

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Amanda Bickel, JBC Staff (303-866-4960)
DATE November 17, 2021
SUBJECT ARPA Coronavirus State Fiscal Recovery Funds - Status Update

OVERVIEW: In March 2021, the State of Colorado received \$3.8 billion in Coronavirus State Fiscal Recovery Fund money from the federal government.¹ During the 2021 legislative session, the General Assembly placed these funds in spending "buckets" by depositing the dollars into six cash funds. Some specific uses were authorized during legislative session through appropriations and transfers in multiple bills. However, the final disposition of more than half of the funds has yet to be determined. The General Assembly created multiple interim task forces to provide recommendations on how the balance of the funds should be used, and the Governor has provided input as part of the budget request he submitted November 1, 2021. **Of the total, \$1.0 billion is currently reserved in a Revenue Loss Restoration Cash Fund that may only be expended through the Long Bill under current law and is therefore under the JBC's purview.** The Executive Request does not include a proposal for use of these funds in FY 2022-23.

RECOMMENDATION

Staff believes the JBC should plan to spend most funds from the Revenue Loss Restoration Cash Fund in FY 2023-24, rather than FY 2022-23. However, it should consider creating a structure during the 2022 legislative session to facilitate action for FY 2023-24, giving particular consideration to amounts that probably will not qualify under federal "revenue loss" uses for Coronavirus State Fiscal Recovery Funds. **Staff recommends that all the funds in the Revenue Loss Restoration Cash Fund be used for purposes and in ways that support long-term budget stability, while also remaining in strict compliance with federal law.**

- Using federal funds for certain expenditures could reduce near-term demands on the General Fund, enabling the State to reverse complex budget mechanisms adopted during previous budget downturns that complicate the budget and expose the State to greater risk, such as the "paydate shift" and "accelerated" use of Tobacco Settlement receipts, as well as enhance reserves.
- The federal government expressly prohibits using the federal funds for rainy day funds. However, State funds that are not required in FY 2022-23 or FY 2023-24, whether or not as a result of increased federal funds expenditures, can be retained in the General Fund (the simplest, and preferred solution from a staff perspective). Alternatively, if desired, these funds could be deposited in a new "**Mitigating Cliff Effects**" fund that could support budget expenditures in future years. Such a fund could be restricted to Long Bill appropriations in out-years (FY 2024-25 onward) or subject to other restrictions as desired by the Committee. **The Executive Request has proposed that the General Assembly "prepay" various specific expenses to lock up funds for use in out-years. If the General Assembly wishes to create a post-stimulus glide**

¹ Both the state government and local governments received money from the federal government Coronavirus State and Local Fiscal Recovery Fund. Colorado local governments received \$1.9 billion. To differentiate the portion received by state government--as opposed to local governments--this document refers to the state funds as Coronavirus *State* Fiscal Recovery Fund money.

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path, staff believes this would be best accomplished by creating a single fund that cannot be accessed until the future, rather than creating a large number of separate cash funds or complex out-year statutory appropriations. Creating such a fund during the 2022 legislative session could also be helpful for implementing adjustments related to the Revenue Loss Restoration Cash Fund in the FY 2023-24 Long Bill.

- Staff proposes to work with OSPB to identify line items with General Fund amounts in the **base** budget that would qualify as allowed uses under the following *three* categories: “a) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality; b) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers; or d) To make necessary investments in water, sewer, or broadband infrastructure.” One option for this is a **written only hearing question**. If a hearing question is used, staff anticipates that OSPB would coordinate the response and that smaller line items (e.g., line items under \$5,000,000 General Fund) would be excluded from the request.

Considerations:

- Federal Coronavirus State Fiscal Recovery Fund money must be obligated by December 2024, but fiscal cliff effects that may result from declines in federal outlays and one-time General Fund spending may extend beyond this date.
- There are a limited number of large line items in the budget where it would be most practical to appropriate funds from the *Revenue Loss Restoration Cash Fund* (which derives from federal funds) in lieu of General Fund, particularly given federal reporting and tracking requirements. Federal provisions restrict the State's options, since federal money may not be used to match federal Medicaid funds. Further, the American Rescue Plan Act included *maintenance of effort* requirements for K-12 and higher education spending that may reduce the state's flexibility for education spending in FY 2022-23. (These restrictions are not in effect in FY 2023-24.)
- Based on current calculations \$824,669,544 of the \$1,000,000 in the Revenue Loss Restoration Cash Fund may be used for general government services. The balance will likely need to be used for other approved uses of fiscal recovery funds. If the full \$1.0 billion is deployed in the FY 2022-23 and/or FY 2023-24 Long Bill, **the JBC will need to carefully consider where the balance of \$175,330,456 that probably cannot be used for general "government services" can be deployed in the budget without running afoul of federal use restrictions.**

BACKGROUND: FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUNDS

The federal American Rescue Plan Act (ARPA), signed into law on March 11, 2021, provided significant funding to assist state and local governments in addressing the health and economic impacts of the coronavirus pandemic. This included \$3,828,761,790 awarded to the Colorado state government from the Coronavirus State and Local Fiscal Recovery Fund and received on March 18, 2021.

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Colorado's Coronavirus State Fiscal Recovery Fund money is subject to appropriation by the General Assembly, as reflected in the decision by the General Assembly to adopt legislation placing the federal funds received into state cash funds and the decision by the Governor to sign this legislation. This differs from most funds received by the State from the federal government.²

The State may use the funds for costs incurred from March 3, 2021 through December 31, 2024. A cost is considered to be incurred if the state has an obligation for the cost by December 31, 2024. Obligations must be expended by December 31, 2026.

The ARPA law specifies that the funds may be expended:

- “a) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- b) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
- c) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
- d) To make necessary investments in water, sewer, or broadband infrastructure.”

The law also specifies that eligible uses do **not** include:

- “depositing funds into any pension fund” or
- “directly or indirectly offset[ing] a reduction in the net tax revenue of [the] State or territory resulting from a change in law, regulation, or administrative interpretation.”

On May 10, 2021, the federal Department of the Treasury issued an Interim Final Rule and other guidance for the Coronavirus State and Local Fiscal Recovery Funds. This rule and other guidance help clarify how Colorado may use these funds. The materials may be found here: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>.

COLORADO LEGISLATIVE FRAMEWORK

During the 2021 regular legislative session, the General Assembly adopted multiple bills that established an overall framework for use of the federal Coronavirus State Fiscal Recovery Fund money by transferring the money into cash funds with discrete purposes. For some of the funds, more specific uses were determined during the 2021 session and reflected in FY 2020-21 and FY 2021-22 appropriations and transfers. Uses for the remainder of the funds will be informed by the work of several task forces that were also established through bills adopted during the 2021 legislative session. The following chart shows the initial allocation of all of the federal funds into state cash funds and the creation of the legislative task forces. As shown in the chart, all \$3.8 billion federal Coronavirus

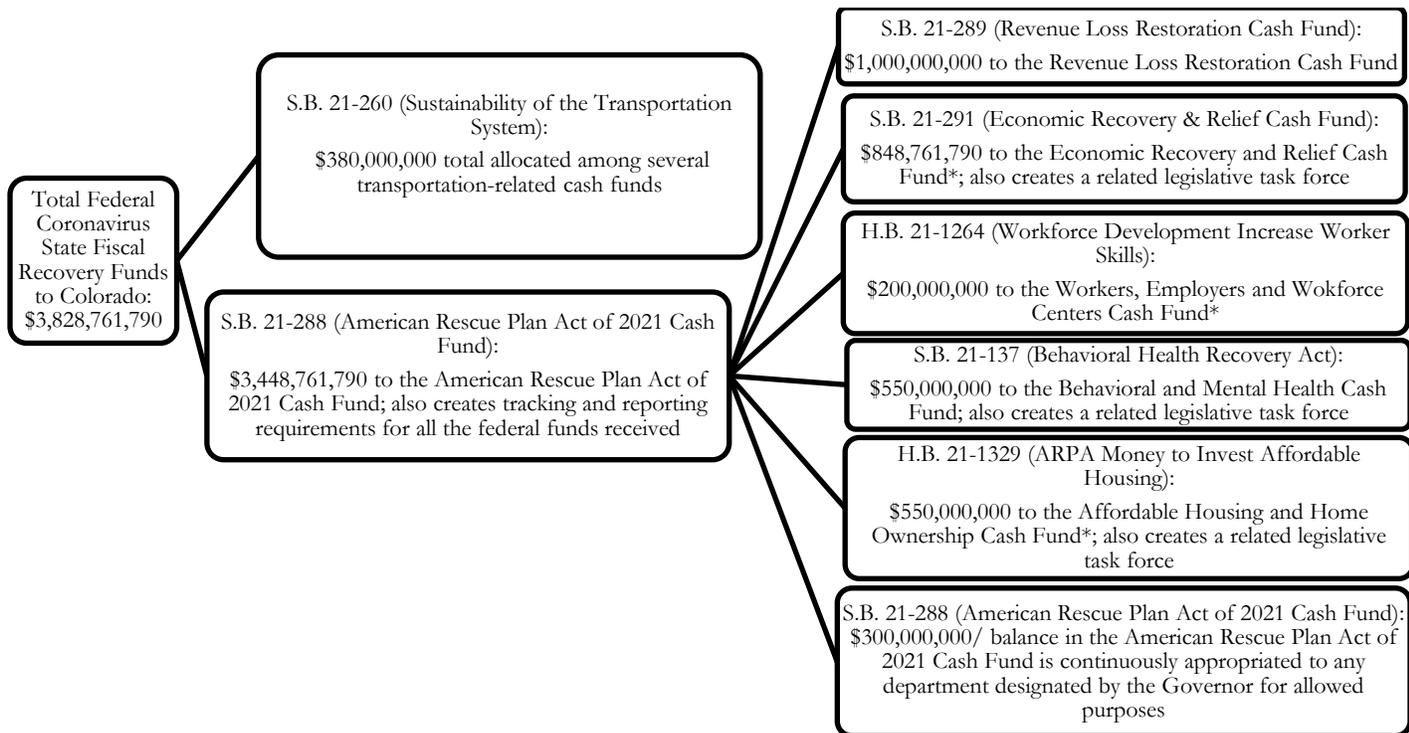
² Most federal funds are considered to be custodial funds that are under the control of the executive branch. (Office of Legislative Legal Services, *Control over Federal Funds*, November 18, 2011.

<https://leg.colorado.gov/sites/default/files/olls-11-13-20.pdf>

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State Fiscal Recovery Funds received by Colorado were deposited into cash funds with designated uses during the 2021 legislative session. Based on federal guidance, the state’s preliminary calculation is that it experienced a reduction in revenue due to the COVID-19 public health emergency of at least \$1.38 billion during calendar year 2020. The amount transferred to the Revenue Loss Restoration Cash Fund (\$1,000,000,000) and transportation-related cash funds (\$380,000,000) is based on this figure.

2021 LEGISLATIVE SESSION: DEPOSIT OF FEDERAL FUNDS INTO STATE CASH FUNDS AND CREATION OF TASK FORCES



*State General Fund dollars were also deposited into these three cash funds. The amounts shown include only federal funds deposited.

FY 2020-21 AND FY 2021-22 APPROPRIATIONS AND TRANSFERS FOR SPECIFIC PURPOSES

In addition to establishing a broad legislative framework for the use of the Coronavirus State Fiscal Recovery Funds, the General Assembly also determined more specific uses for some of the funds during the 2021 regular legislative session. In some cases this was accomplished through transfer of funds into cash funds from which state departments have authority to spend for specific purposes. In other cases, this was accomplished through legislative appropriations from four of the new cash funds created: the Economic Recovery and Relief Cash Fund, the Workers Employers and Workforce Centers Cash Fund, the Behavioral and Mental Health Cash Fund, and the Affordable Housing and Home Ownership Cash Fund. Most programs that received appropriations for FY 2020-21 or FY 2021-22 also received authority to roll-forward unspent funds for at least one additional fiscal year. However, even when departments were authorized to roll-forward unexpended amounts for multiple future years, they remain bound by federal requirements and state law enacted in S.B. 21-288 that all

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funds must be obligated by December 31, 2024, and all obligated funds must be expended by December 31, 2026.

The table below summarizes appropriations and transfers from the cash funds created by Department and bill. **For additional information on specific programs supported by the appropriations in these bills, please see the Attachment A.**

APPROPRIATIONS AND TRANSFERS FOR EXPENDITURE BY STATE AGENCIES: AMOUNTS ORIGINATING AS FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUNDS		
Department	Amount	Bill
Transportation-related Cash Funds		
Transportation	\$380,000,000	S.B. 21-260 Sustainability of the Transportation System
Economic Recovery and Relief Cash Fund		
Governor (OEDIT)	40,000,000	S.B. 21-291 Economic Recovery & Relief Cash Fund
Governor (OEDIT)	10,000,000	H.B. 21-1288 Colorado Startup Loan Program
Governor (OIT)	70,000,000	H.B. 21-1289 Funding for Broadband Deployment
Human Services	4,750,000	S.B. 21-292 Federal COVID Funding for Victim's Services
Human Services	5,000,000	S.B. 21-027 Emergency Supplies for CO Babies and Families
Judicial	3,750,000	S.B. 21-292 Federal COVID Funding for Victim's Services
Local Affairs	5,000,000	H.B. 21-1289 Funding for Broadband Deployment
Personnel	500,000	S.B. 21-292 Federal COVID Funding for Victim's Services
Public Health and Environment	21,090,149	S.B. 21-243 CDPHE Approp Public Health Infrastructure
Public Safety	6,000,000	S.B. 21-292 Federal COVID Funding for Victim's Services
Subtotal	166,090,149	
Workers, Employers, and Workforce Centers Cash Fund		
Education	3,500,000	S.B. 21-268 Public School Finance
Education	5,000,000	H.B. 21-1264 Fund Workforce Dev. Increase Worker Skills
Higher Education	10,000,000	H.B. 21-1264 Fund Workforce Dev. Increase Worker Skills
Higher Education	51,500,000	H.B. 21-1330 Higher Ed Student Success
Higher Education	15,000,000	S.B. 21-232 COSI Displaced Workers
Labor and Employment	60,000,000	H.B. 21-1264 Fund Workforce Dev. Increase Worker Skills
Subtotal	145,000,000	
Behavioral and Mental Health Cash Fund		
Health Care Policy and Financing	250,000	S.B. 21-137 Behavioral Health Recovery Act
Higher Education	2,630,000	S.B. 21-137 Behavioral Health Recovery Act
Human Services	91,550,000	S.B. 21-137 Behavioral Health Recovery Act
Public Health and Environment	4,900,000	S.B. 21-137 Behavioral Health Recovery Act
Subtotal	99,330,000	
Affordable Housing and Home Ownership Cash Fund		
Local Affairs	30,000,000	S.B. 21-242 Housing Dev Grants Hotel Tenancy
Local Affairs	35,000,000	H.B. 21-1271 DOLA Innovative Affordable Housing Strategies
Local Affairs	98,500,000	H.B. 21-1329 ARPA Money to Invest Affordable Housing
Judicial	1,500,000	H.B. 21-1329 ARPA Money to Invest Affordable Housing
Subtotal	\$165,000,000	
American Rescue Plan Act of 2021 Cash Fund		
Governor - Flexible	300,000,000	S.B. 21-288 American Rescue Plan Act of 2021 Cash Fund
TOTAL	\$1,255,420,149	

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AMOUNTS REMAINING IN CASH FUNDS FOR 2022 LEGISLATIVE SESSION AND BEYOND
Based on the amounts outlined in the table above, the following federal Coronavirus State Fiscal Recovery Fund money will be available for appropriation and transfer to state agencies in subsequent legislative sessions. The table below also shows the General Fund amounts transferred to these cash funds and unappropriated during the 2021 legislative session.

2021 LEGISLATIVE SESSION ALLOCATION OF CORONAVIRUS STATE FISCAL RECOVERY FUND MONEY AND BALANCES REMAINING					
	INITIAL FEDERAL FUNDS TRANSFER TO CASH FUND	SPENDING AUTHORITY PROVIDED IN 2021 LEGISLATIVE SESSION, INCLUDING CONTINUOUS APPROPRIATION	BALANCE FEDERAL FUNDS AVAILABLE FOR FUTURE LEGISLATIVE APPROPRIATION/TRANSFER	NET GENERAL FUND ¹ DEPOSITED TO CASH FUND AND AVAILABLE FOR FUTURE LEGISLATIVE APPROPRIATION/TRANSFER	TOTAL BALANCE AVAILABLE
Transportation-related Cash Funds	\$380,000,000	\$380,000,000	\$0	\$0	\$0
Revenue Loss Restoration Cash Fund	1,000,000,000	0	1,000,000,000	0	1,000,000,000
Economic Recovery and Relief Cash Fund	848,761,790	166,090,149	682,671,641	14,478,042	697,149,683
Workers, Employers, and Workforce Centers Cash Fund	200,000,000	145,000,000	55,000,000	40,000,000	95,000,000
Behavioral and Mental Health Cash Fund	550,000,000	99,330,000	450,670,000	0	450,670,000
Affordable Housing and Home Ownership Cash Fund	550,000,000	165,000,000	385,000,000	14,800,000	399,800,000
Balance in American Rescue Plan Act of 2021 Cash Fund	300,000,000	300,000,000	0	0	0
TOTAL	\$3,828,761,790	\$1,255,420,149	\$2,573,341,641	\$69,278,042	\$2,642,619,683

¹The General Fund amounts shown are based on appropriations and transfers *into* funds that were authorized in S.B. 21-232, S.B. 21-242, S.B. 21-243, and H.B. 21-1264 less appropriations *from* the funds that were authorized in S.B. 21-291 and H.B. 21-1329.

- As part of its legislative structure, the General Assembly also created four task forces, three within the legislative branch and one within the Department of Higher Education, to consider how any amounts not appropriated in FY 2021-22 should be used. These task forces address affordable housing, behavioral health, economic recovery and relief, and, postsecondary education and workforce. Most of these groups are still formulating their recommendations, but brief descriptions have also been provided. Staff expects to provide updates on this work in January, as task force recommendations are completed.
- As part of his November 1 budget submission, the Governor outlined his proposed uses for money remaining in the cash funds described above. These proposals are also described in greater detail below, but the following table summarizes amounts requested by cash fund bucket created by the General Assembly.

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GOVERNOR'S REQUEST AS SHARE OF REMAINING FUNDS (MILLION \$S)			
	BALANCE REMAINING	GOVERNOR REQUEST	REQUEST AS % OF TOTAL
Affordable Housing and Home Ownership Cash Fund	\$399.8	\$175.0	43.8%
Mental and Behavioral Health Cash Fund	450.7	275.0	61.0%
Workers, Employers, and Workforce Centers Cash Fund	95.0	95.0	100.0%
Economic Recovery and Relief Cash Fund	697.1	426.0	61.1%
Revenue Loss Restoration Cash Fund	1,000.0	0.0	n/a
TOTAL	\$2,643	\$971	36.7%

- The Governor's request does not include proposals for use of the Revenue Loss Restoration Cash Fund. Since use of this cash fund is most clearly within the JBC's purview, it is addressed below in a separate section.
- The Governor's staff has confirmed that the Governor's other proposals, if adopted, would be carried in separate legislation, including legislation sponsored by various task forces. The Governor's Office is not requesting these as JBC bills. Staff has also included a section about the task forces established by the General Assembly and the details of the Governor's proposal below.

JOINT BUDGET COMMITTEE AND THE REVENUE LOSS RESTORATION CASH FUND

The General Assembly deposited \$1,000,000,000 in the Revenue Loss Restoration Cash Fund pursuant to S.B. 21-289. The bill required that or and after January 1, 2022, any appropriations from the Revenue Loss Restoration Cash Fund must be in the general appropriations act (the Long Bill). Thus, **pending any other legislative changes, the Joint Budget Committee is responsible for funding decisions related to the Revenue Loss Restoration Cash Fund.** No other Committee is specifically focused on the use of this money.

Some important considerations for the JBC and the General Assembly:

- **Both the Governor's Office and members of legislative leadership have expressed interest in using the Revenue Loss Restoration Cash Fund money for "budget integrity",** which staff understands to include ensuring some budget stability/protection over the next few years by reserving funds for future use. **The federal funds could be appropriated in the Long Bill for a range of regular government expenses in FY 2023-24 (or FY 2022-23), reducing near-term pressure on the General Fund and allowing the resulting savings to be used for out-year commitments, including mitigating cliff effects as one-time federal and General Fund amounts are expended in the next two years.**
- **There is currently more money in the Revenue Loss Restoration Cash Fund than can be classified under federal rules as backfilling lost state revenue, although \$1.0 billion may still be an appropriate figure for maintaining "budget integrity".**

Additional Background on Federal "Revenue Loss" Calculation:

- The most **flexible** uses of the Coronavirus State Fiscal Recovery Fund money fall under the provisions of the federal law that allow funds to be used **"For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health**

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emergency relative to revenues collected in the most recent full fiscal year prior to the emergency". The U.S. Treasury's Interim Final Rule, published in May 2021, specifies how this revenue loss is to be calculated. It is to be based on a comparison of actual revenue received by a state at four points in time--December 31, 2020, December 31, 2021, December 31, 22, and December 31, 2023--compared to a "counterfactual trend" of the revenue growth the state was experiencing in the years prior to the pandemic or 4.1 percent, whichever is higher. For additional information on the Revenue Loss calculation, see Attachment B.

- At the time the General Assembly was finalizing its legislative packages related to the Coronavirus State Fiscal Recovery Fund money, Legislative Council Staff and the Office of State Planning and Budgeting had made a preliminary calculation that the state's had sustained a revenue loss of \$1.38 billion based on revenue as of December 31, 2020 compared to the "counterfactual trend". On this basis, the General Assembly appropriated \$380,000,000 in S.B. 21-260 for transportation costs (which did not appear to fit under other designated Fiscal Recovery Fund uses) and set aside \$1,000,000 in the Revenue Loss Restoration Cash Fund. Since that time, Legislative Council Staff and the Governor's Office have refined their revenue loss calculation. **The figure that has been submitted to federal authorities for December 31, 2020 is \$1,204,669,544.³ It is uncertain, but appears unlikely, that the State will be able to report additional amounts for revenue loss restoration under the December 31, 2021 calculation** or subsequent years.
- **Based on this calculation, the Joint Budget Committee should anticipate that only \$824,669,544 of the money currently in the Revenue Loss Restoration Cash Fund may be used for the provision of general "government services".** The balance--\$175,330,456--may need to be applied to other allowed uses of the Coronavirus State Fiscal Recovery Funds:

"a) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

b) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers; ...or

d) To make necessary investments in water, sewer, or broadband infrastructure."

- Under the provisions of S.B. 21-289, up to \$690,000,000 of the total in the Revenue Loss Restoration Cash Fund may be appropriated in FY 2022-23, while at least \$310,000,000 must be reserved for FY 2023-24. However, any amount not appropriated in FY 2022-23 may be appropriated in FY 2023-24.

PROPOSALS FOR USE OF FUNDS REMAINING IN THE OTHER FISCAL RECOVERY FUND CASH FUNDS

The table below summarizes the Governor's proposals for use of money that the General Assembly has deposited in the various cash funds created to hold Coronavirus State Fiscal Recovery Fund money. *The Governor's Office has confirmed that it is not requesting that any of these bills/ funding for these programs be carried by the JBC.*

³ For details of the final calculation, see Page 32 of Colorado's *State and Local Fiscal Recovery Fund Performance Report, August 31, 2021*. <https://drive.google.com/file/d/12-3rd8Pz0S6zMzUVvPbOhsxr7vrsMXo5/view>

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REQUESTED EXPENDITURES - ARPA CORONAVIRUS STATE FISCAL RECOVERY FUND MONEY BY CASH FUND/INTERIM COMMITTEE CATEGORY			
DEPARTMENT	REQUEST TITLE	AMOUNT (MILLION \$)	TOTAL FROM CASH FUND/CATEGORY (MILLION \$)
Affordable Housing and Home Ownership Cash Fund			
Local Affairs	Investments in Strong Communities	\$100	
Local Affairs	Financing Energy Improvements in Affordable Housing	25	
Governor's Office of Economic Development	Housing Innovation Incentive	25	
Local Affairs	Colorado Housing and Finance Authority Middle Income Access Program	25	
Subtotal			\$175
Mental and Behavioral Health Cash Fund			
Human Services/ Public Health and Environment/ Public Safety	Grants to Local Communities	175	
Health Care Policy & Financing	Care Integration and Payment Reform	45	
Human Services	Residential Facility for Children and Youth with Complex Needs	35	
Health Care Policy and Financing/ Public Health and Environment	Key Workforce Investments to Build a Robust Pipeline for Our Behavioral Health System, Such as Retention/Recruitment Strategies	20	
Subtotal			\$275
Workers, Employers, and Workforce Centers Cash Fund			
Higher Education	Higher Education Dashboard	3	
Higher Education	Regional Talent Collaborative Programs: connecting supply and demand sides of CO education economy through more high-demand, high-wage credentials and pathways	92	
Subtotal			\$95
Economic Recovery and Relief Cash Fund			
<i>Governor Priorities</i>			
Labor and Employment	Unemployment insurance trust fund relief to reduce employer premiums	100	
Labor and Employment/Human Services	Homelessness Response and Solutions: Connecting people experiencing homelessness to services, treatment, temporary shelter, and housing	200	
<i>Other High Impact Proposals</i>			
<i>Economic Resilience:</i>			
Governor's Office of Economic Development	Technical assistance for community development financial institutions and small business development centers	17	
Transportation	Additional investment in the Revitalizing Main Streets Program		
<i>Rural economy:</i>			
Natural Resources/Agriculture	Ground water recovery for rural and agricultural resilience	91	
Natural Resources	State Parks broadband, water, and sewer projects		
Agriculture	Industrial hemp center of excellence		
Governor's Office of Economic Development	Outdoor recreation and tourism funding to modernize CO welcome centers		
Health Care Policy/OeHi	Rural health affordability, access, and system transformation		

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REQUESTED EXPENDITURES - ARPA CORONAVIRUS STATE FISCAL RECOVERY FUND MONEY BY CASH FUND/INTERIM COMMITTEE CATEGORY			
DEPARTMENT	REQUEST TITLE	AMOUNT (MILLION \$)	TOTAL FROM CASH FUND/CATEGORY (MILLION \$)
Higher Education	Cumbres and Toltec railroad funding		
Higher Education	Funding for rural community colleges and technology for workforce development		
	<i>Economic Relief:</i>	18	
Governor's Office of Economic Development	Nonprofit grant assistance		
Human Services	TANF subsidized training and employment		
Human Services	Employment First program for SNAP recipients		
	Subtotal		\$426
TOTAL (all funds - millions)			\$971

Staff notes that **in some cases, the Governor has proposed one-time state General Fund investments in areas that overlap with proposed uses of the federal Coronavirus State Fiscal Recovery fund money.** In particular the request includes \$100.0 million from the Coronavirus State Fiscal Recovery Fund money to address shortfalls in the Unemployment Insurance Trust. Separately, it also requests \$500.0 million from the General Fund for the same (or similar) purpose.

CORONAVIRUS STATE FISCAL RECOVERY FUND TASK FORCES

Legislation adopted during the 2021 legislative session created multiple task forces responsible for making recommendations on the use of remaining Coronavirus State Fiscal Recovery Fund money. As described below, these task forces have not yet completed their work. *We currently anticipate that JBC staff will update the Committee in January 2022 with an overview of task force recommendations.*

Behavioral Health Transformational Task Force: Created in S.B. 21,137, this task force includes a legislatively-led main task force (Senator Pettersen, Chair and Rep. Gonzales-Gutierrez, Vice Chair) and a subpanel populated by experts in behavioral health, healthcare systems, and related fields. The main panel began meeting August 17, and the main panel, subpanel, and various work groups are expected to continue to meeting into early January to finalize recommendations.

Affordable Housing Transformational Task Force: Created in H.B. 21-1329, this task force includes a legislatively-led main task force (Rep. Jackson, Chair and Senator Gonzales, Vice Chair), which began meeting August 19 and a task force subpanel populated by experts in affordable housing and homelessness, housing finance, and related fields. The subpanel has met ten times and formulated funding recommendations and priorities, which are being considered by the main Task Force; both the subpanel and the main task force are also continuing work on policy recommendations. The task force has meetings scheduled through December 21.

Interim Committee on Economic Recovery and Relief Cash Fund: Created in S.B. 21-291, this task force includes a legislatively-led main task force (Sen. Moreno, Chair and Rep. A. Valdez, Vice Chair) and a subpanel comprised of economists. The main panel began meeting September 24. Both the subpanel and main panel have been working quickly, and a draft report was submitted by the subpanel for consideration

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by the main task force on November 5. However, the analysis was time-constrained and the subpanel and panel are expected to continue work through at least November 29 and possibly beyond.

Student Success and Workforce Revitalization Task Force: This task force is structured differently from those described above, as H.B. 21-1330, which authorized the Student Success and Workforce Revitalization Task Force, required it to be convened by the Colorado Commission on Higher Education. Recommending possible uses of money in the Workers, Employers, and Workforce Centers Cash Fund is only one of multiple charges to the task force, which is also supposed to look at issues such as the governance and structure of Colorado's postsecondary system, the role of various entities in Colorado's workforce development system, and the best practices for driving student success. Several workgroups have been compiling recommendations. The recommendations will be brought back to the task force as a whole, with a final report submitted on or before January 15, 2022. The task force and subgroups include representation from postsecondary institutions, industry, K-12, advocacy organizations, the General Assembly, and the Colorado Commission on Higher Education.

OTHER FEDERAL FUNDS RECEIVED

The Governor's Office has noted that the volume of federal funds flowing to the State under various federal packages exceeds the size of the overall state budget. The Peter G. Peterson Foundation calculates that **Colorado governments, residents, and businesses have been allocated over \$62.5 billion (\$10,857 per capita) from 22 major programs in federal Coronavirus stimulus and recovery bills** as of October 28, 2021.⁴ **The Governor's Office has calculated the American Rescue Plan Act has thus far provided over \$25.3 billion for the State**, though the figures are subject to further updates. Some, but not all, of these dollars are administered by state agencies. Since the availability of some of these funds may affect how the General Assembly wishes to spend General Fund and state cash fund amounts (including amounts originating from the federal Coronavirus State Fiscal Recovery Fund), **staff has included, as Attachment C, the Governor's Office estimates of these amounts and will address them, as relevant, in staff budget briefings and figure setting documents.**

⁴ Peter G Peterson Foundation ,State by State Funding for Major Coronavirus Programs [How Much Coronavirus Funding Has Gone to Your State? \(pgpf.org\)](https://www.pgpf.org/press-releases/state-by-state-funding-for-major-coronavirus-programs)

ATTACHMENT A: PROGRAMS FUNDED WITH FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUND MONEY DURING 2021 SESSION

The table below summarizes legislative appropriations and transfers from funds originating as federal Coronavirus State Fiscal Recovery Funds for specific programs and services.

APPROPRIATIONS AND TRANSFERS FOR EXPENDITURE BY STATE AGENCIES: AMOUNTS ORIGINATING AS FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUNDS		
	TOTAL ANNUAL APPROPRIATION OR TRANSFER	DEPARTMENT, SPECIFIC PROGRAM OR FUND
Transportation-related Cash Funds		
S.B. 21-260 Sustainability of the Transportation System	\$380,000,000	Includes the following transfers to funds in the Dept. of Transportation with continuous spending authority: \$182,160,000 to the State Highway Fund, including \$22,160,000 for the Revitalizing Main Streets Program and \$500,000 for acquiring and developing the Burnham Yard Rail Property; \$161,340,000 to the Multimodal Transportation and Mitigation Options Fund; \$36,500,000 to the Highway Users Tax Fund.
Revenue Loss Restoration Cash Fund		
S.B. 21-289 Revenue Loss Restoration Cash Fund	0	This bill creates the fund, but no money is appropriated from the fund during the 2021 legislative session in this bill or other legislation. Beginning January 1, 2022, the General Assembly may only appropriate money from the fund through the annual general appropriation act or a supplemental appropriation act.
Economic Recovery and Relief Cash Fund		
S.B. 21-291 Economic Recovery & Relief Cash Fund	40,000,000	Total amount is appropriated to the Governor's Office for assistance to businesses affected by the pandemic or its negative economic impacts.
S.B. 21-027 Emergency Supplies for CO Babies and Families	5,000,000	Total amount is appropriated to the Dept. of Human Services for the Food Pantry Assistance Grant Program.
S.B. 21-292 Federal COVID Funding for Victim's Services	15,000,000	Includes the following appropriations: \$3,000,000 to the Dept. of Public Safety for the Forensic Nurse Examiners Telehealth Program; \$1,500,000 to the Dept. of Public Safety for the State Victim Compensation Program; \$3,000,000 to the Victims and Witnesses Assistance and Law Enforcement Fund in the Judicial Dept.; \$1,500,000 to the Victims Assistance and Law Enforcement Fund in the Dept. of Public Safety; \$500,000 to the Address Confidentiality Program Fund in the Dept. of Personnel; \$4,750,000 to the Colorado Domestic Abuse Program Fund in the Dept. of Human Services; \$750,000 to the Judicial Dept. for Family Violence Justice Grants.
H.B. 21-1288 Colorado Startup Loan Program	10,000,000	Total amount is appropriated to the Colorado Startup Loan Program Fund in the Office of the Governor.
H.B. 21-1289 Funding for Broadband Deployment	75,000,000	Transfers \$35,000,000 to the Digital Inclusion Grant Program Fund and appropriates this to the Governor's Office of Information Technology; Transfers \$35,000,000 to the Broadband Stimulus Account in the Broadband Administrative Fund and appropriates this to the Governor's Office of Information Technology; Transfers \$5,000,000 to the Interconnectivity Grant Program Fund and appropriates this to the Dept. of Local Affairs.
S.B. 21-243 CDPHE Approp Public Health Infrastructure	<u>21,090,149</u>	Includes the following appropriations to the Dept. of Public Health and Environment: \$10,000,000 for distributions to local public health agencies; and \$11,090,149 for administration and support costs, including the addition of 121.4 FTE, in the Division of Disease Control and Public Health Response.
Subtotal	\$166,090,149	
Workers, Employers, and Workforce Centers Cash Fund		
H.B. 21-1264 Fund Workforce Dev. Increase Worker Skills	75,000,000	Includes the following appropriations: \$25,000,000 to the Dept. of Labor and Employment for the Reskilling, Upskilling, and Next-skilling Workers Program, \$35,000,000 to the Dept. of Labor and Employment for Work Force Innovation Act programs; \$10,000,000 to the Dept. of Higher Education for career and technical education equipment, facility, and instruction capacity funding; \$5,000,000 to the Dept. of Education for the Adult Education and Literacy Grant Program.

APPROPRIATIONS AND TRANSFERS FOR EXPENDITURE BY STATE AGENCIES: AMOUNTS ORIGINATING AS FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUNDS		
	TOTAL ANNUAL APPROPRIATION OR TRANSFER	DEPARTMENT, SPECIFIC PROGRAM OR FUND
H.B. 21-1330 Higher Ed Student Success	51,500,000	Includes the following appropriations to the Dept. of Higher Education: \$49,000,000 to the Colorado Opportunity Scholarship Initiative Fund for distribution to institutions of higher education for student scholarships and support services; \$1,500,000 to the Colorado Opportunity Scholarship Initiative Fund to implement a Student Aid Applications Completion Grant Program; \$1,000,000 for the Colorado Re-engaged Initiative and the Associate Degree Completion Program.
S.B. 21-268 Public School Finance	3,500,000	Includes the following appropriations to the Dept. of Education: \$1,750,000 for the Concurrent Enrollment Expansion and Innovation Grant Program; and \$1,750,000 for the Career Development Success Program.
S.B. 21-232 COSI Displaced Workers	15,000,000	Total amount is appropriated to the Department of Higher Education for the Colorado Opportunity Scholarship Initiative's Displaced Workers Grant program.
Subtotal	\$145,000,000	
Behavioral and Mental Health Cash Fund		
S.B. 21-137 Behavioral Health Recovery Act	99,330,000	<p><i>Dept. of Health Care Policy and Financing:</i> Appropriates \$250,000 for training health-care and behavioral health-care professional in substance use screening, brief intervention, and referral to treatment;</p> <p><i>Dept. of Higher Education:</i> Appropriates \$1,000,000 for the Center for Research into Substance Use Disorder, Prevention, Treatment, and Recovery Support Strategies at the University of Colorado Health Sciences Center for training and education for health-care professionals and other services; \$1,000,000 for the University of Colorado School of Medicine for the regional health connector workforce program; and \$630,000 for the University of Colorado School of Medicine for practice consultation services for health-care providers eligible to provide medication for opioid use disorder;</p> <p><i>Dept. of Human Services:</i> Appropriates \$10,000,000 for managed service organizations for increasing access to substance use disorder treatment and recovery; \$2,000,000 services for school-aged children and parents by community mental health center school-based clinicians; \$5,000,000 for Colorado crisis system services in response to COVID-19 impacts on the behavioral health of Colorado residents; \$2,000,000 for behavioral health and substance use disorder treatment for children, youth, and their families; \$1,000,000 for a mental health awareness campaign; \$18,000,000 for the behavioral health workforce development program; \$26,000,000 for behavioral health statewide care coordination infrastructure, \$9,000,000 for the county-based behavioral health grant program; \$500,000 for guardianship services for individuals transferring out of mental health institutes; \$5,000,000 for jail based behavioral health services; \$3,250,000 for community mental health centers for COVID-19 response; \$5,000,000 for a pilot program for residential placement of children and youth with high acuity physical, mental, or behavioral health needs; \$3,000,000 to the high-risk families cash fund in the Dept. of Human Services; \$500,000 for the early childhood mental health consultation program; \$300,000 for the Office of the Ombudsman for Behavioral Health Access to Care;</p> <p><i>Dept. of Public Health and Environment:</i> Appropriates \$1,700,000 for loan repayments for participants in the Colorado Mental Health Services Corps and scholarships for addiction counselors; \$1,000,000 for the opiate antagonist bulk purchase fund; \$2,000,000 for the HIV and AIDS Prevention Grant Program; and \$1,200,000 for school-based health centers.</p>
Affordable Housing and Home Ownership Cash Fund		
S.B. 21-242 Housing Dev Grants Hotel Tenancy	30,000,000	Total amount is transferred to the Housing Development Grant Fund in the Dept. of Local Affairs for rental assistance and tenancy support services for individuals experiencing homelessness through grants and loans to local governments and nonprofit organizations for the rental, acquisition, or renovation of underutilized hotels, motels, and other underutilized properties.

APPROPRIATIONS AND TRANSFERS FOR EXPENDITURE BY STATE AGENCIES: AMOUNTS ORIGINATING AS FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUNDS		
	TOTAL ANNUAL APPROPRIATION OR TRANSFER	DEPARTMENT, SPECIFIC PROGRAM OR FUND
H.B. 21-1271 DOLA Innovative Affordable Housing Strategies	35,000,000	Includes the following transfers and appropriations to the Dept. of Local Affairs: \$30,000,000 transferred to the Colorado Heritage Communities Fund and appropriated for the Local Government Affordable Housing Development Incentive Grant Program; and \$5,000,000 transferred to the Colorado Heritage Communities Fund and appropriated for the Local Government Planning Grant Program.
H.B. 21-1329 ARPA Money to Invest Affordable Housing	<u>100,000,000</u>	Includes the following appropriations: \$98,500,000 to the Dept. of Local Affairs for programs or services of the type and kind financed through the Housing Investment Trust Fund or the Housing Development Grant Fund to support programs or services that benefit populations disproportionately affected by the COVID-19 public health emergency and focusing on addressing housing insecurity, lack of affordable or workforce housing, or homelessness; \$1,500,000 to the Judicial Dept. for the Eviction Legal Defense Grant Program.
Subtotal	\$165,000,000	
Governor - Flexible		
S.B. 21-288 American Rescue Plan Act of 2021 Cash Fund	300,000,000	After any legislative transfers from the American Rescue Plan Act of 2021 Cash Fund that are enacted during the 2021 regular legislative session, the lesser of \$300,000 or the remaining balance in the fund is continuously appropriated to any department designated by the Governor for any allowable purpose under the American Rescue Plan Act of 2021.
TOTAL Designated in 2021 Legislative Session	\$1,255,420,149	

CATEGORIZATION OF PROGRAMS UNDER FEDERAL CORONAVIRUS FISCAL RECOVERY FUND USES AND FUNDS EXPENDITURE

On August 31, 2021, the Executive Branch submitted a required performance report to federal authorities describing plans and implementation of programs to use federal Coronavirus Fiscal Recovery Fund money. The full report is available here:

<https://drive.google.com/file/d/12-3rd8Pz0S6zMzUVvPbOhsxr7vrsMXo5/view>

The report places each of the enacted programs above into one of the approved federal uses for Coronavirus Fiscal Recovery Fund money: public health, negative economic impacts, services to disproportionately impacted communities, broadband infrastructure, and revenue replacement.

CATEGORY	BILL	AMOUNT
Public Health	S.B. 21-288, S.B. 21-137, S.B. 21-292, S.B. 21-243	\$434,920,149
Negative Economic Impacts	H.B. 21-1264, S.B. 21-232, H.B. 21-1329, S.B. 21-027, H.B. 21-1288, S.B. 21-291	245,000,000
Services to Disproportionately Impacted Communities	H.B. 21-1271, S.B. 21-242, H.B. 21-1330, S.B. 21-268, S.B. 21-292	120,500,000
Infrastructure	H.B. 21-1289	75,000,000
Revenue Replacement	S.B. 21-260	380,000,000
Total		\$1,255,420,149

The report indicated that as of this report, the State had expended \$13,582,002 of the allocated money, all of which was for COVID-19 vaccination, testing, and other public health expenses.

ATTACHMENT B: REVENUE LOSS RESTORATION CALCULATION FOR THE CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUND MONEY

The U.S. Treasury's *Interim Final Rule*⁵, which took effect May 17, 2021, provides specific instructions for how to determine the revenue loss that enables a state to spend funds "For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency". As outlined in the Interim Final Rule:

“Recipients should calculate the extent of the reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. To calculate the extent of the reduction in revenue at each of these dates, recipients should follow a four-step process:

Step 1: Identify revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the base year revenue.

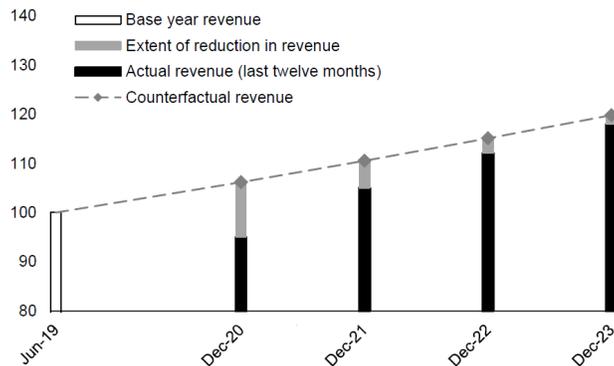
Step 2: Estimate counterfactual revenue, which is equal to base year revenue $\times [(1 + \text{growth adjustment})^{(n/12)}]$, where n is the number of months elapsed since the end of the base year to the calculation date, and growth adjustment is the greater of 4.1 percent and the recipient’s average annual revenue growth in the three full fiscal years prior to the COVID-19 public health emergency.

Step 3: Identify actual revenue, which equals revenues collected over the past twelve months as of the calculation date.

Step 4: The extent of the reduction in revenue is equal to counterfactual revenue less actual revenue. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.”

The amount that may be used for this purpose is based on the actual revenue compared to the counterfactual revenue as of the four dates. It is not based on forecasted revenue deficits.

The rule includes the following graphical illustration of how the calculation is to operate.



⁵ *Coronavirus State and Local Fiscal Recovery Funds, Interim Final Rule*, <https://www.federalregister.gov/documents/2021/05/17/2021-10283/coronavirus-state-and-local-fiscal-recovery-funds>

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The guidance specifies that uses of funds that are provided based on revenue loss:

“[These sections] of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services.”

The only limitations are as follows:

- “...expenses associated with obligations under instruments evidencing financial indebtedness for borrowed money would not be considered the provision of government services, as these financing expenses do not directly provide services or aid to citizens. Specifically, government services would not include interest or principal on any outstanding debt instrument...[or] any obligation arising under or pursuant to a settlement agreement...In addition, replenishing financial reserves (e.g., rainy day or other reserve funds) would not be considered provision of government service.”⁶
- Further, ARPA prohibits "depositing funds into any pension fund". The guidance clarifies that entities may use the federal funds to make payments for pension benefits that are typically part of staff benefit packages but not to make extraordinary payments into pension funds for reducing an accrued unfunded liability.

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**ATTACHMENT C: OVERVIEW OF FEDERAL FUNDS
RECEIVED/ANTICIPATED TO BE RECEIVED, INCLUDING CUSTODIAL
FUNDS AND DIRECT-TO-BENEFICIARY FUNDS**

Since the beginning of the Coronavirus Pandemic in early 2020, the federal government has adopted multiple bills that provide financial assistance to states, local governments, businesses, and individuals. These include the Coronavirus Preparedness and Response Supplemental Appropriations Act (March 6, 2020) the Families First Coronavirus Response Act (March 18, 2020), the CARES Act (March 27, 2020), the Paycheck Protection Program and Health Care Enhancement Act (April 24, 2020), the Consolidated Appropriations Act (December 28, 2020), and the American Rescue Plan Act (March 11, 2021). At the national level, the first four of these bills provided funding of approximately \$2.7 trillion. The Consolidated Appropriations Act stimulus provisions added \$0.9 trillion, and the American Rescue Plan Act added a further \$1.9 trillion, for **total allocations of approximately \$5.5 trillion nationally**. The provisions are broad and complex, and only a portion of the funds have passed through state government. The Peter G. Peterson Foundation, reputable nonpartisan source, has created a helpful interactive tool showing estimated total allocations by state as of October 28, 2021, which may be found here: [How Much Coronavirus Funding Has Gone to Your State? \(pgpf.org\)](https://www.pgpf.org). The organization's analysis indicates that *Colorado governments, residents, and businesses have been allocated over \$62.5 billion (\$10,857 per capita) from all the different stimulus bills and programs.*

Recognizing that figures are continually evolving, the Governor's Office has also provided various point-in-time estimates on the scale of federal funding received statewide. Most recently, it has provided its summary of amounts included in the American Rescue Plan Act. Where relevant to the expenditure of state funds or legislatively-controlled federal funds, JBC staff will provide additional background on the federal funding as part of briefing, supplemental, and figure setting presentations.

OVERVIEW OF FEDERAL FUNDS ESTIMATED TO BE RECEIVED BY STATE UNDER AMERICAN RESCUE PLAN ACT				
DEPARTMENT	CORONAVIRUS STATE FISCAL RECOVERY FUND (SLFRF) (\$M)	DIRECT TO AGENCY AWARD (DAA) FUNDS (\$M)	PASS-THROUGH FUNDS (\$M)	DIRECT TO BENEFICIARY FUNDS (\$M)*
Agriculture	\$0	\$0	\$0	225.0
Education	8.5	0.0	0.0	1,167.2
Governor	300.0	0.0	41.0	0.0
Gov - Economic Development (OEDIT)	50.0	97.7	0.0	676.7
Gov - Information Technology (OIT)	70.0	171.0	0.0	0.0
Health Care Policy	0.3	330.5	0.7	0.0
Higher Education	79.1	0.0	0.0	500.8
Human Services	100.3	783.2	0.0	11.2
Judicial	5.3	0.0	0.0	0.0
Labor and Employment	60.0	0.0	490.0	2,395.1
Law	0.0	0.0	0.0	0.0
Local Affairs	168.5	402.4	0.0	45.7
Natural Resources	0.0	0.0	0.0	0.0
Personnel	0.5	0.0	0.0	0.0
Public Health and Environment	27.0	289.1	0.0	150.1
Public Safety	6.0	0.0	0.0	0.0
Revenue	0.0	0.0	0.0	10,407.3

OVERVIEW OF FEDERAL FUNDS ESTIMATED TO BE RECEIVED BY STATE UNDER AMERICAN RESCUE PLAN ACT				
DEPARTMENT	CORONAVIRUS STATE FISCAL RECOVERY FUND (SLFRF) (\$M)	DIRECT TO AGENCY AWARD (DAA) FUNDS (\$M)	PASS-THROUGH FUNDS (\$M)	DIRECT TO BENEFICIARY FUNDS (\$M)*
Transportation	380.0	18.8	0.0	359.4
Independent governmental service agencies (e.g., Americorps)	0.0	6.1	0.0	7.3
Local government, businesses, other non-state department	0.0	0.0	1.4	2,907.1
Unappropriated SLFRF	2,573.3	0.0	0.0	0.0
Total (\$M)	\$3,829	\$2,099	\$533	18,852.8

*Includes amounts that pass through state systems or accounts (e.g., unemployment benefits), amounts flowing directly to institutions that are state entities (e.g., higher education institutions), and amounts flowing entirely outside of state government systems, such as direct payments to local governments from Coronavirus Local Fiscal Recovery Funds, as well as payments to businesses and taxpayers.