

Legislative Appropriations Authority and the America's Recovery and Reinvestment Act: Program Listing

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Introduction

A short paper prepared in late February 2009 by the National Conference of State Legislatures addresses the question of state legislative authority to appropriate funds included in the America's Recovery and Reinvestment Act (See, "Legislative Appropriations Authority and the America's Recovery and Reinvestment Act," <http://www.ncsl.org/print/statefed/ARRALegislativeAuthority.pdf>) The paper lists six categories of funds and describes the basis for state legislative authority to appropriate the ARRA funds. This sequel to that paper includes the ARRA funds that fall into each of the six categories. The two papers are intended as a guide for state legislatures and how their members and staff might think about their authority to appropriate the funds. The papers are not legal opinions.

Category 1. Current Programs with No State Match

Funds included in this category are added to funding already available for the programs. Legislatures presumably would appropriate the new funding in the same way they have appropriated the old.

Health

- Qualifying Individuals (QI)
- Section 317 Immunization Program
- National Emergency Grants (NEG) - Health Coverage Tax Credit (HCTC)
- Infrastructure NEG Grants - (Department of Labor)

Education

- Title I of ESEA
- IDEA Part B and Part C
- Education for the Homeless Children, ESEA Title VII
- Impact Aid
- Higher Education Act--Pell and Work Study
- Vocational Rehabilitation Act
- Higher Education Teacher Quality Enhancement

Transportation

- Highway Infrastructure Investment Funds
- High Speed Rail and Intercity Passenger Rail
- Transit Capital Assistance
- Capital Investment Funds
- Fixed Guideway
- Grants-in-aid for Airports

Human Services

- SNAP (food stamps)
- SNAP administration (food stamps)
- Women, Infants and Children (WIC)
- The Emergency Food Assistance Program (TEFAP)
- Aging Services Nutrition
- SSI/Social Security/Veterans one-time payment
- Head Start
- Community Services Block Grant

Energy and Environment

- Clean Water State Revolving Fund (underlying match requirement waived by ARRA)
- Leaking Underground Storage Tank Trust Fund
- Diesel Emission Reduction Act (underlying match requirement waived by ARRA)
- Wildfire Management--State and Private Forestry (underlying match requirement waived by ARRA)
- Superfund Hazardous Waste Cleanup
- Weatherization Assistance
- State Energy Program (underlying match requirement waived by ARRA)

Housing

- Public Housing Capital Fund
- Native American Housing Block Grants
- Community Development Block Grants
- Home Investment Partnerships

Broadband

Rural Utilities Grant and Loan Program, \$2.5 billion

Justice

Byrne Justice Assistance Grants
Alcohol, Tobacco and Firearms Project Gunrunner
Internet Crimes Against Children

Category 2. Current Programs with State Match

Programs in this category require that the state match the federal money. The match requirement provides legislatures leverage to appropriate the new ARRA money for these programs.

Health

Medicaid (including Medicaid Health IT)
Transitional Medicaid Assistance

Transportation

Maritime Administration Supplemental Grants for Assistance to Small
Shipyards

Human Services

Federal match increase for child welfare
Child support enforcement (allowing states to use incentive funds toward
match)

Energy and Environment

Drinking Water State Revolving Fund (ARRA waives match requirement,
except for Section 1452(g)(2), so state program set-asides 1:1 match remains
in effect)

Category 3. Programs to which the Brown Amendment Applies

The ARRA provides increased funding for the Temporary Assistance for Needy Families block grant, the Workforce Investment Act and the child care block grant. The underlying law for both includes the so-called Brown amendment, which requires that the funds be appropriated by state legislatures.

Human Services

Temporary Assistance for Needy Families
Supplemental TANF fund
Emergency Contingency TANF
Child Care

Labor

Workforce Investment Act (Title I)

Category 4. Competitive Grants

Applying for competitive grants offered by the federal government typically is a prerogative of the state executive branch. State legislatures sometimes authorize or support the executive branch application.

Health

State Grants to Promote Health Information Technology
Competitive Grants to States and Indian Tribes for the Development of
Loan Programs to Facilitate Adoption of HER

Education

Education Tech State Grants, some of which will be competitive
Teacher Incentive Funds, some or all of which will be competitive
Statewide Data Systems (some question as to how they will be distributed)

Transportation

Supplemental Discretionary Grants for Surface Transportation
High Speed Rail and Intercity Passenger Rail
Capital Investment Grants
Grants-in-aid for Airports
Amtrak
Maritime Administration Supplemental Grants for Small Shipyards

Human Services

Compassion Capital
Early Head Start

Energy and Environment

Brownfields (ARRA waives cost share requirement)

Housing

- Public Housing Capital Fund
- Native American Housing Block Grants
- Neighborhood Stabilization Program
- Homelessness Prevention Fund
- Lead Hazard Reduction/Healthy Homes
- Project-Based Rental Assistance

Justice

- High Intensity Drug Trafficking Areas
- Byrne competitive grants
- Law enforcement in rural areas
- Indian Country grants
- Violence against Women programs

Broadband

- National Telecommunications Information Administration for broadband access to underserved and unserved areas (competitive grant, but requires 20 percent match)
- National Telecommunications Information Administration for broadband mapping (no match)

Rural Programs

- Rural Water and Wastewater
- Rural Communities Facilities
- Cooperative Service Rural Business Program
- Rural Housing Insurance

Category 5. New Programs Included in ARRA

Although ARRA primarily uses existing programs for allocating funds, there are a few new ones created in the act. Presumably, the state legislature will appropriate these funds according to the state's laws and practices that govern legislative appropriation of federal funds--laws and practices that vary from state to state.

Health

- Grants to states for carrying out activities to implement healthcare-associated infections (HAI) reduction strategies

Human Services

- School Food Equipment

Energy and Environment

Energy Efficiency and Conservation Block Grant (includes formula and competitive grant funds)

Category 6. State Fiscal Stabilization Fund

The State Fiscal Stabilization Fund is the only instance in ARRA that specifically authorizes the governor to receive and determine the use of the money. In most cases, though, it is probably safe to assume that the governor will include stabilization fund money in his or her state budget proposal, with the further assumption, therefore, that the legislature then would be able to make adjustments to the governor's proposal during the appropriations process.

Education

Of the \$53.6 billion in the Stabilization Fund, \$5 billion is dedicated to state incentive grants, which will be administered and by the U.S. Secretary of Education.