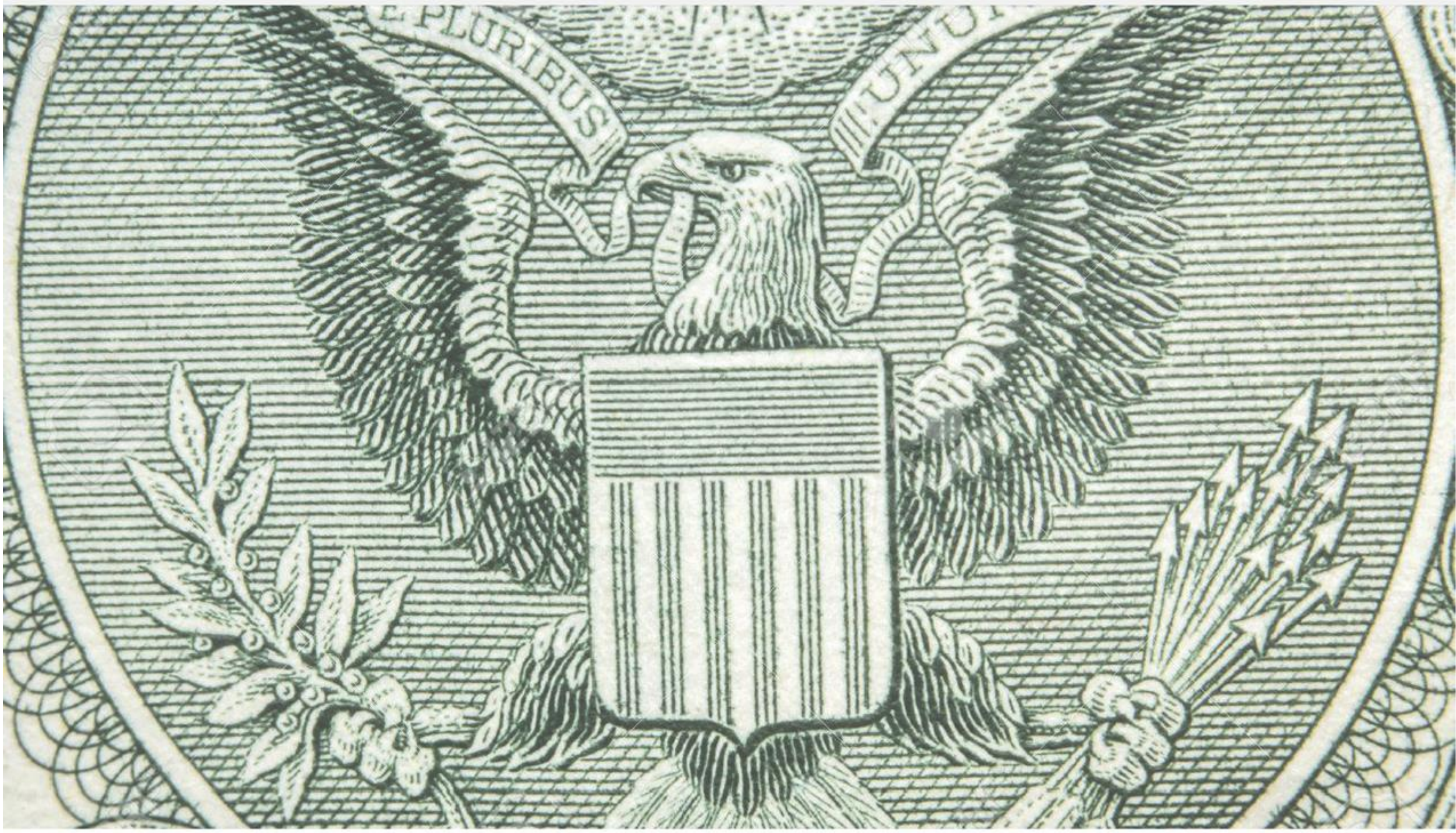
FISCAL BRIEF

States Gearing Up for Fiscal Recovery Funds



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The American Rescue Plan Act of 2021 (ARPA), signed into law by President Biden on March 11, created the $195.2 billion Coronavirus State Fiscal Recovery Funds (CSFRF) to mitigate the continued effects of the COVID-19 pandemic. States are gearing up for disbursement of this second round of direct federal aid, set to "launch" no later than May 11. As legislative sessions begin winding down for most states, preparation and decisions on spending their one-time federal allocation varies. Ultimately, the CSFRF will afford states additional time and flexibility compared to its predecessor, the Coronavirus Relief Funds (CRF) under the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Two Tranches Over Two Years

The funds will be distributed in two tranches, with 50% delivered no later than 60 days after the date on which the certification required, and the remainder delivered no earlier than one year later:

- $25.5 billion would be equally divided to provide each state a minimum of $500 million.
- $169 billion would be allocated based on the states' share of unemployed workers over a three-month period, from October-December 2020.

States will need to distribute funds to smaller towns within 30 days of receiving a payment from the department. State and local government recipients can use the funds to cover costs incurred by the deadline on Dec. 31, 2024. States that miss the deadline will need to pay back any undistributed funds.

Allowable Uses

Like the CRF, ARPA outlined overarching statutory language on the eligible uses of CSFRF:

- Respond to the COVID-19 emergency and address its economic effects, including through aid to households, small businesses, nonprofits, and industries such as tourism and hospitality.
- Provide premium pay to essential employees or grants to their employers. Premium pay couldn't exceed $13 per hour or $25,000 per worker.
- Provide government services affected by a revenue reduction resulting from COVID-19.
- Make investments in water, sewer and broadband infrastructure.
- State and local governments cannot use the funds towards pensions or to offset revenue resulting from a tax cut enacted since March 3, 2021. Though, Treasury released early guidance permitting conformity to federal income tax law.

Treasury is expected to release additional guidance on how the funds can be use in the coming week. States are hoping for guidance comes in a less piecemeal approach then was taking for the CRF.

New Trends Emerge, Others Remain Priorities

Compared to its first-round counterpart, the CRF, the deadline to spend the funds is lengthier, both affording to make gradual allocation decisions and providing for flexibility for longer-term projects or programs. Despite the breathing room, lawmakers are taking a cautious approach to appropriations, expressing concerns over using funds to fill recurring budgetary items or inflate budgets. Additionally, many states are awaiting on guidance from Treasury before appropriating funds, pushing some legislatures into special session this summer.

At least seven states have appropriated CSFRF as part of their budget bills or as standalone actions, including Florida, Hawaii, Indiana, Kentucky (Senate Bill 26 and House Bill 382), Montana, and Vermont. Washington has also appropriated CSFRF, and three additional bills (Senate Bill 5092, Senate Bill 5165, and House Bill 1080) await the governor's signature. Broader bills are on governors' desks in Georgia and Maryland. Pending bills are being floated in Alaska, Louisiana, Minnesota and North Carolina. In Pennsylvania, House Democrats have laid out their own rescue plan before negotiations begin with Republicans, who hold the majority in both chambers.

State actions are catered to each state's specific needs. Largely, trends are emerging due to the flexibility including:

- Backfill budget shortfalls.
- Environmental protection.
- Premium pay.
- Transportation infrastructure.
- Water and sewer infrastructure.

While areas supported utilizing the CRF are resurfacing, signaling a persistent need for financial assistance to communities, businesses, and individuals:

- Public health needs.
- Broadband.
- Hazard pay.
- Housing.
- Human Services.
- State administration and operations.
- Small business assistance.
- Unemployment.
- Workforce development.

NCSL will be releasing a forthcoming database tracking state actions on CSFRF.

Debates Over Spending Authority

Governors in most states have released proposals or at the very least indicated priority areas where CSFRF should be focused. Tension between the legislature and executive branches over the authority to spend these unanticipated federal funds and emergency powers still lingers.

Legislatures overrode governor's vetoes in Indiana and North Dakota for bills that give legislators authority over federal fund spending decisions. Indiana Governor Eric Holcomb (R) filed a lawsuit against the legislatures action. New Mexico Governor Michelle Lujan Grishman (D) vetoed the legislatures plan to appropriate CSFRF in the state's budget bill, House Bill 2 because of contrasting interpretation of state law over spending authority of federal funds.

Whereas, the legislature and executive branches in Wisconsin have competing CSFRF spending efforts. Governor Tony Evers has begun appropriating funds without legislative action.

In contrast, West Virginia has given the governor authority to spend up to $150 million of any emergency federal funds through House Bill 2014. Additionally, in Connecticut Governor Ned Lamont signed House Bill 6555 which instructs the executive branch to submit a proposal for allocation of federal funds to House and Senate leaders.

In the end, authority is largely determined by the way states are interpreting their individual laws.

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