NACo LEGISLATIVE ANALYSIS FOR COUNTIES:

U.S. SENATE'S AMERICAN RESCUE PLAN

CORONAVIRUS STATE & LOCAL FISCAL RECOVERY FUND

UPDATED: MARCH 8, 2021

To find your county's estimated allocation through the U.S. Senate's Coronavirus State and Local Recovery Funds, click here.

SUMMARY

On March 6, the U.S. Senate passed The American Rescue Plan Act of 2021. The amended Senate version moves back to the U.S. House of Representatives on March 10 for final consideration before being sent to the president for his signature.

As part of the overall package, the **Coronavirus State and Local Fiscal Recovery Fund** would provide (1) approximately $350 billion in new federal fiscal assistance for our nation's states, territories, tribes, counties, and municipalities, (2) $10 billion for coronavirus capital projects, and (3) $1.5 billion over two years for revenue sharing counties (i.e. public lands counties).

The measure outlines that states, along with the District of Columbia, would receive $195.3 billion, distributed mostly upon each state's share of unemployed workers over the three-month period of October-December 2020. Each state and the District of Columbia would be guaranteed a minimum of $500 million or no less than the state received in total (state plus local) under the CARES Act Coronavirus Relief Fund (CRF). D.C. would also receive a special allocation to compensate for its treatment under the CARES Act last year.

Local governments would receive $130.2 billion, split evenly between municipalities and counties, **resulting in a direct county allocation based on population of $65.1 billion. In addition, the final Senate bill added another $1.5 billion, split evenly over federal FYs 2022 and 2023, for eligible revenue share counties (i.e. public land counties).** These revenue share payments would be available for any governmental purpose other than a lobbying activity.

Tribal governments would receive $20 billion and U.S. territories would receive $4.5 billion.

The U.S. Department of Treasury would oversee and administer these payments to state and local governments, and every county would be eligible to receive a direct allocation from Treasury. Municipalities and counties would now receive funds in two tranches – with 50 percent this year and the remaining 50 percent no earlier than 12 months from the first payment. States may receive funding in one or two tranches, at the discretion of Treasury.

DISTRIBUTION FORMULA FOR STATE AND LOCAL RECOVERY FUNDS

Of the approximately $350 billion in the Senate bill for fiscal relief, 57 percent would be allocated to states and 35 percent to local governments. The distribution formula is as follows:

- **States and District of Columbia: $195.3 billion**
    - $25.5 billion is equally divided with state minimum of $500 million.
    - $169 billion based on the state share of unemployed workers over a three-month period from October-December 2020.
    - $1.25 billion in additional aid for the District of Columbia.
- **Local governments: $130.2 billion divided evenly between non-county municipalities and counties.**
    - **COUNTIES: $65.1 billion in direct federal aid to *all counties*** (including parishes in Louisiana, boroughs in Alaska, consolidated city-county entities and the District of Columbia) based on the county share of the U.S. population. *Counties that are CDBG recipients would receive the larger share, based on its population or calculated share under the CDBG allocation method.* Treasury shall allocate these resources within 60 days of enactment.
    - **NON-COUNTY MUNICIPALITIES: $65.1 billion to cities and other non-county municipalities.**
        - $45.57 billion in direct federal aid for municipalities with populations of at least 50,000, using a modified Community Development Block Grant formula.
        - $19.53 billion for municipalities with populations of less than 50,000 based on each jurisdiction's percentage of the state's population. Amount per jurisdiction may not exceed 75 percent of its most recent budget as of January 27, 2020. Aid is distributed through the states, with the ability for states to request extensions if they are unable to distribute within a maximum of 120 days. Any amounts that are not distributed to non-entitlement municipalities shall be returned to the U.S. Treasury. However, if the state fails to distribute to these local entities, the penalty comes from the *state* portion of the State and Local Coronavirus Recovery Fund.
- **U.S. Territories: $4.5 billion.**
- **Tribal governments: $20 billion** to federally recognized Tribal governments.

ALLOWABLE

The Senate bill outlines that **funds may be used by counties to:**

USES OF RECOVERY FUNDS

1. **Respond to the public health emergency with respect to the COVID-19 or its negative economic impacts,** including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality

2. Respond to workers performing essential work during the COVID-19 public health emergency by **providing premium pay to eligible workers of the county** that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work

3. For the provision of **government services to the extent of the reduction in revenue** (i.e. online, property or income tax) due to the public health emergency relative to revenues collected in the most recent full fiscal year of the county prior to the emergency *(I.e. January 20, 2020)*, or

4. **Make necessary investments** in water, sewer or broadband infrastructure.

It is important to note under #1 that the examples outlined are intended to clarify congressional intent that these activities would be eligible. However, state and local activities would NOT be limited only to these activities.

The Senate bill also outlines that:

- **States are not allowed to use the funds to either directly or indirectly offset a reduction in the net tax revenue** that results from a change in law, regulation or administrative interpretation during the covered period that reduces any tax. If a state violates this provision, it would be required to repay the amount of the applicable reduction to net tax revenue.

- **No funds shall be deposited into any pension fund.**

- **State and local governments are allowed to transfer** to a private nonprofit organization, a public benefit corporation involved in the transportation of passengers or cargo **or a special-purpose unit of State or local government.**

- Any local government, including counties, that **fail to comply with the federal law and related guidelines shall be required to repay** the federal Treasury.

- **"Premium pay" means an additional amount up to $13 per hour** that is paid to an eligible worker for work during the COVID-19 pandemic. The bill imposes a cap of $25,000 for any single eligible worker.

REPORTING REQUIREMENTS,

The Senate bill would **require state and local governments to fulfill reporting requirements,** such as:

CERTIFICATION & RECOUPMENT

- **States are required to report how funds are used and how their tax revenue was modified** during the time that funds were spent during the covered period (covered period begins on March 3, 2021 and ends on the last day of the fiscal year a state or local government has expended or returned all funds to the U.S. Treasury).

- Local governments would be required to provide **"periodic reports"** providing a detailed accounting of the use of funds.

- If a state, county or municipality does not comply with any provision of this bill, they will be **required to repay the U.S. Treasury** an equal amount to the funds used in violation.

ADMINISTRATION OF RECOVERY FUNDS

The Senate bill further outlines that **funds would be administered as follows:**

- Funds would be distributed by the U.S. Department of the Treasury.

- **The deadline to spend funds would be December 31, 2024.**

- The **U.S. Treasury is required to pay first tranche to counties not later than 60-days after enactment,** and second payment no earlier than 12 months after the first payment.

- The bill would provide $77 million for the Government Accountability Office and $40 million for the Pandemic Response and Accountability Committee **for oversight and to promote transparency and accountability.**

CORONAVIRUS CAPITAL PROJECTS FUND (SEC. 604)

- **$10 billion for states, territories, and tribal governments to carry out critical capital projects,** until expended, specifically related to enabling work, education, and health monitoring, including remote options, in response to the COVID-19 public health emergency.

- **Each state, the District of Columbia and Puerto Rico would receive a minimum allocation of $100 million,** plus another $100 million is divided among other U.S. territories and another $100 million is designated for tribal governments and Native Hawaiian use.

- **Of the remaining funds, states would receive an additional allocation** based on population (50 percent), number of individuals living in rural areas as a percentage of the U.S. rural population (25 percent), and proportion of the state's population of households living in poverty.

LOCAL ASSISTANCE AND TRIBAL

- An **additional $1.5 billion is provided for eligible revenue share counties** (notably public land counties that receive Payment-in-Lieu-of-Taxes (PILT) and Secure Rural School (SRS) payments), with $750 million allotted each year for federal Fiscal Years 2022 and 2023.

CONSISTENCY FUND (SEC. 605)

- An additional $500 million is provided, equally divided, over two fiscal years for eligible Tribal governments.
- **U.S. Treasury will be responsible for determining the funding formula,** taking into account the economic conditions of each eligible revenue sharing county, using measurements of poverty rates, household income, land values, and unemployment rates as well as other economic indicators, over the 20-year period ending with Sept. 30, 2021.
- Eligible **counties may use these funds for any governmental purpose** *other than a lobbying activity.*
- **Counties shall be required to provide periodic reports** with a detailed accounting of the use of funds.
- Failure to submit required reports or **misuse of funds will result in the recoup of funds** by the federal government.

According to a statement for the record by U.S. Senate Finance Chairman Ron Wyden (D-Ore.), "I also fully expect Treasury to consult with others in government who have history in this arena on the creation of this new formula such as the Secretaries of Agriculture and Interior, as well as the **National Association of Counties, state county associations, including the Association of O&C Counties Oregon,** and many other groups with a deep understanding of these impacts across the United States."

RESOURCES

To access NACo's resource hub on the State and Local Coronavirus Recovery Funds, click here. **This resource hub contains a searchable table that contains projected allocations for each county under the U.S. Senate's bill.**

To access the bill text of the U.S. Senate's bill, click here.

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