures related to the pandemic.
- A portion of the additional funding must be used to provide assistance to eligible providers that were not receiving assistance before the pandemic for activities necessary to maintain or resume operations.
- Stimulus funds may be used to cover the cost of family copays and to help child care providers cover increased operating expenses.

Colorado Funding Impact:

- The Department estimates that it will receive approximately \$2.6 million for adult protective services and related services to protect the elderly. Funding will be allocated to the State’s Area Agencies on Aging through the established intrastate funding formula.

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- The Department estimates it will receive approximately \$122.7 million from the Child Care Development Block Grant, which must be obligated by September 30, 2022 and expended by September 30, 2023. The Department will submit its spending proposal to the General Assembly and Joint Budget Committee once the award is finalized.
- The Department estimates it will receive approximately \$1.0 million for state administrative costs for implementing the expansion of SNAP benefits. The Department anticipates the majority of these additional administrative resources to be spent on modifications to information technology systems to implement the required 15.0 percent increase in benefits. The benefit increase is estimated to result in a \$25 per person increase in SNAP benefits.
- The Department will receive \$2.8 million in substance abuse and mental health emergency grants, which must be used by May 2022. These funds are flexible for behavioral health needs specific to COVID. The Department plans to use these funds to expand medical provider mental health support efforts, and have also used these funds to pay an increased rate to crisis system providers willing to take COVID-positive patients.
- The Department has not yet received final details from the federal government regarding the Substance Abuse Prevention and Treatment Block Grant or the Mental Health Services Block Grant, including final dollar amounts and restrictions on the use of the funds. However, the Department expects to receive approximately \$15.0 million from each block grant.

LABOR AND EMPLOYMENT

National Description

- Extends multiple federally-funded unemployment benefits that were previously scheduled to end in December 2020 or earlier. These funds are not reflected in the state budget but are managed by the state.
 - Extends the Federal Pandemic unemployment Compensation (FPUC) program through March 14, 2021, providing \$300 per week for all workers receiving unemployment benefits.
 - Extends and phases out the Pandemic Unemployment Assistance (PUA) to March 14 (after which no new applicants) through April 5, 2021.
 - Extends and phases out the Pandemic Emergency Unemployment Compensation (PEUC), which provides additional weeks when state unemployment runs out, to March 14 (after which no new applications) through April 5, 2021.
 - Provides additional weeks for those who would otherwise exhaust benefits by increasing weeks available from 13 to 24—with all benefits ending April 5, 2021.
 - Increases the maximum number of weeks an individual may claim benefits through regular state unemployment with the additional PEUC program, or through the PUA program, to 50 weeks.
 - Provides an additional \$100 per week for certain workers who have both wage and self-employment income but whose UI benefit calculation does not take their self-employment into account.
- Extends the interest-free loans to states for state-funded regular unemployment insurance, as well as flexible staffing and nonprofit relief to March 14, 2021.
- Changes some unemployment administration provisions and state options.
 - Requires documentation of employment, rather than the self-certification that is currently in use and requires states to verify applicant identity.

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- Requires states to have a place to report when someone turns down a job and must notify claimants of the requirement to accept suitable work.
- States may opt to provide an extra benefit of \$100 per week for up to 11 weeks through March 14, 2021, for certain workers who have both wage and at least \$5,000 of self-employment income in most recent taxable year ending prior to application.

Colorado Funding Impact: Federal funding is not capped but instead provided as needed consistent with the federal law. The Colorado Department of Labor and Employment estimates that total federal funds received in Colorado through the period of the extension will range from **\$1.3 billion to \$1.8 billion**. The details of the estimate are below.

Federal Pandemic Unemployment Compensation (additional \$300 per week for all claimants)

Low end assumption = 200,000 claimants per week eligible for \$300/wk FPUC * 11 weeks = approximately \$660m total

High end assumption = 250,000 claimants per week eligible for \$300/wk FPUC * 11 weeks = approximately \$825m total

Pandemic Unemployment Assistance (Self-employed/gig-worker support)

Low end assumption = \$25m paid out per week * 15 weeks = approximately \$375m total

High end assumption = \$35m paid out per week * 15 weeks = approximately \$525m total

Pandemic Emergency Unemployment Compensation (Additional weeks after state UI benefits exhausted)

Low end assumption = \$20m paid out per week * 15 weeks = approximately \$300m total

High end assumption = \$30m paid out per week * 15 weeks = approximately \$450m total

LOCAL AFFAIRS - HOUSING

National Description

- \$25 billion nationwide in emergency rental assistance. Treasury will distribute funds to states and localities using the same formula used to distribute the Coronavirus Relief Fund. Small states will receive a minimum of \$200 million in emergency rental assistance. Localities with populations over 200,000 may request to receive their allocation of emergency rental assistance directly.

Colorado Funding Impact: Colorado received \$385.1 million statewide from the distribution. Of this amount, **\$247.8 million** was transferred to the State for distribution by the Department of Local Affairs, and \$137.3 million was transferred directly to these jurisdictions with populations over 200,000: Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer, and Weld Counties, and the cities of Aurora and Colorado Springs.

PUBLIC HEALTH AND ENVIRONMENT

National Description

- \$4.5 billion nationwide for state, local, territorial, and tribal public health departments as part of efforts to support for federal, state, local, territorial and tribal public health agencies to distribute,

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administer, monitor and track coronavirus vaccination to ensure broad-based distribution, access and vaccine coverage.

- \$22.4 billion nationwide for the Public Health and Social Services Emergency Fund primarily for states, localities, and tribes to distribute for testing, contact tracing, and other activities necessary to effectively monitor and suppress COVID-19.
- \$638 million nationwide to carry out a new Low-Income Household Drinking Water and Wastewater Emergency Assistance Program “to prevent, prepare for, and respond to coronavirus.” The program will make grants to states and tribes, which would then distribute the funds to drinking water and wastewater utilities. The provision directs HHS to target the funding to “low-income households, particularly those with the lowest incomes that pay a high proportion of household income for drinking water and wastewater services.” HHS has not yet release specific details on how these resources will be allocated.

Colorado Funding Impact:

- The Colorado Department of Public Health and Environment has received a notice of award from the Centers for Disease Control as of the writing of this memo specific to vaccination funding in the amount of **\$52,035,091**.
- Colorado is expecting to receive **\$331,516,532** in additional resources, pending final budget approval from the Centers for Disease Control, for Public Health and Social Services Emergency Fund support for testing, contact tracing and other activities to monitor and suppress COVID-19.
- If and when Colorado is awarded a portion of the resources for Low Income Household Drinking Water and Wastewater Emergency Assistance, it is expected that the funding would flow through either the Department of Public Health and Environment or the Department of Human Services.

TRANSPORTATION

National Description

- Approximately \$9.8 billion nationwide is allocated to state departments of transportation (DOT); Surface Transportation Block Grant Program (STBGP) funds are available until Sept. 30, 2024.
- Beyond STBGP eligibilities, funds are also available for preventive maintenance, routine maintenance, operations, personnel, including salaries of employee (including those employees who have been placed on administrative leave) or contractors, debt service payments, availability payments, and coverage for other revenue losses.
- Approximately, 14% of these highway funds are sub-allocated only to localities over 200,000 in population. State funds can also be transferred to public tolling and ferry agencies.
- Provides \$15 billion nationwide in transit aid primarily destined for local governments, but there is about \$1 billion for rural areas, a program run by state DOTs.

Colorado Funding Impact: The Colorado Department of Transportation received **\$134.3 million** through the STBGP program in Division M. Of that amount, \$48.9 million was sub-allocated to the state’s three largest planning organizations: Denver Regional Council of Governments, Pikes Peak Area Council of Governments, and North Front Range Metropolitan Planning Organization.